

HOUSE RECORD

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

Vol. 30

Concord, N.H.

Wednesday, February 13, 2008

No. 20

HOUSE JOURNAL No. 5 (cont.)

Wednesday, February 6, 2008

RECESS

(Deputy Speaker Foster in the Chair)

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

In the absence of a quorum, the Chair declared a recess until 1:00 p.m.

RECESS

Rep. Wallner moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 6

Wednesday, February 13, 2008

The House assembled at 1:00 p.m. and was called to order by the Speaker.

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

Prayer was offered by House Chaplain, Reverend Jared Rardin, Pastor of the South Congregational Church in Concord.

O God, sometimes it is precisely the inconvenience of a slushy day that reminds us of what a luxury inconvenience is. While we curse the ice that stalls the snowblower, some praise You for the warm bowl of soup handed to them. While we labor beneath the snow rake that hauls down the weighted load from our roof, there are many who labor under the weight of simply

surviving from day to day. Remind us, once again, especially as we gather for this delayed session today, that the heavy lifting we do here is of utmost importance. It is a rare and honored privilege to create policy that affects so many. Guide and inspire our work. Grant to us the authenticity to speak our hearts and the openness of spirit to seek out the good in opinions which do not match our own. Most of all, receive our prayers for those who need You even more than we. In Your Holy Name we pray. Amen.

Rep. Daniel Eaton, member from Stoddard, led the Pledge of Allegiance.

The National Anthem was sung by Reni Taylor, a freshman at Exeter High School and the winner of the Entertainer of the Year Award in Tennessee for 2007.

LEAVES OF ABSENCE

Reps. Barry, Claire Clarke, Peter Cote, Ginsburg, Goodwin, Manney, Matarazzo, Patricia McMahon, Mears, Evalyn Merrick, Mesa, Owen, Peterson, David Russell and Theberge, the day, illness.

Reps. Janet Allen, Gene Andersen, Arsenault, Beauchesne, Beaulieu, Beck, Berube, Billian, Jennifer Brown, Julie Brown, Bulis, Burke, Claudia Chase, Chris Christensen, Lars Christiansen, Charles Clark, Mark Clark, Clemons, Converse, David Cote, Coughlin, Cunningham, Daler, Dalrymple, DeChane, Stephanie Eaton, Fletcher, Foose, French, Gargas, Goyette, Griffin, Haley, Hall, Jill Hammond, Heard, Hebert, Henson, Hess, Howard, Hubbard, Hutchinson, Introne, Irwin, Jean, Jillette, Stephen Johnson, John Kelley, William Knowles, Kopka, L'Heureux, Lasky, Lisle, Mack, Martin, Matheson, McCarthy, McKinney, Merrow, Messier, Miller, Mitchell, Morrison, O'Brien, Pelkey, Phinzy, Priestley, Marshall Quandt, Matthew Quandt, Rausch, Reed, Reeve, Reuschel, Barbara Richardson, Rochette, Rowe, Sanders, Serlin, Spaulding, Sprague, Srnc, Stevens, John Thomas, Tupper, Warren, Webb, Whalley, Wheeler and Burton Williams, the day, important business.

Reps. Guthrie, Hofmann, Marsh and Carl Robertson, the day, illness in the family.

Rep. Patrick Garrity, the day, death in the family.

INTRODUCTION OF GUESTS

Sue Sarosiek, mother of the singer, guest of the House. Joan Guild, guest of Rep. Graham.

Cameron Iannalfo, guest of Rep. DiFrancia.

COMMUNICATION

February 13, 2008

Ms. Karen Wadsworth

Clerk of the House of Representatives

State House

Concord, NH 03301

Dear Karen:

Please be advised that the following representative-elect was sworn into office by the Governor and Executive Council on this day.

Rockingham County District No. 15

Christopher Nevins, r, Hampton (36 Ashbrook Dr.) 03842

Sincerely,

William M. Gardner

Secretary of State

CLERK'S NOTE

When less than two-thirds of the elected membership is present, Part II, Article 20 of the

state constitution requires the assent of two-thirds of those present and voting to render their acts and proceedings valid.

SUSPENSION OF HOUSE RULES

Reps. Wallner and Chandler moved that the Rules be so far suspended to allow the deadline for reporting on **HB 686-FN**, relative to the regulation of tracking devices, **HB 1637**, relative to reports to the cancer registry, **HB 1643-FN**, relative to medical benefits payment by the retirement system for eligible group I teachers and political subdivision employees in the retirement system, **HB 1644-FN-A**, establishing a Coos country job creation tax credit, **HB 1645-FN-L**, relative to administration of the New Hampshire retirement system and benefits for members, **HB 1646**, relative to the 10-year transportation improvement plan, **HB 1647-FN-A**, relative to demand response program revenue and **HB 1648-FN**, relative to search and rescue response expenses of the fish and game department, and, upon their late introduction previously approved by the Rules Committee, the bill relative to the Medicaid long-term care eligibility determination process and the bill relative to the state obligation for payment of the non-federal share of FEMA public assistance and making an appropriation therefor, to be extended to March 13, 2008.

On a division vote, 219 members having voted in the affirmative and 7 in the negative, the motion was adopted by the necessary two-thirds.

SUSPENSION OF HOUSE RULES

Reps. Wallner and Chandler moved that the Rules be so far suspended to allow the deadline for reporting on **HB 1641-FN**, relative to collections and refunds of road tolls, to be extended to March 13, 2008.

Adopted by the necessary two-thirds.

COMMITTEE REPORTS

CONSENT CALENDAR

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

Consent Calendar adopted.

HB 1133, relative to the age of majority for purposes of pornography-related offenses.

OUGHT TO PASS WITH AMENDMENT.

Rep. David A. Welch for Criminal Justice and Public Safety: This bill as written redefines a person under the age of 18 as a child for purposes of disseminating visual representations of such child engaged in sexual activity. This is part of compliance with the federal Adam Walsh Act. The amendment removes a reference to a United States Supreme Court decision which the committee felt had no place in New Hampshire statutes. Vote 13-0.

Amendment (0098h)

Amend RSA 649-A:1, II as inserted by section 1 of the bill by replacing it with the following:

II. It is the purpose of this chapter to facilitate the prosecution of those who exploit children in the manner specified in paragraph I. ~~[In accordance with the United States Supreme Court's decision in New York v. Ferber,]~~ This chapter makes the dissemination of visual representations of children under the age of ~~[16]~~ **18** engaged in sexual activity illegal irrespective of whether the visual representations are legally obscene; and the legislature urges law enforcement officers to aggressively seek out and prosecute those who violate the provisions of this chapter.

HB 1294, establishing the offense of public urination or defecation. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David A. Welch for Criminal Justice and Public Safety: This bill changes the charge for a person who is subject to a complaint for urinating in public. Currently the individual would be charged with “indecent exposure.” As we move into compliance with the federal Adam Walsh Act, an individual convicted of this charge could be required to register as a sex offender. There are folks who have medical conditions that cause a person who lacks proper facilities to do so in an inappropriate place while attempting to protect their dignity by hiding the action as best they can. Hunters, snowmobilers and more often, those who are homeless can also have occurrences of necessity. The amendment reduces the original penalty of misdemeanor for public urination to a violation and leaves the charge of indecent exposure to those who expose themselves to alarm, or cause affront. Vote 13-0.

Amendment (0220h)

Amend RSA 645:1-a as inserted by section 1 of the bill by replacing it with the following:

645:1-a Public Urination or Defecation. A person is guilty of a violation if such person urinates or defecates in a public place, other than a public restroom, under circumstances where the person knew or should have known would likely cause affront or alarm to another.

AMENDED ANALYSIS

This bill establishes public urination or defecation as a violation.

HB 1638, establishing an oversight commission on motor vehicle fines. **OUGHT TO PASS.**

Rep. Jordan G. Ulery for Criminal Justice and Public Safety: This bill establishes a legislative oversight commission to avoid two major issues that exist currently. The judiciary has been responsible for setting fines for motor vehicle offenses. Recently the court having neglected its responsibility, submitted a new fine schedule that, in some cases, doubled some fines and increased the others to some extent. The committee previously reviewed the fine schedule and as it was already included in the budget process reluctantly agreed to support the increases. This commission will place responsibility for reviewing increases in fines within the legislature with participation from the court, department of safety and law enforcement. This commission re-establishes the legitimate purpose of fines, allows for timely and periodic review of fines, allows public input and creates good governance. Vote 13-0.

HB 1167, relative to substituting generically equivalent drug products. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank G. Case for Health, Human Services and Elderly Affairs: This bill clarifies statute regarding the dispensing of generic prescriptions. It also updates statute to accommodate new technologies for transmission of prescriptions. The original bill only addressed written and oral (telephoned) prescriptions. The amended bill covers written prescriptions, oral prescriptions, computer generated prescriptions and e-prescribing prescriptions. Vote 14-0.

Amendment (0341h)

Amend RSA 318:47-d as inserted by section 1 of the bill by replacing it with the following:

318:47-d Pharmacies; Substituting Generic Drugs. Pharmacies, including mail-order pharmacies, may substitute generically equivalent drug products for all legend and non-legend prescriptions unless the prescribing practitioner ~~[specifies]~~ **handwrites “medically necessary” on each paper prescription, or uses electronic indications when transmitted electronically, or gives instructions when transmitted orally that** the brand name drug product is medically necessary.

HB 1201, allowing communities to conduct point of dispensing exercises to test emergency management operations plans, allowing certain health professionals to administer actual medications during such exercises, and granting immunity to physicians who prescribe drugs

to be administered during such exercises. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Joan H. Schulze for Health, Human Services and Elderly Affairs: This bill was requested by the town of Pelham. It enables towns and municipalities to plan and implement emergency drills as amended. Qualified health care workers may participate and flu vaccine may be administered. This type of exercise is important for the safety of the citizens in the event of an actual emergency. Vote 14-0.

Amendment (0302h)

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

AN ACT allowing communities to conduct point of dispensing exercises to test emergency management operations plans, allowing qualified health professionals to prescribe and administer flu vaccine during such exercises, and granting immunity to such qualified health professionals.

Amend RSA 21-P:39-a as inserted by section 1 of the bill by replacing it with the following:

21-P:39-a Local Point of Dispensing Exercises. A political subdivision may, under specific training guidelines established by its local organization for emergency management, conduct point of dispensing exercises, including operational vaccination clinic drills, for the purpose of testing emergency management operations plans. Qualified health professionals designated by the local organization for emergency management may prescribe and administer flu vaccine during such exercises and shall be deemed authorized emergency management workers under the immunity and exemption provisions of RSA 21-P:41 during such exercises.

AMENDED ANALYSIS

This bill allows communities to conduct point of dispensing exercises to test emergency management operations plans, allows qualified health professionals to administer flu vaccine during such exercises, and grants immunity to such qualified health professionals.

HB 1380*, relative to the procedure for amending a birth record. **INEXPEDIENT TO LEGISLATE.*

Rep. Thomas E. Donovan for Health, Human Services and Elderly Affairs: Although the committee was sympathetic to a family's personal issue, we felt that this bill was not the mechanism to appropriately rectify this type of custodial action. The committee felt that the family had had ample time to try to rectify this problem through existing legal measures already available and has also given suggestions for any future custodial issues that might arise. The committee also felt that the basic bill needed a great deal of clarification to avoid unintended consequences. Vote 14-0.

HB 1611-FN*, relative to physical restraints used for involuntary commitments. **REFER FOR INTERIM STUDY.*

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: The intent of this bill was to require an authorization by a physician or ARNP to use physical restraint during the transportation of an individual committed under a psychiatric involuntary commitment. Generally, the intent was well received, but issues around personal liability and insurance coverage were raised, leading to the motion for Interim Study. Some states have implemented reforms that can be studied. Study of training in mental health principles for county sheriff personnel is also recommended. Vote 14-0.

HB 1269*, authorizing local governing bodies to place certain properties on a conservation priority list and requiring owners of land designated as conservation priority land to notify the municipality before offering the land for sale. **INEXPEDIENT TO LEGISLATE.*
Rep. Betsey L. Patten for Municipal and County Government: This bill would authorize and require the local governing body to identify a list of properties within the municipality that would become priority conservation properties. The owners of those properties would receive

notification from the governing body that their property was considered priority conservation land. There was concern that if specific parcels of land are singled out those property values would increase and the possibility of having the town acquire those lands would decrease. The committee also noted that the local conservation commission already has the ability to inventory any prime conservation or wetlands in the town without having the governing body involved. Vote 13-0.

