HOUSE RECORD

Second Year of the 160th General Court
Calendar and Journal of the 2008 Session

Vol. 30 Concord, N.H. Wednesday, January 23, 2008 No. 13

HOUSE JOURNAL No. 2 (cont.)

Wednesday, January 16, 2008

Rep. Wallner moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 3

Wednesday, January 23, 2008

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

Prayer was offered by House Chaplain, Reverend Jared Rardin, Pastor of the South Congregational Church in Concord.
O God of never-ending surprises: Why is it that so often when we zig, You zag? That when we ask for life to be fair You send us challenges? That when we look for answers You respond with another question? Bless us today with the amplitude of mind and heart to accept that our ways are not Your ways, and that in the end, if we trust in You and in one another, all shall be well. Surprise us today, we pray, with Your grace and power. Amid concerns of recession, surprise us with signs of abundance. When seriousness takes hold of our thoughts, break through to us with laughter. When old thoughts creep in, grant sparks of imagination. Bless each person in this place, whether they be a Governor, a legislator or a staff member. Be with those who are sick or grieving. And in the end, grant to this partnership of executive and legislative branches an abundant sense of shared opportunity, many signs of common ground, and an invigorated enjoyment of working together. In Your Holy Name we pray. Amen.

Rep. Shawn Jasper, member from Hudson, led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. Peter Cote, Nancy Elliott, Essex, Humphries, Kennedy, Mesa, Moody, Pantelakos, David Russell, Barbara Shaw, Spratt, Srnec and Wheeler, the day, illness.
Reps. Borden, Gargasz, Hubbard, Hutz, John Knowles, Lessard, Levasseur, Lisle, Major, Bennett Moore, Pelkey, Priestley, Marshall Quandt, Remick, Reuschel, Rochette, Deanna Rollo, Michael Rollo, Rowe and Tholl, the day, important business.
Reps. Henson, Stephen Johnson and Tupper, the day, illness in the family.
Rep. Tobin, the day, death in the family.

INTRODUCTION OF GUESTS

Hon. Willard Martin, Jr., former member of the House from Laconia (1969), guest of Rep. Cunningham. Leo Dwyer, guest of Rep. Heard. Lori Shipulski, guest of Rep. Nordgren. Douglas Heald, brother of Rep. Heald. Fergus Cullen, guest of Rep. Whalley.

RESOLUTION

Reps. Wallner and Whalley offered the following:
RESOLVED, that the House of Representatives notify the Honorable Senate that it is ready to meet with the Honorable Senate in Joint Convention for the purpose of hearing the State of the State Address by his Excellency, the Governor, John H. Lynch.
Adopted.

SENATE MESSAGE

The Senate is ready to meet with the Honorable House of Representatives in Joint Convention for the purpose of hearing the State of the State Address by his Excellency, Governor John H. Lynch.

The Sergeant-at-Arms introduced the Honorable Senate and Senate President, Sylvia B. Larsen from Concord.

JOINT CONVENTION

(Speaker Norelli presiding)

INTRODUCTION OF SPECIAL GUESTS

The Sergeant-at-Arms introduced the following special guests:
Administrative Judge David D. King of the Probate Court, Administrative Judge Edwin W. Kelly of the District Court and the Family Division, Chief Justice Robert J. Lynn of the Superior Court, Associate Justice Gary E. Hicks of the Supreme Court and Senior Associate Justice Linda S. Dalianis of the Supreme Court.
Supreme Court Chief Justice John T. Broderick, Jr.
Executive Councilors John D. Shea, Beverly A. Hollingworth, Raymond J. Wieczorek and Debora Pignatelli.
The Sergeant-at-Arms introduced Governor John H. Lynch and Dr. Susan Lynch.

Governor Lynch presented his State of the State Address to the Joint Convention.

STATE OF THE STATE ADDRESS

Governor Lynch: Good Morning. Madam Speaker, Madam President, Mr. Chief Justice, honorable members of the Governor's Council, the Judiciary, the House and Senate and my fellow citizens of New Hampshire: I am proud to come before you today to report on the state

of our great state. Before I begin, let me introduce my wife and our exceptional first lady, Susan Lynch. I can never thank her enough for her support. She works hard every day to make a difference in the lives of the people of New Hampshire. Let me recognize Senate Republican Leader Ted Gatsas and House Republican Leader Mike Whalley. Mike, our thoughts and prayers have been with you and we are so glad that you are with us here today. We must also be mindful of those who are not with us today – in particular the brave men and women serving in our military. Let us thank them for their service. For the past year, the eyes of the nation have been on New Hampshire and our first-in-the-nation primary and, despite the attempts of some, New Hampshire was first. And, because of our engaged citizens, our record-breaking turnout, and our willingness to let the people decide, New Hampshire should and will remain the first primary in the nation. The primary is always a chance to showcase New Hampshire and we showed the nation why New Hampshire is the greatest state in the greatest country in the world. The nation saw a place where people put partisanship to one side to solve problems and to make progress. The nation saw a place of breathtaking natural beauty and a people committed to preserving it, a healthy state, and a people committed to expand access to health care. A state focused on building a strong economy and a people who make that economic growth possible. The nation saw a place with great schools and a people working to give every child a good education. A fiscally responsible state and a people who demand and receive accountability from their leaders. A state that has acted to end discrimination and a people who treat their neighbors with dignity and with respect. We showed the nation a place where all people, Democrats, Republicans and Independents, are finding common ground to tackle long-standing problems and make a difference in the lives of our citizens. We face many challenges, but we are a strong state, with a solid foundation upon which to build. We must keep working to make New Hampshire a place of opportunity for all of our citizens. A state where every child gets the chance for a good education, where more of our citizens can afford health care, where families feel secure and where hard work is recognized and rewarded. This is the future that we are building together for New Hampshire. Our state needs a strong economy to grow and thrive and our people want and deserve the security of good jobs. Many of our families are struggling to heat their homes and to stretch their budgets to cover the rising costs of gasoline and food. Our families are watching the foreclosure crisis grow and the stock market decline and worry the slowing national economy may soon affect their own jobs. In Claremont, I met a man who saw the company where he had worked for 23 years shut its doors almost over night. He took pride in his work and had trouble imagining what he would do next. Our rapid response team is working to help him and other workers who have lost their jobs. They are providing job training, counseling and one-on-one assistance to help people find new work. Our economic development team is working to help existing businesses grow and attract new jobs to our state and when companies abruptly shut down, ignoring laws that require them to give their workers notice and severance, we stepped in. Here in New Hampshire, we stand up for our workers. New Hampshire is better prepared for this national economic downturn than much of the country. Economists predict that New Hampshire will continue to lead the region in economic growth and our unemployment rate remains well below the national average. We are better positioned because of our strong and educated workforce, the diversity of our economy, our tax structure and also because we've worked together to make sound investments in the future. Because companies that innovate create jobs, we created the research and development tax credit. Because we know workers need new skills to compete in the global economy, we reinstated the Job Training Fund and in just two months, we're already training 237 workers. And, because we wanted to make New Hampshire more competitive, we cut the insurance premium tax. Now, Acadia Insurance has moved from Maine to New Hampshire. We've been working to transform the North Country from a paper-based economy to one that is more diverse. But, recent events … the closure of Groveton Paperboard, the pulp mill in Berlin, and now Wausau Paper … make clear the need for more dramatic action. Coos County is struggling. Average wages

are significantly lower than the rest of the state; the unemployment rate, even before the latest mill closure, is much higher; and its economic growth is expected to significantly lag behind the rest of New Hampshire. In Groveton and Berlin, I've met workers whose families have lived in the North Country for generations. They love their homes. They love their communities, but they worry they will have to move to find work. Many of their children don't see their future in the North Country. This is not just a North Country issue; it's a New Hampshire issue. We all care about the North Country and that's why we cannot, and we will not, just stand by. That is why today I am proposing a new tax credit to encourage businesses to create good-paying jobs in Coos County. A business that creates a good-paying job in Coos County – a job that pays at least twice the minimum wage –will receive a $1,000 credit against its business taxes for each of the next five years. Most new businesses would pay no business taxes at all for their first five years. Existing businesses would get the same credit for every new job that they create in Coos County. This credit will help companies overcome some of the unique barriers that exist in bringing jobs to Coos County. Please join me in making sure that Coos County not only survives, but thrives. Some of the nation's current economic problems can be traced to abuses in mortgage lending and across New Hampshire; families are coping with losing the homes they dreamed of for years. Last year, we passed a law to prevent people from taking advantage of families facing foreclosure. Now, we need to make sure the people who are developing mortgage agreements are responsible, are following national standards, and recognize their obligation to consumers. We should act this year to license mortgage originators and protect consumers from future abuses. The declining national economy is also affecting our state budget. Because of our work together in the past three years to restore New Hampshire to a solid financial footing, we are in better shape than most states. We ended the last biennium with a surplus and together, we built up the Rainy Day Fund from just $17 million when I took office to a record $89 million today. For the first six months of the fiscal year, revenues came in almost exactly as we estimated. But since we passed the budget in June, the mortgage crisis has grown, the stock market has dropped and oil prices have increased more than 50 percent and we are beginning to see the impact of that national downturn on our state revenues. Barring an emergency, I will not support any bills that require additional spending this year. In addition, I've been meeting with major agency heads to develop contingency plans. I expect to come to the Fiscal Committee shortly with a proposal to ensure that we end this biennium with a balanced budget. One of the major cost drivers in our current budget was the dramatic increase in retirement costs. The state's share of retirement costs is now $219 million, a 45 percent increase from the last biennium. Our firefighters, our police officers, our teachers, state employees and municipal employees serve our citizens with distinction and with dedication. We have a fundamental responsibility to them to ensure the long-term stability of our retirement system. Unfortunately, decisions made as far back as the 1980s – about accounting methods, special accounts and investments – pushed problems in the retirement system down the road. What started as minor problems grew into major problems. Last year, we began fixing the Retirement System, and that law has already improved the system's finances. We also created a commission of financial experts, employers and employees who have presented a series of very thoughtful recommendations. Those recommendations should be the foundation for further reform. State government, local governments and employees all have a stake in this issue and solving it will require continued compromise on all our parts. We should not leave this challenge to others. We must all work together to fix the retirement system and ensure that our public employees have the secure retirements that they have earned. We in New Hampshire have long prided ourselves on the quality of our roads. People always knew when they had crossed the border into New Hampshire, just by the feel of the road. We recognize the importance of well-maintained roads and bridges to our economy and to public safety, but New Hampshire hasn't been keeping its commitment to maintaining roads – ignoring real problems on the turnpike system, letting the highway plan get out of control and neglecting real fiscal

responsibility in both the highway and the turnpike systems. For example, in 1992, turnpike workers back then added wooden supports to aging bridges on the Spaulding Turnpike in order to extend their useful lives another two years. That was back in 1992. Fifteen years later, those bridges still have not been repaired. Starting this spring, they will be. We have returned fiscal responsibility to the turnpike fund; already its bond rating has improved. We will be repairing red-listed bridges across the Turnpike System and expanding the Spaulding Turnpike. We are also returning financial responsibility to the highway fund. For too many years, New Hampshire made false promises to communities, adding projects to the highway plan without any way to pay for those projects. The plan grew from a 10-year plan to a 35-year plan. Last week, we submitted a realistic 10-year plan to the Legislature. This plan returns honesty and fiscal responsibility to the process and meets critical needs. It allows us to repair the Memorial Bridge in Portsmouth; widen Interstate 93; complete the Southern leg of the Conway Bypass; complete the Granite Street exit in Manchester and repair 89 red-listed bridges. Together, we can make sure our citizens are once again proud of their roads. All parents dream of better lives for their children and they know that education is the key to making those dreams come true. An educated workforce is also key to our state's future. To keep New Hampshire a national leader, we must give all of our children the very best education possible, including helping more of our young people go on to higher education. And that's what we're doing. We doubled a University System scholarship program to give the neediest New Hampshire students two years free tuition. And to help families save on tuition costs, we expanded Project Running Start, which allows high school students to earn college credits right at their own schools. We've expanded early learning programs. We increased alternative learning programs to help more of your young people graduate from high school. And we raised the compulsory attendance age from 16 to 18, sending a powerful message to our young people that we will not give up on them; and we won't let them give up on themselves. And we met our responsibility to define an adequate education; an education that begins with kindergarten. Education is all about opportunity, the opportunity that we offer to all our children to have better lives. The opportunity that we offer to them to get good jobs, go on to higher education if that what they choose to do and I strongly believe that every child in New Hampshire deserves an equal opportunity for a quality education. All of our children do regardless of where they live and regardless of their economic backgrounds. Right now, not every child in New Hampshire has an equal opportunity for a quality education. Children in wealthier communities have more opportunities than children in other communities. Now, I very much appreciate the work of the costing commission that this legislature created last year, but it is working under the constraints of the Supreme Court decisions. Those constraints are preventing us from putting in place the very best possible education plan for our state. We do have a responsibility to ensure that all our children have an opportunity for a quality education, but it is just not good policy to send the same base amount of education aid to every school district before we help the schools that really need it. Yet that is what the Supreme Court has said we must do. That type of approach does not reduce the inequity that exists between schools. It only widens the disparities and preserves the status quo. I believe strongly that we must pass a constitutional amendment to allow us to direct more aid to communities with greater needs. Now we must, all of us must, come together to develop an amendment that lets us do the right thing for our kids and we must not let unreasonable demands or partisan politics interfere with that goal. I also believe that, after 10 years, the best chance for us to move forward with education funding is to give the people a say. Whether you are for an amendment or against an amendment, let the people vote. Let's give all of our children, no matter where they live, the opportunity for a good education and a better life. Here in New Hampshire, we cherish the brilliant colors of our foliage, the beauty of our mountains, forests and waterways. That's why we acted together to protect them. Passing groundbreaking legislation to reduce mercury emissions; banning the burning of toxic construction and demolition debris; and funding the Land and Community Heritage and Investment Program.

We passed the Renewable Energy Act to stabilize energy prices, protect our environment and bring good jobs to New Hampshire. Now we must develop a transmission system – working with the federal government and the rest of New England – to ensure that the North Country can sell renewable power across the region. Left unchecked, global climate change will dramatically change our environment in New Hampshire. That's why I've created a Climate Change Task Force to develop a comprehensive strategy for continuing to address this critical issue. In addition, New Hampshire has joined nine other states, stretching from Maine to Delaware, to develop the Regional Greenhouse Gas Initiative, or RGGI, to reduce greenhouse gas emissions from power plants, a leading cause of climate change. We must work together to develop the best possible legislation for New Hampshire, but we also must make sure that New Hampshire does not get left behind. The rest of the Northeast is already implementing RGGI. According to the University of New Hampshire, if we do not join RGGI, New Hampshire will see higher costs and job losses. By joining RGGI, and investing its proceeds in energy efficiency, New Hampshire ratepayers will save money and our state will add jobs. That's why we must join together to pass the Regional Greenhouse Gas Initiative this year. We are working to keep New Hampshire one of the safest states in the nation. We've put more state troopers on the road, more prosecutors in the Department of Justice. We've cracked down on identity theft. We are merging the state police and highway patrol to improve public safety and government efficiency. And now we have one of the toughest laws in the nation to protect our children from sexual predators. We must keep working to make our families secure and ensure our laws keep up with today's criminals, especially when it comes to the safety of our children. With technology we can sit in our living rooms and pay our bills or keep in touch with family and friends with just a couple of clicks. Unfortunately, technology also makes it easier for criminals to sneak into our homes. Parents must take the lead in monitoring their children on the Internet, but they need help. That's why, in December, the Attorney General and I joined together with bipartisan members of the legislature to propose the Online Child Safety Act. The Online Child Safety Act modernizes our laws to protect our children from the threats of the 21st century. It increases penalties for enticing children over the Internet; toughens laws on repeat offenders; and requires convicted sex offenders to register their email addresses and online identities. We will not allow sexual predators to hide in the shadows of cyberspace. Together, we must act to keep our children safe online. New Hampshire remains one of the healthiest states in the nation, but we must keep working to make sure our families have the quality care that they deserve and health insurance that they can afford. We've been working together to meet both of those goals. We made it possible for parents to keep their children on their health insurance until age 26 and we strengthened our Children's Health Insurance Program. Through the Citizens Health Initiative, we are working to make New Hampshire a center of health care innovation. We are working to make more information about health care costs available; to expand the use of electronic medical records; and to make New Hampshire the first state where all our providers can prescribe medications electronically. Today, I ask you to join with me and take the next step. To put health care in reach for more people, we must work to make it more affordable. We must increase the use of technology and make sure that doctors are coordinating patient care. We must focus on keeping people healthy and on them taking responsibility for keeping themselves healthy. Large corporations recognize that this is in fact the future of health care. They are already working with their insurers to bring this type of innovation and focus on wellness to their health care plans. We can bring this same type of innovation and potential for cost savings to small businesses and to their workers. I ask you to join with me to create New Hampshire HealthFirst, which would require insurance companies to offer a wellness insurance plan to small businesses. Rhode Island passed similar legislation last year. It reports a savings to small businesses of more than 15 percent when compared to similar coverage available in the market. Many of our small businesses are struggling to keep providing health insurance to their workers. HealthFirst will offer our small businesses a new, more affordable choice for

good health insurance coverage. It will help stabilize health insurance costs for our small businesses and make it possible for more of our businesses to continue to offer insurance to their workers. Let's continue to lead the way in health care innovation. Let us look to the future and begin changing how our health care system works. Let's pass this bill and help more of our small businesses and more of our workers afford health insurance. One of the messages we heard loud and clear during the primary this year is that our people want leaders who work together to get things done. They don't care about whether it's a Democratic issue or a Republican issue; they care about the issues that affect their lives. They don't care who wins that day's partisan war of words; they care about whether together, we are making their lives better. That's what we've been doing here in New Hampshire and that's what we will continue to do in New Hampshire. Let's keep working together to make a difference in the lives of the people of our great state. Let's keep working together to strengthen our economy; to protect our kids; and to expand access to health care. Let's keep working together to build a better, brighter future for all our citizens here in New Hampshire. Thank you all very much.

Sen. Foster and Rep. Wallner moved that the Joint Convention arise.
Adopted.
The Joint Convention adjourned.

HOUSE SESSION

(Speaker Norelli in the Chair)

COMMITTEE REPORTS

REGULAR CALENDAR – RETAINED BILLS - SPECIAL ORDERS

HB 666-FN, establishing a license fee for the sale of animal vaccines. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Tara A. Sad for Environment and Agriculture: In order to adequately support the existing companion animal neutering fund, this bill establishes a license fee for pharmaceutical companies which sell animal vaccines in the State of New Hampshire -- $500 for a permanent license and $200 for a temporary license – resulting in an estimated increase in state restricted revenue of $11,000 in FY 2007 and $22,000 in FY 2008. In addition, the bill eliminates the subsidies currently paid to veterinarians for immunizations not vital to the animals or necessary to public health. Rabies vaccinations for dogs and cats will continue to be required. An estimated additional savings of $30,000 per year resulting from this change in policy to no longer require non-essential vaccinations will be realized, which can then be used to fund much needed additional spay/neuter procedures. Vote 17-0.

Amendment (2423h)

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

1 Animal Vaccines. Amend RSA 436:80 to read as follows:

436:80 Label. Sale and use of biological products and diagnostic reagents produced for animal use which are sold, given away or used within this state shall bear a label stating the name and address of the person, firm or institution producing it and the date of preparation. Said label and certification of licensure by the United States Department of Agriculture shall be submitted to the commissioner for his approval prior to acceptance for distribution in New Hampshire. ***Fees for certification and acceptance of licensure shall be $500 for a permanent license and $200 for a temporary or conditional license, and all fees received shall be deposited into the companion animal neutering fund established in RSA 437-A:4-a.***

2 Companion Animal Neutering 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 436:80,*** and RSA 437-A which shall be credited to the companion animal neutering fund, established in RSA 437-A:4-a.

3 Veterinarian Participation. Amend RSA 437-A:4, II (b) to read as follows:

(b) For all animals sterilized under RSA 437-A:3, II, the commissioner shall also reimburse, to the extent funds are available, any licensed veterinarian of this state participating in such program for an examination fee and the presurgical immunization of dogs [~~against rabies, distemper, hepatitis, leptospirosis, and parvovirus, or an examination fee and the presurgical immunization of~~] ***and*** cats against rabies[~~, feline panleukopenia, calici, pneumonitis and rhinotracheitis, as the case may be~~]. Reimbursement for the full cost of the presurgical immunization shall be made by the commissioner to the participating veterinarian upon the written certification, signed by the veterinarian and the owner of the animal, that the immunization has been administered. There shall be no additional charges to the owners of animals sterilized under RSA 437-A:3, II for examination fees or the presurgical immunization. Owners of animals sterilized under RSA 437-A:3, I who have adopted such animals from shelters shall pay the cost of all presurgical immunizations and examination fees directly to the participating veterinarian.

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

AMENDED ANALYSIS

This bill establishes a fee for processing a license for the sale of animal vaccines.

This bill also removes certain animal diseases from the list of vaccinations eligible for reimbursement.

On a division vote, 207 members having voted in the affirmative and 71 in the negative, the committee amendment was adopted.

Committee report adopted.

Referred to the committee on Ways and Means.

HB 877-FN, relative to the state recycling program. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Burton W. Williams for the Majority of Environment and Agriculture: As a legislature, we are keenly aware that state government should be a model for good environmental practices such as recycling. For decades, the RSA's have contained a hodge-podge of recycling statutes including a mandate for state agencies to recycle that has proven unworkable. HB 877, as amended, establishes a state policy on recycling and replaces the unworkable mandate with a collaborative committee of legislators and department heads, among others. The Intra-Agency Recycling and Purchase Committee is charged with addressing various aspects of recycling and has reporting duties. It is co-chaired by the commissioner of environmental services and the commissioner of the department of administrative services or designees. Both agencies worked with the committee to develop this amended version of the bill. This bill retains the recycled materials fund and clarifies its operations. No new positions are funded through this amended bill. This is a sound step in the right direction and long overdue. Vote 17-1.

Rep. Steve Vaillancourt for the Minority of Environment and Agriculture: While recycling by state agencies is certainly a good idea, the minority believes that this bill represents an attempt by the legislature to micromanage and meddle into areas which should be handled by the state's chief executive. Should this or any governor wish to accomplish the goals of this bill, he or she could do so without this type of legislation. In fact, any governor would be in a much better to accomplish the goals of this bill without the restrictive language it contains. The minority invites you to read the amendment, but the minority is equally convinced that few will want to read it since its six pages of increased regulations which amounts more to a full employment manifest for bureaucrats than a laudable attempt to increase amounts recycled by state agencies. The fiscal note, while initially vague, was updated to include a price tag in the $450,000 per annum range. New Hampshire's previous

governor formed a commission to look into this matter. The present governor has not acted upon that commission's ideas or formed a new commission. The minority suggests action at the executive level would be more proper and effective to solve any problem that may exist in this regard. The minority believes that any governor, desiring to spend $450,000 in such a manner, should include the appropriation in a future budget request and not be forced into such expenditure.

Majority Amendment (2586h)

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

1 New Chapter; State Government Waste Reduction, Recycling, and Recycled Products Purchase. Amend RSA by inserting after chapter 9-B the following new chapter:

CHAPTER 9-C
STATE GOVERNMENT WASTE REDUCTION,
RECYCLING, AND RECYCLED PRODUCTS PURCHASE

9-C:1 Purpose. State government has an obligation to put into practice, as part of its own operations, the interdependent principles of waste reduction, recycling, and recycled products purchase. State agencies shall strive to maximize the application of these principles in their normal operations. This chapter shall apply to all state agencies, as defined in RSA 9-C:2, V, whether or not they are required to make purchases through the division of plant and property management.

9-C:2 Definitions. In this chapter:

I. "Committee" means the interagency recycling and product purchase committee established in RSA 9-C:4.

II. "Division" means the division of plant and property management.

III. "Primary state agency" means the highest organizational unit of a given part of state government such as a department.

IV. "Recycled material" means a material or product that has served its intended end-use and is separated from the waste stream and recycled, and does not include those by-products and materials generated and commonly reused within the original manufacturing process.

V. "State agency" or "agency" means any board, department, bureau, office, commission, hospital, sanitarium, home, library, school, college, prison, or other institution, by whatever name, conducted or operated by the state of New Hampshire, and shall include the legislative branch of state government, but not the judicial branch.

9-C:3 State Policy.

I. For the purpose of reducing disposal costs and to conserve and protect natural resources, it shall be the policy of each state agency to:

(a) Minimize the amount of solid and hazardous waste that it generates.

(b) Recycle any generated waste materials for which markets are readily available, with particular attention to waste materials that are not biodegradable.

(c) Purchase materials, supplies, and products that have the highest content of recycled materials and which are recyclable and non-toxic, to the extent feasible, acceptable, and appropriate.

II. Each state agency shall cooperate with and take into account the decisions of the committee when implementing the policy set forth in paragraph I.

III. All agency employees shall comply with this policy and participate in any initiatives within their respective agencies to implement the policy.

9-C:4 Interagency Recycling and Product Purchase Committee.

I. There is hereby established the interagency recycling and product purchase committee. The committee shall be composed of two representatives appointed by the speaker of the house of representatives, one senator appointed by the senate president, the commissioners of each department or designees, and a designee from the office of the governor. The head or governing board of any other primary state agency, or designee, may

elect to be a non-voting member. The committee shall have 2 co-chairs. One shall be the commissioner of environmental services, or designee, and the other shall be the commissioner of administrative services, or designee.

II. The committee shall coordinate and support the efforts of state agencies to comply with this chapter. The committee shall:

(a) Identify waste materials for which recycling markets are readily available to state agencies in various parts of the state.

(b) Identify the materials, supplies, and products for purchase by state agencies that have the highest content of recycled materials and which are recyclable and non-toxic, to the extent feasible, acceptable, and appropriate, which shall include paper purchases specified in RSA 9-C:9.

III. The committee shall prepare a document by January 1, 2009, and continuously update such document which details its determinations under subparagraphs II(a) and (b). A state agency that does not adhere to recycling the waste materials or purchasing the materials, supplies, and products detailed in the document shall be presumed to be in noncompliance with the state policy principles of RSA 9-C:3, I(b) or (c) unless good cause is demonstrated, consistent with the purpose and policy established by this chapter, as part of its certification filing under RSA 9-C:10, I(b).

IV. The committee shall meet at least quarterly, with its first meeting no later than 60 days after the effective date of this act. Legislative members shall receive mileage for attending to the duties of the committee.

V. At least quarterly, the department of administrative services shall report to the committee on the status of the recycling fund under RSA 9-C:6.

VI. The committee shall have the power to issue subpoenas in order to perform its duties under this chapter.

9-C:5 Department of Environmental Services Assistance. The department of environmental services shall assist state agencies, as time and resources permit, to identify waste reduction and recycling opportunities. Such assistance shall include, but not be limited to, the preparation of waste minimization and recycling guidelines and office or site visits. The department shall also be available to the division for consultation relative to the division's duties under this chapter.

9-C:6 Fund Established. There is established in the office of the state treasurer a nonlapsing fund to be known as the state recycling fund to be administered by the director of the division, which shall be kept distinct and separate from all other funds. All moneys in the state recycling fund shall be continually appropriated to the commissioner of administrative services for the purpose of paying division costs in administering this chapter, providing state agencies with needed equipment and supplies for recycling, or to offset any costs associated with providing recycled materials pickup service. The treasurer shall deposit all donations received under paragraph II in the state recycling fund.

9-C:7 Recycled Materials Revenue.

I. All sales revenues for materials recycled by state agencies shall be forwarded quarterly to the state treasurer for deposit into the state recycling fund established in RSA 9-C:6. Any revenues derived from collections made by the Tobey School shall be used first to reimburse the school's cost of collecting and handling the materials. The division may accept gifts, grants, donations or other moneys for deposit into the fund to be used for the same purposes as other monies in the fund.

II. Funds accruing to the liquor commission from the sale of corrugated boxes shall be exempt from the provisions of paragraph I. The liquor commission shall report quarterly to the director of the division on the use of such funds in its recycling program. Excess funds generated by the recycling program of the liquor commission which are not used by June 30 of each year shall lapse to the fund under RSA 9-C:6.

9-C:8 Procurement. The division shall fulfill its responsibility as the state's procurement agency in a manner consistent with and in advancement of the policy principles of RSA 9-

C:3. This shall be reflected, in part, in the division's procurement specifications and the information required from vendors and bidders. The division shall keep all state agencies that make purchases through it informed of the requirements of this chapter and shall work with such agencies and the committee in furtherance of such requirements. The division shall put in place the necessary contracts to facilitate the purchase of those materials, supplies, and products identified by the committee under RSA 9-C:4, II(b), when they are of a type normally procured through the division, as well as other materials, supplies, and products containing recycled materials for which there is a demand. The division, in consultation with the committee, shall also arrange for the pickup of recycled materials, where feasible, at those state agencies that purchase through the division.

9-C:9 Recycled Paper.

I. Uncoated printing and writing paper purchased by or for state agencies shall contain not less than 30 percent recycled material and coated printing paper purchased by or for state agencies shall contain not less than 10 percent recycled material.

II. If compliance with this section is not possible by following current industry standards for any item or items, then such items may be exempted from the requirements of this section, provided:

(a) For items purchased through the division, the division makes a written finding that current industry standards require the exemption; or

(b) For items not purchased through the division, the purchasing agency makes a written finding, as part of its certification filing under RSA 9-C:10, I(b), that current industry standards require the exemption.

9-C:10 Reporting.

I.(a) The committee shall prepare a form, with assistance from the director of the division, that shall be used to report on agency success in complying with this chapter. The head or governing board of each department or other primary state agency shall complete the form to the extent that the information requested is applicable to the agency, and return it to the committee by September 1 of each year beginning in the 2009. Information concerning administratively attached agencies, as identified by the committee, shall be included within the report of the primary state agency. The form shall require the reporting of information in sufficient detail to allow the committee to prepare its annual report under paragraph II. When possible, the committee shall rely upon information already recorded by the division through the procurement process.

(b) The primary state agency shall certify on such form that the agency is in compliance with each policy provision of RSA 9-C:3, I and if not, the reasons for non-compliance and the agency's plan for compliance.

II. The committee shall submit a report on compliance with this chapter by November 1 of each year beginning in 2009 to the governor, the legislative committees of jurisdiction, the department of environmental services, and the state library that shall include, but not be limited to, both detailed and summarized information, as best can be determined, on:

(a) The waste materials that were either recycled or otherwise disposed of by state agencies during the prior fiscal year by type, quantity, disposal cost or sales revenue, and agency.

(b) Purchases made by state agencies during the prior fiscal year of those types of materials, supplies, and products identified by the committee under RSA 9-C:4, II(b) as being available with recycled material content, by type, recycled material content, if any, quantity, cost, and agency. Where possible, the committee shall rely upon information recorded by the division through the procurement process.

(c) The response given by each state agency to the certification requirement under subparagraph I(b) relative to its compliance with each policy principle of RSA 9-C:3, I.

(d) Any recommended changes to state laws, policies or practices that would advance the policy principles of RSA 9-C:3, I, including any offered by state agencies under paragraph I.

(e) The actions taken by the division to fulfill its responsibilities under RSA 9-C:8 as the state's procurement agency.

(f) The activities of the committee during the past year, including a copy of the document prepared by the committee under RSA 9-C:4, III.

III. The legislative branch shall devise its own method of reporting compliance with this chapter and shall not be considered a state agency for purposes of reporting under this section.

2 Division of Plant and Property Management. Amend RSA 21-I:11, I(f) to read as follows:

(f) "Services" shall mean services provided for general agency use including, but not restricted to, the following: credit card agreements, elevator maintenance, hazardous waste testing and removal, janitorial services, laboratory services, rubbish removal, ***recycled materials pickup,*** security services, snow removal, soil testing, transportation, office machine maintenance, vehicle repair, vehicle rental and leasing, and warehousing. "Services" shall not mean services provided solely to one agency.

3 Purchase of Supplies; Exemptions. Amend RSA 21-I:18, I(c)-(e) to read as follows:

(c) The legislature, secretary of state, and the state reporter are completely exempted from the provisions of this chapter[~~; except for the provisions of RSA 21-I:14-a~~].

(d) This chapter shall not apply to any contracts made or entered into by the director of plant and property management or any agency under the terms of which contractors with the state purchase their own supplies directly.

(e) The purchase of materials, supplies and merchandise by the department of resources and economic development as provided by RSA 219:21 shall not be subject to the provisions of this chapter[~~, except for the provisions of RSA 21-I:14-a~~].

4 New Subparagraph. Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the recycling fund established under RSA 9-C:6.

5 State Agency Notification. The interagency recycling and product purchase committee established under RSA 9-C:4 shall, as expeditiously as possible, notify all state agencies of the requirements of this act.

6 Contracted Services Study. The interagency recycling and product purchase committee established in RSA 9-C:4 shall study the application of the policy principles of waste minimization, recycling and purchasing under RSA 9-C:3 to contracted state services. The committee shall report its findings and any recommendations for legislation to the governor, the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, and the state library by December 1, 2010. The commission shall issue an interim report by December 1, 2009 of any initial findings and recommendations, unless it has already completed its final report by that date.

7 Transfer of Funds. All amounts in any fund established pursuant to RSA 21-I:60, I or RSA 21-I:14-a, II, together with all of the books, papers, records, unexpended appropriations, receivables and payables related to said funds, shall, as of the effective date of this section, be transferred to the special fund established under RSA 9-C:6 and may be utilized for the purposes specified for such fund.

8 Repeal. The following are repealed:

I. RSA 21-I:14-a, relative to recycled materials.

II. Subparagraphs (a) and (b) of RSA 21-I:11, II, relative to the purchase of and reporting on the purchase of recycled products.

III. RSA 21-I:1-a, III, IV and V, relative to the definitions of "post consumer recycled waste material", "recycled materials", and "recycled products".

IV. RSA 21-I:59-65, relative to waste reduction and recycling program.

9 Effective Date. The bill shall take effect 60 days after its passage.
Majority committee amendment adopted.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Rep. Vaillancourt spoke against.
Reps. Morrison and Burton Williams spoke in favor.
Rep. Dumaine requested a roll call; sufficiently seconded.

YEAS 199 NAYS 124

YEAS 199

BELKNAP

Arsenault, Beth	Millham, Alida	Morrison, Gail	Pilliod, James
Reever, Judith	Wood, Jane		

CARROLL

Bridgham, Robert	Butler, Edward	Cunningham, Howard	Heard, Virginia
Knox, J. David			

CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Eaton, Daniel	Espiefs, Peter
Johnson, Jane	Lerandeau, Alfred	Loll, Thomas	Mitchell, Bonnie
Parkhurst, Henry	Plifka, Stanley Jr	Richardson, Barbara	Roberts, Kris
Robertson, Timothy	Sad, Tara	Weber, Lucy	Weed, Charles

COOS

Hatch, William	Ingersoll, Paul Sr	Merrick, Evalyn	Merrick, Scott
Theberge, Robert	Thomas, Yvonne		

GRAFTON

Aguiar, James	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Estes, Carole	Friedrich, Carol	Hammond, Lee
Laliberte, Suzanne	Lovett, Sid	Matheson, Robert	McLeod, Martha
Mulholland, Catherine	Nordgren, Sharon	Pierce, David	Preston, Philip
Solomon, Peter	Williams, Burton		

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Bergin, Peter	Campbell, David
Chase, Claudia	Clemons, Jane	Cote, David	Daler, Jennifer
Dokmo, Cynthia	Edwards, Andrew	Fontas, Jeffrey	Forest, Armand
Foster, Linda	Garrity, Patrick	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Haefner, Robert	Hall, Betty	Hammond, Jill
Hansen, Ryan	Harvey, Suzanne	Hebert, Roger	Irwin, Anne-Marie
Jeudy, Jean	Kaelin, Michael	Kelley, John	Knowles, Mary Ann
Kopka, Angeline	Lasky, Bette	Long, Patrick	Mack, Ron
Marshall, Seth	Martineau, Jesse	Matarazzo, Anthony Sr	Messier, Irene
Movsesian, Lori	O'Brien, Michael Sr	O'Neil, James	Peterson, Andy
Pilotte, Maurice	Rosenwald, Cindy	Scannell, David	Schulze, Joan

Shattuck, Gilman	Spaulding, Jayne	Sullivan, Daniel	Sullivan, Francis
Sysyn, Mary			

MERRIMACK

Baxley, Maureen	Beauchesne, Suzanne	Blanchard, Elizabeth	Bouchard, Candace
Brown, Carole	Brueggemann, Donald	Davis, Frank	DeJoie, John
Ehlers, Eileen	Foose, Robert	French, Barbara	Gile, Mary
Greco, Vincent	Hager, Elizabeth	Hamm, Christine	Kelly, Sally
Kidder, David	Kjellman, Eleanor Glynn	Lockwood, Priscilla	McMahon, Patricia
Osborne, Jessie	Owen, Derek	Porter, Margaret	Potter, Frances
Reardon, Tara	Richardson, Gary	Ryan, Jim	Shurtleff, Stephen
Tilton, Joy	Wallner, Mary	Walz, Mary	Webb, Leigh
Williams, Robert	Yeaton, Charles		

ROCKINGHAM

Abbott, Dennis	Brown, C. Pennington	Cali-Pitts, Jacqueline	Casey, Kimberley
Day, Judith	Elliott, Robert	Flockhart, Eileen	Gould, Kenneth
Grote, Otto	Howard, Doreen	Kepner, Susan	Marsh, Michael
McCarthy, Linda	McEachern, Paul	McGuirk, Thomas	McKenna, Daniel
Nord, Susi	Petterson, Don	Powers, James	Robertson, Carl
Russell, Trinka	Serlin, Christopher	Snow, Richard	Splaine, James
Webber, James	Wells, Roger		

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Larry
Burke, Rachel	Cyr, James	DeChane, Marlene	Fargo, Thomas
Hofemann, Roland	Kaen, Naida	Knowles, William	Mickelonis, Shawn
Miller, Joseph	Perry, Robert	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Spang, Judith	Sprague, Dale	Vachon, Dennis
Wall, Janet	Warren, Nancy	Watson, Robert	

SULLIVAN

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

NAYS 124

BELKNAP

Allen, Janet	Boyce, Laurie	Clark, Charles	Flanders, Donald
Heald, Bruce	Nedeau, Stephen	Thomas, John	Tilton, Franklin
Wendelboe, Fran	Whalley, Michael		

CARROLL

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

CHESHIRE

Emerson, Susan	Hunt, John

COOS

King, Frederick	Stohl, Eric		

GRAFTON

Bulis, Lyle	Gionet, Edmond	Ingbretson, Paul	Sorg, Gregory

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Brunelle, Michael
Christensen, Chris	Christiansen, Lars	Clark, Mark	Coughlin, Pamela
Crane, Elenore Casey	Daniels, Gary	Day, Russell	Drisko, Richard
Emerton, Larry	Fletcher, Richard	Francoeur, Bea	Goyette, Peter
Graham, John	Haley, Robert	Hawkins, Ken	Hinkle, Peyton
Hogan, Edith	Holden, Randolph	Infantine, William	Jasper, Shawn
Kurk, Neal	L'Heureux, Robert	Lawrence, James	Leishman, Peter
Manney, Pamela	McRae, Karen	Mooney, Maureen	O'Connell, Timothy
Ober, Lynne	Ober, Russell III	Price, Pamela	Reeves, Sandra
Renzullo, Andrew	Smith, David	Soucy, Connie	Stepanek, Stephen
Tahir, Saghir	Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Maurice
Winters, Joel			

MERRIMACK

Anderson, Eric	Boutin, David	DeStefano, Stephen	Hess, David
MacKay, James	Reed, Dennis		

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Bishop, Franklin	Camm, Kevin	Carson, Sharon
Case, Frank	Charron, Gene	Dalrymple, David	Devine, James
Dumaine, Dudley	Emiro, Frank	Fesh, Bob	Flanders, John Sr
Garcia, Marilinda	Garrity, James	Gleason, John	Griffin, Mary
Guthrie, Joseph	Headd, James	Hutchinson, Karen	Ingram, Russell
Introne, Robert	Itse, Daniel	Kappler, Lawrence	Katsakiores, George
Katsakiores, Phyllis	McKinney, Betsy	McMahon, Charles	Moore, Benjamin
Nowe, Ronald	Pearson, Mark	Quandt, Matthew	Rausch, James
Reagan, John	Sanders, Elisabeth	Stiles, Nancy	Weare, Everett
Welch, David	Weyler, Kenneth	Wickson, Rick	Winchell, George

STRAFFORD

Brown, Julie

SULLIVAN

Rodeschin, Beverly

and the majority committee report was adopted.

Referred to the committee on Executive Departments and Administration.

HB 924-FN, relative to the deconstruction of buildings. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Leigh A. Webb for the Majority of Environment and Agriculture: This bill seeks to put the state into a position of leading by example, mandating the diversion of recyclable and reusable material from the stream, meaning incineration and landfills, and instead

encouraging their use in beneficial, constructive, and cost-saving ways. Hazardous material, such as asbestos, and unusable material such as painted wall board (gypsum), would not be included in the 75% formula as defined by the bill. Dealing only with demolition projects funded partially or wholly by the state, this bill only suggests by example that the private sector consider following the state's policy drafted out of concern for limited landfill space, to conserve resources, and to be sensitive to our fragile environment. Vote 14-3.
Rep. Steve Vaillancourt for the Minority of Environment and Agriculture: Like HB 877, this bill represents an attempt by the legislature to mandate executive department recycling efforts which are best addressed by the state's chief executive, that is to say by the governor. While the minority agrees that it would be beneficial to recycle materials created in demolitions of state property, the minority does not believe a 75 percent stipulation is wise nor does the minority believe the definitions contained in the amendment are wise. Discretion should be left up to the governor and department heads. A potential 28A issue was also raised with the amendment since the language is so broad ("structure funded in whole or in part by state funds") that cities in towns could be caught up in the stipulation. What, for example, about a town removing a school building that was funded to some part by state monies 50 years ago? While recycling 75 percent of the materials might in fact be a good policy, it might be at such a prohibitive cost that the town might decide it is unable to accomplish the goal.

Majority Amendment (2583h)
Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Definitions; Deconstruction. Amend RSA 149-M:4 by inserting after paragraph IV the following new paragraph:

IV-a. "Deconstruction" means the process of intentionally demolishing, or taking apart, a structure or man-made impediment with the primary goal of preserving the value of all useful building materials, so that they may be recycled or reused.

2 New Sections; Deconstruction of Structures. Amend RSA 149-M by inserting after section 2 the following new sections:

149-M:2-a Reuse and Recycling. For any demolition of a building, road, bridge, or other man-made structure funded in whole or in part by state funds, a minimum reuse plus recycling rate of no less than 75 percent, by weight or volume, of materials with recognized outlets for reuse or established markets for recycling, shall be achieved and documented. Such reuse plus recycling rate shall be approved by the project's clerk of the works. Reuse and recycling may include the recovery for reuse of fixed and movable assets, deconstruction of structures, and recovery of materials for recycling as source-separated or co-mingled materials.

149-M:2-b Demolition During Emergency. Demolition mandated during times of emergency are excluded from the requirements of RSA 149-M:2-a, as long as every reasonable effort is expended to divert materials from being landfilled.

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

On a division vote, 193 members having voted in the affirmative and 119 in the negative, the majority committee amendment was adopted.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
On a division vote, 188 members having voted in the affirmative and 131 in the negative, the majority committee report was adopted.
Referred to the committee on Finance.

HB 65, relative to the appointment of the director of the division of ports and harbors.
OUGHT TO PASS WITH AMENDMENT.
Rep. Peter B. Schmidt for Executive Departments and Administration: This bill addresses

structural inconsistencies between the Pease Development Authority (PDA) and the division of ports and harbors which impede optimal economic development of the Port of Portsmouth, as well as the optimal operation and management of both the port and the harbors along the NH seacoast. These differences were either not fully recognized or were left unresolved when the legislature placed the division of ports and harbors under the PDA in 2001. HB 65 removes the governor and council from their current role in the appointment and confirmation of the port director and places the hiring of the division director in the hands of the executive director of the PDA and the board of the PDA. HB 65 also requires a biennial report that addresses the financial status of the port, contracts that were executed in the previous 24 months as well as the status and scope of all ongoing port development projects, a summary of environmental reports, a summary of PDA programs and informational meetings held to encourage communication with the involved communities. Membership on the division advisory council is becomes more specific in HB 65. There continue to be 8 members on the advisory council, 6 of whom are appointed by the governor. Among these 6 appointees should be: 2 individuals from cities and towns not represented on the board, 2 members with maritime industry experience and 1 commercial fisherman. Vote 14-2.

Amendment (2638h)

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

AN ACT relative to the Pease development authority.

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

1 Pease Development Authority; Power to Sell, Lease or Otherwise Convey Property. Amend RSA 12-G:8, V to read as follows:

V. To sell, convey, lease, exchange, transfer, abandon, or otherwise dispose of, or mortgage, pledge, or create a security interest in, all or any of its airport or division property or any interest therein, except that no real property of the division may be sold[~~, conveyed, exchanged, transferred, or otherwise disposed of, except by license, lease, or other agreement subject to a term of not more than seven years,~~] without the prior approval of the governor and the executive council ***and without first being offered by the governor and council to the city, town, or county in which the property is located, in accordance with RSA 4:40***.

2 Status of Authority Employees; Entitlement to State Benefits. Amend RSA 12-G:11 to read as follows:

12-G:11 Status of Authority Employees; Entitlement to State Benefits; Reimbursement of Costs.

I. Except for any classified employee of ***the authority assigned to*** the division[~~,~~] ***as provided in paragraph IV:***

(a) The authority may hire, fix, and pay compensation, prescribe duties and qualifications, and establish personnel policies without regard to any personnel or civil service law or personnel or civil service rule of the state[~~. Except for any classified employee of the division, the employees of the authority shall not be classified employees of the state within the meaning of RSA 21-I:49. Except for any classified employee of the division,~~]***;***

(b) All employees of the authority, including without limitation the executive director and the division director, shall be nonclassified state employees; and

(c) Any individual employed by the authority shall be [~~deemed~~] an employee at will and shall serve at the pleasure of the authority.

II. Notwithstanding any other provision of law, any nonclassified employee's service with the authority, including employment with the authority prior to the effective date of this paragraph, shall be credited to such employee as continuous state service for all purposes, including without limitation rate of pay, determination of seniority and years of state service, longevity pay, and annual, sick, or other forms of leave.

[~~II.~~] ***III.*** Notwithstanding the provisions of paragraph I, any individual employed by the authority, except for any classified employee of the authority, whose employment calls for 30 hours or more work in a normal calendar week, and whose position is anticipated to have a duration of 6 months or more, shall be entitled to elect to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state. Upon election by such individual, the authority shall pay from its revenues the state's share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon employment by the authority. This paragraph shall not apply to any classified employee of the division.

[~~III.~~] ***IV.*** The state classified positions of the port authority shall be transferred to the authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority. Any person employed in such a position at the time of such transfer or at any time subsequent thereto shall be deemed a classified employee of the division. All classified employees of the division shall be classified employees of the state of New Hampshire within the meaning of RSA 21-I:49 and shall be subject to all requirements, and be entitled to all benefits and emoluments, of the state personnel system[~~. Nothing herein shall preclude the general court from increasing or decreasing the number of classified positions within the division.~~]***, unless they elect on or before January 1, 2009, to become nonclassified employees of the authority as set forth in paragraph I. Any classified employee of the authority who elects to become a nonclassified employee of the authority shall be entitled to the rate of pay and health, dental, and life insurance, deferred compensation, and retirement benefits at least equivalent to those held by authority employees with equivalent years of state service.***

V. Notwithstanding any other provision of law:

(a) No new state classified positions shall be established at the authority or the division and all state classified positions established at the division pursuant to paragraph IV shall be extinguished if vacant as of June 30, 2008, or immediately upon separation from employment, either voluntarily or involuntarily, of any person holding such position after June 30, 2008.

(b) Any new employee hired by the authority after July 1, 2008, including any new employee of the authority assigned to the division, shall be a nonclassified employee of the authority as set forth in paragraph I.

(c) Any person holding or appointed to the position of chief harbor master or deputy chief harbor master shall be a certified police officer and a group II member of the state retirement system. If such person is not a member of the state retirement system at the time of employment as chief harbor master or deputy chief harbor master, such person shall become immediately upon appointment a member of the retirement system subject to the requirements of such system then in effect.

[~~IV.~~] ***VI.*** Notwithstanding any other provision of law, the authority or the executive director may assign as necessary any employee of the authority with appropriate skills and training to perform any responsibility, task, or duty assigned by statute to the authority or the division, including without limitation, on a temporary basis, any responsibility, task, or duty previously or otherwise assigned to any classified employee of the division. To the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or revenues of the authority other than division revenues, such fund or other source of revenue shall be reimbursed for the cost of such wages, salary, benefits, and other expenses, including without limitation reasonable overhead expenses, from funds drawn from the fund established under RSA 12-G:37 and, to the extent authorized, from the fund established

under RSA 12-G:46. The executive director of the authority, subject to the approval of the board, is authorized to determine and fix, as necessary, rates of reimbursement.

3 Pease Development Authority; Ports and Harbors Fund Nonlapsing. Amend RSA 12-G:37 to read as follows:

12-G:37 Pease Development Authority Ports and Harbors Fund.

I. For the purpose of providing a fund to be known as the Pease Development Authority Ports and Harbors Fund, the state treasurer shall credit to such fund any appropriation made to the authority for each fiscal year relating to the division, division property, a division project, or any activity of the division, except any appropriation made to the harbor dredging and pier maintenance fund in accordance with RSA 12-G:46.

II. All sums so credited are appropriated to the authority ***for the benefit of the division***:

(a) To purchase, lease, acquire, own, improve, use, sell, convey, transfer, or otherwise deal in and with division property, a division project, or any interest therein, whether tangible or intangible, as otherwise authorized under this chapter;

(b) To pay the costs of operating, maintaining, improving, and repairing all division property and division projects;

(c) To pay all costs as allocated by the authority for administering and operating the division, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board, the executive director, the division director, or other provision of law, including without limitation, reimbursement of the fund established under RSA 12-G:36 or any other source of revenue of the authority other than division revenues to the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or from revenues of the authority other than division revenues;

(d) To pay the principal of, and premium, if any, and the interest on any outstanding bonds of the state related to division property or division projects as the same become due and payable;

(e) ***To create and maintain reserves required or provided for in any resolution authorizing, or any security document securing, such bonds of the authority related to division property or division projects;***

(f) To pay all payments in lieu of taxes owed by the authority, if any, related to division property or division projects; and

[~~(f)~~] ***(g)*** In general for the payment of all expenses incident to the management and operation of the division, ***division property, or division projects*** as are consistent with its statutory purpose and as the board may from time to time determine.

III. This fund shall constitute a continuing ***nonlapsing*** appropriation for the benefit of the ***division*** [~~authority. Except as provided in RSA 12-G:42, XIII, all division revenues associated with operations and responsibilities assigned by the authority to the division in excess of the operating expenditures required for the activities of the division shall be deposited in the general fund until such time as any bonds authorized and issued relating to division property or division projects have been retired. After such bonds have been retired, any amount remaining to the credit of the authority in this fund at the close of any fiscal year in excess of the amounts required under paragraph II shall lapse and shall be returned to the general fund of the~~ state].

IV. Money in this fund shall be paid to the treasurer of the authority on manifests approved by the governor and council in the same manner as other state claims are paid, provided that there shall be advanced to the treasurer such money as may be requested by the treasurer of the authority and approved by the governor and council, and provided further that manifests covering the money so advanced shall be submitted according to regular procedure at the earliest practicable time.

V. ***Division revenues or any other revenues, other than revenues from or associated with airport property or airport projects, received and due to the authority shall be retained by the authority and shall be used for division property or division projects in such manner as the board may determine consistent with the provisions of this chapter or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust, or security document.***

VI. Notwithstanding any other provision of law, no money in the fund shall be used for or paid on account of any obligation or liability of the authority related to or arising out of the ownership, operation, or maintenance of airport property or airport projects.

4 Pease Development Authority; Division of Ports and Harbors; Authority Relative to Employment of Division Director. Amend RSA 12-G:43 to read as follows:

12-G:43 Division of Ports and Harbors.

I. There is established within the authority a division of ports and harbors ***that is subject to the direction and control of the board, the executive director, and the division director***. The division of ports and harbors shall:

(a) Plan for the maintenance and development of the ports and state tidal waters from the head of navigation to the seaward limits within the jurisdiction of the state, in order to foster and stimulate commerce and the shipment of freight through the state's ports and, as an agency of the state, to assist shipping, and commercial and industrial interests that may depend on the sea for transport of products, including such interests as may be desirous of locating in tidewater areas of the state; as well as to encourage the establishment of accommodations for the boat traveler, the area boat owners, the pleasure fishermen, and others who pass up and down our coast line or in its tributaries.

(b) Aid in the development of salt water fisheries and associated industries.

(c) Cooperate with any agencies or departments of the federal government in planning the maintenance, development, and use of the state ports and state tidal waters.

(d) Plan, develop, maintain, use, and operate a heliport facility on property owned or controlled by the division. The division shall cooperate with departments, agencies, authorities, or commissions of the federal, state, or local governments and accept grants, aid, or services from such agencies in the carrying out of this purpose. Such authorization relating to heliport facilities shall include and be governed by all other provisions of this chapter.

(e) Maintain at all times a complete inventory of division property and port projects.

(f) Perform such other duties and functions relating to the administration, management, and operation of division property and division projects as are assigned to division by the authority.

II. The [~~governor and council~~] ***board*** shall [~~appoint~~] ***employ on such terms and conditions as the board shall*** **specify,** a director of the division of ports and harbors who shall be qualified by education and experience and who shall [~~hold office for a term of 5 years. Whenever an appointment of the director of the division is to be made, the board may make recommendations to the governor and submit such recommendations to the governor for the governor's consideration; however, the governor shall not be bound by such recommendations. The governor and council shall have authority to remove the director of the division as provided in RSA 4:1~~] ***be subject to the direction and control of the board and the executive director***. The director of the division shall be the administrative officer of the division and shall have general and active supervision and direction over the day-to-day business and affairs of the division and its employees, subject, however, to the direction and control of the board and the executive director. The division director shall perform all such other duties as from time to time may be assigned by the board or the executive director. The division director shall also be the secretary of the division of ports and harbors advisory council, shall keep a record of the proceedings of the council, and shall be the custodian of all books, documents, and papers filed with the division or the ports and harbors

advisory council. The division director shall have the power to cause copies to be made of all minutes and other records and documents of the council and to give certificates under the seal of the authority to the effect that such copies are true copies, and all persons dealing with the division or authority may rely upon such certificates. [~~In addition to the classified employees of the division, the division director, with the concurrence of the executive director, may employ such assistants and clerical and administrative staff as are within the limits of funds available for that purpose.~~] The salary of the division director shall be established by the board.

5 Applicability to Current Director of Division of Ports and Harbors. Notwithstanding section 4 of this act, the person serving as the director of the division of ports and harbors on the effective date of this act shall continue to serve as division director in accordance with the terms and conditions of the original appointment and the provisions of this act not inconsistent with such appointment, until such term of office has expired; provided, however, that the appointment and term of office shall earlier and immediately terminate and be extinguished when such person resigns or otherwise leaves such office prior to expiration of the term.

6 New Section; Report on the Division of Ports and Harbors. Amend RSA 12-G by inserting after section 43 the following new section:

12-G:43-a Report on the Division of Ports and Harbors.

I. The division director shall submit a biennial report on the status of development at the division to the governor and council, the board, the mayor and the city council in the city of Portsmouth, the selectmen in the towns of Rye, Newington, Hampton, Newcastle and Seabrook, the chairmen of the house and senate executive departments and administration committees, and the commissioner of the department of resources and economic development. Such report shall be submitted and made available to the public biennially beginning on June 30, 2010. The first report issued on June 30, 2010 shall be for the 2-year period ending on June 30, 2009.

II. The report shall include descriptions of:

(a) The financial status of the division, including a report on the activities of the Pease development authority ports and harbors fund and a recommendation on whether to continue the fund as a nonlapsing fund and an accounting of the activities of the division of ports and harbors revolving loan fund.

(b) Any contracts involving use of division property that have been executed in the previous 24-month period and the status and scope of all ongoing port development projects.

(c) Programs and informational meetings held to permit and encourage communication between the division and the communities it serves.

(d) Environmental reports, investigations, and permits received by, prepared by or on behalf of the division with respect to division property and activities on division property.

(e) Any proposals for the sale of division property.

7 Division of Ports and Harbors Advisory Council. Amend RSA 12-G:44, I to read as follows:

12-G:44 Division of Ports and Harbors Advisory Council.