HB 1324, relative to amending zoning ordinances at official ballot town meetings.
INEXPEDIENT TO LEGISLATE.

Rep. Suzanne S. Laliberte for Municipal and County Government: The bill would allow amendments to be made to zoning ordinances at deliberative sessions in towns that have official ballot town meetings. This would negate the current process whereby the planning board holds duly warned public hearings on amendments. The committee believes that the current process works. Proposed changes to zoning ordinances can always be rejected by the voters. Vote 13-0.

HB 1442-FN-A-L, relative to the taxation of farm buildings and land under farm buildings.
OUGHT TO PASS WITH AMENDMENT.

Rep. Eric G. Stohl for Municipal and County Government: This bill allows the land under farm structures to be taxed in the same manner as open space land in current use. The bill also requires farm buildings used exclusively for farm purposes to be assessed for no more than their replacement costs less depreciation. The way property assessing is today, any farmer that has a barn that houses farm animals, a building that stores tools and equipment that are actively used on the farm, a building that stores feed for the farm animals or fertilizer for the farm crops, or the crops themselves, the land under that structure is assessed at a rate sometimes equal to that of a house lot. The committee feels that it is in the best public interest to encourage the preservation of productive farms and associated structures. These structures are important in sustaining the economic viability of the state's farms and providing attractive environment for recreation and tourism. Farming in New Hampshire has a long and proud history which helped shape our state's landscape. The committee further feels that it is in the best public interest to prevent the loss of farms due to property taxation at values incompatible with their usage. This enabling legislation allows the municipalities of the state to determine whether or not they wish to help preserve what farms they have now and possibly encourage new farms. Vote 15-0.

Amendment (0166h)

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

1 New Chapter; Taxation of Farm Structures and Land Under Farm Structures. Amend RSA by inserting after chapter 79-E the following new chapter:

CHAPTER 79-F TAXATION OF FARM STRUCTURES AND LAND UNDER FARM STRUCTURES

79-F:1 Declaration of Public Interest. The general court hereby finds it to be in the public interest to encourage the preservation of productive farms and associated structures. These structures are important in sustaining the economic viability of the state's farms and providing an attractive environment for recreation and tourism. Farming in New Hampshire has a long and proud history which shaped our state's landscape. It is further declared to be in the public interest to prevent the loss of farms and their associated structures due to property taxation at values incompatible with their usage.

79-F:2 Local Adoption of This Chapter.

I. Any municipality may adopt the provisions of this chapter by vote of its legislative body. Any city or town may do so by following the procedures in this section.

II. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition under RSA 39:3.

III. In a city or town that has adopted a charter under RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.

IV. If a majority of those voting on the question vote "yes," the provisions of this chapter shall take effect on April 1 following the vote, subject to the provisions of paragraph VI of this section.

V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.

VI. The local governing body of municipality that has adopted this program may consider rescinding its action in the manner described in paragraph II or III of this section, whichever applies.

79-F:3 Definitions.

I. "Appurtenances" means the land necessary to support or service the qualifying structure.

II. "Assessing official" means the assessing authority of any town, city, or place.

III. "Board of tax and land appeals" means the board of tax and land appeals established pursuant to the provisions of RSA 71-B:1.

IV. "Commissioner" means the commissioner of the department of revenue administration.

V. "Farm" means a business for which the owner files a Schedule F with his or her federal income tax form.

VI. "Land under and curtilage of the qualifying farm structure" means only the land immediately under the footprint of the qualifying farm structure and its appurtenances.

VII. "Owner" means the person who is the owner of record of any land.

VIII. "Person" means any individual, firm, corporation, partnership, or other form of organization or group of individuals.

IX.(a) "Qualifying farm structures" mean only farm structures used exclusively to:

- (1) House farm animals;
- (2) Store feed for farm animals;
- (3) Store fertilizer for farm crops;
- (4) Store crops; or
- (5) Store farm equipment which is actively used to maintain the farm.

(b) Any structure that is leased or rented and for which the owner is receiving income of any kind shall not be considered a "qualifying farm structure."

X. "Use change tax" means a tax that shall be levied when the land use changes from under farm buildings use to a non-qualifying use or when the use of a qualifying farm structure changes to a non-qualifying use.

79-F:4 Appraisal of Real Property. Qualifying farm structures that are used exclusively for farm purposes shall be assessed for no more than their replacement costs less depreciation. The land under and the curtilage of the qualifying farm structure shall be assessed at no more than 10 percent of its market value. The land under and the curtilage of the qualifying farm structure must be contiguous to a minimum of 10 acres of open space land.

79-F:5 Consideration for Use Change. Land and qualifying farm structures which have been appraised pursuant to this chapter shall be subject to a use change tax, payable to the tax collector of the municipality, if the use thereof changes to such an extent that the structure no longer meets the definition of a qualifying structure as defined in RSA 79-F:3, IX. The consideration shall be at the rate of 10 percent of the full value assessment determined

without regard to the current use of the land or qualifying farm structure. Notwithstanding the provisions of RSA 76:2, such assessed value shall be determined as of the actual date of the use change if such date is not April. This use change tax shall be in addition to the annual real estate tax imposed upon the property, and shall be due and payable upon the use change.

79-F:6 Assessment of Land Under Qualifying Farm Structures.

I. The selectmen or assessing officials shall appraise land under qualifying farm structures, as classified under the provisions of this chapter, excluding any building, appurtenance, or other improvement on the land, at valuations based upon 10 percent of its market value. The land under and the curtilage of the qualifying farm structure must be contiguous to a minimum of 10 acres of open space land.

II. No owner of land shall be entitled to have a particular parcel of his land classified for any tax year under the provisions of this chapter unless he or she applies to the assessing officials on or before April 15 of said year, on a form approved and provided by the commissioner, to have his or her parcel of land so classified. If any owner satisfies the assessing officials that he or she was prevented by accident, mistake, or misfortune from filing such application on or before April 15, the assessing officials may receive the application at a later date and classify the parcel of land under this chapter; but no such application shall be received after the local tax rate has been approved by the commissioner for that year.

III. The assessing officials shall notify the applicant on a form provided by the commissioner no later than July 1, or within 15 days if the application is filed after July 1, of their decision to classify or refusal to classify his or her parcel of land by delivery of such notification to him or her in person or by mailing such notification to his or her last and usual place of abode.

IV. Prior to July 1 each year, the assessing officials shall determine if previously classified lands have been reapplied or have undergone a change in use so that the use change tax may be levied against lands changed in use, according to RSA 79-F:5. A list of all classified lands and their owners in each town or city shall be filed by the respective assessing officials each year. Such list shall be part of the invoice and subject to inspection as provided in RSA 76:7.

V. The commissioner shall include on the inventory blank, required under RSA 74:4, a question concerning whether any changes have been made in the use of land classified as land under qualifying farm structures. The question shall be written to enable the assessing officials to locate parcels which may require a change in assessment and to fit the context of the blank.

VI. The assessing officials shall file with the register of deeds in the appropriate county, on or before August 1 in each year, a notice of contingent liens describing all parcels of land classified under the provisions of this chapter. If a parcel of land is classified as land under qualifying farm structures after such date, the assessing officials shall file notice of contingent lien with the register of deeds in the appropriate county within 14 days of said classification. The notice filed pursuant to this paragraph shall be on a form approved by the board and provided by the commissioner, shall contain the name of each owner, the date of classification and a short description of each parcel of real estate together with such other information as the board may prescribe; provided, however, the assessing officials shall not file each year parcels of land classified under this chapter which have been previously filed, unless there has been some change in the acreage involved.

VII. A fee, in accordance with RSA 478:17-g, I, shall be paid by the owner for each parcel which is classified as land under qualifying farm structures to the local assessing officials, to be paid over to the register of deeds for recording the notice of contingent lien. The notice of contingent lien shall constitute notice to all interested parties that a lien on the parcel shall be created if and when the land is subsequently disqualified from taxation under this chapter, in the same manner as provided in RSA 80:85.

79-F:7 Appeal to Board of Tax and Land Appeals.

I. If the assessing officials deny in whole or in part any application for classification as land under qualifying farm structures, or grant a different classification than that applied for, the applicant, having complied with the requirements of RSA 79-F:6, II may, on or before 6 months after any such action by the assessing officials, in writing and upon a payment of a \$65 filing fee, apply to such board for a review of the action of the assessing officials.

II. The board of tax and land appeals shall investigate the matter and shall hold a hearing if requested as provided in this section. The board shall make such order thereon as justice requires, and such order shall be enforceable as provided hereafter.

III. Upon receipt of an application under the provisions of paragraph I, the board of tax and land appeals shall give notice in writing to the affected town or city of the receipt of the application by mailing such notice to the town or city clerk thereof by certified mail. Such town or city may request in writing a hearing on such application within 30 days after the mailing of such notice. If a hearing is requested by a town or city, the board shall, not less than 30 days prior to the date of hearing upon such application, give notice of the time and place of such hearing to the applicant and the town or city in writing. Nothing contained herein shall be construed to limit the rights of taxpayers to a hearing before the board of tax and land appeals.

IV. The applicant and the town or city shall be entitled to appear by counsel, may present evidence to the board of tax and land appeals and may subpoena witnesses. Either party may request that a stenographic record be kept of the hearing. Any investigative report filed by the staff of the board shall be made a part of such record.

V. In such hearing, the board of tax and land appeals shall not be bound by the technical rules of evidence.

VI. Either party aggrieved by the decision of the board of tax and land appeals may appeal pursuant to the provisions of RSA 71-B:12. For the purposes of such appeal, the findings of fact by said board shall be final. Any such appeal shall be limited to questions of law. An election by an applicant to appeal in accordance with this paragraph shall be deemed a waiver of any right to petition the superior court in accordance with RSA 79-F:8.

VII. A copy of an order of classification ordered by the board of tax and land appeals, attested as such by the chairman of the board, if no appeal is taken hereunder, may be filed in the superior court for the county or in the Merrimack county superior court at the option of said board; and, thereafter, such order may be enforced as a final judgment of the superior court.

79-F:8 Appeal to Superior Court. If the assessing officials deny in whole or in part any application for classification as land under qualifying farm structures, or grant a different classification from that applied for, the applicant, having complied with the requirements of RSA 79-F:6, II may, within 6 months after notice of denial or classification, apply by petition to the superior court of the county, which shall make such order thereon as justice requires. Any appeal to the superior court under this section shall be in lieu of an appeal to the board of tax and land appeals pursuant to RSA 79-F:7.

79-F:9 Abatement of Use Change Tax.

I. Any person aggrieved by the assessment of the use change tax may, within 2 months of the notice of tax date and not afterwards, apply in writing to the selectmen or assessors for an abatement of the use change tax.

II. Upon receipt of an application under paragraph I, the selectmen or assessors shall review the application and shall grant or deny the application in writing within 6 months after the notice of tax date.

III.(a) If the selectmen or assessors neglect or refuse to abate the use change tax, any person aggrieved may either:

(1) Apply in writing to the board of tax and land appeals accompanied with a \$65 filing fee; or

(2) Petition the superior court in the county.

(b) The appeal to either the board of tax and land appeals or superior court shall be filed within 8 months of the notice of tax date and not afterwards.

IV. For purposes of this section, “notice of tax date” means the date the taxing jurisdiction mails the use change tax bill.

V. Each use change tax bill shall require a separate abatement request and appeal.

79-F:10 Lien for Unpaid Taxes. The real estate of every person shall be held liable for the taxes levied pursuant to RSA 79-F:5.

79-F:11 Enforcement. All taxes levied pursuant to RSA 79-F:5 which are not paid when due shall be collected in the same manner as provided in RSA 80:1-42-a.

79-F:12 Disposition of Revenues. All money received by the tax collector pursuant to the provisions of this chapter shall be for the use of the town or city.

79-F:13 Location of Contiguous Land in More Than One Taxing District. Where contiguous land which could be classified as land under qualifying farm structures is located in more than one town, compliance with any minimum area requirement pursuant to RSA 79-F:4 shall be determined on the basis of the total area of such land, and not the area which is located in any particular town.

2 New Paragraph; Taxpayer Inventory Blank. Amend RSA 74:4 by inserting after paragraph V the following new paragraph:

VI. The blank shall require owners of land classified as land under qualifying farm structures under RSA 79-F to indicate whether any changes in use of the land have been made.

3 Appraisal of Taxable Property. Amend RSA 75:1 to read as follows:

75:1 How Appraised. The selectmen shall appraise open space land pursuant to RSA 79-A:5, open space land with conservation restrictions pursuant to RSA 79-B:3, land with discretionary easements pursuant to RSA 79-C:7, residences on commercial or industrial zoned land pursuant to RSA 75:11, earth and excavations pursuant to RSA 72-B, ***land classified as land under qualifying farm structures pursuant to RSA 79-F***, and all other taxable property at its market value. Market value means the property’s full and true value as the same would be appraised in payment of a just debt due from a solvent debtor. The selectmen shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

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

AMENDED ANALYSIS

This bill grants municipalities the option to allow:

I. The land under farm structures to be taxed in the same manner as open space land in current use.

II. Farm buildings used exclusively for farm purposes to be assessed for no more than their replacement costs less depreciation.

HB 1352, relative to biennial reporting on the comprehensive state development plan. **ought to pass with amendment.**

Rep. Patrick T. Long for Public Works and Highways: This bill attempted to add a progress report to the Comprehensive Developing Plan prepared by the Office of Energy and Planning. This bill as amended repeals RSA 9-A: 3, because the report date for the plan conflicted with the report date in RSA 9-A: 1. The Office of Energy and Planning testified that currently the report on the Comprehensive Development Plan is past due. The committee encourages the Office of Energy and Planning to complete the report and to present the report to the appropriate legislative policy committee(s). Vote 14-0.

Amendment (0367h)

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

AN ACT relative to the comprehensive state development plan.

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

1 Repeal. RSA 9-A:3, relative to transmitting the comprehensive development plan to the general court, is repealed.

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

AMENDED ANALYSIS

This bill repeals the requirement that the governor transmit the comprehensive development plan to the general court by July 1 of each even numbered year.

HB 1202, relative to monitoring privately owned water distribution programs. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Suzanne H. Gottling for Resources, Recreation and Development: This bill addresses privately-owned water systems that use public water supplies to distribute to their own customers. The affected systems serve more than 25 people or 10 households for at least two months a year, and include systems such as that of St. Anselm's College. Presently, there are no regulations that require monitoring of the water for pollution that can enter through damaged equipment. This bill was crafted by the Department of Environmental Services (DES) with input from the SB 155 groundwater commission. The amendment requested by affected system owners targets the regulations more finely, with changes that make it workable for the affected entities. Vote 16-0.

Amendment (0338h)

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

1 Safe Drinking Water Act; Privately Owned Redistribution Systems. Amend RSA 485:1, II to read as follows:

II. In order to implement a comprehensive drinking water protection program, the department of environmental services shall:

(a) Monitor the water quality of public water supplies ***and privately owned redistribution systems.***

(b) Provide technical assistance to water operators and the general public.

(c) Review the design of proposed public water systems, ***privately owned redistribution systems***, and alterations for existing systems. ***Review of the alteration of existing privately owned redistribution systems shall be limited to alterations that involve more than 500 feet of new installation of distribution piping or the addition of new exterior pumping or storage facilities.***

(d) Periodically conduct sanitary surveys of public water systems ***and privately owned redistribution systems*** to make certain of proper safety and operation.

(e) Require that public water supplies comply with all pertinent federal and state statutes and rules.

(f) Educate citizens for the need and methods of providing safe and adequate drinking water.

(g) Approve sources of water used in the manufacture of bottled water.

2 New Subparagraph; Monitoring. Amend RSA 485:1, II by inserting after subparagraph (g) the following new subparagraph:

(h) Monitor the operation and maintenance of privately owned redistribution systems.

3 New Paragraph; Definitions. Amend RSA 485:1-a by inserting after paragraph XIV the following new paragraph:

XIV-a. "Privately owned redistribution system" means a system for the provision of piped water for human consumption which does not meet the definition of public water system under paragraph XV, and meets all the following criteria: (1) obtains all of its water from, but is not owned or operated by, a public water system; (2) serves a population of at least 25 people, 10 household units, or 15 service connections, whichever is fewest, for at least 60 days per year; and (3) has exterior pumping facilities, not including facilities used to reduce pressure, or exterior storage facilities which are not part of building plumbing.

4 New Paragraph; Power to Require Improvements. Amend RSA 485:4 by inserting after paragraph II the following new paragraph:

III. The department may investigate the sanitary conditions and methods pertaining to pumper stations, piping, storage, and treatment facilities of privately owned redistribution systems which present a threat to public health and safety. If the department determines that action, such as disinfection, is necessary, the municipality, corporation, or person shall be so notified in writing and the action so ordered shall be effected within a reasonable time to be fixed by the department. Replacement of existing infrastructure shall only be required in response to a specific public health threat. Appeals of actions of the department may be made under RSA 485:59. The department may set intermediate goals and time frames to assist municipalities, corporations, or persons to abide by an order of the department under this paragraph.

5 Approval of Construction Plans. Amend RSA 485:8, I and II to read as follows:

I. No person, proposing to supply water for domestic uses ***through a public water system or privately owned redistribution system***, shall construct any new system, or enlarge any existing system, for supplying water to the public without first submitting detailed plans of the proposed construction to the department and securing its approval of such plans. The department shall examine the topography and the watershed, complete an engineering review of the plans and specifications for said proposed construction, and make chemical and bacteriological analysis of the waters of the proposed supply, before approval is granted. ***The requirements of this paragraph shall only apply to privately owned redistribution systems if the construction or enlargement of an existing system involves more than 500 feet of new installation of distribution piping or the addition of any new exterior pumping or water storage facility. Any review of plans for a privately owned redistribution system shall be completed within 30 days of the submission of such plans.***

II. No new construction, addition or alteration involving the source, treatment, distribution or storage of water in any public water system ***or privately owned redistribution system*** shall be commenced until the plans and specifications have been submitted to and approved in accordance with rules adopted by the department; except, if such construction, addition or alteration is exempted by the department because it will have no effect on public health or welfare, then such submission and approval is not required. In granting approval of plans and specifications, the department may require modifications, conditions or procedures to ensure, as far as feasible, the protection of the public health. The department may require the submission of water samples for analysis to determine the extent of treatment required. Records of construction, including, where possible, plans and descriptions of existing public water systems ***and privately owned redistribution systems***, shall be maintained by such systems and shall be made available to the department upon request. ***The requirements of this paragraph shall only apply to privately owned distribution systems if the construction, addition or alteration of an existing system involves more than 500 feet of new installation of distribution piping or the addition of any new exterior pumping or water storage facility. Any review of plans for a privately owned redistribution system shall be completed within 30 days of the submission of such plans.***

6 Duties of Department. Amend RSA 485:41, I to read as follows:

I. Monitor the operation and maintenance of new and existing public water systems ***and privately owned redistribution systems***.

7 Duties of Department. Amend RSA 485:41, III to read as follows:

III. Adopt rules governing the installation of pipes, fixtures and other apparatus which are used to connect the water system ***or privately owned redistribution system*** to a building. Such rules shall be considered minimum standards. The department shall adopt the International Plumbing Code as published by the International Code Council by reference, provided the department specifies which sections of the code are in force in New

Hampshire and makes specific any discretionary provisions in the code subject to approval by the state building code review board. The department shall periodically review the rules adopted under this paragraph to assure that they are no less stringent than the requirements of the current code.

8 Duties of Department. Amend RSA 485:41, V to read as follows:

V. Enter, and authorize its employees and agents to enter, the premises of all public water systems **and privately owned redistribution systems** for the purpose of carrying out inspection and for the purpose of taking water samples, to determine compliance with the provisions of this chapter or rules adopted under it, and to inspect any and all records and facilities of such public water supply **or privately owned redistribution system** in order to determine compliance with this chapter and rules adopted under it.

9 New Paragraph; Adoption of Rules. Amend RSA 485:41 by inserting after paragraph VIII the following new paragraph:

IX. Adopt rules applying to privately owned redistribution systems requiring:

(a) Periodic monitoring of coliform bacteria and public notification, and remedial action in case of violation of bacterial water quality standards, consistent with the rules which apply to public water systems for such bacterial water quality standards.

(b) Retention of a primary water operator who maintains an operating certificate at a minimum grade 1-A level.

(c) Inspection and maintenance of exterior pumping stations, distribution networks, and exterior storage tanks.

(d) Design standards for new and replacement facilities consistent with the rules which apply to public water systems as limited by the provisions of RSA 485 concerning privately owned redistribution systems, and provided that such rules require that any plans review required by RSA 485 shall be completed within 30 days of the submission of such plans.

10 Effective Date. This act shall take effect July 1, 2009.

AMENDED ANALYSIS

This bill subjects privately owned redistribution systems to certain provisions of the Safe Drinking Water Act.

This bill is a request of the department of environmental services.

HB 1471, relative to time limits for excavating and dredging permits. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Suzanne H. Gottling for Resources, Recreation and Development: This bill addresses problems identified in an LBA performance audit of the Department of Environmental Service's (DES) wetlands permitting process. It establishes a new penalty on the agency if it fails to act upon permit applications within given deadlines. Building industry spokesmen worked with the sponsor and agency in establishing these provisions. The bill also provides that electronic means of communication may be used, if agreed to in writing, in order to facilitate rapid processing by both sides. This bill promotes quality initial applications for a permit as well as timely responses from the permitting agency. Vote 16-0.

Amendment (0250h)

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

1 Time Limits for Applications. Amend RSA 482-A:3, XIV to read as follows:

XIV.(a) In processing an application for permits under this chapter, except for a permit by notification, the department shall:

~~[(a)]~~ (1) Within 14 days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, **at** the address provided on the application, identifying any additional information required to make the application administratively complete and providing the applicant with the name and telephone number of the department employee ~~[who may be contacted]~~ **to whom all correspondence shall be**

directed by the designated department employee regarding incompleteness of the application. Each receipt of additional information in response to any notice shall recommence the 14-day period until the department issues a notice of administrative completeness. Any notice of incompleteness sent under this subparagraph shall specify that the applicant or authorized agent shall submit such information as soon as practicable and shall notify the applicant or authorized agent that if the requested information is not received within 60 days of the notice, the department shall deny the application.

~~[(b)]~~ **(2)** Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. **Such request and technical comments may be sent by electronic means if the applicant or authorized agent has indicated an agreement to accept communications by electronic means, either by so indicating on the application or by a signed statement from the applicant or authorized agent that communicating by electronic means is acceptable.** Any request for additional information **under this subparagraph** shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within ~~[120]~~ **60** days of the request, the department shall deny the application.

~~[(c)]~~ **(3)** Where the department requests additional information pursuant to subparagraph ~~(b), the department shall~~ **(a)(2)**, within 30 days of the department's receipt of ~~[the information]~~ **a complete response to the department's information request:**

~~[(1)]~~ **(A)** Approve or deny the application, in whole or in part; or

~~[(2)]~~ **(B)** Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner; or

~~[(3)]~~ **(C)** Extend the time for response for good cause and with the written agreement of the applicant.

~~[(d)]~~ **(4)** Where no request for additional information is made pursuant to subparagraph (b), ~~[the department shall]~~ within 75 days from the issuance of the notice of administrative completeness, or 105 days if the application proposes more than one acre of jurisdictional impact:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner.

~~[(e)]~~ **(5)** Where the department has commenced a non-adjudicative hearing on an application filed under this chapter, ~~[the department shall]~~ within 60 days following the closure of the hearing record, approve or deny the application either in whole or in part.

~~[(f)]~~ **(b)** The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to ~~[issue a notice of administrative completeness or render any other decision within the time limits provided in this paragraph, the application shall be deemed to be approved]~~ **act within the applicable time frame established in subparagraphs (a)(2) and (c)(4), the department shall notify the applicant that a determination was not made within the statutory time requirements. Upon this notice, the department shall reimburse the applicant 25 percent of the application fee. Within 14 days following the date on which action should have been taken pursuant to the applicable time frame established in subparagraphs (a)(2) or (a)(4), the department shall issue an approval or denial of the permit application, or reach a mutually acceptable agreement with the applicant for an extension of the time limit to act upon the application. After 14 days, if the department has not rendered a decision or made an agreement for an**

extension, an additional 25 percent of the application fee shall be reimbursed to the applicant.