I. There is hereby established a division of ports and harbors advisory council consisting of 8 members, 6 of whom shall be appointed by the governor, with the advice and consent of the council. [~~At least 3~~] ***Two*** of said appointive members shall be residents of the cities and towns of the seacoast region or state tidal waters [~~and at least~~] ***that are not represented on the board,*** one appointive member shall be a commercial fisherman engaged in that industry on the seacoast, and ***2 appointive members shall be experienced in a maritime industry.*** Each ***appointive member*** shall serve for a term of 5 years. Said members shall serve until their successors are appointed and qualified. Any vacancy occurring in the membership of the appointive members shall be filled by the

governor and council for the unexpired term. In addition to the 6 appointive members, the commissioner of the department of resources and economic development, or designee, and the mayor of the city of Portsmouth, or designee, shall be, by virtue of their offices, members of the council.

8 Pease Development Authority; Division of Ports and Harbors; Authority Relative to Dredge Management. Amend the introductory paragraph of RSA 12-G:45 to read as follows:

12-G:45 Dredge Management in Tidal Waters. The division, subject to the supervision***, direction, and control*** of the authority and in consultation with the division of ports and harbors advisory council***, the executive director, and the division director***, shall be responsible for managing harbor and channel dredging activities within state tidal waters. The division shall:

9 Pease Development Authority; Division of Ports and Harbors; Rules Relative to Pilot Qualifications. Amend RSA 12-G:47 to read as follows:

12-G:47 Pilots. The authority, in consultation with the ***executive director, the*** division director***,*** and the division of ports and harbors advisory council, may adopt rules prescribing the qualifications of pilots, and from time to time appoint and commission, under its hand and seal, as many pilots as it may judge necessary, and remove the same at pleasure; and it shall take from them such security, by bond or otherwise, as it may deem proper.

10 Pease Development Authority; Division of Ports and Harbors; Clarification of Agency Management Authority. Amend RSA 12-G:50 to read as follows:

12-G:50 Duties; Chief Harbor Master; Deputy Chief Harbor Master; Harbor Masters.

I. Subject to the supervision of the authority***, the executive director,*** and the division director, the chief harbor master's duties shall include but not be limited to the following:

(a) Enforcement of authority directives and rules adopted by the authority pursuant to this chapter relating to the activities and operations of the division or division property.

(b) Issuing and overseeing mooring permits and management of the mooring wait list and of the assignment and placement of moorings.

(c) Designation of anchorage areas.

(d) Management of navigation aides outside of the federal channel.

(e) Management of the movement of traffic, as necessary.

(f) Direction of the removal or movement of vessels during emergencies.

(g) Overseeing the dredge management program.

(h) Overseeing the harbor management program.

(i) Inquiring into and prosecuting all offenses occurring within the chief harbor master's jurisdiction.

(j) Any other duties assigned by the authority or the division director.

II. Subject to the supervision of the authority***, the executive director***, the division director, and the chief harbor master, the deputy chief harbor master's duties shall include but not be limited to the following:

(a) Enforcement of authority directives and rules adopted pursuant to this chapter relating to the division or division property.

(b) Performance of the duties of the chief harbor master during the absence or incapacity of the chief harbor master or when such duties are specifically delegated to the deputy chief harbor master by the authority, the division director, or the chief harbor master.

(c) Performance of any other duties assigned by the authority, the division director, or the chief harbor master.

III. Subject to the supervision of the authority***, the executive director***, the division director, the chief harbor master, and the deputy chief harbor master, the duties of a harbor master shall include but not be limited to the following:

(a) Monitoring the placement and use of moorings in state tidal waters to which the harbor master has been specifically assigned by the chief harbor master or the deputy chief harbor master.

(b) Notifying the chief harbor master or the deputy chief harbor master of any violations of any provision of RSA 12-G or any rules of the authority adopted under RSA 12-G relating to the division or division property.

(c) Performance of any other duties assigned by the division director or the chief harbor master or the deputy chief harbor master.

IV. An assistant harbor master shall assist the chief harbor master, the deputy chief harbor master, or any harbor master as directed by the division director, the chief harbor master, or the deputy chief harbor master in the performance of the chief harbor master's, the deputy chief harbor master's, or harbor master's duties.

11 Impoundment and Forfeiture of Vessels and Moorings; Reference Change. Amend RSA 12-G:52-b, V to read as follows:

V. Upon the expiration of the 90-day period identified in paragraph III, the division director may dispose of any unredeemed vessel or mooring by destroying such vessel or mooring or by offering such vessel or mooring for sale at public auction or the division director may retain such vessel or mooring for use by the state; provided, however, if the vessel or mooring is sold or retained, the purchaser or the state, in the event of retention, shall pay the cost of impoundment, removal, and storage, and shall obtain release of the lien identified in paragraph I. Any money received by reason of sale of such vessel or mooring at public auction shall be deposited in the [~~harbor management fund~~] ***Pease development authority ports and harbors fund established in RSA 12-G:37***.

12 Review of Report on Economic Development; Reference Change. Amend RSA 12-A:34 to read as follows:

12-A:34 Review of Reports Required. For the purpose of ensuring comparability of impact reports on economic development programs issued under [~~RSAs~~] ***RSA*** 4-C:6-a, ***RSA*** 12-A:33, [~~12-G:30,~~] and ***RSA*** 162-A:23-a, the department of resources and economic development, in consultation with the legislative budget assistant, shall periodically review such reports at least once every 5 years and make recommendations to be utilized by the agencies making such reports for an improved and consistent methodology for assessing the quantity and quality of jobs created and saved and the growth potential and environmental impacts of such programs. This section shall not apply to promotional literature.

13 New Subparagraph; Special Accounts; Pease Development Authority Ports and Harbors Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the Pease development authority ports and harbors fund established in RSA 12-G:37.

14 Repeal. The following are repealed:

I. RSA 12-G:10, relative to coordination with the department of resources and economic development.

II. RSA 12-G:30, relative to reports on economic development programs.

III. RSA 12-G:42, XIII, relative to a special account within the ports and harbors fund.

IV. RSA 12-G:46-a, relative to the harbor management fund.

V. RSA 6:12, I(b)(225), relative to the harbor management fund.

15 Effective date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Expands the authority of the Pease development authority to lease division property.

II. Provides that employees of the authority, other than certain employees of the division of ports and harbors, are nonclassified state employees and establishes a procedure for

classified employees of the division of ports and harbors to become nonclassified state employees.

III. Changes the position of director of the division of ports and harbors from an appointment by governor and council to a nonclassified position, and provides that such person shall be hired by the board and under the supervision of the executive director.

IV. Repeals provisions relative to coordination with the department of resources and economic development, reports on economic development programs, and the harbor management fund.

Amendment adopted.

Committee report adopted.

Referred to the committee on Finance.

HB 174-FN, relative to regulating residential building and remodeling contractors.

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

Rep. Ken Hawkins for the Majority of Executive Departments and Administration: This bill as amended will require contractors to be registered in the State of New Hampshire. Over the last few years, there have been numerous instances of contractors taking advantage of people by doing bad work or no work at all. Testimony was given by the attorney general's office that there is a problem chasing bad contractors because some of their practices (taking money and doing no work) are not covered under the consumer protection act. By registering the contractors, the attorney general will be able to prosecute using the consumer protection act. The bill also includes a number of items that would trigger the consumer protection act protection. A section was also added requiring written contracts before work begins. This is a difficult topic, but the majority of the committee supports expanded consumer protection. Vote 8-6.

Rep. John Reagan for the Minority of Executive Departments and Administration: In an effort to provide stronger consumer protection, this bill creates another bureaucracy instead of just strengthening the existing consumer protection law. The attorney general's office had asked for a stronger consumer protection provision, but HB 174 generates a new department at great public expense and a burden that falls hardest on the start up and small contractor.

Majority Amendment (2451h)

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

AN ACT relative to regulating home contractors.

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

1 New Subdivision; Regulating Home Contractors. Amend RSA 310-A by inserting after section 181 the following new subdivision:

Home Contractors

310-A:182 Purpose. The purpose of this subdivision is to provide consumer protection for the people of New Hampshire by registering home contractors.

310-A:183 Definitions. In this subdivision:

I. "Actual loss" means the amounts payable for the cost of repair, replacement, completion, or performance under the terms of a residential contracting agreement with respect to which a claim is made.

II. "Apprentice" means any person who is engaged in learning and assisting in home construction or home improvement under an apprenticeship program.

III. "Board" means the state board of registration for home contractors, established by RSA 310-A:184.

IV. "Claimant" means an owner and resident of a residential building, containing at least one but not more than 4 dwelling units, who has entered into a construction contract with a contractor to carry out construction work on such building, and who is making a claim against the contractor for failure of performance under the contract.

V. “Contract” means an agreement, written or oral, for the performance of certain residential contracting work, including all labor, goods, and services set forth under such agreement.

VI. “Employee” means any person employed by and under the direction and control of a home contractor required to be registered under RSA 310-A:190 and who performs services.

VII. “Home contractor” means any person who owns or operates a contracting business who, personally or through others, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid for residential contracting work, and includes those individuals who perform home contracting services for retailers who sell home contracting services in conjunction with the sale of a product.

VIII. “Owner” means any homeowner of a pre-existing or proposed new building containing at least one but not more than 4 dwelling units, or a tenant thereof, who orders, contracts for, or purchases the services of a home contractor or subcontractor, and such owner’s primary business is not rental of tenant housing.

IX. “Person” means any individual, partnership, corporation, association, or other organization.

X. “Registrant” means any contractor duly registered under the provisions of this subdivision.

XI. “Residential contracting” means the construction, reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, demolition, or construction of an addition to any building containing at least one but not more than 4 dwelling units, which building or portion thereof is used or designed to be used as a residence or dwelling unit, or to structures which are adjacent to such residence or building. “Residential contracting” shall not mean the installation of appliances such as televisions or other home electronics units by a retailer from whom the appliance was purchased.

XII. “Subcontractor” means any person other than a supplier of material or labor, who enters into a contract, written or verbal, with a contractor for the performance of any part of the contractor’s contract, or who enters into a contract with any other subcontractor for the performance of any part of the subcontractor’s contract, and who does not perform work directly for an owner or tenant.

XIII. “Tenant” means a person who has entered into a lease or other contractual arrangement with the owner.

310-A:184 Board Established.

I. There shall be a state board of registration for home contractors consisting of 5 members: 2 contractors, one modular home installer, and 2 public members. Each member shall be appointed by the governor, with the approval of the council, to a term of 5 years. No member of the board shall be appointed to more than 2 consecutive terms. Any vacancy on the board shall be filled for the remainder of the unexpired term.

II. Any public member of the board shall be a person who is not, and never was, a contractor, subcontractor, or the spouse of any such person, and who does not have, and never has had, a material financial interest in either the provision of residential contracting services or an activity directly related to residential contracting, including the representation of the board or trade for a fee at any time during the 5 years preceding appointment.

310-A:185 Compensation and Expenses. Members of the board shall serve without compensation, but shall be reimbursed for all actual traveling, incidentals, and clerical expenses necessarily incurred in carrying out the provisions of this subdivision.

310-A:186 Organization and Meetings. The board shall hold at least 4 regular meetings each year, and special meetings may be held at such times as the business of the board may require. Notice of all meetings shall be given in such manner as the rules of the board may provide. The board shall annually elect a chairperson and a vice-chairperson from among its members. A quorum of the board shall consist of not less than 3 members, at least one of whom shall be a public member.

310-A:187 Rulemaking Authority. The board shall adopt rules, pursuant to RSA 541-A, relative to:

I. The design and content of all forms and applications required under this subdivision.

II. The application procedure to register under this subdivision.

III. The qualifications of registration applicants under this subdivision.

IV. Registration approval, denial, renewal, suspension, or revocation as established in this subdivision.

V. Ethical and professional standards required to be met by each registrant under this subdivision, and how disciplinary actions by the board shall be implemented for violations of these standards.

VI. Fees authorized under this subdivision.

VII. Procedures for the conduct of hearings consistent with the requirements of due process.

VIII. Matters for the proper administration of this subdivision.

310-A:188 Fees. The board shall establish fees for registration of applicants and for renewal of registration to provide services under this subdivision, and for transcribing and transferring records and other services. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

310-A:189 Receipts and Disbursements. The secretary of the board shall receive and account at least monthly for all moneys derived under the provisions of this subdivision, and shall pay the same to the state treasurer. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this subdivision. Under no circumstances shall the total amount of payments made exceed the amount of fees collected. Any balance in this account shall lapse at the end of each fiscal year.

310-A:190 Registration of Contractors Required; Registration by Corporation or Partnership.

I. The board shall register home contractors. When issued, a registration shall be valid throughout the state, and the registrant shall be entitled to perform the work of a home contractor anywhere within the state without any payment or additional fee. Each applicant for registration shall present to the secretary of the board on a form furnished by the board a written application for registration, containing such relevant information as the board may require, accompanied by the required fee.

II. No contractor shall undertake, offer to undertake, or agree to perform residential contracting services unless registered therefor with the approval of the board.

III. It shall be the duty of the board to issue and deliver a certificate of registration to all applicants who have applied for and have been approved for registration pursuant to this subdivision.

310-A:191 Application for Registration; Required Information. In order to be registered as a contractor, an applicant shall make a written application under oath to the board on a form provided by the board. Said application shall set forth information that includes, but shall not be limited to:

I. The applicant's name and physical business address exclusive of post office box addresses.

II. The names and addresses of all owners, partners, or trustees of an applicant including, in case of corporate entities, the names and addresses of all officers and directors, and evidence of registration with the secretary of state under RSA 293-A, 305-A, or 349, as appropriate. If such corporate information is accurately reflected in the articles of organization or amendments thereto, or a current annual report of condition or other documents on file with the secretary of state or the Securities and Exchange Commission, a

copy of the relevant sections of such filing shall satisfy the application requirements specified in this paragraph.

III. Whether the applicant has ever been previously registered or licensed in this state under this subdivision, or in another jurisdiction as a contractor, under what other business and trade names he or she was previously registered, and whether any of the registrations have ever been suspended or revoked, or has ever been denied.

IV. All applicants must be a citizen of the United States or have status as a legal resident alien.

310-A:192 Registration Applications to be Public Records; Display of Registration Number by Contractors.

I. The board shall keep on file, in convenient form and open to public inspection, all applications for registration and copies of registrations issued and the names of all contractors whose registration has been revoked, suspended, or surrendered.

II. Every written contract, building permit, and advertisement shall display the contractor's certificate of registration number, when the contractor is required to be registered.

310-A:193 Changes of Name or Address; Procedure Upon Expiration of Certificate; Replacement Certificates.

I. Every registered contractor shall notify the board within 30 days of any change of trade name or address.

II. Upon the expiration, termination, or voluntary surrender of a registration, the registrant shall deliver the registration to the board, which shall cancel the registration and endorse the date of expiration, termination, or surrender.

III. If a certificate of registration is lost, misplaced, or destroyed, the registrant shall file an affidavit to that effect and the board, for a nominal fee, shall issue a replacement registration, clearly identified as such, both on the certificate of registration and in the records of the board.

310-A:194 Expiration and Renewal of Registration. Regardless of any outstanding registration to the contrary, all registrations issued by the board shall expire biennially on the last day of the month of the registrant's birth, but may be renewed during the following month. The fee for renewal of all registrations issued under this subdivision shall be established by the board. Upon failure to pay the renewal fee within the required period, a registrant may renew the registration by submitting the required fee plus a 20 percent late fee before the last day of the month following the month of the registrant's birth. Any application received thereafter shall be rejected, unless accompanied by a new written application pursuant to RSA 310-A:190 and RSA 310-A:191.

310-A:195 Grounds for Denying Registration or Renewal; Reconsideration.

I. No application for registration or renewal conforming to the requirements of this subdivision may be denied except for a finding by the board that the applicant has done one or more of the following acts which are grounds for denial:

(a) Made material omissions or misrepresentations of fact on an application for registration or renewal under this subdivision.

(b) Failed to pay the registration fee required by this subdivision.

(c) Engaged in fraud, bad faith, or unfair or deceptive acts or practices in violation of RSA 358-A in the performance of residential construction services.

(d) Failed to meet or violated any of the requirements for a registered contractor set forth in this subdivision or has performed or is attempting to perform any act prohibited by this subdivision.

II. If a registration is refused, the applicant may, within 10 days from the date notice of refusal is mailed, make a request for reconsideration. The board shall render its decision within a reasonable period of time, but not more than 60 days following the request.

310-A:196 Suspension or Revocation of Registration; Grounds. Prior to its expiration date, a certificate of registration may be suspended or revoked by the board in accordance

with the procedures and on the grounds set forth in RSA 310-A:195, or may be terminated by voluntary surrender by the registrant. Further grounds for suspension or revocation include any violation by a registrant or any agent or employee of the registrant of any of the provisions of this subdivision.

310-A:197 Prohibited Acts by Contractors.

I. The following acts are prohibited by contractors:

(a) Operating without a certificate of registration issued by the board.

(b) Abandoning or failing to perform, without justification, any contract or project engaged in or undertaken by a registered contractor, or deviating from or disregarding plans or specifications in any substantial respect without justification or the consent of the owner.

(c) Failing to credit to the owner any payment the owner has made to the contractor in connection with a residential contracting transaction.

(d) Making any material misrepresentation or omission in the procurement of a contract or making any false promise of a character likely to influence, persuade, or induce the procurement of a contract.

(e) Contracting beyond the scope of the registration as a contractor.

(f) Acting directly, regardless of the receipt or the expectation of receipt of compensation or gain from the mortgage lender, in connection with a residential contracting transaction by preparing, offering or negotiating or attempting to or agreeing to prepare, arrange, offer, or negotiate a mortgage loan on behalf of a mortgage lender.

(g) Acting as a mortgage broker or agent for any mortgage lender.

(h) Publishing, directly or indirectly, any advertisement relating to home contracting which does not contain the contractor's certificate of registration number or which contains an assertion, representation, or statement of fact which is false, deceptive, or misleading.

(i) Advertising in any manner which fails to include an accurate reference to the contractor's certificate of registration if the contractor is required to be registered.

(j) Violating the building laws of the state or of any of its political subdivisions after receiving notice of a violation and having a reasonable opportunity to cure the violation.

(k) Misrepresenting a material fact by an applicant in obtaining a certificate of registration.

(l) Failing to reasonably notify the board of any change of trade name or address as required by RSA 310-A:193, I.

(m) Conducting a residential contracting business in any name other than the one in which the contractor is registered.

(n) Failing to pay within a reasonable time for materials or services properly delivered or rendered in connection with operating as a contractor where sufficient funds are received as payment for the particular construction work, project, or operation for which the services or materials were rendered or purchased.

(o) Failing to comply with any order, demand, or requirement lawfully made by the board or attorney general under and within the authority of this subdivision.

(p) Demanding or receiving payment in violation of RSA 310-A:199, I(e).

(q) Violating any other provision of this subdivision.

II. Violations of this section may subject the violator to administrative sanctions and penalties described in RSA 310-A:202.

III. Violations of any of the provisions of this section shall constitute an unfair or deceptive act or practice within the meaning of RSA 358-A:2 and subject the violator to the penalties of RSA 358-A.

310-A:198 Persons Exempt From Registration Requirement. The following persons are not required to be registered under this subdivision:

I. The state or any of its political subdivisions.

II. Any school, public or private, offering as part of a vocational education program courses and training in any aspects of home contracting.

III. Electricians, plumbers, architects or any other persons who are required by New Hampshire law to attain standards of competency or experience as a prerequisite to licensure for and engaging in such profession and who are acting exclusively within the scope of the profession for which they are currently licensed pursuant to such other law.

IV. Persons dealing in the sale of goods or materials who neither arrange to perform nor perform directly or indirectly any work or labor in connection with the installation of or application of the goods or materials.

V. Persons building their own homes or personally doing the renovations.

VI. Subcontractors and employees who perform labor or services for a contractor registered under this subdivision and who does not act in the capacity of a contractor.

VII. Any contractor who works on one undertaking or project by one or more contracts where the aggregate contract price is less than $1,500, provided, however, that the contract is not in an amount of less than $1,500 for the purpose of evading this subdivision.

VIII. Any person who engages in the business of a contractor on other than a full-time basis, and who has earned in gross revenues, as a contractor, less than $10,000 in the previous 12-month period.

IX. Persons who install central heating systems, air-conditioning systems, energy-conservation devices, or who provide conservation services conducted by or on behalf of a public utility.

X. A retail company with a net worth of at least $50,000,000 and the employees of such retailer who are making or selling home improvements within the scope of their employment, when using a registered home contractor.

310-A:199 Residential Contracting Agreements; Owner to be Given Copy of Agreement; Alternative Dispute Resolution Clauses Permitted.

I. Every agreement to perform residential contracting services, between a contractor and an owner, that requires an initial down payment or deposit or involves a total contract price in excess of $5,000 shall require a written agreement and shall include the following minimum information:

(a) The full name, physical business address, and registration number of the contractor who solicited or negotiated the contract, and the date when the contract was executed by the parties. A registration number is not required for contractors who are exempt from registration under RSA 310-A:198.

(b) The anticipated date on which the work under the contract is scheduled to begin and the anticipated date on which the work is scheduled to be substantially completed.

(c) A detailed description of the work to be done and the materials to be used in the performance of the contract.

(d) The total amount agreed to be paid for the work to be performed under the contract.

(e) Where applicable, a time schedule of payments to be made under the contract and the amount of each payment stated in dollars, including all finance charges. Any deposit required under the contract to be paid in advance of the commencement of work under the contract shall not exceed the greater of 1/3 of the total contract price or the total of the actual cost of any materials or equipment of a special order or custom-made nature, which must be ordered in advance of the commencement of work, in order to assure that the project will proceed on schedule. No final payment shall be demanded until the contract is substantially completed.

(f) The signatures of all parties shall be affixed to the contract.

(g) There shall be a clear and conspicuous notice appearing in the contract:

(1) That all contractors must comply with this subdivision and that any inquiries about a contractor relating to a registration should be directed to the board.

(2) Of the registration number of the contractor, unless the contractor is exempt from registration under RSA 310-A:198.

(3) Of an owner's 3 day right of rescission under RSA 361-B:2, when applicable.

(4) Of any warranties offered and the owner's rights under the provisions of this subdivision.

(5) In 10 point bold type or larger, directly above the space provided for the signature, "Do not sign this contract if there are any blank spaces."

(6) Of any lien placed on or security interest pledged on the residence as a consequence of the contract.

(7) A statement describing any liability insurance maintained by the contractor.

(8) A statement to homeowners pursuant to RSA 359-G:7, when applicable.

(h) An enumeration of such other matters upon which the owner and the contractor may lawfully agree, provided, however, that no such agreement may waive any rights conveyed to the owner under the provisions of this subdivision.

(i) Any other provision otherwise required by the applicable laws of the state.

II. No contract shall contain an acceleration clause under which any part or all of the balance not yet due may be declared due and payable because the holder deems himself or herself to be insecure. However, where the contractor deems himself or herself to be insecure, he or she may require as a prerequisite to continuing the work that the balance of funds due under the contract be placed in a joint escrow account requiring the signature of the contractor and the owner for withdrawal.

III. At the time of signing, the owner shall be furnished with a copy of the contract signed by both the contractor and the owner. No work shall begin prior to the signing of the contract and transmittal to the owner of a copy of such contract, unless that owner asserts that exigent circumstances exist. Exigent circumstances shall include, but not be limited to, severe damage to the residential building, such as by fire or water, that requires immediate repair in order to mitigate further damage or make the residential building habitable.

IV. Any contract entered into between a contractor and owner shall require the contractor to inform the owner of all necessary permits.

V. Any contract entered into between a contractor and owner may provide that the contractor may initiate alternative dispute resolution through any mediation or arbitration services approved by the board, provided that the alternative dispute resolution provision is clearly and conspicuously disclosed in the contract. Any contract that includes a mediation arbitration provision shall also authorize the parties to opt out of the mediation or arbitration provision and to seek a remedy in a court of competent jurisdiction.

VI. Contracts which fail to comply with the requirements of this section shall not be invalid solely because of noncompliance.

310-A:200 Enforcement of Subdivision; Court Action; Mediation or Arbitration.

I. Any party may bring an action to enforce any provision of this subdivision, or to seek damages subject to the provisions of this subdivision, in the superior court, the district court, or the small claims court, subject to each court's jurisdictional requirements.

II. In the alternative, any party may request that a dispute resulting from and relating to residential contracting be decided under the terms of a mediation or arbitration program approved by the board.

310-A:201 Mediation and Arbitration Services Program; Three-Year Limitations Period; Appeals.

I. There shall be a mediation and arbitration services program approved by the board, to consider disputes between owners and registered contractors, concerning or arising from contracts for residential contracting services. No claim may be filed for mediation or arbitration after 3 years from the date of the contract.

II. All registered contractors who enter into contracts for residential contracting impliedly consent to the provisions contained in this section.

III. A contractor who is required to submit to arbitration as a result of an owner's application for arbitration may file a counterclaim, based on or arising from the same contract, in that arbitration.

310-A:202 Penalties.

I. If the board determines that any registrant is liable for a violation of any of the provisions of this subdivision, the board may suspend the registrant's certificate of registration for such period of time as shall be determined by the board not to exceed 5 years, revoke the registrant's certificate of registration, or reprimand the registrant.

II. The board may assess an administrative penalty not to exceed $2,000, payable within 30 days of its order, for each violation of any provision of this subdivision committed by contractors who are registered or who are required to be registered under this subdivision.

III. In determining whether to impose an administrative penalty, the board shall consider the seriousness of the violation, the deleterious effect of the violation on the complainant, any good faith on the part of the contractor, and the contractor's history of previous violations.

IV. Any contractor who knowingly operates without obtaining a certificate of registration as required by this subdivision and who is not otherwise exempt from the registration requirement or any contractor who continues to operate after revocation of or during suspension of, or who fails to renew his or her certificate of registration, shall be guilty of a misdemeanor.

V. Such penalties may be sought in an action brought by the attorney general, county attorney, or police department, pursuant to RSA 358-A, and shall be in addition to any administrative penalty otherwise applicable.

310-A:203 Subdivision Not to Lessen Individual Responsibility. This subdivision shall not be construed to relieve or lessen the responsibility of any person registered under this subdivision, nor shall the state be deemed to have assumed any such liability by reason of the issuance of registration.

2 New Subparagraph; Consumer Protection and Antitrust Bureau; Duties. Amend RSA 21-M:9, II by inserting after subparagraph (u) the following new subparagraph:

(v) Enforcing the provisions of RSA 310-A:182 through RSA 310-A:203, relative to home contractors.

3 Joint Board. Amend RSA 310-A:1 to read as follows:

310-A:1 Joint Board Established. There shall be a joint board of licensure and certification for professional engineers, architects, land surveyors, foresters, professional geologists, natural scientists, landscape architects, [~~and~~] court reporters, ***and home contractors*** consisting of each of the members of the board of professional engineers, board of architects, state board of licensure for land surveyors, foresters' board, board of professional geologists, the board of natural scientists, the board of landscape architects**,** [~~and~~] the board of court reporters***, and the board of registration for home contractors***. The joint board shall meet at least quarterly to carry out its duties established under this chapter.

4 Board of Registration for Home Contractors; Initial Appointments; Staggered Terms. The initial members of the board of registration for home contractors shall serve staggered terms, appointed as follows: the modular home installer shall be appointed for a 3-year term, one public member and one contractor shall be appointed for 4-year terms, and one public member and one contractor shall be appointed for 5-year terms. Thereafter, appointed members shall serve 5-year terms, and until their successors are appointed.

5 Application; Adoption of Rules. No person shall be required to be registered under the provisions of RSA 310-A:182 through 310-A:203 as inserted by this act until the effective date of the initial rules adopted by the board of registration for home contractors pursuant to RSA 541-A, as provided in RSA 310-A:187.

6 Effective Date. This act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill establishes the requirements for registration and regulation of home contractors by the board of registration for home contractors.

Rep. Winters spoke against and yielded to questions.

Rep. Hawkins spoke in favor and yielded to questions.

Rep. Nowe requested a roll call; sufficiently seconded.