(c) If extraordinary circumstances prevent the department from conducting its normal function, time frames prescribed by this paragraph shall be suspended until such condition has ended, as determined by the commissioner.

~~[(c)]~~ *(d) The time limits prescribed by this paragraph shall not apply to an application filed after the applicant has already undertaken some or all of the work covered by the application, or where the applicant has been adjudicated after final appeal, or otherwise does not contest, the department's designation as a chronic non-complier in accordance with rules adopted pursuant to this chapter.*

(e) Any request for a significant amendment to a pending application or an existing permit which changes the footprint of the permitted fill or dredge area shall be deemed a new application subject to the provisions of RSA 982-A:3, I and the time limits prescribed by this paragraph. "Significant amendment" means an amendment which changes the proposed or previously approved acreage of the permitted fill or dredge area by 20 percent or more, relocates the proposed footprint of the permitted fill or dredge area, includes a prime wetland or surface waters of the state, includes a wetland of a different classification as classified by the department, or includes non-wetland areas requiring permits for filling and dredging. This meaning of "significant amendment" shall not apply to an application amendment that is in response to a request from the department.

2 Department; Reconsideration. Amend RSA 482-A:10, II-III to read as follows:

II. A request for reconsideration *of a department decision under RSA 482-A:3* shall be filed with the department within ~~[20]~~ **30** days of issuance of the department's decision ~~[or order]~~. The request for reconsideration shall describe in detail each ground for ~~[complaint. No ground not set forth in the request for reconsideration shall be considered by the council, or by the superior court except as provided in paragraph VIII of this section]~~ **the request for reconsideration.**

III. On reconsideration, the department shall receive and consider any new and additional evidence presented, and shall make findings of fact and rulings of law in support of its decision after reconsideration. The department may hold a public hearing in accordance with its rules. Reconsideration hearings shall not be subject to the requirements of RSA 541-A. Reconsideration hearings shall be noticed in accordance with **rules adopted by the department, which notice shall be sent to all persons entitled to notice of applications under RSA 482-A:8 and RSA 482-A:9**, and the department shall make a record of the proceedings. The department shall grant or deny the ~~[application]~~ **request** for reconsideration within 30 days of the ~~[service]~~ **department's receipt** of the ~~[application]~~ **request** or explain in writing to the applicant why the ~~[application]~~ **request** cannot be acted on and a statement of the time reasonably necessary to act on the ~~[application]~~ **request**. **However, if the basis for denial includes failure by the applicant to submit all requested information and the applicant submits all of the requested information with the request for reconsideration, the department shall act on the request within 75 days from the date of the department's receipt of the request for projects where the applicant proposes under one acre of jurisdictional impact, and within 105 days for all other projects.**

3 Fill and Dredge Wetlands; Administrative Provisions. Amend RSA 482-A:11, III(a) to read as follows:

III.(a) Upon written notification to the department by a municipal conservation commission that it intends to investigate any notice received by it pursuant to RSA 482-A:3, the department shall ~~[suspend action upon such notice and shall]~~ not make its decision on the **application that is the subject of the** notice ~~[of a minor or minimum impact project nor hold a hearing on it if a major project]~~ until it has received and acknowledged receipt of a written report from such commission, or until 40 days from the date of filing with the

municipal clerk of such notice, whichever occurs earlier, subject to an extension as permitted by the department. In connection with any local investigation, a conservation commission may hold a public informational meeting or a public hearing, the record of which shall be made a part of the record of the department. ***Where the department grants an extension, the time limits prescribed by RSA 482-A:3, XIV(b) shall be suspended until a date agreed to by the applicant and the department.*** If a conservation commission makes a recommendation to the department in its report, the department shall specifically consider such recommendation and shall make written findings with respect to each issue raised in such report which is contrary to the decision of the department. If notification by a local conservation commission pursuant to this paragraph is not received by the department within 14 days following the date the notice is filed with the municipal clerk, the department shall not suspend its normal action, but shall proceed as if no notification has been made.

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

AMENDED ANALYSIS

This bill expands the time limits for excavating and dredging permit applications.

This bill is a request of the department of environmental services.

MOTION TO SPECIAL ORDER

Rep. Vaillancourt moved that all CACR's on today's Regular Calendar; **CACR 23**, relating to parental rights. Providing that the State shall not abridge the right of parents to control the welfare and education of their children and **CACR 24**, relating to prohibiting any new tax on personal income. Providing that no new tax on personal income shall be levied by the state of New Hampshire, be special ordered to the next session day in their Regular Calendar order.

On a division vote, 187 members having voted in the affirmative and 46 in the negative, the motion was adopted by the necessary two-thirds.

COMMITTEE REPORTS

REGULAR CALENDAR

HB 1193-L, relative to planning and zoning enforcement decisions. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Betsey L. Patten for the Majority of Municipal and County Government: This bill required any municipal officer who became aware of a complaint of an alleged violation of any land use regulation, and who chose not to act on that complain, to be reported to the governing body. The report would have included the nature of the violation and the reasons that the officer did not pursue any action. An amendment was brought forward with a procedure to track possible violations that was discussed by the committee. The committee recognized that municipalities should have a complaint process for its citizens to follow but the state should not dictate that process. Vote 12-2.

Rep. Suzanne S. Laliberte for the Minority of Municipal and County Government: The bill demands accountability from the enforcement authority. The authority shall explain to the governing body why he/she did not act on a complaint. A copy of the complaint is also to go to the governing body.

Majority committee report adopted by the necessary two-thirds.

HB 1306, relative to the removal of commercial signs placed on public property.

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

Rep. Mark A. Pearson for the Majority of Municipal and County Government: This bill would have allowed state, city, or town maintenance crew(s), law enforcement or any other person to remove commercial signage, mostly for advertisement purposes, from public property. The majority of the committee felt that the state, city and town officials can direct their employees to remove signage from the public property and that to allow individuals to

remove the signage would create a potential trespassory incident where private property is confused with public property. This is an area where code enforcement officials can curb this activity. Vote 13-1.

Rep. Robert J. Watson for the Minority of Municipal and County Government: This bill would empower citizens to remove illegal commercial signs placed on public property. Such signs mar New Hampshire's scenic landscape. Although it currently is illegal to put commercial signs in public rights of way, violators flaunt the law because they know that cities and towns don't have the resources to remove them in a timely fashion. This bill authorizes concerned residents to treat illegally placed signs as litter. They would then be able to keep their neighborhoods clean without the threat of being arrested. Majority committee report adopted by the necessary two-thirds.

HB 1452-FN-L, relative to the impact fee for development affecting state highways.

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

Rep. Betsey L. Patten for the Majority of Municipal and County Government: This bill would have added "state-maintained highways located in the municipality" to the definition of "impact fee" assessments in RSA 674:21. The municipality is required to enact a capital improvements program (CIP) before any impact fees may be assessed. All of the current needs that are covered in a CIP are municipal needs, from water treatment facilities to the public road system to solid waste collection and school districts. The impact fee has to be related to the CIP and does not necessarily have to be spent on a project directly connected to a proposed development. To add the state maintained highway mixes an orange with apples. The committee noted that "off-site improvements" in RSA 674:21,V,(j) may be an option already allowed. Vote 12-1.

Rep. Laurie J. Boyce for the Minority of Municipal and County Government: This bill introduced at the request of the Department of Transportation would allow municipalities to assess an impact fee on developments that occur on state owned roadways within the town or city. This money could then be used to improve the town road leading to the state highway. In the environment where the highway program is being drastically cut, having impact fees to do this would certainly help.

Majority committee report adopted by the necessary two-thirds.

HB 1456, naming route 202 in Strafford county the Charles E. Smith Memorial Highway.

OUGHT TO PASS WITH AMENDMENT.

Rep. David B. Campbell for Public Works and Highways: Charles E. Smith was the first law enforcement officer in New Hampshire history who was killed in line of duty. In 1892, while serving as a deputy sheriff for Strafford County, Charles Smith was leading a dozen men in pursuit of a horse thief when he was fatally shot. Deputy Sheriff Smith was recently posthumously awarded a silver star for bravery by the National Law Foundation. Research by the sponsors has revealed that Charles E. Smith was also a State Representative from Barrington and a State Senator. The amendment designates the specific section of NH Route 202 that will honor Charles E. Smith, who fittingly is buried in a cemetery on this same section of Route 202. Vote 13-0.

Amendment (0093h)

Amend the bill by replacing section 1 with the following:

1 Strafford County; Charles E. Smith Memorial Highway. That portion of route 202 in Strafford county, beginning at the Barrington-Nottingham town line and running easterly to the junction with the Spaulding turnpike at exit 13, is hereby named the Charles E. Smith Memorial Highway in honor of Charles E. Smith who, in 1891, was the first deputy sheriff to die in the line of duty in New Hampshire. Appropriate signage may be placed along the highway.

AMENDED ANALYSIS

This bill names a portion of route 202 in Strafford county the Charles E. Smith Memorial Highway.

Amendment adopted by the necessary two-thirds.

Committee report adopted by the necessary two-thirds and ordered to third reading.

MOTION TO SPECIAL ORDER

Rep. Chandler moved that **HB 1154**, establishing a commission to study flooding in the town of Bradford, specifically Lake Massasecum, Lake Todd, and the watershed, be special ordered to the next session day in its Regular Calendar order.

Rep. Chandler spoke in favor.

Adopted by the necessary two-thirds.

MOTION TO SPECIAL ORDER

Rep. Spang moved that **HB 1264**, relative to prohibiting ATV and trail bike use on state-owned rail trails acquired using federal funds, be special ordered to the next session day in its Regular Calendar order.

Adopted by the necessary two-thirds.

REGULAR CALENDAR (CONT'D)

SPECIAL ORDER

HB 1391-FN, prohibiting the investment of state funds in the energy sectors of countries that have been identified by the United States Department of State as state sponsors of terrorism. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS.**

Rep. Doreen Howard for the Majority of State-Federal Relations and Veterans Affairs: This bill creates a conflict between the social conscience and the legal requirement to maximize profit for the pension and state funds. Further complicating the situation is the current financial shape of the state pension fund. There were questions of: why only energy? What about corn that could be turned into ethanol? It was determined by the committee that while the intent was well supported there just wasn't enough time to work diligently on the new bill. Vote 11-5.

Rep. Alfred P. Baldasaro for the Minority of State-Federal Relations and Veterans Affairs: This bill does two things. First, it will prohibit all state assets under the jurisdiction of the state treasurer, the state retirement system's board of trustees and the judicial retirement plan's board of trustees from being invested in the energy sectors of any country identified by the U.S. Department of State as a state sponsor of terrorism (i.e., Iran, N. Korea, Sudan, Cuba and Syria). Additionally, this bill prohibits state assets from being invested in any entity that invests \$20 million dollars or more in the energy sectors of state sponsors of terrorism. Secondly, the bill repeals RSA 6:32-34 which currently requires the state treasurer to compile a list of corporations that do business in Northern Ireland and determine whether or not those corporations promote the "MacBride principles." Divesting state funds from the energy sectors of countries that sponsor terrorism has already been enacted in multiple other states, or has been implemented by the state treasurer, as was the case in New York. In a post 9/11 world, we must monitor our state's safety, transportation, and financial procedures carefully to prevent any threat of terrorism. The minority strongly believes that HB 1391 will provide a necessary safeguard over investing state monies - the people's monies - in countries that pose a real threat to Americans.

Rep. Roberts yielded to questions.

Rep. Mooney requested a roll call; sufficiently seconded.

YEAS 127 NAYS 117

YEAS 127

BELKNAP

Millham, Alida

CARROLL

Ahlgren, Christopher
Knox, J. David

Bridgham, Robert

Buco, Thomas

Butler, Edward

CHESHIRE

Burridge, Delmar
Dunn, J. Timothy
Parkhurst, Henry
Sad, Tara

Butcher, Suzanne
Eaton, Daniel
Plifka, Stanley Jr
Weber, Lucy

Butynski, William
Espieffs, Peter
Roberts, Kris
Weed, Charles

Chase, William
Lerandeau, Alfred
Robertson, Timothy

COOS

Hatch, William
Thomas, Yvonne

Ingersoll, Paul Sr

Merrick, Scott

Stohl, Eric

GRAFTON

Aguiar, James
Estes, Carole
Mulholland, Catherine
Solomon, Peter

Almy, Susan
Hammond, Lee
Nordgren, Sharon

Benn, Bernard
Harding, A Laurie
Pierce, David

Bleyler, Ruth
McLeod, Martha
Preston, Philip

HILLSBOROUGH

Baroody, Benjamin
Foster, Linda
Harvey, Suzanne
Levesque, Melanie
Movsesian, Lori
Shattuck, Gilman
Sullivan, Daniel

Campbell, David
Goley, Jeffrey
Hawkins, Ken
Marshall, Seth
Pilotte, Maurice
Shaw, Barbara
Sullivan, Francis

Essex, David
Gorman, Mary
Knowles, John
Martineau, Jesse
Rosenwald, Cindy
Simon, Anthony
Sysyn, Mary

Forest, Armand
Hackel, Paul
Knowles, Mary Ann
Moran, Edward
Schulze, Joan
Spratt, Stephen
Villeneuve, Maurice

MERRIMACK

Baxley, Maureen
DeStefano, Stephen
Hamm, Christine
Porter, Margaret
Wallner, Mary

Brown, Carole
Gile, Mary
Kelly, Sally
Reardon, Tara
Williams, Robert

Brueggemann, Donald
Greco, Vincent
Kidder, David
Richardson, Gary
Yeaton, Charles

Davis, Frank
Hager, Elizabeth
Osborne, Jessie
Shurtleff, Stephen

ROCKINGHAM

Abbott, Dennis
Flanders, John Sr
Mann, Maureen
Nord, Susi
Russell, Trinkia

Borden, David
Flockhart, Eileen
McKenna, Daniel
Pantelakos, Laura
Snow, Richard

Brown, C. Pennington
Grote, Otto
Moody, Marcia
Pettersen, Don
Webber, James

Day, Judith
Major, Norman
Moore, Bennett
Powers, James

STRAFFORD

Brennan, William

Brown, Larry

Browne, Brendon

Domingo, Baldwin

Hilliard, Dana
Rollo, Deanna
Spang, Judith

Hutz, Sarah
Rous, Emma
Vachon, Dennis

Kaen, Naida
Schmidt, Peter
Wall, Janet

Perry, Robert
Smith, Marjorie
Watson, Robert

SULLIVAN

Cloutier, John
Houde, Matthew

Franklin, Peter
Nielsen, Ellen

Gagnon, Raymond

Gottling, Suzanne

NAYS 117

BELKNAP

Boyce, Laurie
Tilton, Franklin

Flanders, Donald
Tobin, William

Heald, Bruce
Wendelboe, Fran

Pilliod, James

CARROLL

Brown, Carolyn

Chandler, Gene

Denley, William

Patten, Betsey

CHESHIRE

Butterworth, Timothy

Emerson, Susan

Hunt, John

Johnson, Jane

COOS

Remick, William

Tholl, John Jr

GRAFTON

Cooney, Mary
Sorg, Gregory

Friedrich, Carol

Gionet, Edmond

Ingbreton, Paul

HILLSBOROUGH

Batula, Peter
Daniels, Gary
Elliott, Nancy
Hinkle, Peyton
Kaelin, Michael
McRae, Karen
Ober, Lynne
Renzullo, Andrew
Stepanek, Stephen
Winters, Joel

Bergeron, Jean-Guy
Day, Russell
Graham, John
Hogan, Edith
Kurk, Neal
Mooney, Maureen
Ober, Russell III
Scannell, David
Tahir, Saghir

Bergin, Peter
Dokmo, Cynthia
Haefner, Robert
Infantine, William
Levasseur, Nickolas
O'Connell, Timothy
Price, Pamela
Smith, David
Ulery, Jordan

Brunelle, Michael
Drisko, Richard
Hansen, Ryan
Jasper, Shawn
Long, Patrick
O'Neil, James
Reeves, Sandra
Soucy, Connie
Vaillancourt, Steve

MERRIMACK

Anderson, Eric
Ehlers, Eileen
Walz, Mary

Blanchard, Elizabeth
Lockwood, Priscilla

Bouchard, Candace
MacKay, James

Boutin, David
Ryan, Jim

ROCKINGHAM

Allen, Mary
Bettencourt, David
Carson, Sharon
Devine, James
Fesh, Bob

Baldasaro, Alfred
Bishop, Franklin
Case, Frank
DiFruscia, Anthony
Garcia, Marilinda

Bedrick, Jason
Cali-Pitts, Jacqueline
Casey, Kimberley
Dumaine, Dudley
Garrity, James

Belanger, Ronald
Camm, Kevin
Charron, Gene
Elliott, Robert
Gould, Kenneth

Headd, James	Ingram, Russell	Itse, Daniel	Kappler, Lawrence
Katsakiores, George	Katsakiores, Phyllis	Kennedy, James	Kepner, Susan
Lund, Howie	McEachern, Paul	McMahon, Charles	Nevins, Christopher
Nowe, Ronald	Reagan, John	Splaine, James	Stiles, Nancy
Waterhouse, Kevin	Weare, Everett	Welch, David	Wells, Roger
Weyler, Kenneth	Wickson, Rick	Winchell, George	

STRAFFORD

Fargo, Thomas	Mickelonis, Shawn	Rollo, Michael
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SULLIVAN

Donovan, Thomas	Rodeschin, Beverly	Skinder, Carla
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and the majority committee report failed lacking the necessary two-thirds.

LAID ON THE TABLE

Rep. Mooney moved that **HB 1391-FN**, prohibiting the investment of state funds in the energy sectors of countries that have been identified by the United States Department of State as state sponsors of terrorism, be laid on the table.

On a division vote, 203 members having voted in the affirmative and 41 in the negative, the motion was adopted by the necessary two-thirds.

REGULAR CALENDAR (CONT'D)

SPECIAL ORDER

HCR 13, urging Congress to create an Office of the National Nurse. **INEXPEDIENT TO LEGISLATE.**

Rep. Alfred P. Baldasaro for State-Federal Relations and Veterans Affairs: The Chief Nurse of the Surgeon General, Department of Health and Human Services is already in place and adding the position of chief nurse would be a duplication of job description and would add many other positions of support to the chief nurse. Instead of establishing a new symbolic national leadership position, we believe that many duties could be done on the local level, in setting the nursing standards, and recruitments through our colleges, state and local healthcare centers. Vote 11-5.

Rep. Moody spoke against.

Rep. Schulze spoke in favor and yielded to questions.

Rep. Baldasaro spoke in favor.

On a division vote, 226 members having voted in the affirmative and 24 in the negative, the committee report was adopted by the necessary two-thirds.

SPECIAL ORDER

HCR 16, urging Congress to rescind a law allowing the President to exercise federal control over the state national guard without consent of the governor. **INEXPEDIENT TO LEGISLATE.**

Rep. Kris E. Roberts for State-Federal Relations and Veterans Affairs: The National Guard is an important part of the Department of Defense. As such the federal government provides the state of New Hampshire almost 95% of funding necessary to maintain and operate both the National and Air Guard. The state of New Hampshire along with neighboring states benefit from a state to state compact. It is very unlikely that even in a national emergency that the President of the United States would activate and order out the New Hampshire or any state's guard without speaking to that state's governor. Vote 16-0.

Committee report adopted by the necessary two-thirds.

SPECIAL ORDER

HR 26, expressing regret that New Hampshire's United States Senators voted to deny the

District of Columbia the right to be represented in the Congress. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kris E. Roberts for the Majority of State-Federal Relations and Veterans Affairs: This bill has a number of goals. The first and most important is requesting our New Hampshire Senators to vote in favor of invoking cloture allowing S.1257 the District of Columbia House Voting Rights Act of 2007; upgrading the current congressman (limited to committee votes) to full voting status which passed by a vote of 9-1 (12-5 counting proxy votes) by the US Senate Homeland Security and Governmental Affairs Committee an opportunity for an up or down vote. On September 18th 2007, 57 members of the United States Senate voted to invoke cloture, falling short by 3. There are numerous arguments on both sides concerning, the constitutionality or the unconstitutionality of S.1257, many which have been noted in HR 26 as amended. Article 1, Section 8, Clause 17, grants Congress the right to exercise exclusive, extraordinary and plenary powers in all cases over the District while Article 1, Section 2, Clause 3 states that Congress has the power to apportion the number of representatives, which shall not exceed one for every thirty thousand which would require the number of federal representatives to be at the very minimum number 10,100 to be constitutional. Without question, bills such as S.1257 always raise constitutional issues. There is no case law based on US Supreme Court decisions against or for, but it can and has been argued that Congress is not the arbiter of constitutional issues. The second goal of HR 26 as amended deals with the possibility that the Supreme Court may rule S.1257 unconstitutional, leaving three possibilities for the people of Washington DC to have a voting member of congress; granting Washington DC full statehood, retro-ceding the territory of Washington DC back to the state of Maryland, or enacting a constitutional amendment. Keeping with the founding father's desire to have a neutral seat for the federal government without denying over 600,000 people the right to representation because the constitution requires that the number of representatives be determined based on all people not just United States citizens, HR 26 asks that our United States Senators keep with New Hampshire's long tradition of empowering its citizens and vote to support a constitutional amendment. Vote 10-6.

Rep. Pamela D. Coughlin for the Minority of State-Federal Relations and Veterans Affairs: The minority of the committee believes that this House Resolution does not acknowledge the U.S. Constitution, Article 1, Section 8, Clause 17 regarding the establishment of a permanent federal seat of government. The U.S. District of Columbia is important as it avoids the influence by local and state governments. The District maintains a neutral geographic area for all three branches of the federal government; however, the U.S. Congress retains control over the District's revenue and expenditures. The District of Columbia has a unique role in our Federal Government and although not electing a member of the House of Representatives, the District has considerable influence and prestige in the federal government that is recognized both nationally and internationally.

Majority Amendment (0282h)

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

A RESOLUTION urging New Hampshire's United States Senators to support a voting seat for the District of Columbia in the House of Representatives.

Amend the resolution by replacing all after the title with the following:

Whereas, Article 1, Section 2 of the United States Constitution states that the number of representatives and direct taxes shall be "apportioned among the several states which may be included with this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons," it can reasonably be believed that the framers of the Constitution had no intention of denying any United States citizen who is subject to direct taxes the right to a voting member in the House of Representatives; and

Whereas, Congress allowed residents of land ceded from Maryland and Virginia the opportunity to vote in federal elections for 10 years; and

Whereas, the 23rd Amendment provides the citizens of the District of Columbia the right to take an active role in the election of the President and Vice President and provides the District of Columbia with 3 electoral college votes; and

Whereas, the United States Supreme Court upheld the authority of Congress to treat the District of Columbia as a state in National Mutual Insurance Company of the District of Columbia v. Tidewater Transfer Company Inc., 337 U.S. 582 (1949); and

Whereas, the District of Columbia House Voting Rights Act of 2007, S.1257, would provide for expedited judicial review of constitutional challenges to the act by permitting the action to be filed in the U.S. District Court for the District of Columbia and to be heard by a 3-judge panel. Appeals would be made directly to the Supreme Court by filing an appeal within 10 days and filing a jurisdictional statement within 30 days of the lower court's final decision; and

Whereas, in keeping with the intention of our founding fathers and John Langdon and Nicholas Gilman of New Hampshire, who on September 17, 1787, approved and provided some of the first signatures on the United States Constitution, thereby creating the opportunity for Josiah Bartlett and John Wentworth Jr. to sign and ratify the document on behalf of the state of New Hampshire, it is requested that New Hampshire's 2 current United States Senators follow in the footsteps of New Hampshire's founding sons and allow S.1257 to come to the Senate floor for an up or down vote potentially allowing the District of Columbia's approximately 600,000 citizens or 1 in 500 United States citizens the opportunity to have the same voting representation in Congress other American citizens enjoy; and

Whereas, if S.1257 fails to gain majority support in the United State Senate or in the unlikely event that the Supreme Court determines that Article 1, Section 8, clause 17 granting Congress the right to exercise exclusive, extraordinary and plenary powers in all cases over the District is not a constitutional justification to grant Washington D.C. a voting member to Congress, it is hoped that New Hampshire's Senators would support a constitutional amendment allowing the citizens of the District of Columbia one voting member to the House of Representatives; and

Whereas, the citizens of the District of Columbia should be afford the same opportunity that the New Hampshire general court provides the citizens of New Hampshire by requiring a vote on every single piece of legislation; now, therefore, be it resolved by the House of Representatives:

That the New Hampshire house of representatives urges the United States Senators from New Hampshire to support the right of the citizens of the District of Columbia to be fully represented in the Congress of the United States either by passing S.1257 or, if necessary, by adopting a constitutional amendment providing the citizens of the District of Columbia with one voting member in the House of Representatives; and

That the New Hampshire house of representatives formally declares its support for full representative democracy for all United States citizens, including the residents of the District of Columbia; and

That the house clerk transmit copies of this resolution to Senator Judd Gregg, Senator John E. Sununu, the Mayor of the District of Columbia, and the Chairman of the Council of the District of Columbia, so that they may be apprised of the sentiments of the New Hampshire house of representatives on this matter.