YEAS 107 NAYS 216

YEAS 107

BELKNAP

Morrison, Gail	Wood, Jane		

CARROLL

Buco, Thomas	Cunningham, Howard	Patten, Betsey	

CHESHIRE

Allen, Peter	Burridge, Delmar	Butterworth, Timothy	Eaton, Daniel
Espiefs, Peter	Lerandeau, Alfred	Richardson, Barbara	Sad, Tara
Weber, Lucy	Weed, Charles		

COOS

Hatch, William	Ingersoll, Paul Sr	Merrick, Scott	Theberge, Robert
Thomas, Yvonne			

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Estes, Carole
Hammond, Lee	Harding, A Laurie	Mulholland, Catherine	Pierce, David

HILLSBOROUGH

Bergin, Peter	Clemons, Jane	Cote, David	Coughlin, Pamela
Foster, Linda	Garrity, Patrick	Hammond, Jill	Hawkins, Ken
Hebert, Roger	Irwin, Anne-Marie	Jeudy, Jean	Kelley, John
Lasky, Bette	Leishman, Peter	Levesque, Melanie	Long, Patrick
Manney, Pamela	Marshall, Seth	Matarazzo, Anthony Sr	Movsesian, Lori
O'Brien, Michael Sr	Pilotte, Maurice	Rosenwald, Cindy	Scannell, David
Schulze, Joan	Shattuck, Gilman	Sullivan, Daniel	Tahir, Saghir

MERRIMACK

Blanchard, Elizabeth	Bouchard, Candace	Boutin, David	Brueggemann, Donald
Davis, Frank	DeJoie, John	Foose, Robert	Gile, Mary
Greco, Vincent	Hamm, Christine	Kjellman, Eleanor Glynn	McMahon, Patricia
Osborne, Jessie	Porter, Margaret	Potter, Frances	Richardson, Gary
Ryan, Jim	Shurtleff, Stephen	Wallner, Mary	Walz, Mary
Webb, Leigh	Williams, Robert		

ROCKINGHAM

Day, Judith	Gould, Kenneth	Howard, Doreen	Ingram, Russell
Marsh, Michael	McGuirk, Thomas	Robertson, Carl	Russell, Trinka
Snow, Richard	Webber, James	Weyler, Kenneth	

STRAFFORD

Berube, Roger	Brown, Larry	Burke, Rachel	Cyr, James
DeChane, Marlene	Hofemann, Roland	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Vachon, Dennis	Wall, Janet	Warren, Nancy

SULLIVAN

Converse, Larry	Franklin, Peter	Houde, Matthew	Nielsen, Ellen
Phinizy, James	Skinder, Carla		

NAYS 216

BELKNAP

Allen, Janet	Arsenault, Beth	Boyce, Laurie	Clark, Charles
Flanders, Donald	Heald, Bruce	Millham, Alida	Nedeau, Stephen
Pilliod, James	Reever, Judith	Thomas, John	Tilton, Franklin
Wendelboe, Fran	Whalley, Michael		

CARROLL

Ahlgren, Christopher	Bridgham, Robert	Brown, Carolyn	Butler, Edward
Chandler, Gene	Denley, William	Heard, Virginia	Knox, J. David
Martin, James	Merrow, Harry	Stevens, Stanley	

CHESHIRE

Butcher, Suzanne	Butynski, William	Chase, William	Emerson, Susan
Hunt, John	Johnson, Jane	Loll, Thomas	Mitchell, Bonnie
Parkhurst, Henry	Plifka, Stanley Jr	Roberts, Kris	Robertson, Timothy

COOS

King, Frederick	Merrick, Evalyn	Stohl, Eric

GRAFTON

Aguiar, James	Bleyler, Ruth	Bulis, Lyle	Eaton, Stephanie
Friedrich, Carol	Gionet, Edmond	Ingbretson, Paul	Laliberte, Suzanne
Lovett, Sid	Matheson, Robert	McLeod, Martha	Nordgren, Sharon
Preston, Philip	Solomon, Peter	Sorg, Gregory	Williams, Burton

HILLSBOROUGH

Barry, Richard	Batula, Peter	Beaulieu, Jane	Beck, Catriona
Bergeron, Jean-Guy	Brunelle, Michael	Campbell, David	Chase, Claudia
Christensen, Chris	Christiansen, Lars	Clark, Mark	Crane, Elenore Casey
Daler, Jennifer	Daniels, Gary	Day, Russell	Dokmo, Cynthia
Drisko, Richard	Edwards, Andrew	Emerton, Larry	Fletcher, Richard
Fontas, Jeffrey	Forest, Armand	Francoeur, Bea	Goley, Jeffrey
Gorman, Mary	Goyette, Peter	Graham, John	Haefner, Robert
Haley, Robert	Hall, Betty	Hansen, Ryan	Harvey, Suzanne
Hinkle, Peyton	Hogan, Edith	Holden, Randolph	Jasper, Shawn
Kaelin, Michael	Knowles, Mary Ann	Kopka, Angeline	Kurk, Neal

L'Heureux, Robert	Lawrence, James	Mack, Ron	Martineau, Jesse
McRae, Karen	Messier, Irene	Mooney, Maureen	O'Connell, Timothy
O'Neil, James	Ober, Lynne	Ober, Russell III	Peterson, Andy
Price, Pamela	Reeves, Sandra	Renzullo, Andrew	Smith, David
Soucy, Connie	Spaulding, Jayne	Stepanek, Stephen	Sullivan, Francis
Sysyn, Mary	Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Maurice
Winters, Joel			

MERRIMACK

Anderson, Eric	Baxley, Maureen	Beauchesne, Suzanne	Brown, Carole
DeStefano, Stephen	Ehlers, Eileen	French, Barbara	Hager, Elizabeth
Hess, David	Kelly, Sally	Kidder, David	Lockwood, Priscilla
MacKay, James	Owen, Derek	Reardon, Tara	Reed, Dennis
Tilton, Joy	Yeaton, Charles		

ROCKINGHAM

Abbott, Dennis	Allen, Mary	Baldasaro, Alfred	Bedrick, Jason
Belanger, Ronald	Bettencourt, David	Bishop, Franklin	Brown, C. Pennington
Cali-Pitts, Jacqueline	Camm, Kevin	Carson, Sharon	Case, Frank
Charron, Gene	Dalrymple, David	Devine, James	DiFruscia, Anthony
Dumaine, Dudley	Elliott, Robert	Emiro, Frank	Fesh, Bob
Flanders, John Sr	Flockhart, Eileen	Garcia, Marilinda	Garrity, James
Gleason, John	Griffin, Mary	Grote, Otto	Guthrie, Joseph
Headd, James	Hutchinson, Karen	Introne, Robert	Itse, Daniel
Kappler, Lawrence	Katsakiores, George	Katsakiores, Phyllis	Kepner, Susan
Lund, Howie	McCarthy, Linda	McEachern, Paul	McKenna, Daniel
McKinney, Betsy	McMahon, Charles	Moore, Benjamin	Nord, Susi
Nowe, Ronald	Pearson, Mark	Petterson, Don	Powers, James
Quandt, Matthew	Rausch, James	Reagan, John	Sanders, Elisabeth
Serlin, Christopher	Splaine, James	Weare, Everett	Welch, David
Wells, Roger	Wickson, Rick	Winchell, George	

STRAFFORD

Billian, Deborah	Brennan, William	Brown, Julie	Fargo, Thomas
Kaen, Naida	Knowles, William	Mickelonis, Shawn	Miller, Joseph
Perry, Robert	Sprague, Dale	Watson, Robert	

SULLIVAN

Cloutier, John	Donovan, Thomas	Ferland, Brenda	Gagnon, Raymond
Gottling, Suzanne	Jillette, Arthur Jr	Rodeschin, Beverly	

and the majority committee amendment failed.

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

LAID ON THE TABLE

Rep. Irwin moved that ***HB 174-FN,*** relative to regulating residential building and remodeling contractors, be laid on the table.

On a division vote, 168 members having voted in the affirmative and 156 in the negative, the motion was adopted.

Reps. Infantine and Hackel declared a conflict of interest on ***HB 174-FN*** and did not participate.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

HB 544, relative to exemptions from auctioneering for Internet sales. **OUGHT TO PASS.**
Rep. Alida I. Millham for Executive Departments and Administration: This bill exempts e-bay, electronic type sellers from being required to have an auctioneer's license. The relationship a person has with someone who acts as person to bring something to the internet for sale is not that of an auctioneer, but more of a consignment seller. While people need to be protected from unscrupulous people, the committee determined that an auctioneer's license is not the right approach. Vote 13-2.
Rep. Irwin moved Recommit and spoke in favor.
Adopted.

HB 818, establishing a committee to study reestablishing the port authority as an independent agency. **INEXPEDIENT TO LEGISLATE.**
Rep. James F. Headd for Executive Departments and Administration: The issues considered under HB 818 were addressed in HB 65 making the bill moot. Vote 13-1.
Committee report adopted.

SB 94, relative to the office of information technology. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Ken Hawkins for Executive Departments and Administration: Currently, there exists a bureau of information technology within the office of the governor. This bureau was established in the 2003 session of the general court. In response to a request by the governor to remove this bureau from the governor's office and replace it with a department of information technology, this bill was introduced in the Senate. The amendment adopted by the committee makes the process consistent with the requirements of RSA 21-G:6 on the proper set up of a department with the appropriate chain of command, scope of responsibilities, and methodology for ensuring the satisfactory delivery of information technology services. The bill further establishes a legislative oversight committee tasked with constantly reviewing the status of state information technology plans, organizational structure of employees among state agencies and tracking the financial budget as it relates to information technology. Vote 13-0.

Amendment (2651h)

Amend the title of the bill by replacing it with the following:
AN ACT establishing the department of information technology, relative to positions in the department of information technology, and the membership of the information technology council.
Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Department of Information Technology. Amend RSA by inserting after chapter 21-Q the following new chapter:

CHAPTER 21-R
DEPARTMENT OF INFORMATION TECHNOLOGY

21-R:1 Definitions. In this chapter:

I. "Assistant commissioner" means the assistant commissioner of the department of information technology.

II. "Commissioner" means the commissioner of the department of information technology.

III. "Department" means the department of information technology.

21-R:2 Department of Information Technology Established. There is established the department of information technology, an agency of the state, under the executive direction of a commissioner of the department of information technology, who shall also be known as the chief information officer. The department of information technology, through its officials, shall be responsible for managing and coordinating all technology resources in the executive

branch of government, developing and implementing strategies to enhance state services, and creating statewide efficiencies through the use of information and other technologies.

21-R:3 Commissioner; Assistant Commissioner; Directors; Compensation.

I. The commissioner of the department of information technology shall be appointed by the governor, with the advice and consent of the council, and shall serve for a term of 4 years. The commissioner shall be academically and technically qualified to hold the position, and shall be known as the chief information officer of the department. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

II. The commissioner may nominate an assistant commissioner of the department of information technology for appointment by the governor, with the consent of the council. The assistant commissioner shall serve a term of 4 years, coterminous with that of the commissioner. The assistant commissioner shall be academically and technically qualified to hold the position. A vacancy may be filled for the remainder of the unexpired term in the same manner as the original appointment.

III.(a) The commissioner shall nominate the following division directors for appointment by the governor, with the consent of the council:

(1) The director of operations.

(2) The director of technical support services.

(3) The director of web support.

(4) The director of agency software.

(b) Division directors shall serve for a term of 4 years and shall be qualified by reason of professional competence, education, and experience.

IV. The salaries of the commissioner, the assistant commissioner, and division directors shall be as specified in RSA 94:1-a.

21-R:4 Duties of the Commissioner. In addition to the powers, duties, and functions otherwise vested in the commissioner pursuant to RSA 21-G:9, the commissioner shall be responsible for the following:

I. Providing technical information technology consultation to all executive branch agencies and to any other agency that requests it, including technical advice during the development or acquisition of information systems.

II. Monitoring technological trends and informing all state employees and officials about state-of-the-art information systems and management techniques.

III. Developing a formal information technology planning process for approving agency information technology plans.

IV. Preparing and maintaining a statewide information technology plan based upon agency information technology plans.

V. Reviewing, assessing, and approving the feasibility of agency information technology plans, including cost estimates and effects on other agencies and political subdivisions of the state.

VI. Developing standards and processes for collaborative stakeholder involvement to assure that hardware, software, and telecommunications systems acquired or developed by the state are as compatible among themselves and with other systems of the state and political subdivisions as are necessary and practical.

VII. Providing training and educational programs to technicians and managers.

VIII. Monitoring and reporting to the governor and general court on the effectiveness of the use of information technology resources and on statewide progress in implementing information technology plans.

IX. Coordinating information technology development efforts that affect multiple agencies.

X. Developing a data center consideration plan, which establishes strategic data centers throughout the state for data processing operations and service responsibilities for all executive branch agencies.

XI. Developing, in concert with the commissioner of administrative services and the budget director, the capital and operating budget requests for implementing each agency's information technology plan, including, but not limited to, appropriate standards for the uniform presentation of the general budget requests.

XII. Developing, in concert with the director of plant and property management, specifications for the procurement of computer equipment and software.

XIII. Developing a strategy to increase efficiency and effectiveness in all areas of state government by using information technology to its fullest potential.

XIV. Developing and implementing a strategy to consolidate statewide shared information technology services.

XV. Developing an information technology satisfaction measurement program to ensure information technology resources and strategic plans are meeting the needs of each agency.

21-R:5 Divisions Established. The following divisions, each of which shall be under the supervision of a division director appointed pursuant to RSA 21-R:3, are established within the department of information technology:

I. The division of operations.

II. The division of technical support services.

III. The division of web support.

IV. The division of agency software.

21-R:6 Information Technology Council.

I. There is hereby established the information technology council. The council shall advise the commissioner on the following:

(a) Statewide strategic technology plans.

(b) Outsourcing relationships, including the purchase of technology equipment and contracts with technology vendors.

(c) Computer systems consolidation.

(d) Implementation of centralized services.

(e) Information technology resource changes, including changes in quantity of resources allocated to executive branch agencies, location of information technology resources, and allocation of information technology personnel.

(f) Statewide information technology policies and standards.

(g) Information technology budgeting and resource allocation.

II. The information technology council shall consist of the following members:

(a) The commissioner of administrative services, or designee.

(b) The commissioner of transportation, or designee.

(c) The commissioner of health and human services, or designee.

(d) The commissioner of safety, or designee.

(e) The commissioner of revenue administration, or designee.

(f) Two heads of departments, appointed by the governor.

(g) One state senator, appointed by the president of the senate for the duration of his or her legislative term.

(h) One state representative, appointed by the speaker of the house of representatives for the duration of his or her legislative term.

(i) One representative of municipal government, appointed by the governor for a 3-year term.

(j) One representative of county government, nominated by the New Hampshire Association of Counties and appointed by the governor for a 3-year term.

(k) One person appointed by the governor for a 3-year term, who shall serve as the chairperson of the council.

III. Six members of the council shall constitute a quorum. Qualified members who have served one or more terms shall be eligible for reappointment to the council.

21-R:7 Technical Committees. The commissioner may establish technical committees to advise him or her on technical issues. Each technical committee shall include personnel from all 3 branches of government who have experience in the specific issue that is the focus of the committee. These issues may include but are not limited to:

I. Hardware, software, and telecommunications standards.

II. Information technology planning process.

III. Development of statewide policies and procedures.

IV. Emerging Internet and "intranet," or limited network, technologies.

V. E-government strategy and deployment.

VI. Wide area network efficiencies.

21-R:8 Agency Satisfaction Metrics. The commissioner shall use a system of agency satisfaction metrics, a measurement and communication system to track the satisfaction of delivery of information technology solutions. The department of information technology may use surveys, web tools, and special processes to ensure that vehicles exist for agency heads to get the quality of information technology solutions they require to operate their agencies. The commissioner shall set satisfaction benchmarks to meet or exceed expectations.

21-R:9 Legislative Oversight Committee.

I. There is hereby established a joint legislative information technology oversight committee.

II. The committee shall consist of 6 members, 3 of whom shall be members of the house of representatives, with one such member from the house finance committee and one from the house executive departments and administration committee, appointed by the speaker of the house of representatives, and 3 of whom shall be senators, appointed by the president of the senate. Members shall be appointed for their term of office. All members shall be eligible for reappointment so long as they are qualified under this section. Members shall be appointed no later than December 30 of the year of their election to the general court, except that vacancies shall be filled for an unexpired term within 30 days of the creation of such vacancy, and the initial appointments under this section shall be made within 30 days of the effective date of this section. The members shall choose from their number a chairperson, provided that the chair shall rotate biennially between the house and senate members.

III. The commissioner shall report quarterly to the committee on the activities of the department, including the status of the state information technology plan, the organizational structure of information technology employees among state agencies, and financial budget tracking related to information technology.

IV. Members of the committee shall serve without compensation but shall receive mileage at the legislative rate when attending to the duties of the committee.

2 Transfer of Authority from Office of Information Technology to Department of Information Technology. The office of information technology within the office of the governor is hereby abolished and all of the functions, powers, duties, and responsibilities of the office and the officials within that office are transferred to and vested in the department of information technology pursuant to this act. The transfer provided in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations or other funds, actions, and other property or obligations of any kind of the office of information technology.

3 Department of Information Technology; New Classified Positions.

I. The department of health and human services and the department of information technology shall convert the following unclassified positions created pursuant to RSA 126-A:9 to classified positions in the department of information technology at the classification and labor grade indicated:

	Position Number	Position	Labor Grade	Classification	Labor Grade
(a)	9U467	senior systems analyst	EE	business systems analyst II	30

(b) 9U475	service specialist (HHS)	BB	information technology manager IV	32
(c) 9U384	MVS systems programmer	EE	information technology manager IV	32
(d) 9U507	director of systems	FF	information technology operations manager V	34
(e) 9U383	network specialist	EE	information technology manager V	34
(f) 9U447	director of MMIS	FF	information technology manager V	34
(g) 9U451	director of applications and development	FF	information technology manager IV	32
(h) 9U385	database administrator	DD	information technology IV	32

II. Any employee whose position was changed from one salary group to a lower paying salary group shall continue to receive the salary and scheduled raises of the higher paying group so long as the employee is employed in that position.

4 "Office of Information Technology" Renamed "Department of Information Technology." Amend the following RSA provisions by replacing "office of information technology" with "department of information technology": 5-C:16, 21-I:6, VIII, and 106-K:5, I(e).

5 Administrative Services; Reference Change. Amend RSA 21-I:14-b to read as follows:

21-I:14-b Prohibition on Future Employment.

I. No commissioner, financial data manager, accounting director, ***or*** director of plant and property management of the department of administrative services[~~, or director of the office of information technology management~~] shall accept any employment, including work as a consultant or lobbyist, with any vendor of goods or services holding a valid contract with the department, in excess of $10,000 over the previous 2 years, until one year after he shall become separated from the department.

II. No vendor of goods or services holding a valid contract with the department, in excess of $10,000 over the previous 2 years, shall employ any commissioner, financial data manager, accounting director, ***or*** director of plant and property management of the department[~~, or director of the office of information technology management~~] until one year after such employee has become separated from the department. Any such vendor who violates the provisions of this paragraph shall be barred from bidding on any future contract with the department for 5 years after such violation.

6 Regional Community Technical Colleges; Reference Change. Amend RSA 188-F:14-b, IX to read as follows:

IX. Notwithstanding the provisions of RSA [~~4-D~~] ***21-R***, enter into contracts for the purchase and maintenance of information technology equipment, software, and any related products the commissioner deems necessary for the proper support and benefit of the regional community-technical colleges.

7 Repeal. The following are repealed:

I. RSA 4-D, relative to the office of information technology.

II. RSA 21-P:12-f, relative to the department of safety, division of information technology.

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

AMENDED ANALYSIS

This bill:

I. Eliminates the office of information technology and establishes the department of information technology as an independent agency, under the direction of a commissioner, assistant commissioner, and division directors.

II. Transfers certain information technology positions from the department of health and human services to the department of information technology.

III. Adds an additional member, appointed by the governor, to the information technology council.

IV. Eliminates the division of information technology in the department of safety. Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Kurk spoke in favor.
Reps. Pilotte and Estes spoke in favor and yielded to questions.
Committee report adopted.
Referred to the committee on Finance.

The House recessed at 12:30 p.m.

RECESS

(Speaker Norelli in the Chair)

The House reconvened at 1:35 p.m.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

CACR 6, relating to: education funding. Providing that: the state may meet its funding obligations under Article 83 by providing aid only to those communities that, in the reasonable judgment of the general court, are in need of such aid. **INEXPEDIENT TO LEGISLATE.**

Rep. Marjorie K. Smith for Finance: Since this CACR was introduced, certain components of the proposed amendment have been enacted into law and the committee concluded that the remaining components did not help to resolve any outstanding issues. Vote 14-9.
Rep. Kurk requested a roll call; sufficiently seconded.

YEAS 192 NAYS 98

YEAS 192

BELKNAP

Arsenault, Beth	Heald, Bruce	Millham, Alida	Pilliod, James
Reever, Judith			

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Heard, Virginia	Knox, J. David		

CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Eaton, Daniel	Espiefs, Peter
Lerandeau, Alfred	Loll, Thomas	Parkhurst, Henry	Plifka, Stanley Jr
Richardson, Barbara	Robertson, Timothy	Sad, Tara	Weber, Lucy
Weed, Charles			

COOS

Ingersoll, Paul Sr	Merrick, Evalyn	Merrick, Scott	Theberge, Robert
Thomas, Yvonne			

GRAFTON

Aguiar, James	Almy, Susan	Andersen, Gene	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Estes, Carole	Friedrich, Carol
Hammond, Lee	Harding, A Laurie	Laliberte, Suzanne	Lovett, Sid
McLeod, Martha	Mulholland, Catherine	Nordgren, Sharon	Pierce, David
Preston, Philip	Solomon, Peter	Sorg, Gregory	

HILLSBOROUGH

Baroody, Benjamin	Beaulieu, Jane	Beck, Catriona	Bergin, Peter
Campbell, David	Chase, Claudia	Clemons, Jane	Cote, David
Daler, Jennifer	Daniels, Gary	Dokmo, Cynthia	Edwards, Andrew
Fontas, Jeffrey	Forest, Armand	Foster, Linda	Garrity, Patrick
Ginsburg, Ruth	Gorman, Mary	Hackel, Paul	Hall, Betty
Hammond, Jill	Harvey, Suzanne	Hawkins, Ken	Hebert, Roger
Irwin, Anne-Marie	Jean, Claudette	Kaelin, Michael	Kelley, John
Knowles, Mary Ann	Kopka, Angeline	Lasky, Bette	Leishman, Peter
Levesque, Melanie	Long, Patrick	Mack, Ron	Marshall, Seth
Matarazzo, Anthony Sr	Movsesian, Lori	O'Brien, Michael Sr	O'Connell, Timothy
O'Neil, James	Peterson, Andy	Pilotte, Maurice	Renzullo, Andrew
Rosenwald, Cindy	Scannell, David	Schulze, Joan	Simon, Anthony
Sullivan, Daniel	Sullivan, Francis	Sysyn, Mary	Vaillancourt, Steve

MERRIMACK

Baxley, Maureen	Beauchesne, Suzanne	Blanchard, Elizabeth	Bouchard, Candace
Brown, Carole	Brueggemann, Donald	Clarke, Claire	Davis, Frank
DeJoie, John	Ehlers, Eileen	Foose, Robert	French, Barbara
Gile, Mary	Hamm, Christine	Kelly, Sally	Kidder, David
Kjellman, Eleanor Glynn	Lockwood, Priscilla	Osborne, Jessie	Owen, Derek
Porter, Margaret	Potter, Frances	Richardson, Gary	Ryan, Jim
Shurtleff, Stephen	Tilton, Joy	Wallner, Mary	Walz, Mary
Webb, Leigh	Williams, Robert	Yeaton, Charles	

ROCKINGHAM

Abbott, Dennis	Brown, C. Pennington	Cali-Pitts, Jacqueline	Casey, Kimberley
Day, Judith	Flockhart, Eileen	Gould, Kenneth	Grote, Otto
Howard, Doreen	Kepner, Susan	Lund, Howie	Marsh, Michael
McEachern, Paul	McGuirk, Thomas	McKenna, Daniel	Nord, Susi
Petterson, Don	Powers, James	Robertson, Carl	Russell, Trinka
Serlin, Christopher	Snow, Richard	Splaine, James	Weare, Everett
Webber, James	Wells, Roger		

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Larry
Browne, Brendon	Domingo, Baldwin	Fargo, Thomas	Grassie, Anne
Hofemann, Roland	Kaen, Naida	Knowles, William	Miller, Joseph
Perry, Robert	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Vachon, Dennis	Wall, Janet	Watson, Robert

SULLIVAN

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

NAYS 98

BELKNAP

Clark, Charles	Flanders, Donald	Nedeau, Stephen	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

COOS

King, Frederick	Stohl, Eric

GRAFTON

Bulis, Lyle	Eaton, Stephanie	Matheson, Robert	Williams, Burton

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christensen, Chris
Christiansen, Lars	Coughlin, Pamela	Day, Russell	Drisko, Richard
Emerton, Larry	Fletcher, Richard	Goyette, Peter	Graham, John
Haefner, Robert	Haley, Robert	Hinkle, Peyton	Hogan, Edith
Infantine, William	Jasper, Shawn	Kurk, Neal	L'Heureux, Robert
Lawrence, James	Manney, Pamela	McRae, Karen	Messier, Irene
Mooney, Maureen	Ober, Lynne	Ober, Russell III	Price, Pamela
Shattuck, Gilman	Smith, David	Soucy, Connie	Spaulding, Jayne
Tahir, Saghir	Villeneuve, Maurice	Winters, Joel	

MERRIMACK

Anderson, Eric	Boutin, David	Hess, David	MacKay, James
Reed, Dennis			

ROCKINGHAM

Allen, Mary	Bedrick, Jason	Belanger, Ronald	Bettencourt, David
Carson, Sharon	Case, Frank	Charron, Gene	Dalrymple, David
Devine, James	Dumaine, Dudley	Emiro, Frank	Flanders, John Sr
Garrity, James	Griffin, Mary	Guthrie, Joseph	Headd, James
Introne, Robert	Itse, Daniel	Kappler, Lawrence	Katsakiores, Phyllis
McMahon, Charles	Nowe, Ronald	Pearson, Mark	Rausch, James
Reagan, John	Sanders, Elisabeth	Stiles, Nancy	Welch, David
Weyler, Kenneth	Winchell, George		

STRAFFORD

Brown, Julie	DeChane, Marlene

SULLIVAN

Gottling, Suzanne	Rodeschin, Beverly

and the committee report was adopted.

UNANIMOUS CONSENT

Rep. Dumaine addressed the House.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

HB 577-FN, establishing the number of associate justices of the superior court. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter E. Franklin for Finance: As the family courts are being established in New Hampshire the number of superior court justices needed has declined. The reduction has been accomplished by attrition. The superior court backlog has been growing, however, so that there is a need for 2 additional justices. This bill, as amended, provides for one new justice in FY '09, to be paid for from money from judge vacancies in this year's budget. A second justice may be appointed in FY '10. Vote 14-9.

Amendment (2603h)

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

1 Superior Court; Justices. RSA 491:1 is repealed and reenacted to read as follows:

491:1 Justices. The court shall consist of a chief justice and 22 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

2 Superior Court; Justices. RSA 491:1 is repealed and reenacted to read as follows:

491:1 Justices. The court shall consist of a chief justice and 23 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

3 Superior Court; Justices. RSA 491:1 is repealed and reenacted to read as follows:

491:1 Justices. The court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and 22 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. The chief justice shall be appointed from among the associate justices. In the event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-year term, he or she may return to the position of associate justice, whether or not an associate justice vacancy then exists.

4 Superior Court; Justices. RSA 491:1 is repealed and reenacted to read as follows:

491:1 Justices. The court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and 23 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. The chief justice shall be appointed from among the associate justices. In the event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-year term, he or she may return to the position of associate justice, whether or not an associate justice vacancy then exists.

5 Repeal. The following are repealed:

I. 2004, 74, relative to the appointment and term of the chief justice of the superior court.

II. 2006, 38, relative to the appointment of the chief justice of the superior court and the number of superior court associate justices.

III. 2004, 240:4 and 5, relative to the number of associate superior court justices.

6 Nonlapsing Appropriation. The sum of $183,781 of the amounts appropriated to the judicial branch in PAU 02-01-01-01 for the fiscal year ending June 30, 2008 shall not lapse, and shall be made available to the judicial branch for the fiscal year ending June 30, 2009 for expenditures made pursuant to section 1 of this act.

7 Contingency.

I. If the next vacancy in the superior court chief justice position occurs on or after July 1, 2008 and prior to July 1, 2009, section 3 of this act shall take effect on the date the next vacancy occurs, section 4 of this act shall take effect July 1, 2009, and section 2 of this act shall not take effect.

II. If the next vacancy in the superior court chief justice position occurs on or after July 1, 2009, section 2 of this act shall take effect July 1, 2009, section 4 of this act shall take effect on the date the next vacancy occurs, and section 3 of this act shall not take effect.

8 Effective Date.

I. Sections 2, 3, and 4 of this act shall take effect as provided in section 7 of this act.

II. Section 6 of this act shall take effect June 30, 2008.

III. The remainder of this act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill increases the number of superior court justices to 22 on July 1, 2008 and to 23 on July 1, 2009. An appropriation to the judicial branch for fiscal year 2008 is made nonlapsing until June 30, 2009 for purposes of this increase.

Rep. Marjorie Smith moved Recommit and spoke in favor.

Adopted.

HB 752-FN, relative to per pupil funding for charter school pupils. **INEXPEDIENT TO LEGISLATE.**

Rep. Daniel A. Eaton for Finance: While well intended, this bill would establish an arbitrary funding figure for students attending public charter schools that would increase expenditures in excess of two million dollars. The committee felt that while there are currently two commissions operating, one studying charter schools overall and the other costing education for all public education, HB 752 would be premature at this time. Vote 17-6.

Committee report adopted.

SB 117-FN, relative to fireworks display permits and the position of permissible fireworks inspector. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Stephen B. Stepanek for Finance: Testimony indicated that few inspections are currently being done. The committee agreed with the fire marshal's office and the industry that a full time inspector is needed. The industry was concerned without a full time inspector and regular inspections that some people might not follow the state rules and regulations which could result in a potentially serious accident involving injury or death. We reviewed the various fees being charged for fireworks related inspectors. These fees were adjusted with full support of the industry. We estimate that revenue would total approximately $72,000.00 to $75,000.00 per year; against a cost for the full time inspector of $84,000.00. Vote 21-1.

Amendment (2493h)

Amend the bill by replacing all after section 4 with the following:

5 New Section; Special Effects Permit. Amend RSA 153 by inserting after section 5-b the following new section:

153:5-c Special Effects Permit. The commissioner of safety, in consultation with the state fire marshal, shall adopt rules, under RSA 541-A, for issuance of a permit to use flame, pyrotechnics, or other means of special effects for entertainment, exhibition, demonstration, or simulation before a proximate audience as regulated by the state fire code adopted under RSA 153:5. The rules shall establish permit criteria and procedures, and shall include a $250 or $400 permit fee based on the complexity of the approval process. All permit fees collected under this section shall be deposited in the fire standards and training and emergency medical services fund, established in RSA 21-P:12-d.

6 Fireworks Inspector; Transfers Among Accounts. Notwithstanding the provisions of RSA 9:17-a or any other provision of law to the contrary, for the biennium ending June 30, 2009, the department of safety may transfer funds within and among all PAU's within the division of fire safety in order to implement and fund the fireworks inspection program in RSA 160-C.

7 Fee for the Sale of Permissible Fireworks. Amend RSA 160-C:3, VII to read as follows:

VII. The fee for a license for each location shall be $1,500 per year, payable annually to the department of safety for deposit into the [~~general fund~~] ***fire standards and training and emergency medical services fund established in RSA 21-P:12-d for the purpose of funding the fireworks inspection program***.

8 Explosives and Explosive Substances; License to Purchase, Store and Transport. Amend RSA 158:9-c, I to read as follows:

I. The fee for licenses issued under RSA 158:9-b, I shall be $[~~40~~] ***100***.

9 Explosives and Explosive Substances; License to Purchase, Store and Transport. Amend RSA 158:9-c, VI to read as follows:

VI. There shall be a fee of $[~~40~~] ***100*** for any competency examination or renewal certificate given by the director of state police for any examination or certificate given under this subdivision.

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

AMENDED ANALYSIS

This bill:

I. Requires that a fireworks display permit be submitted to the department of safety at least 48 hours prior to the display.

II. Makes the position of fireworks inspector a full-time, rather than seasonal, position, responsible for permissible and display fireworks, and funded by the fire standards and training and emergency medical services fund.

III. Increases fees for special effects licenses, permissible fireworks licenses, and the purchase, storage, and transport of explosive substances.

IV. Directs the department of safety to adopt rules for the issuance of special effects permits.

Amendment adopted.
Committee report adopted.
Ordered to third reading.

HB 527-FN-A, establishing a recreational saltwater license for fishing of marine species in coastal and estuarine waters. **INEXPEDIENT TO LEGISLATE.**

Rep. Dennis F. Abbott for Fish and Game: The committee felt that this bill was not adequately supported in our neighboring states or by the sportsperson's of our state. Maine and Massachusetts are having problems in advancing a licensing system in their states because fishermen have never had to pay for the privilege. Without our neighboring states enacting similar legislation at the same time we place at risk some businesses here in our state because of our short coastline. There are only seven coastal states that have not enacted some form of a licensing system for saltwater anglers. In 2009, the federal government, as part of the Magneson-Steven Reauthorization Act, will require a registry system for all anglers in federal waters and in 2011 will charge for that registry system. The principal reason for a registry system for saltwater anglers is because of the dramatic increase in recreational anglers making it necessary to have an accurate database of anglers in order to capture the necessary information regarding catch and effort that is critical to managers, scientists and biologists in fisheries management. Without good data we further place our fisheries at risk and it is clear to most people that overexploitation of our fisheries has been harmful to the resource and also to those make a living from it. States not having their own licensing system by 2011 will instead be required, and will be charged a fee, for this registration system. That registration fee is anticipated to be greater than that

suggested in this legislation. Without the adoption of a licensing system prior to that required by federal requirements, our state will not receive the benefit of that revenue and the Fish and Game Department sorely is in need of revenue. The committee felt that legislation adopting a saltwater fishing license will be introduced and passed when the federal agency adopts its final rule and it becomes clear that we should have our own system and not allow a needed revenue source to go south. The committee voted overwhelming in a non partisan vote to reject this legislation despite its understanding of the reasons why at some point a saltwater fishing license will be necessary. Vote 12-0.
Rep. Abbott spoke against.
Committee report failed.
Rep. Abbott moved Interim Study.
Motion adopted.

HB 265-FN-A, relative to the waiting list for services to persons with developmental disabilities and acquired brain disorders and making an appropriation therefor. **REFER FOR INTERIM STUDY.**
Rep. Thomas E. Donovan for Health, Human Services and Elderly Affairs: The majority of the committee felt that with the enactment of Senate Bill 138, Chapter 363, 2007, the legislature has put the funding and policies into place to offer high quality services to individuals with developmental disabilities and acquired brain disorders. The area agencies are reporting a high level of satisfaction within the communities with the funding already received and the services they are able to extend. Also in place now are commissions on work force development and quality assurance that have not yet reported back. The legislature strongly supported the funding and infrastructure improvements contained in SB 138 with a vote of 300-5. While the majority believes that no additional changes to the law are needed now, referring HB 265 for Interim Study will insure that the issue of the waitlist is kept before the legislature through the end of this term. Vote 11-8.
Committee report adopted.

HB 630-FN, relative to an electronic controlled drug prescription monitoring program. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**
Rep. James R. MacKay for the Majority of Health, Human Services and Elderly Affairs: Nationally and in New Hampshire there has been a significant increase in deaths from the use of controlled drugs. Testimony indicated that over the past eight years, there has been a 150% increase in deaths due to use of drugs, specifically methadone. Prescription drug abuse is one of the fastest increasing forms of substance abuse. One of the important purposes of the controlled drug prescription monitoring program is to identify individuals who are misusing prescription drugs or prescribers who are impaired and refer them for treatment. As amended, the program monitors only those drugs with the highest potential for abuse. Many states have initiated this type of program. Data on prescriptions are maintained in a database with a very high level of security, accessible only by appropriate licensed health care providers. The program does not encumber general funds but is supported through federal grants. In addition, it provides for a performance audit to assess outcome measures. There is also a sunset provision after several years of operation. The committee added this provision to ensure quantitative positive results for the long term operation of the program. The goal of this program is to improve public health. Individuals who exhibit drug-seeking behavior will be referred to their health care provider for intervention. Providers who may be impaired will be referred to their licensing board. In extreme situations, the advisory council may make a referral to law enforcement for investigation. After much research and discussion, the majority of the committee was convinced of the public health benefit of this program. Vote 15-3.
Rep. Frank G. Case for the Minority of Health, Human Services and Elderly Affairs: Law

abiding citizens will be included in the data collection, merely because they have some health problems related to pain such as "back pain" or "cancer pain" and thus are using large amounts of pain medication for relief. There is also an assumption that all "prescription drugs" are obtained at a local pharmacy only. This fact has not been established during testimony on this legislation. This fact makes one wonder why hospitals, nursing homes, home health care agencies, and hospices have been excluded from the program.

Majority Amendment (2662h)

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

1 Statement of Intent.

I. The general court recognizes that nationally there has been a significant increase in the number of deaths from the abuse of controlled drugs, primarily opioids such as Oxycontin and Methadone. New Hampshire has seen a 150 percent increase in deaths in the last 8 years from these drugs, primarily Methadone, and prescription drug abuse is the fastest growing form of substance abuse. Numerous states have addressed the issue of controlled substance abuse and diversion into the illegal drug trade by adopting electronic programs to monitor the prescribing and dispensing of controlled drugs. Therefore, the general court hereby establishes the controlled drug prescription monitoring program.

II. This program is intended to reduce patient mortality and morbidity associated with controlled drugs by providing a secure program through which the prescriber and the dispenser may access information on the patient's controlled drug prescription history. The program established by this act is designed to create a greater sense of safety, security, and comfort in the provider-patient relationship when controlled drugs are prescribed. Finally, by allowing restricted access by authorized law enforcement, under well-defined circumstances, this act may help reduce criminal justice costs associated with prescription drug diversion.

2 New Subdivision; Controlled Drug Prescription Monitoring Program. Amend RSA 318-B by inserting after section 30 the following new subdivision:

Controlled Drug Prescription Monitoring Program

318-B:31 Definitions. In this subdivision:

I. "Board" means the pharmacy board, established in RSA 318:2.

II. "Commissioner" means the commissioner of the department of health and human services.

III. "Council" means the advisory council established in RSA 318-B:33.

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

V. "Dispenser" means a person who delivers a schedule II–III controlled drug or its analog to the ultimate user but does not include:

(a) A licensed hospital pharmacy when distributing such drugs for the purpose of inpatient hospital care.

(b) A practitioner, or other authorized person, who administers such a drug.

(c) A wholesale distributor of a schedule II-III controlled drug or its analog.

VI. "Program" means the controlled drug prescription monitoring program established in RSA 318-B:32.

318-B:32 Controlled Drug Prescription Monitoring Program; Penalties.

I. The department shall design and establish an electronic system consistent with the American Society for Automation in Pharmacy (ASAP) standards to monitor the prescribing and dispensing of controlled drugs listed in schedules II and III, by practitioners within the state, and the dispensing of such controlled drugs by a pharmacy within the state or located within another state when dispensed to an individual at a specific address within the state by a pharmacy permitted by or registered with the pharmacy board.

II.(a) Each dispenser shall submit to the department information regarding each dispensing of a controlled drug in schedules II or III. The information submitted for each dispensing shall include, but not be limited to:

(1) Dispenser's Drug Enforcement Administration (DEA) registration number.

(2) Prescriber's DEA registration number.

(3) Date of dispensing.

(4) Prescription number.

(5) Whether prescription is new or a refill.

(6) Number of refills granted.

(7) National Drug Code (NDC) of drug dispensed.

(8) Quantity dispensed.

(9) Number of days supply of drug.

(10) Patient's name.

(11) Patient's address.

(12) Patient's date of birth.

(13) Patient's telephone number.

(14) Date prescription was written by prescriber.

(15) Type of payment for prescription, cash or other.

(b) This section does not apply to controlled drugs:

(1) Administered by a health care practitioner directly to a patient.

(2) Dispensed by a health care practitioner authorized to dispense pursuant to RSA 318:42 and RSA 318-B:10.

(3) Either dispensed by a pharmacist or administered by a health care practitioner to an in-patient or resident receiving care from a hospital, nursing home, assisted living facility, home health care agency, hospice, or intermediate care facility for the developmentally disabled or mentally ill which is licensed in this state.

III. Any person who fails to submit the information required in paragraph II or submits incorrect information shall be subject to a warning letter and provided with an opportunity to correct the failure. Any person who subsequently fails to correct or fails to resubmit the information shall be considered to have done so knowingly and shall be guilty of a violation for which a civil fine shall be imposed. The fine schedule shall be established by rule, pursuant to RSA 541-A, and shall not exceed a maximum of $500 per violation.

IV. Any person who fails to report the dispensing of a controlled drug listed in schedules II and III, as required by this section, shall be subject to a warning letter and provided with an opportunity to correct the failure, unless the failure to report conceals a pattern of diversion of controlled drugs into illegal use. Any person who fails to correct or fails to report again after receiving a warning letter shall be considered to have done so knowingly and shall be guilty of a violation and subject to the penalties established under RSA 318-B:26 and Ph 710 of the pharmacy board's administrative rules.

V. Any person whose failure to report conceals a pattern of diversion of controlled drugs into illegal use shall be guilty of a violation and subject to the penalties established under RSA 318-B:26 and Ph 710 of the pharmacy board's administrative rules as applicable. In addition, such person may be subject to appropriate criminal charges if the failure to report is determined to have been done knowingly to conceal criminal activity.

VI. Any person who engages in prescribing or dispensing of controlled drugs in schedule II or III without having registered with the program shall be guilty of a violation for which a civil penalty may be imposed. The civil penalties shall be established by rule adopted by the commissioner pursuant to RSA 541-A.

VII. The department shall develop a system of registration for all prescribers and dispensers of controlled drugs in schedules II or III within the state. Only registered prescribers and dispensers are eligible for electronic access to data maintained by the program. The system of registration shall be established by rules adopted by the commissioner, pursuant to RSA 541-A.

VIII. All costs incurred by the department for implementing and operating the program shall be supported through grants or gifts. The department may charge a fee to

individuals who request data relating to their own prescription history or to individuals or entities requesting statistical or aggregate information from the program for public research, policy or educational purposes. A fee charged for an individual's request for his or her personal data shall not exceed the actual cost of providing that information.

IX. All prescribers of methadone shall attend educational courses regarding the safe use and prescription of methadone. The contents of the educational course shall be established by rules adopted by the commissioner pursuant to RSA 541-A.

318-B:33 Advisory Council Established.

I. There is hereby established an advisory council to assist the commissioner in carrying out his or her duties under this subdivision. The members of the council shall be as follows:

(a) A representative of the board of medicine, appointed by the board.

(b) A representative of the pharmacy board, appointed by the board.

(c) A representative of the board of dental examiners, appointed by the board.

(d) A representative of the board of nursing, appointed by the board.

(e) The attorney general, or designee.

(f) The commissioner of the department of health and human services, or designee.

(g) A representative of the New Hampshire Medical Society, appointed by the society.

(h) A representative of the New Hampshire Dental Society, appointed by the society.

(i) A representative of the New Hampshire Association of Chiefs of Police, appointed by the association.

(j) A representative of a retail pharmacy, appointed jointly by the New Hampshire Pharmacists Association, the New Hampshire Independent Pharmacy Association, and the New Hampshire Association of Chain Drug Stores.

(k) A representative of the New Hampshire Civil Liberties Union, appointed by such organization.

II. The purpose of the council shall be to:

(a) Adopt and revise the criteria for reviewing the prescribing and dispensing information collected.

(b) Adopt and revise the criteria for reporting matters to the applicable health care regulatory board for further investigation.

(c) Adopt and revise the criteria for reporting matters to and working cooperatively with, the appropriate law enforcement agency for further investigation.

(d) Adopt and revise the criteria for notifying health care providers of individuals that are engaged in obtaining controlled substances from multiple prescribers or dispensers.

(e) Collect information on the outcomes and impact of the program including: satisfaction of users of the program, impact on prescribing patterns, impact on referrals to regulatory boards and law enforcement entities, and other relevant measures.

(f) Assist the commissioner in adopting and revising the rules under RSA 541-A to implement the program.

III. The council may meet as often as necessary to effectuate its goals. The first meeting shall be called by the representative of the department of health and human services within 45 days of the effective date of this subdivision. At the first meeting, a chairman shall be elected by the members.

318-B:34 Access to Prescription Information.

I. Prescription information submitted to the department shall be confidential and not be subject to RSA 91-A, except as provided under RSA 318-B:34, II, III, and IV. Information contained in the program, information obtained from it, and information contained in the records of requests for information from the program, is confidential, is not a public record or otherwise subject to disclosure under RSA 91-A, and is not subject to

discovery, subpoena, or other means of legal compulsion for release and shall not be shared with an agency or institution, except as provided in this subdivision. Information collected for the program shall be retained by the program for 3 years and shall then be destroyed.

II. The department shall establish and maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained, is not disclosed except as follows:

(a) By electronic or written request, solicited or unsolicited, to prescribers and dispensers within the state who are registered with the program, for the purpose of providing medical or pharmaceutical care to patients; and

(b) By written request, to:

(1) An individual who requests his or her own prescription information.

(2) The state boards listed in RSA 318-B:33, the board of registration in optometry, and the board of podiatry.

(3) Local, state, and federal law enforcement officials investigating alleged criminal activity involving controlled drugs.

(4) The department of health and human services.

(5) A court in a criminal matter or a grand jury which requests such information.

(6) A controlled drug prescription monitoring program from another state, if an agreement is in place with the other state to ensure that the information is used and disseminated pursuant to the requirements of this state.

III. The department may review the prescription information as outlined in paragraph II only after removing information that could be used to identify prescribers and patients. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the department shall notify the appropriate law enforcement agency or professional licensing, certification, or regulatory agency or entity and provide prescription information required or necessary for an investigation.

IV. The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify prescribers, individual patients, and persons who received prescriptions from a dispenser.

318-B:35 Authority to Contract. The department may contract with another agency of this state or with a private vendor to ensure the effective operation of the program.

318-B:36 Rulemaking. The commissioner, with input and consent from the advisory council, shall adopt rules, pursuant to RSA 541-A, necessary to implement the program including:

I. A schedule of fines under RSA 318-B:32, III.

II. Content and format of all forms required under this subdivision.

III. Procedures, meetings, and conduct of the advisory council established in RSA 318-B:33.

318-B:37 Limitation of Liability. Any agency or individual who provides or receives information in good faith to or from the program shall not be liable for civil damages, prosecuted criminally, or subject to disciplinary action by an employer.

318-B:38 Unauthorized Access, Alteration, Destruction, or Disclosure of Information. A person is guilty of a class B felony if the person knowingly accesses, alters, destroys, or discloses program information except as authorized in this subdivision or as otherwise authorized by law.

3 Applicability; Report Required.

I. In the event that there is not adequate funding for the controlled drug prescription monitoring program established in section 2 of this act, the commissioner of the department of health and human services may curtail, temporarily suspend, or cancel the program.

II. The office of the legislative budget assistant shall conduct a performance audit of the program on or before December 31, 2012 for the use of the speaker of the house of

representatives, the president of the senate, and the governor in evaluating the effectiveness of the program established in section 2 of this act.

4 New Paragraph; Notation Required. Amend RSA 318-B:9 by inserting after paragraph VI the following new paragraph:

VII. Each written prescription prescribed by a practitioner in this state for a controlled drug listed in schedule II or III, shall include both a written and numerical notation of the quantity on the face of the prescription and a notation of the date with the abbreviated month written on the face of the prescription. A pharmacist shall be permitted, upon verification by the prescriber, to document any information required by this paragraph.

5 New Section; Positive Identification Required. Amend RSA 318-B by inserting after section 9 the following new section:

318-B:9-a Positive Identification Required.

I.(a) A pharmacist shall not dispense a controlled drug listed in schedule II or III to a patient or a patient's agent without first determining, in the exercise of his or her professional judgment, that the order is valid. A pharmacist or pharmacist's agent shall request identification from the patient or patient's agent prior to dispensing any controlled drug. Appropriate identification shall be in the form of:

(1) A valid driver's license issued under New Hampshire law or the law of any other state;

(2) A valid military identification issued to either the patient or the patient's agent; or

(3) Any other government issued photo identification document.

(b) If the patient or patient's agent does not provide the appropriate identification, the pharmacist may dispense the controlled substance only when the pharmacist determines, in the exercise of his or her professional judgment, that the order is valid and includes such information in the patient's record.

II. Any controlled drug listed in schedule II or III may be dispensed by a pharmacist upon an oral or electronic prescription if, before filling the prescription, the pharmacist reduces it to writing, pursuant to the requirements of RSA 318-B:9, III or records it electronically, if permitted by federal law. Such prescriptions shall contain the date of the oral or electronic authorization.

6 Applicability. All prescribing and dispensing information maintained by the program established in section 2 of this act shall be destroyed upon the repeal of the program under section 7 of this act.

7 Repeal. RSA 318-B:31 – RSA 318-B:39 and sections 1 and 3 of this act, relative to the controlled drug prescription monitoring program, are repealed.

8 Effective Date.

I. Section 7 of this act shall take effect July 1, 2013.

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

Majority committee amendment adopted.

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

Rep. Case spoke against.

Rep. MacKay spoke in favor and yielded to questions.

On a division vote, 153 members having voted in the affirmative and 156 in the negative, the majority committee report failed.

Rep. Kurk moved Inexpedient to Legislate.

On a division vote, 178 members having voted in the affirmative and 136 in the negative, the motion was adopted.

SB 102-FN, relative to the powers of state government in the event of an incident or

outbreak of communicable disease. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Joan H. Schulze for Health, Human Services and Elderly Affairs: This bill was requested by the department of health and human services after a public health emergency drill. This is an important bill for the safety of the citizens of this state. During the drill it became evident that no one had authority to take charge of certain necessary actions in dealing with the disaster. These actions included building closures, event cancellation, medication and equipment rationing/securing. This bill as amended is the collaborative effort of DHHS, the attorney general's office and this committee. It permits a plan of action by the commissioner, with written approval of the governor to carry out necessary measures in an incident or outbreak of communicable disease. The bill also establishes an ethics committee to offer advice to the commissioner relative to ethical issues that may be identified in the course of planning for and responding to outbreaks of communicable diseases that threaten to become epidemic or pandemic. The effective date of the act and establishment of the ethics committee shall be upon passage of this bill. Vote 20-0.

Amendment (2394h)

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

1 Communicable Disease; Closure and Decontamination. Amend RSA 141-C:16-a to read as follows:

141-C:16-a ***Closure;*** Decontamination.

I. The commissioner***, with the written approval of the governor,*** may close, direct***,*** and compel the evacuation [~~of or decontamination of any facility where there is reasonable cause to believe that there is a danger to the public health. The commissioner may also decontaminate, or cause to be decontaminated, or destroy any material of which there is reasonable cause to believe may present imminent danger to the public health~~] ***and decontamination of any building located within the state that is accessible to the public, such as businesses, primary and secondary schools, and universities, regardless of whether publicly or privately owned, when there is reasonable cause to believe the building may present an imminent danger to the public health. The commissioner may also cause any material located within or on the grounds of a building to be decontaminated or destroyed when there is reasonable cause to believe that the material may present imminent danger to the public health***. Destruction of any material under this chapter shall be considered a taking of private property and shall be subject to the compensation provisions of RSA 4:46.

II. Notice shall be made by posting notice on all means of ingress or egress of the building and, within 24 hours of posting, mailing the notice, return receipt requested, to the owner of record. The notice shall state the reason for the action and its anticipated duration.

III. Orders issued pursuant to this section shall be effective immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. Any person who is aggrieved by an order pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden of proof shall be on the commissioner to prove by clear and convincing evidence that the action taken is reasonably necessary to protect the health of the public.

IV. Orders issued under this section shall be subject to the due process provisions of RSA 141-C:14-a.

2 New Section; Communicable Disease; Cancellation of Events. Amend RSA 141-C by inserting after section 16-a the following new section:

141-C:16-b Cancellation of Events. The commissioner, with the written approval of the governor, may order the cancellation of public gatherings and events within the state, or in

specific geographic areas of the state, as is deemed necessary to prevent an imminent danger to the public health. Notice of any order canceling a public gathering or event shall be made in writing, shall specify the reason for the cancellation, and shall be delivered to the organizer of the event or owner of the venue where the event was to occur in a manner that will give as much notice prior to the cancellation as is reasonably possible. Notice shall also be given to the public in a manner that is reasonably likely to be available to the members of the public affected by the order. Such order shall be effective immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. Any person who is aggrieved by an order pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden of proof shall be on the commissioner to prove by clear and convincing evidence that cancellation of the public gathering or event is reasonably necessary to protect the health of the public.

3 New Sections; Communicable Disease; Custody; Rationing; Cost of Items. Amend RSA 141-C by inserting after section 17-a the following new sections:

141-C:17-b Custody; Rationing. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment, and such shortage poses a serious threat to the public health, the commissioner, with the written approval of the governor, may control, restrict, and ration the use, sale, dispensing, distribution, or transportation of such agents as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner may determine the preference and priority for distribution of such agents, such as giving preference to health care providers and emergency response personnel. The commissioner, with the written approval of the governor, shall have the discretion to take custody of all supplies of specific anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment, existing within the state to ensure that such agents are distributed and utilized appropriately. Notice of an order issued pursuant to this section shall be given in writing to the owner of the personal property, or, if the owner cannot be readily determined, to the person in charge of the location where the personal property is located. The notice shall specify the reason for the action and its expected duration. Such order shall be effectively immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. The owner of any property subject to an order issued pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden shall be on the commissioner to prove by clear and convincing evidence that the order is reasonably necessary to protect the health, safety, and welfare of the public. Multiple requests for hearings under this section may be consolidated into one hearing if the underlying facts are similar, the court deems such consolidation to be appropriate, and the court determines that such consolidation will adequately satisfy the due process rights of the persons who requested a hearing.

141-C:17-c Compensation and Expenditures. Items taken by the commissioner pursuant to the provisions of this chapter shall be subject to the compensation provisions of RSA 4:46, but in no event shall the owner thereof be entitled to more than the Medicaid rate for the item that was in effect at the time of the taking. Notwithstanding the provisions of RSA 9:19-9:21, the commissioner may make such expenditures as necessary to carry out the provisions of this chapter; provided, that expenditures are made from funds appropriated to the department that the commissioner determines to be available for this purpose and

information regarding the expenditures is promptly submitted to the fiscal committee of the general court and the governor and council.

4 New Sections; Communicable Disease; Ethics Committee Established. Amend RSA 141-C by inserting after section 25 the following new sections:

141-C:26 Ethics Committee.

I. There is hereby established an ethics committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic.

II. The committee shall consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; issues relative to information sharing and confidentiality; and the provisions for due process for orders issued pursuant to this chapter.

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

(a) The director of the division of public health services.

(b) The state epidemiologist.

(c) The attorney general, or designee.

(d) A representative of a public health network, appointed by the commissioner.

(e) A representative from a college or university public health program, appointed by the commissioner.

(f) A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.

(g) A chief of a local fire department, appointed by the New Hampshire Association of Fire Chiefs.

(h) A physician, licensed under RSA 329, appointed by the New Hampshire Medical Society.

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

(j) A member of a fire department with a minimum of EMT-B certification, appointed by the Professional Firefighters of New Hampshire.

(k) A representative of a hospital, appointed by the New Hampshire Hospital Association.

(l) A county representative, appointed by the New Hampshire Association of Counties.

IV. The commissioner shall appoint a member of the committee to act as chairperson. The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.

V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues.

VI. The committee shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner.

141:27 No Conflict With Emergency Management Powers. Nothing in this chapter shall be construed to limit or restrict the exercise of the governor's emergency management powers under RSA 4:45 – RSA 4:47.

5 New Paragraph; Volunteers for Government Agencies; Emergency Management Function. Amend RSA 508:17-a by inserting after paragraph II the following new paragraph:

II-a. For purposes of immunity and exemption, any declared public health or public safety incident shall be considered an emergency management function under RSA 21-P:41, I-II.

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

Amendment adopted.
Committee report adopted.
Ordered to third reading.