AMENDED ANALYSIS

This resolution urges New Hampshire's United States Senators to support the District of Columbia's right to a voting seat in the House of Representatives.

On a division vote, 149 members having voted in the affirmative and 98 in the negative, the majority committee amendment failed lacking the necessary two-thirds.

MOTION TO LAY ON THE TABLE

Rep. Daniel Eaton moved that **HR 26**, expressing regret that New Hampshire's United States Senators voted to deny the District of Columbia the right to be represented in the Congress, be laid on the table.

On a division vote, 139 members having voted in the affirmative and 111 in the negative, the motion failed lacking the necessary two-thirds.

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

Rep. Bedrick offered floor amendment (0411h).

Floor Amendment (0411h)

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

A RESOLUTION urging New Hampshire's congressional delegation to support a voting seat for the District of Columbia in the United States House of Representatives in a manner consistent with the United States Constitution.

Amend the resolution by replacing all after the title with the following:

Whereas, Article 1, Section 2 of the United States Constitution states that the number of representatives and direct taxes shall be "apportioned among the several states which may be included with this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons"; and

Whereas, our founding fathers created the District of Columbia with the intent that the capital of the United States be separate from any state; and

Whereas, the District of Columbia is not legally considered a state with the same rights and powers of other states in the union; and

Whereas, the subsequent growth of the residential areas of the District of Columbia has created an inequity in voting rights of its residents; and

Whereas, the only constitutional recourse to grant the residents of the District of Columbia representation in Congress is through a constitutional amendment, retrocession into Maryland and/or Virginia, or statehood; and

Whereas, the District of Columbia House Voting Rights Act of 2007, S.1257, is unconstitutional in attempting to grant voting rights through a legislative act that violates Article 1, Section 2 of the United States Constitution; and

Whereas, the citizens of the District of Columbia are entitled to the same right to representation in the United States Congress as all other citizens of the United States; now, therefore, be it

Resolved by the House of Representatives:

That the New Hampshire house of representatives urges the New Hampshire congressional delegation to support the right of the citizens of the District of Columbia to be fully represented in the United States Congress either by supporting retrocession of certain residential areas of the District of Columbia to the states of Maryland and/or Virginia, or adopting a constitutional amendment providing the citizens of the District of Columbia with one voting member in the House of Representatives; and

That the New Hampshire house of representatives urges the New Hampshire congressional delegation to oppose any unconstitutional efforts to achieve this end, including S. 1257; and

That the New Hampshire house of representatives formally declares its support for full representative democracy for all United States citizens, including the residents of the District of Columbia; and

That the house clerk transmit copies of this resolution to Senator Judd Gregg, Senator John E. Sununu, Congressman Paul Hodes, Congresswoman Carol Shea Porter, the Mayor of the District of Columbia, and the Chairman of the Council of the District of Columbia, so that they may be apprised of the sentiments of the New Hampshire house of representatives on this matter.

AMENDED ANALYSIS

This resolution urges New Hampshire's congressional delegation to support the District of Columbia's right to a voting seat in the United States House of Representatives in a manner consistent with the United States Constitution.

Reps. David Smith and Rosenwald spoke against.

Rep. Bedrick spoke in favor.

On a division vote, 120 members having voted in the affirmative and 132 in the negative, floor amendment (0411h) failed.

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

Rep. Ulery offered floor amendment (0402h).

Floor Amendment (0402h)

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

A RESOLUTION approving New Hampshire's United States Senators' decision not to support a voting member for the District of Columbia in the House of Representatives.

Amend the resolution by replacing all after the title with the following:

Whereas, on September 18, 2007, the Senate of the United States was asked to consider S. 1257, the "District of Columbia House Voting Rights Act of 2007;" and

Whereas, S. 1257 would provide the residents of the District of Columbia with a voting member in the United States House of Representatives; and

Whereas, Senators Judd Gregg and John E. Sununu, both of New Hampshire, voted against S. 1257; and

Whereas, the 23rd Amendment to the Constitution provides the citizens of the District of Columbia the right to take an active role in the election of the President and Vice President and provides the District of Columbia with 3 electoral college votes, but makes no provision for the District to have a voting member in the House of Representatives; now, therefore, be it

Resolved by the House of Representatives:

That the New Hampshire house of representatives supports the vote of the Senators from New Hampshire to uphold the Constitutional designation of the District of Columbia as a territory that is not one of the several states and therefore does not have a voting member in the House of Representatives; and

That the New Hampshire house of representatives formally declares its support for full representative democracy for all United States Citizens as set forth in the Constitution; and

That the house clerk transmit copies of this resolution to Senator Judd Gregg, Senator John E. Sununu, the Mayor of the District of Columbia, and the Chairman of the Council of the District of Columbia, so that they may be apprised of the sentiments of the New Hampshire house of representatives on this matter.

AMENDED ANALYSIS

This resolution approves New Hampshire's United States Senators' decision not to support a voting seat for the District of Columbia in the House of Representatives.

Rep. Roberts spoke against.

Reps. Ulery and Mooney spoke in favor.

On a division vote, 94 members having voted in the affirmative and 159 in the negative, floor amendment (0402h) failed.

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

Rep. Wendelboe spoke against.

Rep. Winters moved Recommit and spoke in favor.

On a division vote, 138 members having voted in the affirmative and 112 in the negative, the motion failed lacking the necessary two-thirds.

MOTION TO INDEFINITELY POSTPONE

Rep. James Garrity moved that **HR 26**, expressing regret that New Hampshire's United States Senators voted to deny the District of Columbia the right to be represented in the Congress, be indefinitely postponed.

On a division vote, 128 members having voted in the affirmative and 123 in the negative, the motion failed lacking the necessary two-thirds.

MOTION TO SPECIAL ORDER

Rep. Gary Richardson moved that **HR 26**, expressing regret that New Hampshire's United States Senators voted to deny the District of Columbia the right to be represented in the Congress, be special ordered to the next session day in its Regular Calendar order.

Rep. Gary Richardson spoke in favor.

On a division vote, 139 members having voted in the affirmative and 112 in the negative, the motion failed lacking the necessary two-thirds.

The House recessed at 3:15 p.m.

RECESS

(Speaker Norelli in the Chair)

The House reconvened at 3:45 p.m.

The pending question being adoption of the motion of Ought to Pass on **HR 26**, expressing regret that New Hampshire's United States Senators voted to deny the District of Columbia the right to be represented in the Congress.

MOTION TO SPECIAL ORDER

Rep. Stepanek moved that **HR 26**, expressing regret that New Hampshire's United States Senators voted to deny the District of Columbia the right to be represented in the Congress, be special ordered to the end of the day.

On a division vote, 103 members having voted in the affirmative and 139 in the negative, the motion failed.

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

On a division vote, 108 members having voted in the affirmative and 135 in the negative, the motion failed.

MOTION TO LAY ON THE TABLE

Rep. Bergin moved that **HR 26**, expressing regret that New Hampshire's United States Senators voted to deny the District of Columbia the right to be represented in the Congress, be laid on the table.

On a division vote, 78 members having voted in the affirmative and 162 in the negative, the motion failed.

MOTION TO RECONSIDER

Having voted with the prevailing side, Rep. Vaillancourt moved that the House reconsider its action whereby it failed to adopt the motion of Ought to Pass on **HR 26**, expressing regret that New Hampshire's United States Senators voted to deny the District of Columbia the right to be represented in the Congress.

On a division vote, 115 members having voted in the affirmative and 125 in the negative, the motion failed.

Rep. Vaillancourt moved Recommit and then withdrew his motion.

Rep. Daniel Eaton moved Interim Study.

On a division vote, 215 members having voted in the affirmative and 20 in the negative, the motion was adopted by the necessary two-thirds.

MOTION TO RECONSIDER

Having voted with the prevailing side, Rep. Stepanek moved that the House reconsider its action whereby it adopted the motion of Interim Study on **HR 26**, expressing regret that New Hampshire's United States Senators voted to deny the District of Columbia the right to be represented in the Congress.

On a division vote, 30 members having voted in the affirmative and 204 in the negative, the motion failed.

REGULAR CALENDAR (CONT'D)

The Chair indicated that the remaining three bills would be taken up on the next session day at the beginning of the Calendar.

RESOLUTION

Rep. Wallner offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, March 5, 2008 at 10:00 a.m.

On a division vote, 155 members having voted in the affirmative and 82 in the negative, the motion failed lacking the necessary two-thirds.

The Speaker continued with the Regular Calendar.

REGULAR CALENDAR (CONT'D)

SPECIAL ORDER

HB 1309-FN-A, relative to the definition of "cigarette". **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William A. Hatch for the Majority of Ways and Means: This bill defines a cigarette by materials used and weight. This assures that products that, for all intent and purpose, are cigarettes are taxed and sold as cigarettes. Currently, products that are truly cigarettes have been colored, labeled and sold as cigars. It has been stated that the tobacco used to fill this product are "sweepings." Therefore they do not give a pleasurable smoke as a cigarette. That may be true for the lower quality of this product, but there are different qualities (priced from 7.99 a carton to 16.99 a carton) and the higher quality does give a pleasurable smoke as a cigarette, according to those who have used this product. It is made, packed and smoked as a "cigarette". Therefore, it is a cigarette. This bill will prevent this product from being sold as a cigar in the future. Vote 11-6.

Rep. Steve Vaillancourt for the Minority of Ways and Means: The majority would have us believe that this bill simply represents an attempt to fix a loophole in the cigarette tax. In fact, it represents a new tax on cigars. The majority would have us believe that the items to be included if this bill is passed are simply cigarettes disguised as cigars. There was even testimony from proponents, "If it walks like a duck (cigarette) and quacks like a duck (cigarette), it is in fact a duck (cigarette)." The minority is convinced that walking or quacking is not the issue here, but smoking is. Clearly, these so-called mini-cigars or cigarillos do not smoke like a cigarette. One member tried to smoke one and found that unlike a cigarette but very much like a cigar, they could not be inhaled; they in fact smoked

much more like cigars than cigarettes. Before voting to call these items ducks, the minority suggests representatives sacrifice their lungs and try to inhale a couple of the rascals before you vote. As well intentioned as this legislation might be, an increase in revenues from smokers, this bill is clearly drafted merely to get around Senate refusal to tax cigars in the past. If we are truly serious about taxing cigars like we do other tobacco products, let's be honest. Let's not call things cigarettes when they are not cigarettes. In fact, if you want to start taxing cigars or mini-cigars or cigarillos, there is a far more appropriate vehicle to accomplish this end. It's House Bill 1510-FN-A which is currently being explored by a subcommittee of Ways and Means. The minority believes that rather than rush forward with an OTP motion for this "ducky" tax increase, we should seriously consider the entire panoply of other tobacco products as is the case in HB 1510 which nearly every advocate of smoking cessation programs (Lung, Heart, Cancer representatives, etc.) testified was better than this bill. From a revenue point of view, since so few of these so-called mini-cigars are sold, the benefit would not be great, probably less than a million dollars, but there was compelling testimony that this could negatively effect sales at Ma and Pa and other stores in border areas, the very same stores which have already been hurt with two huge cigarette tax increases in the past two sessions.

Rep. Vaillancourt spoke against.

Rep. Almy spoke in favor, yielded to questions and requested a quorum call.