CACR 2, relating to: the definition and constitutionality of judicial and legislative acts. Providing that: the supreme court shall determine the constitutionality of judicial acts and the legislature shall determine the constitutionality of legislative acts. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. Bette R. Lasky for the Majority of Judiciary: The majority of the committee found this proposed constitutional amendment inexpedient to legislate in the belief that such an amendment would upset the balance of power between the legislature and the judiciary. The protection of the rights of the minority and the give and take of these two branches of government, which has worked for hundreds of years, need not be changed. Vote 15-5.
Rep. Gregory M. Sorg for the Minority of Judiciary: CACR 2 would bring the Supreme Court back to constitutional legitimacy by writing into the Constitution the distinction between adjudicatory and legislative acts drawn by Justice Levi Woodbury in the 1818 Supreme Court case Merrill v. Sherburne, the first case to come before the court under the separation of powers provision, Article 37 of Part I. By so doing, it would restore the original understanding of the boundaries of the separation of powers, reflected in that case, whereby the judiciary was constituted the final authority of the constitutionality of adjudicatory acts and the legislature was constituted the final authority on the constitutionality of legislative acts. It has only been in recent times, since its 1983 decision in State v. LaFrance, that the court – bolstered by the recent insertion of Article 72-a into the Constitution, which removed the only effective check upon its ambitions - has laid claim to final, unreviewable authority, binding on the legislature, to refuse to enforce on constitutional grounds acts of a purely legislative character. By reason that the court has an inherent institutional bias in favor of resolution of separation of powers issues that enhance judicial power at the expense of legislative, this sweeping, anti-historical assertion of authority has resulted in judicial intrusions into the legislature's exclusively granted constitutional authority to establish state policy to such an extent that the court acts today as a virtual third chamber of the legislature, with veto power over the other two, exercisable by whichever three persons happen to comprise a majority of the court at any given time. One can only hope that the legislative branch will eventually tire of having its hard fought-for policy choices repeatedly subordinated to those illegitimately imposed by the judicial, and take action to restore the separation of powers and checks and balances between them.
Rep. Sorg spoke against and yielded to questions.
Rep. Lasky spoke in favor.
Rep. Sorg requested a roll call; sufficiently seconded.

YEAS 228 NAYS 104

YEAS 228

BELKNAP

Arsenault, Beth	Millham, Alida	Morrison, Gail	Pilliod, James
Reever, Judith	Wood, Jane		

CARROLL

Ahlgren, Christopher	Bridgham, Robert	Buco, Thomas	Butler, Edward
Cunningham, Howard	Heard, Virginia	Martin, James	Merrow, Harry

CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Dunn, J. Timothy	Eaton, Daniel
Espiefs, Peter	Hunt, John	Lerandeau, Alfred	Loll, Thomas
Mitchell, Bonnie	Parkhurst, Henry	Richardson, Barbara	Roberts, Kris
Robertson, Timothy	Sad, Tara	Weber, Lucy	Weed, Charles

COOS

Hatch, William	Ingersoll, Paul Sr	King, Frederick	Mears, Edgar
Merrick, Evalyn	Merrick, Scott	Stohl, Eric	Theberge, Robert
Thomas, Yvonne			

GRAFTON

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

HILLSBOROUGH

Baroody, Benjamin	Beaulieu, Jane	Beck, Catriona	Bergin, Peter
Brunelle, Michael	Campbell, David	Chase, Claudia	Clemons, Jane
Cote, David	Daler, Jennifer	Dokmo, Cynthia	Edwards, Andrew
Emerton, Larry	Fletcher, Richard	Fontas, Jeffrey	Forest, Armand
Foster, Linda	Garrity, Patrick	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Graham, John	Hackel, Paul	Haley, Robert
Hall, Betty	Hammond, Jill	Harvey, Suzanne	Hebert, Roger
Holden, Randolph	Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette
Jeudy, Jean	Kaelin, Michael	Kelley, John	Knowles, John
Knowles, Mary Ann	Kopka, Angeline	Lasky, Bette	Leishman, Peter
Levesque, Melanie	Long, Patrick	Mack, Ron	Marshall, Seth
Matarazzo, Anthony Sr	Messier, Irene	Mooney, Maureen	Movsesian, Lori
O'Brien, Michael Sr	O'Connell, Timothy	Peterson, Andy	Pilotte, Maurice
Rosenwald, Cindy	Scannell, David	Schulze, Joan	Shattuck, Gilman
Shaw, Kimberly	Simon, Anthony	Smith, David	Sullivan, Daniel
Sullivan, Francis	Sysyn, Mary	Vaillancourt, Steve	Winters, Joel

MERRIMACK

Baxley, Maureen	Beauchesne, Suzanne	Blanchard, Elizabeth	Bouchard, Candace
Brown, Carole	Brueggemann, Donald	Clarke, Claire	Davis, Frank
DeJoie, John	DeStefano, Stephen	Ehlers, Eileen	Foose, Robert
French, Barbara	Gile, Mary	Greco, Vincent	Hager, Elizabeth
Hamm, Christine	Kelly, Sally	Kidder, David	Kjellman, Eleanor Glynn
Lockwood, Priscilla	McMahon, Patricia	Osborne, Jessie	Owen, Derek
Porter, Margaret	Potter, Frances	Richardson, Gary	Ryan, Jim
Shurtleff, Stephen	Tilton, Joy	Wallner, Mary	Walz, Mary
Webb, Leigh	Williams, Robert	Yeaton, Charles	

ROCKINGHAM

Abbott, Dennis	Brown, C. Pennington	Cali-Pitts, Jacqueline	Casey, Kimberley
Day, Judith	Flanders, John Sr	Flockhart, Eileen	Gould, Kenneth
Grote, Otto	Howard, Doreen	Ingram, Russell	Kepner, Susan

Marsh, Michael	McEachern, Paul	McGuirk, Thomas	McKenna, Daniel
McKinney, Betsy	Nord, Susi	Petterson, Don	Powers, James
Robertson, Carl	Russell, Trinka	Serlin, Christopher	Snow, Richard
Splaine, James	Weare, Everett	Webber, James	Wells, Roger

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Julie
Brown, Larry	Browne, Brendon	Burke, Rachel	Cyr, James
DeChane, Marlene	Fargo, Thomas	Grassie, Anne	Hilliard, Dana
Hofemann, Roland	Kaen, Naida	Knowles, William	Mickelonis, Shawn
Miller, Joseph	Perry, Robert	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Spang, Judith	Sprague, Dale	Vachon, Dennis
Wall, Janet	Watson, Robert		

SULLIVAN

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

NAYS 104

BELKNAP

Allen, Janet	Boyce, Laurie	Clark, Charles	Flanders, Donald
Heald, Bruce	Nedeau, Stephen	Thomas, John	Tilton, Franklin
Wendelboe, Fran	Whalley, Michael		

CARROLL

Brown, Carolyn	Denley, William	Patten, Betsey	Stevens, Stanley

CHESHIRE

Emerson, Susan	Johnson, Jane

COOS

None

GRAFTON

Bulis, Lyle	Eaton, Stephanie	Gionet, Edmond	Ingbretson, Paul
Sorg, Gregory			

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christensen, Chris
Christiansen, Lars	Clark, Mark	Coughlin, Pamela	Crane, Elenore Casey
Daniels, Gary	Day, Russell	Drisko, Richard	Francoeur, Bea
Goyette, Peter	Haefner, Robert	Hansen, Ryan	Hawkins, Ken
Hinkle, Peyton	Hogan, Edith	Infantine, William	Kurk, Neal
L'Heureux, Robert	Lawrence, James	Manney, Pamela	McRae, Karen
Moran, Edward	Ober, Lynne	Ober, Russell III	Price, Pamela
Reeves, Sandra	Renzullo, Andrew	Soucy, Connie	Spaulding, Jayne
Stepanek, Stephen	Tahir, Saghir	Ulery, Jordan	Villeneuve, Maurice

MERRIMACK

Anderson, Eric	Boutin, David	MacKay, James	Reed, Dennis

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Bishop, Franklin	Camm, Kevin	Carson, Sharon
Case, Frank	Charron, Gene	Dalrymple, David	Devine, James
DiFruscia, Anthony	Dumaine, Dudley	Elliott, Robert	Emiro, Frank
Fesh, Bob	Garcia, Marilinda	Garrity, James	Gleason, John
Griffin, Mary	Headd, James	Hutchinson, Karen	Introne, Robert
Itse, Daniel	Kappler, Lawrence	Katsakiores, George	Katsakiores, Phyllis
Lund, Howie	McMahon, Charles	Nowe, Ronald	Pearson, Mark
Quandt, Matthew	Rausch, James	Reagan, John	Sanders, Elisabeth
Stiles, Nancy	Welch, David	Weyler, Kenneth	Wickson, Rick
Winchell, George			

STRAFFORD

Domingo, Baldwin

SULLIVAN

Rodeschin, Beverly

and the majority committee report was adopted.

HB 40, relative to living wills and durable powers of attorney for health care. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Lucy M. Weber for the Majority of Judiciary: Currently, a health care provider may accept and act on either an original or a copy of an advance health care directive. This bill would require the health care provider to wait for the production of the original document before following the wishes contained in an advance directive. The majority is concerned that this would cause delay in acting on the wishes of the principal. It would cause particular difficulty for seniors who move between New Hampshire and warmer weather states. Requiring the production of the original document would also cause unnecessary extra stress to family members during a difficult time. Finally, the committee heard no testimony that would cause concern that copies of these documents are being used improperly. Vote 15-5.

Rep. Robert H. Rowe for the Minority of Judiciary: Under our law, there is only one original copy of a person's will. This is also the law as to a New Hampshire advanced directive (durable power of attorney/living will). Only a single original document has legal validity. This is not the case as to other legal documents, such as contracts where there can be multiple originals; all valid and enforceable. The minority believe it is bad policy to allow a copy, fax or e-mail to be enforceable without further proof that the copy is, in fact, a copy of an existing and enforceable advanced directive and not a copy of a document that has been revoked or amended. The advanced directive form states that the one original executed directive cannot be changed or modified; this revokes the document as does the destruction of the original. It can happen that copies of an obsolete, revoked or changed advanced directive will be copied, faxed or e-mailed and then used as proof of the individual's intent. Since the issue is a person's life, we should err on the side of caution; a mistake in utilizing a copy of an obsolete or revoked cannot be corrected.

MOTION TO SPECIAL ORDER

Rep. David Cote moved that ***HB 40,*** relative to living wills and durable powers of attorney for health care, be made a Special Order for January 30, 2008 at the beginning of the

Regular Calendar.
Adopted.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

HB 57, relative to advance directives for durable powers of attorney and living wills.
MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.
Rep. Lucy M. Weber for the Majority of Judiciary: Currently, the statute requires that health care directives be "substantially in the form set forth in RSA 137-J:20." This bill would add the words "or other form desired by the principal." The purpose of the underlying statute was to create a degree of uniformity in the form of these documents. The majority believes that the word "substantially" is sufficient to allow enough latitude to customize the documents to accurately reflect the wishes of the principal, without returning to the confusion created by a complete departure from the current form. Vote 12-6.
Rep. Nancy J. Elliott for the Minority of Judiciary: The bill allows for the individual to have a choice in the wording of their advance directive (end of life document). The ONLY form currently allowed by law has only two very restrictive choices. 1) Life sustaining treatment is not to be started… and 2) Life sustaining treatment is to be given… There is no in between. In NH it is all or nothing. If you want to be kept hydrated in some instances and not in others, it is not allowed on our advanced directive form. Also hydration and nutrition are linked. Some may want to be kept hydrated so they would not suffer an excruciating death but would not want to be fed by a tube. They must check off both or nothing. Consequently, many citizens are hesitant to sign this document. As our law accepts out of state documents, citizens coming from other states have more rights than NH residents. We should give everyone the right to make personal choices for the end of their life.

MOTION TO SPECIAL ORDER

Rep. David Cote moved that ***HB 57,*** relative to advance directives for durable powers of attorney and living wills, be made a Special Order for January 30, 2008 at the beginning of the Regular Calendar.
Adopted.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

HB 443, relative to requirements for admission to the New Hampshire bar upon motion.
MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.
Rep. Gail C. Morrison for the Majority of Judiciary: The intent of this bill is to extend to graduates of the Massachusetts School of Law, admitted and practicing law in other states, the option to file a motion and be admitted to the New Hampshire Bar without being required to take the New Hampshire Bar examination. This bill is no longer necessary as the New Hampshire Supreme Court has corrected the situation so that graduates of Massachusetts School of Law may be admitted to practice in this state on motion. This resolution satisfied our colleague on the committee, the late Donald Buxton, who had sponsored the bill at the request of a constituent. Vote 15-4.
Rep. David J. Bettencourt for the Minority of Judiciary: The minority of the committee believes that what lies at the heart of this issue is fairness and equality. The recent history of this issue is as follows: Prior to the introduction of this legislation, the New Hampshire Supreme Court exercised a strict interpretation of its rule regarding admission to the New Hampshire bar on motion (admitted to the New Hampshire bar without having to take the New Hampshire bar exam). This reading discriminated against attorneys who graduated from law schools (specifically the Massachusetts School of Law and Southern New England School of Law) not approved by the American Bar Association (ABA) from having the opportunity to be "waived in" on motion. This despite that the New Hampshire Supreme Court allows attorneys who graduated from law schools not approved by the ABA in foreign

countries to be admitted on motion. The minority asserted that this was improper and believed that the standards set by the ABA for accreditation (size of library, number of part time versus full time professors, facility size, etc.) were arbitrary and not an accurate reflection of an individual's ability to practice law. Additionally, the minority believed that the supreme court interpretation discriminated against individuals from low-income backgrounds who attend non-ABA accredited law schools because they are generally more affordable. However, as this legislation progressed through the legislative process, the Supreme Court decided to "re-interpret" its rule and decided to allow non-ABA law school graduates to "waive in" as long as they met the criteria that every attorney seeking admission on motion must satisfy (practicing attorney for five years, passed a bar exam in another state, and in good ethical standing). While this new interpretation by the supreme court would appear to make the issue moot, in actuality the substance of the issues remains. Because the supreme court simply "re-interpreted" its rule rather than undertaking a substantive rule change, the matter is still open to re-interpretation by future courts. The minority asserts that court rule interpretation is significantly different from a law or rule change. This legislation would address the issue permanently and ensure that this discrimination never again takes place. Where an individual attends law school should not serve as a discriminant to practice law in New Hampshire, particularly if they have already demonstrated ethical conduct and competency. Finally, the minority believes that this legislation will decrease the number of pro se litigants in our courts.
Rep. Bettencourt spoke against.
Rep. Morrison spoke in favor and yielded to questions.
Rep. Gary Richardson spoke in favor.
Rep. Bettencourt requested a roll call; sufficiently seconded.

YEAS 218 NAYS 106

YEAS 218

BELKNAP

Arsenault, Beth	Millham, Alida	Morrison, Gail	Pilliod, James
Reever, Judith	Wood, Jane		

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Denley, William	Heard, Virginia	Knox, J. David	Martin, James
Patten, Betsey			

CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Dunn, J. Timothy	Eaton, Daniel
Espiefs, Peter	Lerandeau, Alfred	Loll, Thomas	Mitchell, Bonnie
Parkhurst, Henry	Richardson, Barbara	Roberts, Kris	Robertson, Timothy
Sad, Tara	Weber, Lucy	Weed, Charles	

COOS

Hatch, William	Ingersoll, Paul Sr	King, Frederick	Mears, Edgar
Merrick, Evalyn	Merrick, Scott	Stohl, Eric	Theberge, Robert
Thomas, Yvonne			

GRAFTON

Aguiar, James	Almy, Susan	Andersen, Gene	Benn, Bernard

Bleyler, Ruth	Cooney, Mary	Estes, Carole	Friedrich, Carol
Hammond, Lee	Harding, A Laurie	Laliberte, Suzanne	Lovett, Sid
Matheson, Robert	McLeod, Martha	Mulholland, Catherine	Nordgren, Sharon
Pierce, David	Preston, Philip	Solomon, Peter	Williams, Burton

HILLSBOROUGH

Baroody, Benjamin	Barry, Richard	Beaulieu, Jane	Beck, Catriona
Bergin, Peter	Campbell, David	Chase, Claudia	Clemons, Jane
Cote, David	Coughlin, Pamela	Daler, Jennifer	Dokmo, Cynthia
Drisko, Richard	Edwards, Andrew	Emerton, Larry	Fletcher, Richard
Fontas, Jeffrey	Forest, Armand	Foster, Linda	Ginsburg, Ruth
Goley, Jeffrey	Gorman, Mary	Hackel, Paul	Haley, Robert
Hall, Betty	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	Lasky, Bette	Leishman, Peter	Levesque, Melanie
Mack, Ron	Marshall, Seth	Matarazzo, Anthony Sr	Movsesian, Lori
O'Brien, Michael Sr	O'Connell, Timothy	O'Neil, James	Peterson, Andy
Pilotte, Maurice	Price, Pamela	Rosenwald, Cindy	Scannell, David
Schulze, Joan	Shattuck, Gilman	Shaw, Kimberly	Simon, Anthony
Sullivan, Daniel	Sullivan, Francis	Sysyn, Mary	

MERRIMACK

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

ROCKINGHAM

Abbott, Dennis	Brown, C. Pennington	Cali-Pitts, Jacqueline	Casey, Kimberley
Charron, Gene	Day, Judith	Fesh, Bob	Flockhart, Eileen
Gould, Kenneth	Grote, Otto	Howard, Doreen	Kepner, Susan
Marsh, Michael	McEachern, Paul	McGuirk, Thomas	McKenna, Daniel
McKinney, Betsy	Nord, Susi	Petterson, Don	Powers, James
Russell, Trinka	Serlin, Christopher	Snow, Richard	Webber, James

STRAFFORD

Berube, Roger	Billian, Deborah	Brown, Julie	Brown, Larry
Burke, Rachel	Cyr, James	DeChane, Marlene	Domingo, Baldwin
Fargo, Thomas	Grassie, Anne	Hilliard, Dana	Hofemann, Roland
Kaen, Naida	Knowles, William	Mickelonis, Shawn	Miller, Joseph
Perry, Robert	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Vachon, Dennis	Wall, Janet	Watson, Robert

SULLIVAN

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

NAYS 106

BELKNAP

Allen, Janet	Boyce, Laurie	Clark, Charles	Flanders, Donald
Heald, Bruce	Nedeau, Stephen	Thomas, John	Tilton, Franklin
Wendelboe, Fran	Whalley, Michael		

CARROLL

Ahlgren, Christopher	Brown, Carolyn	Chandler, Gene	Merrow, Harry
Stevens, Stanley			

CHESHIRE

Emerson, Susan	Hunt, John	Johnson, Jane

COOS

None

GRAFTON

Bulis, Lyle	Eaton, Stephanie	Gionet, Edmond	Ingbretson, Paul
Sorg, Gregory			

HILLSBOROUGH

Batula, Peter	Bergeron, Jean-Guy	Brunelle, Michael	Christensen, Chris
Christiansen, Lars	Clark, Mark	Crane, Elenore Casey	Daniels, Gary
Day, Russell	Goyette, Peter	Graham, John	Haefner, Robert
Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton	Hogan, Edith
Infantine, William	Jasper, Shawn	Kurk, Neal	L'Heureux, Robert
Lawrence, James	Manney, Pamela	McRae, Karen	Messier, Irene
Moran, Edward	Ober, Lynne	Ober, Russell III	Reeves, Sandra
Renzullo, Andrew	Smith, David	Soucy, Connie	Spaulding, Jayne
Stepanek, Stephen	Tahir, Saghir	Ulery, Jordan	Vaillancourt, Steve
Villeneuve, Maurice	Winters, Joel		

MERRIMACK

Anderson, Eric	Boutin, David	Lockwood, Priscilla	Reed, Dennis

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Bettencourt, David
Case, Frank	Dalrymple, David	Devine, James	Dumaine, Dudley
Elliott, Robert	Emiro, Frank	Flanders, John Sr	Garcia, Marilinda
Garrity, James	Gleason, John	Griffin, Mary	Headd, James
Ingram, Russell	Introne, Robert	Itse, Daniel	Kappler, Lawrence
Katsakiores, George	Katsakiores, Phyllis	Lund, Howie	Nowe, Ronald
Pearson, Mark	Rausch, James	Reagan, John	Robertson, Carl
Sanders, Elisabeth	Splaine, James	Stiles, Nancy	Weare, Everett
Welch, David	Wells, Roger	Weyler, Kenneth	Wickson, Rick
Winchell, George			

STRAFFORD

Brennan, William Browne, Brendon Sprague, Dale

SULLIVAN

Rodeschin, Beverly

and the majority committee report was adopted.

Reps. Mooney and Carson declared a conflict of interest on ***HB 443*** and did not participate.

HB 455, repealing the law relative to screening panels for medical injury claims.
MAJORITY: REFER FOR INTERIM STUDY. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Bette R. Lasky for the Majority of Judiciary: Testimony was received that the screening panels have been difficult to convene, expensive for the parties and may delay the resolution of cases. In addition, testimony indicated there has been no reduction in medical malpractice insurance costs. The majority of the committee thinks because only a year has passed to see the law's (RSA 519-B) results, we should give the statute additional time to work to see if it reduces rates and accomplishes its other goals. Vote 13-7.

Rep. Nancy J. Elliott for the Minority of Judiciary: The minority of the committee feels this bill should be Inexpedient to legislate. While this issue should be watched, interim study is unnecessary as we already have a commission with a committee member participating which is studying this issue. Setting up an additional committee just adds cost to the state and duplicates our effort.

Majority committee report adopted.

Rep. Rosenwald declared a conflict of interest on ***HB 455*** and did not participate.

SB 32-FN, increasing the maximum amount of debt or damages for small claims actions.
MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Robert H. Rowe for the Majority of Judiciary: This bill increases the small claims limit in district court from $5,000 to $10,000. The committee was concerned that a blanket increase to $10,000 had the possibility of causing harm to the elderly and lower income families, allowing our citizens to, possibly, be taken advantage of by less than honorable plaintiffs. A compromise amendment was offered, allowing for the increase in limits but with conditions. The amendment provides that small claims actions above $5,000 first be mediated in district court and then if mediation was not successful, the case would be presented to the court under oath. It was believed that if the parties and witnesses were subject to the penalties of perjury, any harm would be limited. Still the defendants are protected in that they have the option in cases above $1,500 to have the matter tried before a jury and this in a formal setting and allowing for detailed witness and evidence discovery. Vote 14-6.

Rep. Anthony R. DiFruscia for the Minority of Judiciary: The present $5,000 limit in small claims actions has worked well. The facts are that only two states have limits of $10,000 in small claim actions, while 38 states have $5,000 limits or less. Small claims courts have no rules of discovery. The danger is that a person may be denied the right to fair trial. "If it ain't broke, don't fix it."

Majority Amendment (2501h)

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

AN ACT increasing the maximum amount of debt or damages for small claims actions and requiring mediation for small claims actions exceeding $5,000 and establishing a fee for the cost of such mediation.

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

2 New Paragraph; Mediation Required. Amend RSA 503:1 by inserting after paragraph III the following new paragraph:

IV. When the amount of debt or damages exceeds $5,000 and no claim is made for trial by jury under paragraph III, the parties to the action shall be required to participate in a mediation program in the district courts approved by the office of mediation and arbitration established under RSA 490-E. If mediation of such action does not result in resolution of the action, the case shall be presented to the judge under oath.

3 Small Claims Exceeding $5,000; Mediation Fee. RSA 503:4, II is repealed and reenacted to read as follows:

II. The sum of $5 shall be added to each entry fee collected in the district courts for small claims actions in which the amount of debt or damages is $5000 or less and the sum of $60 shall be added to each entry fee collected in the district courts for small claims actions in which the amount of debt or damages exceeds $5000. Such sums shall be deposited in the mediation and arbitration fund established under RSA 490-E:4.

4 Effective Date. This act shall take effect January 1, 2009.

AMENDED ANALYSIS

This bill increases the maximum amount of debt or damages for small claims actions. The bill also requires mediation for small claims actions exceeding $5,000 and establishes a fee for the cost of such mediation.

MOTION TO SPECIAL ORDER

Rep. David Cote moved that ***SB 32-FN,*** increasing the maximum amount of debt or damages for small claims actions, be made a Special Order for January 30, 2008 at the beginning of the Regular Calendar.
Adopted.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

HB 399, relative to variable rates of overtime. **OUGHT TO PASS WITH AMENDMENT.** Rep. Stephen A. Johnson for Labor, Industrial and Rehabilitative Services: The committee agrees this bill will solve the outdated issue of variable overtime rates. The bill strengthens an already existing law. In addition to conforming to the fair labor standard act, HB 399 has the support of not only the state department of labor, but also the US department of labor. Vote 9-3.

Amendment (2592h)

Amend the title of the bill by replacing it with the following:
AN ACT relative to the minimum hourly rate of compensation.
Amend the bill by replacing all after the enacting clause with the following:

1 Exceptions to Minimum Hourly Rate. Amend RSA 279:21, VIII(b) to read as follows:

(b) Any employee of employers covered under the provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. section 201, et seq.) ***except employees employed as delivery drivers or sales merchandisers who are exempt under section 13(b)(1) of such act***.

(c) For the purposes of calculating the overtime rate of compensation required to be paid to the following employees, the regular rate shall be 1/40 of the employee's weekly remuneration:

(1) Delivery drivers or sales merchandisers.

(2) Employees paid on a base salary and commission basis.

(3) Delivery drivers or sales merchandisers not exempt from the overtime requirements of the Fair Labor Standards Act.

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

AMENDED ANALYSIS

This bill clarifies the overtime rate of compensation for certain employees.
Amendment adopted.
Committee report adopted.
Ordered to third reading.

HB 436, expanding employee freedom of expression to all public employees. **OUGHT TO PASS WITH AMENDMENT.**
Rep. John K. Knowles for Labor, Industrial and Rehabilitative Services: This bill provides a stronger remedy when a public employer punishes or restricts an employee's free-speech rights. It replaces a weak, ineffective, and impractical criminal penalty with civil remedies: either court injunction or possibly civil suit. It applies only to public employees who speak as private individuals about matters of public policy or performance; it does not allow personal attacks. The bill also applies existing state law to other political entities in the state. Vote 9-3.

Amendment (2541h)
Amend RSA 98-E:1-a as inserted by section 3 of the bill by replacing it with the following:
98-E:1-a Definition. In this chapter, "public employee" includes any person employed by the state or any subdivision thereof, including, but not limited to counties, cities, towns, precincts, water districts, school districts, and school administrative units.
Amend the bill by replacing all after section 4 with the following:
5 New Section; Employees' Remedies. RSA 98-E:4 is repealed and reenacted to read as follows:
98-E:4 Employees' Remedies.
I. A public employee may seek injunctive relief or maintain a civil action, or both, to recover damages for violation of this chapter in any court of competent jurisdiction by bench or jury trial.
II. If the public employee prevails, in addition to damages the court may allow the costs of the action and such attorney's fees as it finds to be reasonable to be paid by the defendant employer.
III. This chapter shall not alter or impair the rights of any person under a collective bargaining agreement or affect any other right or remedy provided in law.
6 Effective Date. This act shall take effect upon its passage.
Amendment adopted.
Committee report adopted.
Referred to the committee on Criminal Justice and Public Safety.

HB 690, relative to job skill training in volunteer work by unemployed individuals. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Stephen A. Johnson for Labor, Industrial and Rehabilitative Services: The committee overwhelmingly supported this bill. The intent is to provide unemployed individuals with new skills, to aid them in finding gainful employment. It is a pilot project that is approved by the Department of Employment Security. Vote 10-3.

Amendment (2507h)
Amend the title of the bill by replacing it with the following:
AN ACT establishing a pilot program for job skills training in volunteer work by unemployed individuals.
Amend the bill by replacing all after the enacting clause with the following:
1 Job Skills Training Pilot Program Established.
I.(a) A pilot program is established to allow persons collecting unemployment benefits to perform suitable volunteer work providing job skills at approved non-profit

organizations designated by the department of employment security in accordance with such rules as the commissioner may adopt.

(b) Persons collecting unemployment benefits who meet the requirements of RSA 282-A:31, I may perform up to 16 hours of suitable volunteer work.

(c) Persons who are exempt from RSA 282-A:31, I(c) and (d) under RSA 282-A:31, V, but otherwise meet the requirements of RSA 282-A:31, I may perform up to 10 hours of suitable volunteer work.

(d) No approved individual participating in this program shall be ineligible for benefits or disqualified for benefits solely for working as a volunteer at an approved non-profit organization designated by the department under paragraph II, provided that said individual can demonstrate that he or she is learning new job skills related to the individual's labor market according to criteria set forth by the department and he or she is actively seeking suitable employment.

II. The department in accordance with such rules as the commissioner may adopt, shall determine areas of skills shortages in the New Hampshire workforce and designate a non-profit organization that performs work in the areas of skills shortages as suitable for providing job skills training to unemployed volunteers. The department shall create criteria and rules for participation in this program which shall include reporting requirements for approved individuals and approved non-profit organizations.

III. The department of employment security shall determine, in accordance with such rules as the commissioner may adopt, which activities constitute suitable volunteering as a means of gaining job skills.

IV. By the end of each fiscal year, the commissioner of the department of employment security shall prepare and submit a report to the New Hampshire general court specifying:

(a) Which non-profit organizations have been approved to provide job skills training;

(b) The nature of the job skills training provided at each designated organization; and

(c) The number of unemployed persons who have received job skills training at each designated organization and the average length of job skills training per person.

V. The commissioner of the department of employment security shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Designation of approved non-profit organizations under subparagraph I(a) and paragraph II.

(b) Criteria for participation in this program under paragraph II.

(c) Determining which activities constitute suitable volunteering as a means of gaining job skills under paragraph III.

VI. For purposes of this program, "non-profit organization" means a state, county, city, town, or other political subdivision, or any organization or group of organizations described in section 501(c)(3) and exempt under section 501(a) of the Internal Revenue Code.

VII. No individual shall be approved to volunteer services with a current employer or with an employer who is an interested party under RSA 282-A:42, III.

2 Effective Date. This act shall take effect 90 days after its passage.

AMENDED ANALYSIS

This bill establishes a pilot program to allow persons collecting unemployment benefits to do volunteer work providing job skills at organizations designated by the department of employment security.

Amendment adopted.

Committee report adopted.

Referred to the committee on Executive Departments and Administration.

CACR 9, relating to: registers of probate. Providing that: the requirement that registers of

probate be elected be removed. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Earle Goodwin for Municipal and County Government: The office of the register of probate was established in 1694. In 1877 the registers of probate were added as elected officials, which was motivated by the perception of "inappropriate partisan politics" at the time whereby judges were being removed by both parties of the legislature. This is no longer the case. The testimony in committee indicated that the majority of the registers in the state approve of being appointed by the probate judge, instead of being elected by the voters. In addition testimony was given showing abuses of the system by elected registers. The committee strongly believes that the clerks of probate be an appointed position. The latter would ensure accountability for the public. In addition, standards would be set for the hiring and dismissal of the appointed clerk of probate. This constitutional amendment will be a ballot question in November 2008. A companion bill will ensure that registers of probate elected in November 2008 can fulfill their term. If however, they can no longer continue their duties, the constitutional amendment will allow for a clerk of probate to be appointed. By 2011, all clerks of probate will have been appointed. Vote 13-1.

Amendment (2496h)

Amend the title of the resolution by replacing it with the following:
RELATING TO: clerks of the probate court.
PROVIDING THAT: clerks of the probate court shall be appointed instead of elected.
Amend the resolution by replacing all after the enacting clause with the following:

I. That article 71 of the second part of the constitution be amended to read as follows:

[Art.] 71. [County Treasurers, [~~Registers of Probate,~~] County Attorneys, Sheriffs, and Registers of Deeds Elected.] The county treasurers, [~~registers of probate,~~] county attorneys, sheriffs and registers of deeds, shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practiced, and the laws of the state, Provided nevertheless the legislature shall have authority to alter the manner of certifying the votes, and the mode of electing those officers; but not so as to deprive the people of the right they now have of electing them.

II. That article 81 of the second part of the constitution be amended to read as follows:

[Art.] 81. [Judges and [~~Registers~~] ***Clerks*** of Probate Not to Act as Counsel.] No judge, or [~~register~~] ***clerk*** of probate, shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any court of probate in the county of which he is judge or [~~register~~] ***clerk***.

III. That article 82 of the second part of the constitution be amended to read as follows:

[Art.] 82. [Clerks of Courts, by Whom Appointed.] The judges of the courts [(~~those of probate excepted~~)] shall appoint their respective clerks to hold their office during pleasure: And no such clerk shall act as an attorney or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

IV. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2008.

V. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2008 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2007 session of the general court shall be approved.

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

"Are you in favor of amending Article 71, Article 81, and Article 82 of the second part of the constitution to rename the position of register of probate to clerk of probate, to end the election of registers of probate, and to provide that the clerks of probate will be appointed by the probate judges, so that these articles read as follows:

[Art.] 71. [County Treasurers, County Attorneys, Sheriffs, and Registers of Deeds Elected.] The county treasurers, county attorneys, sheriffs and registers of deeds, shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practiced, and the laws of the state, Provided nevertheless the legislature shall have authority to alter the manner of certifying the votes, and the mode of electing those officers; but not so as to deprive the people of the right they now have of electing them.

[Art.] 81. [Judges and Clerks of Probate Not to Act as Counsel.] No judge, or clerk of probate, shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any court of probate in the county of which he is judge or clerk.

[Art.] 82. [Clerks of Courts, by Whom Appointed.] The judges of the courts shall appoint their respective clerks to hold their office during pleasure: And no such clerk shall act as an attorney or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action."

VII. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 2007 General Court" shall be printed in bold type at the top of the ballot.

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

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that clerks of the probate court shall be appointed by the appropriate probate judge.

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment. Rep. Theberge yielded to questions.

MOTION TO LAY ON THE TABLE

Rep. Boutin moved that ***CACR 9,*** relating to: registers of probate. Providing that: the requirement that registers of probate be elected be removed, be laid on the table.

On a division vote, 105 members having voted in the affirmative and 219 in the negative, the motion failed.

The question now being adoption of the committee report of Ought to Pass with Amendment. Rep. Boutin requested a roll call; sufficiently seconded.

YEAS 198 NAYS 128

YEAS 198

BELKNAP

Allen, Janet	Arsenault, Beth	Heald, Bruce	Morrison, Gail
Reever, Judith	Wood, Jane		

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Denley, William	Heard, Virginia	Patten, Betsey	

CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Dunn, J. Timothy	Eaton, Daniel
Hunt, John	Lerandeau, Alfred	Loll, Thomas	Mitchell, Bonnie
Parkhurst, Henry	Richardson, Barbara	Roberts, Kris	Robertson, Timothy
Sad, Tara	Weber, Lucy	Weed, Charles	

COOS

Hatch, William	Ingersoll, Paul Sr	Mears, Edgar	Merrick, Evalyn
Merrick, Scott	Stohl, Eric	Theberge, Robert	Thomas, Yvonne

GRAFTON

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

HILLSBOROUGH

Baroody, Benjamin	Beaulieu, Jane	Beck, Catriona	Brunelle, Michael
Campbell, David	Chase, Claudia	Cote, David	Daler, Jennifer
Day, Russell	Edwards, Andrew	Fletcher, Richard	Fontas, Jeffrey
Forest, Armand	Foster, Linda	Ginsburg, Ruth	Goley, Jeffrey
Hackel, Paul	Hall, Betty	Hammond, Jill	Harvey, Suzanne
Hebert, Roger	Irwin, Anne-Marie	Jean, Claudette	Jeudy, Jean
Kaelin, Michael	Kelley, John	Knowles, John	Knowles, Mary Ann
Kopka, Angeline	Leishman, Peter	Levesque, Melanie	Mack, Ron
Manney, Pamela	Marshall, Seth	Matarazzo, Anthony Sr	Messier, Irene
Movsesian, Lori	O'Brien, Michael Sr	Peterson, Andy	Rosenwald, Cindy
Schulze, Joan	Shattuck, Gilman	Spaulding, Jayne	Sullivan, Daniel
Sullivan, Francis	Sysyn, Mary	Winters, Joel	

MERRIMACK

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

ROCKINGHAM

Abbott, Dennis	Brown, C. Pennington	Casey, Kimberley	Day, Judith
Devine, James	Dumaine, Dudley	Elliott, Robert	Flockhart, Eileen
Garrity, James	Gould, Kenneth	Grote, Otto	Howard, Doreen
Kepner, Susan	Marsh, Michael	McKenna, Daniel	Nord, Susi
Pearson, Mark	Petterson, Don	Powers, James	Russell, Trinka

Serlin, Christopher	Snow, Richard	Webber, James	

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Julie
Brown, Larry	Browne, Brendon	Burke, Rachel	Cyr, James
DeChane, Marlene	Domingo, Baldwin	Fargo, Thomas	Grassie, Anne
Hilliard, Dana	Hofemann, Roland	Kaen, Naida	Knowles, William
Miller, Joseph	Perry, Robert	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Sprague, Dale	Vachon, Dennis	Wall, Janet

SULLIVAN

Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Gagnon, Raymond	Gottling, Suzanne	Houde, Matthew
Nielsen, Ellen	Phinizy, James	Rodeschin, Beverly	Skinder, Carla

NAYS 128

BELKNAP

Boyce, Laurie	Clark, Charles	Flanders, Donald	Millham, Alida
Nedeau, Stephen	Pilliod, James	Thomas, John	Tilton, Franklin
Wendelboe, Fran	Whalley, Michael		

CARROLL

Ahlgren, Christopher	Brown, Carolyn	Chandler, Gene	Knox, J. David
Martin, James	Merrow, Harry	Stevens, Stanley	

CHESHIRE

Emerson, Susan	Espiefs, Peter	Johnson, Jane	

COOS

None

GRAFTON

Bulis, Lyle	Eaton, Stephanie	Gionet, Edmond	Hammond, Lee
Ingbretson, Paul	Sorg, Gregory		

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Bergin, Peter
Christensen, Chris	Christiansen, Lars	Clark, Mark	Coughlin, Pamela
Crane, Elenore Casey	Daniels, Gary	Dokmo, Cynthia	Drisko, Richard
Emerton, Larry	Francoeur, Bea	Gorman, Mary	Goyette, Peter
Graham, John	Haefner, Robert	Haley, Robert	Hawkins, Ken
Hinkle, Peyton	Hogan, Edith	Holden, Randolph	Infantine, William
Jasper, Shawn	Kurk, Neal	L'Heureux, Robert	McRae, Karen
Mooney, Maureen	Moran, Edward	O'Neil, James	Ober, Lynne
Ober, Russell III	Pilotte, Maurice	Price, Pamela	Reeves, Sandra
Renzullo, Andrew	Scannell, David	Shaw, Kimberly	Simon, Anthony
Smith, David	Soucy, Connie	Stepanek, Stephen	Tahir, Saghir
Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Maurice	

MERRIMACK

Anderson, Eric	Blanchard, Elizabeth	Boutin, David	Hess, David
Kidder, David	Lockwood, Priscilla	MacKay, James	Reed, Dennis

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Bishop, Franklin	Cali-Pitts, Jacqueline	Camm, Kevin
Carson, Sharon	Case, Frank	Charron, Gene	Dalrymple, David
DiFruscia, Anthony	Emiro, Frank	Fesh, Bob	Flanders, John Sr
Garcia, Marilinda	Gleason, John	Griffin, Mary	Headd, James
Hutchinson, Karen	Ingram, Russell	Itse, Daniel	Kappler, Lawrence
Katsakiores, George	Katsakiores, Phyllis	Lund, Howie	McEachern, Paul
McKinney, Betsy	McMahon, Charles	Nowe, Ronald	Quandt, Matthew
Rausch, James	Reagan, John	Robertson, Carl	Sanders, Elisabeth
Splaine, James	Stiles, Nancy	Weare, Everett	Welch, David
Wells, Roger	Weyler, Kenneth	Wickson, Rick	Winchell, George

STRAFFORD

Mickelonis, Shawn	Watson, Robert

SULLIVAN

Jillette, Arthur Jr

and the committee report failed lacking the constitutionally required three-fifths vote. Rep. King declared a conflict of interest on ***CACR 9*** and did not participate.

HB 208, relative to the definition of swine as a nuisance. **INEXPEDIENT TO LEGISLATE.**

Rep. Bennett F. Moore for Municipal and County Government: The bill as originally submitted would have removed oversight of swine farms by municipal health officers. An amendment passed by the committee met with opposition from the New Hampshire Farm Bureau and the bill was retained to determine if a compromise could be reached to solve both farm and public health concerns. A compromise was not forthcoming and accordingly the committee feels that no change to current law should be made at this time. Vote 14-1. Committee report adopted.

HB 310, allowing municipalities to regulate small wind energy systems. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. Jessie L. Osborne for the Majority of Municipal and County Government: The bill as amended is designed to encourage development of wind power for single residential use. The bill amends the planning and zoning statutes declaration of purpose to include reference to renewable energy systems and to not limit the facilitation of collection of renewable energy unreasonably by the use of municipal ordinances. Vote 10-3.

Rep. Larry Brown for the Minority of Municipal and County Government: It was the view of the minority that this is not an enabling bill. It is a disabling bill. It strips every municipality of the power to set standards for aural and visual pollution on the community's own terms. No commercial wind farm will accept restrictions that a small energy system need not meet. The argument is made that there is no silver bullet for alternate energy – we must depend on silver buckshot. But this gun ain't loaded. Where is the harm this bill corrects? How many systems are being built or contemplated? Finally, this is in a certain sense of self deceptive or self deceptive or self congratulatory bill. We have run away from a gas tax. We shop in the bright glow of big box mall and few remember the thermostat setting

of 1978. Why then such enthusiasm for such a trivial mole hill of energy when major practical steps can be taken to conserve energy at no cost to the integrity of local zoning control?

Majority Amendment (2478h)

Amend section 1 of the bill by inserting after RSA 674:61 the following new RSA section:

674:62 Regional Notification.

I.(a) Any municipality which receives an application to construct a small wind energy system which will be visible from any other New Hampshire municipality within a 20-mile radius shall provide written notification of such application and pending action to such other municipality within the 20-mile radius.

(b) This notification shall include sending a letter to the planning board and governing body of the municipality within the 20-mile radius detailing the pending action on the application and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within the 20-mile radius, stating the specifics of the application, the pending action, and the date of the next public hearing on the application. Such notice shall be published not less than 7 days nor more than 21 days prior to the public hearing date.

II.(a) Any person, prior to constructing a new small wind energy system in any municipality where no approval is required but which will be visible from any other New Hampshire municipality within a 20-mile radius, shall provide written notification of such planned construction to such other municipality within the 20-mile radius.

(b) This notification shall include sending a letter to the planning board and governing body of the municipality within the 20-mile radius detailing the planned construction and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within a 20-mile radius, outlining the planned construction.

III. Municipalities within the 20-mile radius described in paragraphs I or II and their residents shall be allowed to comment at any public hearing related to the application. Regional notification and comments from other municipalities or their residents shall not be construed to imply legal standing to challenge any decision.

Rep. Theberge spoke against.

Majority committee amendment failed.

Rep. William Chase offered floor amendment (0047h).

Floor Amendment (0047h)

Amend RSA 674:59, III as inserted by section 1 of the bill by replacing it with the following:

III. Setting a noise level limit lower than 55 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.

Amend section 1 of the bill by inserting after RSA 674:61 the following new RSA section:

674:62 Regional Notification.

I.(a) Any municipality which receives an application to construct a small wind energy system with a tower height:

(1) 30 feet to 60 feet high, shall provide written notification of such application and pending action to any other municipality within a 2-mile radius of the tower.

(2) 61 feet to 120 feet high, shall provide written notification of such application and pending action to any other municipality within a 5-mile radius of the tower.

(3) Over 120 feet high, shall provide written notification of such application and pending action to any other municipality within a 10-mile radius of the tower.

(b) This notification shall include sending a letter to the planning board and governing body of the municipality or municipalities within the radii established in subparagraph (a) detailing the pending action on the application. This notification shall also

include publishing a notice in a newspaper customarily used for legal notices by such municipality or municipalities within the radii established in subparagraph (a), stating the specifics of the application, the pending action, and the date of the next public hearing on the application. Such notice shall be published not less than 7 days nor more than 21 days prior to the public hearing date.

II.(a) In municipalities where no approval is required, any person, prior to constructing a new small wind energy system with a tower height:

(1) 30 feet to 60 feet high, shall provide written notification of such application and pending action to any other municipality within a 2-mile radius of the tower.

(2) 61 feet to 120 feet high, shall provide written notification of such application and pending action to any other municipality within a 5-mile radius of the tower.

(3) Over 120 feet high, shall provide written notification of such application and pending action to any other municipality within a 10-mile radius of the tower.

(b) This notification shall include sending a letter to the planning board and governing body of the municipality or municipalities within the radii established in subparagraph (a) detailing the planned construction. This notification shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality or municipalities within the radii established in subparagraph (a), outlining the planned construction.

III. Municipalities within the radii described in paragraphs I or II and their residents shall be allowed to comment at any public hearing related to the application. Regional notification and comments from other municipalities or their residents shall not be construed to imply legal standing to challenge any decision.

Rep. William Chase spoke in favor.

Rep. John Thomas spoke in favor and yielded to questions.

On a division vote, 254 members having voted in the affirmative and 49 in the negative, floor amendment (0047h) was adopted.

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

Rep. Butterworth offered floor amendment (0104h).

Floor Amendment (0104h)

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 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.

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.

674:62 Regional Notification.

I.(a) Any municipality which receives an application to construct a small wind energy system which will be visible from any other New Hampshire municipality within a 20-mile radius shall provide written notification of such application and pending action to such other municipality within the 20-mile radius.

(b) This notification shall include sending a letter to the planning board and governing body of the municipality within the 20-mile radius detailing the pending action on the application and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within the 20-mile radius, stating the specifics of the application, the pending action, and the date of the next public hearing on the application. Such notice shall be published not less than 7 days nor more than 21 days prior to the public hearing date.

II.(a) Any person, prior to constructing a new small wind energy system in any municipality where no approval is required but which will be visible from any other New Hampshire municipality within a 20-mile radius, shall provide written notification of such planned construction to such other municipality within the 20-mile radius.

(b) This notification shall include sending a letter to the planning board and governing body of the municipality within the 20-mile radius detailing the planned construction and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within a 20-mile radius, outlining the planned construction.

III. Municipalities within the 20-mile radius described in paragraphs I or II and their residents shall be allowed to comment at any public hearing related to the application. Regional notification and comments from other municipalities or their residents shall not be construed to imply legal standing to challenge any decision.

2 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.

3 Effective Date. This act shall take effect March 1, 2009.

Reps. Butterworth and Martin spoke in favor.

Rep. Theberge spoke against.

On a division vote, 84 members having voted in the affirmative and 232 in the negative, floor amendment (0104h) failed.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Rep. Larry Brown spoke against.
On a division vote, 246 members having voted in the affirmative and 50 in the negative, the majority committee report was adopted.
Ordered to third reading.
Rep. Peter Allen declared a conflict of interest on ***HB 310*** and did not participate.

HB 445-FN-L, relative to the assessment of open space land. **REFER FOR INTERIM STUDY.**
Rep. Betsey L. Patten for Municipal and County Government: There is a need for Municipal and County Government (M&CG) Committee members to understand better the process of Current Use and how Current Use Land is assessed. M&CG is one of two standing committees in the House, the other being Environment and Agriculture, which deal with both issues, i.e., Current Use and Assessing. The members felt that an informative educational meeting for both committees, regarding the above, would be beneficial. Vote 12-0.
Rep. Theberge moved Recommit and spoke in favor.
Adopted.

HB 717, allowing municipalities to establish local community services and care planning boards. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**
Rep. Mary R. Cooney for the Majority of Municipal and County Government: The shift from nursing facility care to home and community based care has exposed the need for a more comprehensive community based care infrastructure. This bill would provide willing communities with a template for creating a community services and care planning board. The advantage of having a municipal-sanctioned board is to give it authority to inventory all services and make recommendations to the municipality. The inventory could be used to coordinate with other communities for mutually needed services or to learn about successful programs in other towns. This bill is enabling and would be very useful to many communities as out aging population grows. Vote 7-6.
Rep. Betsey L. Patten for the Minority of Municipal and County Government: This bill sets up the mechanism to create a community service and care planning board to allow the community to assess the community service needs of all its residents that would enhance the public health, prosperity, quality of life, safety and general welfare of all its citizens. The minority of the community stated that the local communities already have the authorization and process to create a board such as the care planning board. The land use boards look at the quality of life, safety and general welfare of the community by their regulations. The visiting nurse boards and the health officer look at the public health and prosperity of the citizens in a community. If there was a need to inventory surrounding municipalities as to what services are available, all one community has to do is to communicate with its neighbor. The minority of the committee strongly believes that this bill is unnecessary and duplicative.

Majority Amendment (2477h)
Amend the bill by replacing all after the enacting clause with the following:
1 New Chapter; Community Services and Care Planning Boards. Amend RSA by inserting after chapter 677 the following new chapter:

CHAPTER 678
COMMUNITY SERVICES AND CARE PLANNING BOARDS

678:1 Declaration of Purpose and Findings. The general court hereby finds and declares that:

I. New Hampshire has a rich history of neighbors helping neighbors and residents of municipalities actively participating and organizing themselves to take care of their fellow residents and improve their communities. It also serves the public good and general welfare for the state to support, maintain, and strengthen these locally-based practices and traditions.

II. There is a critical need for the proper and continuous assessment of the community service needs of all residents and the development of local plans, projects, support systems, and other mechanisms to enhance the public health, prosperity, quality of life, safety, and general welfare of all citizens.

678:2 Definitions. In this chapter:

I. "Board" means a community services and care planning board established under this chapter.

II. "Community services master plan" (CSMP) means an assessment of the availability, adequacy, and accessibility of the human services systems in each community and shall include the following elements:

(a) A list and description of the specific community assets and programs in existence to serve and support citizens of all ages and abilities;

(b) An analysis of specific improvements to community assets and programs, in priority order that the board recommends be made over the next 5 years and the specific issues these improvements address. These improvements shall be as measurable as possible and include consideration of improvements to all health and human services provided to residents and funded all or in part by the state and other public sources;

(c) The community assets available and needed to achieve each improvement, the most important barriers that must he overcome to achieve each improvement, and an assessment of the feasibility and cost of achieving each improvement;

(d) An overall strategy and problem-solving approach and process for achieving the improvements and a description of the rationale for using these strategies; and

(e) A 5 year plan of action with annual updates as required, which follow the strategy to achieve the improvements. These action steps shall include describing each step, establishing measurable objectives and benchmarks for achieving each step, setting up timelines and the process and methods for achieving each step, and identifying the agencies and persons responsible for accomplishing each step.

III. "Community services" means all the health and social services and supports provided and available to residents in a municipality including those provided by charitable, for profit, and proprietary providers; individuals and groups; and agencies and other providers funded in all or part by the department of health and human services or other state, county, and governmental entities.

IV. "Community well-being index" means an aggregate measure consisting of individual measures of specific aspects of the physical and social well-being of all residents of a municipality that is adopted by boards for use in their annual assessment and state of the community report and to develop their CSMP. The index may include measures of the health of residents and their quality of health care; the quality of housing and prevalence of homelessness; the sense of community and belonging, as measured by participation in community events and decisions; successful mobility; safe and well-managed schools; volunteering and other contributions by residents to the community and their neighbors; children and youth thriving and transitioning successfully into adulthood; youth and adults avoiding dangerous and risky behaviors; elders and residents with disabilities living in dignity and included in community life; the breadth and vitality of community activities, institutions, traditions, and celebrations; shared vision and common purpose; and commitment to building community for the future and ensuring that fellow residents get the care they need.

678:3 Establishment of Community Services and Care Planning Boards.

I. The legislative body of any municipality may establish a community services and care planning board.

II. The community services and care planning board shall consist of no fewer than 3 and no more than 9 members who shall be residents of the municipality, and appointed in a manner as prescribed by the legislative body of the municipality.

III. No more than 5 alternate members may be appointed. When an alternate sits in the absence or the disqualification of a regular member, the alternate shall have full voting powers. Members of a community services and care planning board may also serve on other municipal boards and commissions, including a conservation commission established under RSA 36-A, a historic district commission established under RSA 673:4, or a heritage commission established under RSA 673:4-a.

678:4 Duties of the Board.

I. It shall be the duty of every board established under RSA 678:3 to prepare and amend from time to time a CSMP to guide the development of community services and support systems and the provision of health and social services and community supports to residents that affect community well-being. A CSMP may include consideration of any areas outside the boundaries of the municipality which in the judgment of the board bear a relationship to or have an impact on the planning of the municipality. Every board shall update and amend the adopted CSMP with funds appropriated for that purpose by the local legislative body. In preparing, amending, and updating the master plan:

(a) The board shall have responsibility for promoting interest in, and understanding of, the CSMP of the municipality. In order to promote this interest and understanding, the board may publish and distribute copies of the master plan, or copies of any report relating to the master plan, hold public forums and meetings, and may employ such other means of publicity and education as it deems advisable.

(b) The board shall also have authority to make any inventories of community assets, investigations of community social issues, evaluations of the availability and accessibility of health and social services and support systems, and any necessary recommendations.

II. It shall be the duty of every board established under RSA 678:3 to prepare an annual state of the community report which shall be included in the municipality's annual report. The report shall include the community well-being index as defined in RSA 678:2, IV and information explaining all its components, how it was devised, and any other sections the board deems necessary to describe and explain the social services and support systems of the municipality and trends in the municipality.

III. The board may report and recommend to the appropriate public officials and public agencies programs for the development, protection, and improvement of the social services and support systems of the municipality. Each program shall include recommendations for its financing. The board may consult with and advise public officials and agencies; health and human services providers and funders; civic and charitable groups, networks, and associations; schools; educational, professional, advocacy, and research groups; and other organizations. The board may also consult with citizens, for the purposes of implementing the CSMP and making recommendations for developing the social services and support systems of the municipality.

IV. Members of the board, when duly authorized by the board as a whole, may attend planning conferences or meetings, or hearings upon pending municipal planning legislation. The board may by majority vote authorize the payment of reasonable expenses incident to such attendance.

V. The board may recommend to the governing body amendments or additions to local ordinances, services, and programs to improve the community's social services and support systems.

VI. In general, the board may be given such powers by the municipality as are necessary to enable the board to fulfill its functions.

678:5 Terms of Board Members. Terms of board members shall be 3 years, except that all vacancies shall be filled for the unexpired term. In the first year of a community services and care planning board's existence, members shall be appointed to the following terms: at least one member to a one-year term, at least one member to a 2-year term, and at least one member to a 3-year term.

678:6 Abolishment of Board.

I. The local legislative body of a city, of a county in which there are located unincorporated towns or unorganized places, or of a town operating under the town council form of government, shall determine the manner in which the board may be abolished.

II. In all other towns, upon a petition to abolish the board, signed by 100 or more voters or 1/10 of the registered voters in town, whichever number is less, the board shall submit the proposal to the town or village district in the same manner prescribed in RSA 675:4.

III. The question put to the voters shall be in substantially the following form: "Are you in favor of abolishing the community services and care planning board as proposed by petition of the voters of this town (village district)?"

678:7 Transfer of Documents Upon Abolition of Board. If the board is abolished, the records shall be transferred to the city or town clerk.

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

Majority committee amendment adopted.

On a division vote, 171 members having voted in the affirmative and 132 in the negative, the majority committee report was adopted.

Ordered to third reading.

SB 85, relative to eligibility for the property tax exemption for the disabled. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Jessie L. Osborne for Municipal and County Government: This bill allows municipalities to expand eligibility for the disability exemption to a small number of people who previously were qualified under the federal social security requirements, but who lost that eligibility and thus their exemption due to a change of circumstances. These disabled people could not meet the work requirement on their own but had had benefits through a parent or guardian's work credit, which they could have lost through marriage. The person still would have to meet the medical disability standard of the Social Security Administration and the means testing of their local municipality. The amendment would require that the local municipalities approve this change even if they have existing disability exemptions. This is enabling legislation. Vote 11-1.

Amendment (2409h)

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

1 Property Taxation; Exemption for the Disabled. Amend RSA 72:37-b, I-a to read as follows:

I-a. Upon the adoption of this paragraph by a city or town as provided in RSA 72:27-a, a person ***who is*** eligible under Title II or Title XVI of the federal Social Security Act on his or her sixty-fifth birthday shall remain eligible for a yearly exemption either in the amount of the exemption applicable under paragraph I or the amount of the elderly exemption granted to the person under RSA 72:39-b, whichever is greater.

I-b. Upon the adoption of this paragraph by a city or town as provided in RSA 72:27-a, any person who at any time previously was eligible under Title II or Title XVI of the federal Social Security Act for benefits to the disabled, but who is no longer eligible for such federal benefits due to reasons other than the status of that person's disability, shall be eligible for the exemption under paragraph I or I-a, or

both as may be applicable, provided that the person submits an affidavit from a physician licensed in New Hampshire that attests to the fact that the person continues to meet the criteria for disability that are used under Title II or Title XVI of the federal Social Security Act.

2 Effective Date. This act shall take effect April 1, 2008.

Amendment adopted.
Committee report adopted.
Ordered to third reading.