The Speaker declared that, in absence of a quorum, the House will stand in Recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages, until March 5, 2008 at 10:00 a.m.

The House recessed at 5:00 p.m.

RECESS

(Deputy Speaker Foster in the Chair)

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly Enrolled House Bills numbered 351 and 754.

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

RECESS

(Speaker Norelli in the Chair)

RESOLUTION

Rep. Foster offered the following: RESOLVED, that late drafting and introduction having been approved by the Rules Committee, House Bills numbered 1649 and 1651 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 1649-FN-L, relative to the Medicaid long-term care eligibility determination process. (Donovan, Sull 4: Health, Human Services and Elderly Affairs)

HB 1651, allowing municipalities in Coos county to offer property tax exemptions to foster commercial and industrial construction. (King, Coos 1; Theberge, Coos 4; Stohl, Coos 1; Tholl, Coos 2; Hatch, Coos 3; Gallus, Dist 1: Municipal and County Government)

RECESS

(Rep. DeJoie in the Chair)

RESOLUTION

Rep. Welch offered the following: RESOLVED, that late drafting and introduction having been approved by the Rules Committee, House Bill numbered 1652 shall be by this resolution read a first and second time by the therein listed title, sent for printing and referred to the therein designated committee.
Adopted.

INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 1652-FN-A, relative to the state obligation for payment of the non-federal share of FEMA public assistance and making an appropriation therefor. (Wallner, Merr 12; Whalley, Belk 5; Foster, Dist 13; Hassan, Dist 23: Finance)

RECESS

(Rep. Lasky in the Chair)

RESOLUTION

Rep. Foster offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 48, 90, 103, 142, 158, 177, 199, 210, 212, 259, 264, 300, 303, 309, 311, 315, 316, 319, 322, 324, 325, 326, 336, 347, 349, 350, 352, 355, 360, 363, 364, 366, 367, 369, 370, 372, 375, 377, 385, 390, 395, 399, 403, 404, 408, 413, 415, 418, 422, 423, 426, 428, 430, 431, 436, 437, 444, 446, 447, 454, 459, 461, 463, 464, 466, 467, 470, 472, 473, 478, 480, 486, 487, 488, 490, 492, 497, 498, 499, 509, 520 and 521 and Senate Concurrent Resolutions numbered 5, 7, 8 and 9 and Senate Joint Resolution number 1 shall be by this resolution read a first and second time by the therein listed titles and referred to the therein designated committees.
Adopted.

INTRODUCTION OF SENATE BILLS, SCRS AND SJR

First, second reading and referral

SB 48, relative to removal of appointed highway agents from office. (Municipal and County Government)

SB 90-FN, relative to the penalty for impersonating a law enforcement officer. (Criminal Justice and Public Safety)

SB 103-FN-L, establishing a committee to generate and evaluate solutions for maintaining emergency access on class VI and private roads. (Transportation)

SB 142, relative to the regulation of real estate brokers and salespersons by the real estate commission. (Executive Departments and Administration)

SB 158, relative to review of activities affecting surface waters. (Resources, Recreation and Development)

SB 177, relative to orders of reparation by the public utilities commission and penalties against public utilities. (Science, Technology and Energy)

SB 199, relative to the assessment of property subject to a housing subsidy restriction. (Municipal and County Government)

SB 210-FN, relative to making various changes to the regulation of plumbers and water treatment technicians by the board of licensing and regulation of plumbers. (Executive Departments and Administration)

SB 212-FN, relative to the regulation of home inspectors. (Executive Departments and

Administration)

SB 259, establishing state appliance and equipment energy efficiency standards. (Science, Technology and Energy)

SB 264, relative to creating liens on personal and real property to recover uncollected small claims judgments. (Judiciary)

SB 300-FN-A, relative to death benefits for corrections officers killed in the line of duty. (Executive Departments and Administration)

SB 303-FN, relative to special number plates. (Transportation)

SB 309-FN, relative to the regulation of amateur and professional fighting sports by the boxing and wrestling commission. (Executive Departments and Administration)

SB 311-FN, extending the statute of limitations for civil actions based upon a sexual assault case. (Judiciary)

SB 315, preventing the fraudulent use of the names of financial institutions. (Commerce)

SB 316-FN, expanding a death benefit for police officers and firefighters to emergency medical technicians. (Executive Departments and Administration)

SB 319-FN, relative to third party liability and state recovery of public assistance. (Commerce)

SB 322, relative to lists of professional bondsmen. (Executive Departments and Administration)

SB 324-FN, consolidating all substance abuse services in the office of alcohol and drug abuse prevention within the department of health and human services. (Health, Human Services and Elderly Affairs)

SB 325-FN-A, relative to child care provider reimbursement rates. (Finance)

SB 326-FN, relative to salaries for certain unclassified positions. (Executive Departments and Administration)

SB 336-FN, relative to special number plates for veterans who are former prisoners of war. (Transportation)

SB 347, establishing a commission to study making changes to the New Hampshire accountancy act. (Executive Departments and Administration)

SB 349, allowing continuation of judicial retirement plan benefits for judges called to full-time active military duty. (Executive Departments and Administration)

SB 350-FN, extending the surcharge on probate court entry fees to judicial branch family division cases which would previously have been brought in probate court. (Judiciary)

SB 352-FN, relative to shoreland protection. (Resources, Recreation and Development)

SB 355-FN, relative to room and board scholarships for children of firefighters and police officers killed in the line of duty. (Education)

SB 360, relative to local enforcement of the state building code. (Municipal and County Government)

SB 363, requiring youth operators and passengers of OHRVs and snowmobiles to wear approved protective headgear. (Transportation)

SB 364, relative to vehicle weight tolerance. (Transportation)

SB 366, relative to the operation of the state suggestion and extraordinary service award program. (Executive Departments and Administration)

SB 367, relative to the date of the final property tax bill in municipalities that bill quarterly. (Municipal and County Government)

SB 369, relative to the towing and storage of motor vehicles. (Commerce)

SB 370, relative to emergency powers of the supreme court. (Judiciary)

SB 372, relative to membership of the heating system certification advisory committee. (Executive Departments and Administration)

SB 375-L, allowing veterinarians to inform town and city clerks about dogs that have been euthanized or died during treatment. (Municipal and County Government)

SB 377, relative to the application of the prudent investor rule to town trust funds. (Municipal and County Government)

SB 385, requiring pharmacies to report an inability to fill prescriptions. (Executive Departments and Administration)

SB 390, establishing a suicide prevention council. (Health, Human Services and Elderly Affairs)

SB 395, establishing a commission to review New Hampshire's statutes on human immunodeficiency virus education, prevention, and control. (Health, Human Services and Elderly Affairs)

SB 399, permitting annulment of certain criminal records in the supreme court. (Judiciary)

SB 403, relative to the commission to study issues relative to groundwater withdrawals. (Resources, Recreation and Development)

SB 404, allowing dental school graduates to practice in an approved dental residency program. (Executive Departments and Administration)

SB 408, establishing a committee to study reverse mortgages. (Commerce)

SB 413, authorizing the department of resources and economic development to retain the administrative fee for certain disposals of state lands. (Resources, Recreation and Development)

SB 415, relative to the effective date of the compulsory school attendance law. (Education)

SB 418, replacing references to "charter school" with "chartered public school". (Education)

SB 422, adding an energy section to zoning and planning master plans. (Municipal and County Government)

SB 423, relative to cashing of bingo winnings checks. (Ways and Means)

SB 426, establishing a committee to study the current definition of the term "community benefit" applicable to nonprofit health care providers. (Commerce)

SB 428, establishing a commission to study the funding of vaccines for children who are not covered by private health insurance. (Health, Human Services and Elderly Affairs)

SB 430, relative to cemeteries and mausoleums. (Executive Departments and Administration)

SB 431, naming a small impoundment in Goffstown as Namaske Lake. (Public Works and Highways)

SB 436, enabling certain persons to vote in primaries prior to turning 18 years of age. (Election Law)

SB 437, relative to access to voter database information. (Election Law)

SB 444, relative to settlements on behalf of minors and judgments and decrees in favor of minors. (Judiciary)

SB 446, allowing probate court judges and district court justices to sit on either court in certain circumstances. (Judiciary)

SB 447, eliminating obsolete provisions regarding pleas by mail and noncomputerized courts. (Judiciary)

SB 454, relative to certain changes to the controlled drug act. (Health, Human Services and Elderly Affairs)

SB 459, establishing an advanced manufacturing education advisory council. (Education)

SB 461, relative to accessibility of genealogical records to the public. (Executive Departments and Administration)

SB 463, establishing an investment committee and an audit committee in the New Hampshire retirement system. (Executive Departments and Administration)

SB 464, relative to the number of children in a licensed foster home. (Children and Family Law)

SB 466, relative to probate court jurisdiction over special needs trusts. (Health, Human Services and Elderly Affairs)

SB 467, relative to taking lobsters and crabs. (Fish and Game)

SB 470, allowing lobbyists and those connected with lobbyists to sit on committees established by the judicial branch. (Judiciary)

SB 472, relative to consumer protection from certain practices of payday loan, small loan,

and title loan lenders and establishing a commission to study access to consumer credit for people in New Hampshire. (Commerce)

SB 473, naming the Prisoners of War/Missing in Action Memorial in Hesky Park in the town of Meredith. (Municipal and County Government)

SB 478, relative to processing absentee ballots. (Election Law)

SB 480, repealing a requirement that the fish and game department publish certain hunting season information in newspapers in each county. (Fish and Game)

SB 486, relative to the duties and responsibilities of special deputy forest rangers. (Fish and Game)

SB 487, clarifying the law regarding bail pending appeal. (Judiciary)

SB 488, relative to jurisdiction of the probate courts and superior courts. (Judiciary)

SB 490-FN, relative to fees for special number plates for veterans and relative to vehicle registration fees for disabled veterans and former prisoners of war. (Transportation)

SB 492, relative to persons designated to fill vacancies on the ballot. (Election Law)

SB 497-FN, relative to the security of bonds or notes issued to the New Hampshire Municipal Bond Bank. (Ways and Means)

SB 498, relative to state guarantees of certain municipal debt issues. (Finance)

SB 499-FN, relative to penalties for unauthorized disclosure of confidential matters in legislative ethics proceedings. (Legislative Administration)

SB 509-FN, requiring tobacco cessation therapy under the state Medicaid program. (Health, Human Services and Elderly Affairs)

SB 520-FN-A, requiring the state veterans council to issue a state veterans handbook biennially and making an appropriation therefor. (State-Federal Relations and Veterans Affairs)

SB 521-FN, increasing the maximum scholarship amount available from the national guard scholarship fund. (State-Federal Relations and Veterans Affairs)

SCR 5, urging that federal, state, and local governments work with broadcasters and consumer groups to inform New Hampshire residents of the 2009 digital broadcast conversion. (State-Federal Relations and Veterans Affairs)

SCR 7, urging the United States Department of Defense and Congress to restore full services to the Manchester Veterans Administration Hospital. (State-Federal Relations and Veterans Affairs)

SCR 8, urging the United States Department of Defense to restore the designations of Prisoner of War and Missing in Action to those servicemen and servicewomen who are missing in operations in Afghanistan and Iraq. (State-Federal Relations and Veterans Affairs)

SCR 9, urging Congress to fund a community-based outpatient clinic for veterans in Keene. (State-Federal Relations and Veterans Affairs)

SJR 1, prohibiting the department of health and human services from adopting proposed administrative rule He-P 1906.02. (Health, Human Services and Elderly Affairs)

RECESS

(Speaker Norelli in the Chair)

REGULAR CALENDAR (CONT'D)

HB 1309-FN-A, relative to the definition of "cigarette". **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William A. Hatch for the Majority of Ways and Means: This bill defines a cigarette by materials used and weight. This assures that products that, for all intent and purpose, are cigarettes are taxed and sold as cigarettes. Currently, products that are truly cigarettes have been colored, labeled and sold as cigars. It has been stated that the tobacco used to fill this product are "sweepings." Therefore they do not give a pleasurable smoke as a cigarette. That may be true for the lower quality of this product, but there are different qualities

(priced from 7.99 a carton to 16.99 a carton) and the higher quality does give a pleasurable smoke as a cigarette, according to those who have used this product. It is made, packed and smoked as a "cigarette". Therefore, it is a cigarette. This bill will prevent this product from being sold as a cigar in the future. Vote 11-6.