HB 592-FN, relative to tolls on the Everett Turnpike. **INEXPEDIENT TO LEGISLATE.** Reps. David Campbell and Alfred C. Lerandeau for Public Works and Highways: This bill was one of six filed in the last session proposing to remove tolls or offer other toll relief at exits 10, 11 and 12 off the F.E. Everett Turnpike in the Town of Merrimack. The committee retained this bill as a vehicle to study this issue in its entirety. The subcommittee met seven times from July to November. A reconstruction of the history of the tolls in Merrimack revealed the following: That in the early 1980's the Merrimack legislative delegation and the Merrimack town council were unified in their support of these three exits being tolled as the way to pay for the considerable turnpike improvements that were requested in Merrimack. The NH turnpike system spent 48 million dollars in the construction of Exits 10, 11 and 12, as well as portions of Industrial Drive and Camp Sergeant Road (from the intersection of Old Camp Sergeant Road south of Exit 10 all the way to Route 101A) which greatly improved east/west travel throughout Merrimack without a toll. These turnpike improvements were instrumental in attracting commercial users (such as Fidelity), industries and residential developments to locate in Merrimack. The NH turnpike system continues to own, operate and maintain (pave, stripe, plow and salt) these sections of roadways at turnpike expense. The bonds to build these roads are far from paid off, yet the Town of Merrimack has received millions of dollars in property taxes as a direct result of these turnpike system improvements. In light of these facts, and because of concerns of precedence and fairness throughout the turnpike system, the committee unanimously voted this bill as inexpedient and agrees with the recent actions of governor and council in rejecting the removal of any toll booths in Merrimack. The executive council voted to keep the tolls the same in Merrimack, when it recently raised the tolls on the turnpike. Additionally, the governor, the committee and the department of transportation are working to investigate the possibility of a scaled toll structure (through EZ-Pass) to offer some relief to all turnpike non-commercial commuters, provided its effect on turnpike revenues is not significant. Vote 14-0.
Rep. Chris Christensen spoke against.
Rep. Campbell spoke in favor.
On a division vote, 241 members having voted in the affirmative and 60 in the negative, the committee report was adopted.

MOTION TO PRINT DEBATE

Rep. Mooney moved that the debate on ***HB 592-FN,*** relative to tolls on the Everett Turnpike, be printed in the Permanent Journal.
On a division vote, 185 members having voted in the affirmative and 116 in the negative, the motion was adopted.

DEBATE ON *HB 592-FN*

Rep. Chris Christensen: Thank you, Madam Speaker. I would suggest to the member from Manchester that perhaps having two people on the blurb is to emphasize the fact that Merrimack is certainly the underdog here. In the meantime, I rise in opposition to the ITL and I would like to request a division vote, Madam Speaker. Having said that, I think we all know, and I wish to emphasize also, that the committee spent considerable time on this. The

subcommittee met many times. As you notice from the blurb, there were several alternatives in other bills that they considered and then, shortly after the Governor and Council decided not to give us any toll relief in Merrimack, this bill came out as Inexpedient to Legislate. For those of you who are new to this issue, it's an old one. It goes back for twenty years or more, but, let me just give a little bit of history. In the late seventies, Digital Equipment Corporation was expanding like crazy in the state of New Hampshire. They bought several hundred acres of land in Merrimack and developed that land for their own use, but only a small portion of it. In the excitement of Digital building all over the state and especially in Merrimack, the Board of Selectmen got excited when the governor and Digital pushed for more entrances to the highway, better transportation in that area and they said, "Wow, this is a great thing. We are going to have more development and it's a good thing for the state and it's a good thing for Merrimack." So, in that euphoria we asked for, or agreed to, depending on who you want to listen to, tolls on those interchanges. Part of the expectation was that it would also take some traffic off of local roads. The blurb gives you some of that history, but it doesn't necessarily give you some of the results. The result is that land never got developed other than the original Digital plant until the last couple of years. Fidelity has come in taken over a site. We found development at Exit 8 just south of where the tolls are. If you go all the way through Nashua, there are no tolls. If you go through Manchester, no tolls. If you are in Concord where the Everett Turnpike ends at exit 14, no tolls. Merrimack has the proud position of being the most gated community in the state of New Hampshire. So, we have all these tolls and originally we were led to believe that all future expansion of the turnpike system would also include more toll booths. Well, governors changed. Department of Transportation commissioners changed and on and on. Again we ended up as being the only area with ramp tolls all over the place. Hence our thought process of being called a gated community. I would point out that as we mentioned the development at Exit 8 just before the tolls, development in Nashua just before the tolls. The major corporations that we have in Merrimack, Anheuser Busch, for example and Codem Instrument. Those were all there prior to the introduction of tolls, except the mainline toll at Exit 8. No ramp tolls. Since that time we haven't had or been able to attract other businesses. This has been detrimental to the town of Merrimack. It's been detrimental to the state for those jobs and tax revenues that we might have received from business and profits tax. As you might expect, we talked about Fidelity in the blurb. Fidelity moved in and as you would expect, it's their business, they bought cheap. That is part of the reason that they are there. The intent of some of the road construction was to get traffic off of the main road or off of the Daniel Webster Highway, Route 3 in Merrimack. Because of the tolls, that never happened so all the truck traffic that should have gone on to the turnpike that was expected actually diverted onto Route 3. In terms of total dollars, it costs Merrimack residents several hundred dollars a year depending upon how many people work in and out of town. It's a burden to those people in Merrimack. It's not shared by any other part of the state. We still pay gas tax to support roads in other places, but in addition, we pay an exorbitant amount in tolls. It's a burden on Merrimack but the total or net revenues, about a million a year, maybe slightly more now, but less in the early days, that million dollars is maybe 1% of the net revenues of the Department of Transportation for the turnpike system. It's insignificant in terms of the budget for the Department of Transportation and for the turnpike system. There were a couple of other issues brought up. The bonds haven't been paid for. Over a million dollars a year is only a token part of the financing of the turnpike system. The bonds would never have been paid off if they were relying only on Merrimack. It is a system wide issue and these tolls are insignificant for that effort as well. There is a question about removal of the toll booths themselves and that's part of the fiscal note. In fact the bill does not require that those toll booths be removed. In fact, I bet we could get some people in Merrimack to remove them for free. But, if you have driven up the Maine turnpike, for example, in places where they have eliminated tolls, the toll booth is still there. They have a couple of concrete barriers and a sign and that's it. There is no huge expense to that so those issues are kind of

distracters, but they are not part of the fairness issue. I know many of you campaigned on an issue of fairness and told your constituents, "Well I don't know how I'm going to vote on every bill, but I'm going to do what's fair." And that's all that the people of Merrimack ask of you today, is to do what's fair. Oppose ITL so we can bring forward a motion of Ought to Pass. I will repeat that I have asked for a division vote. Thank you all very much.
Speaker: The question before the House is on the committee report of Inexpedient to Legislate on HB 592. The Chair recognizes the member from Nashua, Rep. Campbell.
Rep. Campbell: Thank you, Madam Speaker. Honorable members of the House, I want to commend my Honorable colleague from Merrimack and all of his fellow Representatives because they have been nothing, if not, persistent in this issue and not without sympathy from our committee. That's why we did study the six bills they introduced last session on this issue and the one that we have already heard this session. But, as the blurb says and I can only reiterate it, it is a fairness issue for other communities in the state that have tolls and the fact that part of our research and we did have seven meetings as the Representative acknowledged. We did study this extensively over the summer. We had seven meetings and $48 million was spent in Merrimack. Not just on the ramps and the tolls, but on, as I point out in the blurb here, Camp Sergeant Road, which runs pretty much all the way from the Common Man restaurant, where the Daniel Webster Highway is, all the way down to 101A, a distance of several miles. The state of New Hampshire also continues to maintain, plow, and pave a big portion of that road. It's part of the turnpike system and it is not tolled in the sense that it's East/West not North/South and a ramp off of it. So those are all things we had to wrestle with and we tried to do the fair thing here and there is one possibility, one ray of hope, I guess for Merrimack and other communities because it has to really be, whatever we do for Merrimack, we will end up having to do for Hooksett and Rochester and Hampton. The list goes on and on. The turnpike system would be broke again. What ray of hope there is, is that DOT, at the Governor's request, is looking at the possibility of having some kind of volume discounts on the tolls which means that if you go through them 10 times a day or 5 times a day, you'll pay a different rate. They'll check into that in terms of its feasibility with the software and to see to what extent it would be somewhat revenue neutral. If you go through it once or twice a month, you may not get any discount. Something for us to at least consider. The EZ Pass discount is in the purview of the legislature. It is something that we would get a chance to look at, but at this point, the Public Works and Highways committee has just asked the DOT to examine this. We will certainly share the results with the town of Merrimack, but on behalf of Public Works and Highways and the unanimous 14-0 vote of that committee, I ask you to support the bill as Inexpedient to Legislate. Thank you.
Speaker: Will the member yield to a question? The member yields, Representative Sprague you may inquire.
Rep. Sprague: Thank you, Madam Speaker. Thank you to my colleague from Nashua for taking my question. If I were to live in Rochester, and I work in Seabrook and I were to go down the Spaulding turnpike with three tolls or two tolls on the Spaulding and one toll in Hampton, would you believe that I'd paid $6 per day? $3 down and $3 back? And, would you further believe that my community also would really enjoy a discount, but we also realize it's unfair?
Rep. Campbell: Thank you for your question. You would pay $6 if you didn't have EZ Pass because then you would get somewhat of a discount, but if you paid full price, you would pay $6. Again, I think that does emphasize the question of fairness and where does this ball of yarn unravel to. Thank you.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

SB 84, establishing procedural requirements to improve implementation of the 10-year highway plan. **OUGHT TO PASS WITH AMENDMENT.**
Rep. John A. Graham for Public Works and Highways: The bill as amended by the committee establishes a 6-year planning window for transportation infrastructure versus the

current “ten-year” plan. This shortening of the planning horizon will provide some measure of certainty that the projects listed in the biennial transportation plan will actually be done. It also requires the department of transportation (DOT) to submit a plan that takes into account inflation in both revenue and cost, something that has been lacking in our transportation planning to date. Additionally, the bill contains a requirement that the DOT evaluate previously listed projects every two years and submit a list of those projects to be deleted based on one of several factors as outlined in the amendment. The bill, as amended, also changes the composition of the GACIT by adding members of the House and Senate to this body. This will allow early legislative input into planning process. The intent is to ensure that what is in the plan is financially and environmentally achievable. Vote 14-0.

Amendment (2642h)

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

AN ACT establishing procedural requirements to improve implementation of a 6-year transportation improvement plan.

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

1 State Transportation Improvement Plan. RSA 240 is repealed and reenacted to read as follows:

CHAPTER 240

STATE 6-YEAR TRANSPORTATION IMPROVEMENT PROGRAM

240:1 Legislative Intent. The plan is intended to serve as the guideline for transportation projects in the state for the next 6 years.

240:2 Project Priority. To the extent practicable the projects shall be implemented in the order shown in the report.

240:3 Implementation of Plan.

I. The department of transportation shall be responsive to requests for information relative to the plan.

II. The plan shall include a list of projects intended to be under construction in the next 6 years with dates and costs of construction. However, preliminary studies, design, and right of way funding for long term projects that have been approved by the Governor’s Advisory Commission on Intermodal Transportation (GACIT) and the department of transportation shall be included in the plan.

III. Projects listed in the plan shall be listed by the year the funds are to be expended and the 6 years of the plan shall be financially constrained.

IV. Projects listed in the plan, except projects which are solely for infrastructure preservation, shall be prioritized based on a department of transportation methodology that examines the certainty of a project relative to its scope, cost, constructability, permitibility, and public support, provided that the project has the following:

(a) Preliminary design.
(b) Environmental evaluation.
(c) A public participation process.
(d) Available and adequate funding.

V. The following shall be considered for any project proposed for the plan:

(a) Safety.
(b) Multimodalism.
(c) Land use.
(d) Infrastructure preservation.
(e) Overall corridor improvement.

VI. Every 2 years, the department of transportation shall propose to the general court a list of projects to be removed from the 6-year plan if the department determines that any project:

(a) Has significantly changed in scope; or
(b) Is no longer financially and environmentally feasible; or

(c) Lacks the necessary permits; or

(d) For other reasons is unnecessary or unlikely to proceed.

VII. Inflation shall be included in the costs calculated in the 6-year plan and shall also be included in calculating the necessary revenues.

VIII. The department of transportation shall meet quarterly with GACIT which shall consist of 11 members including the governor or appointee, 5 executive councilors, the chairperson of the senate finance committee or designee, the chairperson of the house finance committee, or designee, the chairperson of the public works and highways committee, or designee, the chairperson of the transportation and interstate cooperation committee, or designee, and the commissioner of the department of transportation, or designee.

IX. GACIT shall review:

(a) Department of transportation financial status and issues.

(b) The status and issues of transportation projects.

(c) Other ongoing initiatives and issues.

X. GACIT shall provide the first statewide review of the plan as drafted by the department of transportation with input from the regional planning commissions.

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

AMENDED ANALYSIS

This bill establishes procedural requirements to improve implementation of a 6-year transportation improvement plan.

Amendment adopted.

Committee report adopted.

Ordered to third reading.

HB 441-FN-A, establishing a non-motorized trails grant program and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE.**

Rep. Chris Christensen for Resources, Recreation and Development: Over the study period the trails bureau and the division of parks developed plans to carry forward the goals of this bill. The parks department has committed to ensuring that non-motorized trails will be an integral part of the strategic plan for parks being developed under SB 74, Chapter 359, 2007. This plan is due in September 2008. A program has been developed that will establish personnel to help manage volunteers under an "adopt-a-trail" effort. Funding to assist the volunteers may come from trail-head fees that the department already has authority to establish if needed. Vote 9-5.

Committee report adopted.

HB 295, relative to the definition of biomass and biomass fuel. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James M. Garrity for Science, Technology and Energy: This bill as amended tightens the existing definition of what is (and is not) a biomass fuel. This action is important for the following reasons: a) New Hampshire is in the early stages of implementing the requirements of the electric renewable portfolio standard, b) this legislature has gone on record that we, as a state, want to encourage the development, deployment, and use of renewable energy sources (in all sectors of our energy economy: electricity, heating and transportation), and c) In the rush to this renewable energy future, we need to protect against so-called "renewable " fuels that could do more harm than good, especially harm to our air quality. Vote 11-0.

Amendment (2661h)

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

AN ACT relative to fuel quality standards and testing requirements for combustion of biomass and biomass fuel.

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

1 New Paragraph; Biomass Defined. Amend RSA 125-C:2 by inserting after paragraph III the following new paragraph:

III-a. "Biomass" means organic matter used as a fuel, not including wood derived from construction and demolition debris, as defined in RSA 149-M:4, IV-a; wood which has been chemically treated; agricultural crops or aquatic plants or byproducts from such crops or plants, which have been used to rehabilitate a contaminated or brownfields site through a process known as "phytoremediation;" or any product or byproduct derived from a material regulated as a solid waste.

2 New Paragraph; Eligible Biomass Fuel Defined. Amend RSA 125-C:2 by inserting after paragraph VII the following new paragraph:

VII-a. "Eligible biomass fuel" means fuel sources including biomass or neat biodiesel, as defined in RSA 362-A:1-a, I-b, and other neat liquid fuels that are derived from biomass.

3 New Subparagraph; Biomass and Eligible Biomass Fuel. Amend RSA 125-C:4, I by inserting after subparagraph (q) the following new subparagraph:

(r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

4 New Paragraph; Standards and Testing Requirements for Biomass and Eligible Biomass Fuel. Amend RSA 125-C:6 by inserting after paragraph XIV the following new paragraph:

XIV-a. Establishing fuel quality standards and testing requirements for biomass and eligible biomass fuel related to the combustion of such materials at stationary sources. The commissioner may establish such standards as necessary to maintain statewide compliance with Clean Air Act standards and RSA 125-I.

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

AMENDED ANALYSIS

This bill authorizes the commissioner of the department of environmental services to establish fuel quality standards and testing requirements for biomass and eligible biomass fuel, as defined in the bill, related to the combustion of such materials at stationary sources.

Amendment adopted.
Committee report adopted.
Ordered to third reading.

HB 855, relative to renewable energy generation incentive payments. **INEXPEDIENT TO LEGISLATE.**

Rep. Michael A. Kaelin for Science, Technology and Energy: This bill would have created an expedited process for incentive payments for small renewable generation facilities of 5KW or less. As amended, it would have used the alternative compliance payment fund created by the renewable portfolio standard legislation. Because the RPS stakeholders had not had an opportunity to comment on this use of the ACP fund, it was decided to resubmit this legislation as a new bill in order to give the public an opportunity for input. Vote 10-1.
Committee report adopted.

HB 856, relative to the definition of veteran. **INEXPEDIENT TO LEGISLATE.**

Rep. Patrick F. Garrity for State-Federal Relations and Veterans Affairs: This bill attempted to redefine the New Hampshire definition of veteran to mirror the federal definition. The unintended consequence of passing this bill would expand the number of veterans receiving the tax credit, a Constitutional 28-A issue. Secondly, the federal status defines service members with bad conduct discharges as veterans eligible for limited federal benefits. Combining New Hampshire veterans who have received honorable discharges with service members who have received a bad conduct discharge, often the result of conviction at a court martial and an extend period of imprisonment, received very limited support at the committee level. Vote 11-1.
Committee report adopted.

SPECIAL ORDER FROM JANUARY 16, 2008

HB 45, relative to addresses on motor vehicle registrations. **INEXPEDIENT TO LEGISLATE.**

Rep. Peter F. Bergin for Transportation: The committee voted inexpedient to legislate as this bill was folded into HB 901. Please see the report on HB 901. Vote 13-0. Committee report adopted.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

HB 847, relative to general rules for vessels operating on water. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Howard N. Cunningham for the Majority of Transportation: Over 100 people attended and testified at the public hearing on this bill. Because the issue was so protracted and difficult, the committee decided to retain the bill for further study. During the summer of 2007, marine patrol monitored several test areas on Lake Winnipesaukee and a number of committee members took an excursion on the big lake for a first hand experience. The marine patrol results were heard by the committee in October. This information, along with ongoing constituent correspondence, led to a compromise amendment which focuses only on Lake Winnipesaukee instead of every body of water in New Hampshire. This amendment sets a 45/25 (day/night) speed limit and is designed to sunset on January 1, 2011. This interval will provide an adequate period of time to make pre/post speed limit comparisons. Vote 7-6.

Rep. Sherman A. Packard for the Minority of Transportation: When passing new laws it should be done for a reason. What is the reason for passing a boat speed limit bill? During July, August and September, the marine patrol conducted speed sampling on 55 days and nights. A total of 3,852 vessels were clocked, 62 of these were after 8 p.m. Of the 3,852, eighty-three (83) were traveling between 41-50 mph, 8 were traveling between 51-60 mph and 3 were traveling between 61-70 mph, with the maximum speed at 62 mph. Of those boats traveling over 40 mph, only 36 were traveling over 45 mph or 0.9%. A far greater percentage of people disobey our speed limits on our roads. Is this just another law that will punish all responsible boat owners because of the irresponsible actions of a very small percentage of boat owners? Do we really believe that by passing this law that this small percentage of inconsiderate and irresponsible people will change their habits?

Majority Amendment (2538h)

Amend RSA 270-D:2, X(a) as inserted by section 1 of the bill by replacing it with the following:

X.(a) No person shall operate a vessel on Lake Winnipesaukee at a speed greater than is reasonable and prudent under the existing conditions and without regard for the actual and potential hazards then existing. In all cases, speed shall be controlled so that the operator will be able to avoid endangering or colliding with any person, vessel, object, or shore.

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

2 Repeal. RSA 270-D:2, X-XI, relative to speed limits on Lake Winnipesaukee, is repealed.

3 Effective Date.

I. Section 1 of this act shall take effect January 1, 2009.

II. The remainder of this act shall take effect January 1, 2011.

AMENDED ANALYSIS

This bill establishes speed limitations for vessels traveling on Lake Winnipesaukee. This bill also requires that violations of the general rules for vessels operating on water become a

part of the motor vehicle driving record of the person convicted. These provisions are repealed on January 1, 2011.

MOTION TO SPECIAL ORDER

Rep. Ryan moved that ***HB 847,*** relative to general rules for vessels operating on water, be made a Special Order for January 30, 2008 at the beginning of the Regular Calendar. Adopted.

REGULAR CALENDAR – RETAINED BILLS – SPECIAL ORDERS (CONT'D)

HB 185-FN, extending the duration of the CROP zone tax credits program and expanding the state jobs grant fund. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Michael G. Marsh for Ways and Means: The original version of the bill sought to extend the sunset provision for the community reinvestment and opportunity zones program (CROP) and added the lakes region to the area covered by the jobs grant program. The committee reviewed this and a similar senate bill, SB 137, as well as two R&D tax credit bills, HB 618 and SB 134, seeking to provide the broadest stimulus possible with the limited money available. The committee amended SB 134, Chapter 271, 2007which subsequently passed; amended provisions of SB 137 passed as part of HB 2, Chapter 263, 2007 and retained HB 185. At the request of DRED, HB 185 as amended now makes three minor changes to the bill passed last year: it clarifies that companies may enter into multi-year agreements with DRED where the total credit exceeds the single year credit cap; it states that the tax credit is taken first against the business profits tax rather than the business enterprise tax; and it makes clear that prior agreements made under the CROP program remain in effect. Vote 15-3.

Amendment (2596h)

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

AN ACT relative to economic revitalization zone credits.

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

1 Limit On Total Economic Revitalization Zone Credits. Amend RSA 162-N:5 to read as follows:

162-N:5 Limit On Total Economic Revitalization Zone Credits. The aggregate value of all of economic revitalization zone tax credit agreements that the commissioner of resources and economic development enters into shall not exceed the limit of $825,000 in any fiscal year. ***Amounts carried forward pursuant to RSA 162-N:7 shall not be counted against this limit in any year in which they are applied.*** Notwithstanding RSA 162-N:6, the maximum credit [~~awarded to~~] ***which may be utilized by*** a taxpayer in any fiscal year shall not exceed $40,000.

2 Application of Economic Revitalization Zone Tax Credit. Amend RSA 162-N:7 to read as follows:

162-N:7 Application of Economic Revitalization Zone Tax Credit. The economic revitalization zone tax credit shall be applied against the business profits tax under RSA 77-A, and any unused portion thereof may be applied against the business enterprise tax under RSA 77-E. Any unused portion of the credit allowed under this chapter ***or any eligible credit in excess of $40,000 allowed under this chapter,*** may be carried forward and allowed against taxes due under RSA 77-A or RSA 77-E for 5 taxable periods from the taxable period in which the tax was paid. ***For the purpose of the credit allowed under RSA 77-A:5, X, the economic revitalization zone credit shall be considered taxes paid under RSA 77-E.***

3 Applicability. Notwithstanding any other provision of law, all agreements made by the commissioner of resource and economic development under 2003, 301:2 prior to July 1, 2007, shall be honored, according to the provisions of 2003, 301:2.

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

AMENDED ANALYSIS

This bill establishes criteria for carrying forward a portion of the economic revitalization zone tax credit.

Amendment adopted.

Committee report adopted.

Ordered to third reading.

HB 886-FN-A-L, relative to funding an adequate education. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Christine C. Hamm for the Majority of Ways and Means: It is apparent to the majority that a comprehensive examination of the costs versus the benefits surrounding the gaming industry, particularly the introduction of video lottery terminals, is an essential step towards legislative consensus on this complex issue. Several retained gambling and casino bills were studied throughout the summer which produced considerable information. However, emerging developments made it impossible to reach a conclusion without further analysis and research. While the designation of Interim Study in the second year of a session effectively kills this initiative, the committee voted to hold one bill as a vehicle for the purposes of continuing to keep abreast of the subject with the intent of issuing a report by November 1, 2008. Vote 13-5.

Rep. Peyton B. Hinkle for the Minority of Ways and Means: This bill would allow slot machines at race tracks in Coos County. However, there are no race tracks in Coos County. But, it would allow Coos County to have up to three casinos with slot machines, video poker machines, and other lottery machines. Studies have shown that these are the most addictive forms of gambling. With casinos come numerous social problems, including crime, lost productivity on the job as people spend time in the casinos, bankruptcy, suicide, social service costs for therapy treatment and welfare, and divorce and separation with the impact these have on children. The state will incur a regulatory cost with the commensurate staff and overhead. Social benefits have been claimed in the form of increased employment and business taxes. This is offset by the loss of jobs from existing forms of entertainment and tourist businesses. Discretionary dollars will be siphoned off from New Hampshire residents and taken out of the local economy. Locating casinos in tourist areas will impact the character of the state as a family vacation destination. No professional economic analysis has been presented showing the impact of casinos on the state. However, one preliminary analysis using data provided by the proponents of casinos was presented to the committee showing that casinos located in the most populated area of the state would not generate enough income to cover all the cost, let alone leave revenue left over for education. Other states with casinos continue to expand gambling as they find that the revenue generated is somehow never enough. The committee studied volumes of information and heard hours of testimony. No amount of additional study will change the fundamental problems with casino gambling.

Rep. Hinkle spoke against and yielded to questions.

Rep. Hamm spoke in favor.

On a division vote, 190 members having voted in the affirmative and 110 in the negative, the majority committee report was adopted.

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, January 30, 2008 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 117-FN, relative to fireworks display permits and the position of permissible fireworks inspector.
SB 102-FN, relative to the powers of state government in the event of an incident or outbreak of communicable disease.
HB 399, relative to the minimum hourly rate of compensation.
HB 310, allowing municipalities to regulate small wind energy systems.
HB 717, allowing municipalities to establish local community services and care planning boards.
SB 85, relative to eligibility for the property tax exemption for the disabled.
SB 84, establishing procedural requirements to improve implementation of the 10-year highway plan.
HB 295, relative to fuel quality standards and testing requirements for combustion of biomass and biomass fuel.
HB 185-FN, relative to economic revitalization zone credits.

UNANIMOUS CONSENT

Reps. Winters and Estes addressed the House.
Rep. Whalley moved that the remarks made by Rep. Estes be printed in the Permanent Journal.
Adopted.

REMARKS

Rep. Estes: Thank you, Madam Speaker and Honorable, but tired, colleagues. This week we celebrated the life of Dr. Martin Luther King and although many of us have heard all of the marvelous things that Dr. King did, what I'd like to do is share with you his impact on my life. As a five year old in 1943, I heard my great-grandfather tell tales of life during slavery. He was freed in 1869 after the information came to Douglas, Georgia from Washington DC. Throughout my childhood, my grandmother and her sisters recounted stories to me and my sisters about life on the plantation where a misstep, whether real or perceived, could cause a person to be either beaten or sold. In 1956, I joined the Air Force and I learned that skin color was neither inferred nor conferred inferiority. In 1963, I thrilled along with the rest of the Nation to the "I Have a Dream" speech. In 1968, I cast my first Presidential vote. In 1994, my daughter graduated from Harvard with honors. In 2006, I joined this august body. In the future, when our Nation celebrates Dr. King's life, I would like for you to remember that among you in the 160th General Court was a member whose history evolved over 140 years and in fact includes information from the 19th, 20th and 21st century - none of which would have happened had Dr. King not lived and had us all understand that living up to one's potential is guaranteed by the constitution. Thank you Honorable colleagues and Madam Speaker.

RECESS MOTION

Rep. Wallner moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages.
Adopted.

The House recessed at 5:15 p.m.

RECESS

(Rep. Almy in the Chair)

RESOLUTION

Rep. Hess offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1640, 1641 and 1642 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 1640-FN, relative to the classification of convicted sex offenders and offenders against children. (Dokmo, Hills 6; Charron, Rock 7; Shurtleff, Merr 10; L. Hammond, Graf 11; Roberge, Dist 9: Criminal Justice and Public Safety)
HB 1641-FN, relative to collections and refunds of road tolls. (Campbell, Hills 24; Chandler, Carr 1; Foose, Merr 1; Clegg, Dist 14: Public Works and Highways)
HB 1642-FN, relative to funding for charter schools authorized by the state board of education. (C. Clarke, Merr 6; Weyler, Rock 8; Price, Hills 26; McRae, Hills 7; B. Shaw, Hills 16; Kenney, Dist 3; Bragdon, Dist 11: Education)

RECESS

SENATE MESSAGES

NONCONCURRENCE

HB 460, relative to conservation restrictions to protect public water supplies.

RECESS

COMMITTEE ASSIGNMENTS

Rep. Robert H. Haefner on Election Law as a second committee.
Rep. Paul Hopfgarten off Election Law and will have no committee assignment at this time.

RECESS