Rep. Steve Vaillancourt for the Minority of Ways and Means: The majority would have us believe that this bill simply represents an attempt to fix a loophole in the cigarette tax. In fact, it represents a new tax on cigars. The majority would have us believe that the items to be included if this bill is passed are simply cigarettes disguised as cigars. There was even testimony from proponents, "If it walks like a duck (cigarette) and quacks like a duck (cigarette), it is in fact a duck (cigarette)." The minority is convinced that walking or quacking is not the issue here, but smoking is. Clearly, these so-called mini-cigars or cigarillos do not smoke like a cigarette. One member tried to smoke one and found that unlike a cigarette but very much like a cigar, they could not be inhaled; they in fact smoked much more like cigars than cigarettes. Before voting to call these items ducks, the minority suggests representatives sacrifice their lungs and try to inhale a couple of the rascals before you vote. As well intentioned as this legislation might be, an increase in revenues from smokers, this bill is clearly drafted merely to get around Senate refusal to tax cigars in the past. If we are truly serious about taxing cigars like we do other tobacco products, let's be honest. Let's not call things cigarettes when they are not cigarettes. In fact, if you want to start taxing cigars or mini-cigars or cigarillos, there is a far more appropriate vehicle to accomplish this end. It's House Bill 1510-FN-A which is currently being explored by a subcommittee of Ways and Means. The minority believes that rather than rush forward with an OTP motion for this "ducky" tax increase, we should seriously consider the entire panoply of other tobacco products as is the case in HB 1510 which nearly every advocate of smoking cessation programs (Lung, Heart, Cancer representatives, etc.) testified was better than this bill. From a revenue point of view, since so few of these so-called mini-cigars are sold, the benefit would not be great, probably less than a million dollars, but there was compelling testimony that this could negatively effect sales at Ma and Pa and other stores in border areas, the very same stores which have already been hurt with two huge cigarette tax increases in the past two sessions.

Rep. Vaillancourt spoke against and yielded to questions.

Reps. Hatch and Almy spoke in favor and yielded to questions.

Rep. Hess requested a roll call; sufficiently seconded.

YEAS 187 NAYS 136

YEAS 187

BELKNAP

Millham, Alida
Wood, Jane

Morrison, Gail

Pilliod, James

Reever, Judith

CARROLL

Bridgham, Robert
Denley, William

Buco, Thomas
Knox, J. David

Butler, Edward
Martin, James

Cunningham, Howard

CHESHIRE

Allen, Peter
Butynski, William
Espiefs, Peter
Richardson, Barbara
Weed, Charles

Burridge, Delmar
Chase, William
Lerandeau, Alfred
Robertson, Timothy

Butcher, Suzanne
Dunn, J. Timothy
Loll, Thomas
Sad, Tara

Butterworth, Timothy
Eaton, Daniel
Mitchell, Bonnie
Weber, Lucy

COOS

Hatch, William
Remick, William

Ingersoll, Paul Sr
Theberge, Robert

Merrick, Evalyn

Merrick, Scott

GRAFTON

Aguiar, James
Bulis, Lyle
Hammond, Lee
Nordgren, Sharon

Almy, Susan
Cooney, Mary
Harding, A Laurie
Pierce, David

Andersen, Gene
Estes, Carole
McLeod, Martha
Preston, Philip

Benn, Bernard
Friedrich, Carol
Mulholland, Catherine

HILLSBOROUGH

Baroody, Benjamin
Clemons, Jane
Essex, David
Foster, Linda
Goley, Jeffrey
Hebert, Roger
Kaelin, Michael
Lasky, Bette
Mack, Ron
O'Brien, Michael Sr
Schulze, Joan
Spaulding, Jayne

Beaulieu, Jane
Cote, David
Farley, Michael
Gargas, Carolyn
Hackel, Paul
Irwin, Anne-Marie
Kelley, John
Leishman, Peter
Marshall, Seth
O'Neil, James
Shattuck, Gilman
Spratt, Stephen

Beck, Catriona
Daler, Jennifer
Fontas, Jeffrey
Garrity, Patrick
Haley, Robert
Jean, Claudette
Knowles, John
Levesque, Melanie
Martineau, Jesse
Pilotte, Maurice
Simon, Anthony

Brunelle, Michael
Edwards, Andrew
Forest, Armand
Ginsburg, Ruth
Hammond, Jill
Judy, Jean
Knowles, Mary Ann
Long, Patrick
Movsesian, Lori
Rosenwald, Cindy
Smith, David

MERRIMACK

Beauchesne,
Suzanne
Clarke, Claire
French, Barbara
Kelly, Sally

Blanchard, Elizabeth
Davis, Frank
Gile, Mary
Kidder, David

Bouchard, Candace
DeStefano, Stephen
Greco, Vincent
Kjellman, Eleanor
Glynn

Brown, Carole
Ehlers, Eileen
Hamm, Christine
Osborne, Jessie

Owen, Derek
Richardson, Gary
Tupper, Frank
Wheeler, Deborah

Porter, Margaret
Ryan, Jim
Wallner, Mary
Williams, Robert

Potter, Frances
Shurtleff, Stephen
Walz, Mary

Reardon, Tara
Tilton, Joy
Webb, Leigh

ROCKINGHAM

Abbott, Dennis
Casey, Kimberley
Grote, Otto
Kepner, Susan
McEachern, Paul
Pantelakos, Laura
Snow, Richard

Borden, David
Day, Judith
Henson, John
Mann, Maureen
Moody, Marcia
Pettersen, Don
Splaine, James

Brown, C. Pennington
Flockhart, Eileen
Howard, Doreen
Marsh, Michael
Moore, Bennett
Powers, James
Webber, James

Cali-Pitts, Jacqueline
Gould, Kenneth
Kennedy, James
McCarthy, Linda
Nord, Susi
Russell, Trinkia
Wells, Roger

STRAFFORD

Brennan, William
Domingo, Baldwin
Hutz, Sarah
Miller, Joseph
Rous, Emma
Vachon, Dennis

Brown, Jennifer
Fargo, Thomas
Kaen, Naida
Perry, Robert
Schmidt, Peter
Wall, Janet

Brown, Larry
Hofemann, Roland
Knowles, William
Rollo, Deanna
Smith, Marjorie

Cyr, James
Hubbard, Pamela
Mickelonis, Shawn
Rollo, Michael
Spang, Judith

SULLIVAN

Cloutier, John
Gagnon, Raymond
Nielsen, Ellen

Converse, Larry
Gottling, Suzanne
Phinizy, James

Donovan, Thomas
Houde, Matthew
Skinder, Carla

Franklin, Peter
Jillette, Arthur Jr

NAYS 136

BELKNAP

Boyce, Laurie
Thomas, John

Heald, Bruce
Tilton, Franklin

Nedeau, Stephen
Tobin, William

Russell, David
Wendelboe, Fran

CARROLL

Ahlgren, Christopher

Chandler, Gene

Morrow, Harry

Patten, Betsey

CHESHIRE

Emerson, Susan
Pelkey, Stephen

Hunt, John
Plifka, Stanley Jr

Johnson, Jane

Parkhurst, Henry

COOS

King, Frederick

Stohl, Eric

GRAFTON

Dingman, Vernon III
Williams, Burton

Gionet, Edmond

Ingbretson, Paul

Solomon, Peter

HILLSBOROUGH

Barry, Richard
Christensen, Chris
Daniels, Gary
Emerton, Larry
Graham, John
Hawkins, Ken
Infantine, William
Lawrence, James
Matarazzo, Anthony
Sr
O'Connell, Timothy
Price, Pamela
Soucy, Connie
Tahir, Saghir
Winters, Joel

Batula, Peter
Clark, Mark
Day, Russell
Fletcher, Richard
Haefner, Robert
Hinkle, Peyton
Jasper, Shawn
Lessard, Rudy
Messier, Irene

Ober, Lynne
Renzullo, Andrew
Stepanek, Stephen
Ulery, Jordan

Bergeron, Jean-Guy
Coughlin, Pamela
Dokmo, Cynthia
Gorman, Mary
Hall, Betty
Hogan, Edith
Kurk, Neal
Levasseur, Nickolas
Mooney, Maureen

Ober, Russell III
Rowe, Robert
Sullivan, Daniel
Vaillancourt, Steve

Campbell, David
Crane, Elenore Casey
Elliott, Nancy
Goyette, Peter
Harvey, Suzanne
Holden, Randolph
L'Heureux, Robert
Manney, Pamela
Moran, Edward

Peterson, Andy
Shaw, Barbara
Sullivan, Francis
Villeneuve, Maurice

MERRIMACK

Anderson, Eric
MacKay, James

Boutin, David

Hess, David

Lockwood, Priscilla

ROCKINGHAM

Allen, Mary
Bettencourt, David

Baldasaro, Alfred
Bishop, Franklin

Bedrick, Jason
Camm, Kevin

Belanger, Ronald
Carson, Sharon

Case, Frank	Charron, Gene	Dalrymple, David	Devine, James
DiFruscia, Anthony	Dumaine, Dudley	Elliott, Robert	Emiro, Frank
Fesh, Bob	Flanders, John Sr	Garcia, Marilinda	Garrity, James
Gleason, John	Griffin, Mary	Hutchinson, Karen	Ingram, Russell
Itse, Daniel	Kappler, Lawrence	Katsakiores, George	Katsakiores, Phyllis
Lund, Howie	Major, Norman	McKinney, Betsy	McMahon, Charles
Nevins, Christopher	Nowe, Ronald	Packard, Sherman	Pearson, Mark
Priestley, Anne	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reagan, John	Robertson, Carl	Sanders, Elisabeth	Stiles, Nancy
Weare, Everett	Welch, David	Weyler, Kenneth	

STRAFFORD

Brown, Julie	Burke, Rachel	Sprague, Dale	Watson, Robert
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SULLIVAN

Ferland, Brenda Rodeschin, Beverly
and the majority committee report was adopted.
Ordered to third reading.

***HB 1373-FN-A-L*, establishing an income tax. INEXPEDIENT TO LEGISLATE.**

Rep. Christine C. Hamm for Ways and Means: This bill establishes an income tax at the rate of 3.5 percent. Some committee members objected to it on that basis, noting their anti-tax sentiments. Others expressed concern about potential constitutional issues, citing the specified personal exemption of \$22,000; double that for a two-person household. Others questioned why earnings over \$500,000 would be exempt. Although the bill repeals the interest and dividends tax, this was not figured in calculating the fiscal note. Taken together, these objections left the committee with no assurance that the bill would, in fact, produce tax equity nor even a net increase in revenues. Vote 15-0.
Committee report adopted.

***HB 1414-FN*, increasing the fee for bail commissioners. MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Peyton B. Hinkle for the Majority of Ways and Means: This bill makes a \$15 increase in the fee charged by bail commissioners resulting in a total fee of \$45. This is the first increase in eight years while costs have been increasing. The work load of bail commissioners can fluctuate and this fee will help get them over the slack periods. Vote 13-2.

Rep. Steve Vaillancourt for the Minority of Ways and Means: This bill amounts to not just a simple fee increase but to a 50 percent fee increase for bail commissioners, from \$30 to \$45 per incident. The minority is not comfortable with giving such large salary increases even when faced with the argument that this fee has not been increased for eight years. After all, the salary of State Representatives and Senators has not been increased in well over 200 years. Like State Reps, no one is forcing anyone to become a bail commissioner. Testimony before the committee was that some of these bail commissioners handle up to 20 transactions a day. If that's true, logic demands that we assume the bail commissioner is not spending a great deal of time on each transaction. Testimony that commissioners at times are required to travel was also not convincing since in rural areas, sheriffs' personnel are usually available in lieu of bail commissioners. Twenty transactions a day would amount to a \$600 a day salary with the current fee, \$900 with the fee increase, not bad for a part time job, nor is it bad if on an hourly basis if the bail commissioner handles far fewer transactions. The minority was also not impressed with the argument that this fee had to be increased since Massachusetts is in the process of increasing its \$40 fee. Nor is the minority impressed with the argument that this will not affect state revenues since the fee is paid by the accused

person. The minority would point out that this accused person, not even convicted at the time he or she is forced to incur this fee, is often the poorest and least able to pay among us (although there was in fact testimony that the fee is waived for anyone who can prove indigence). In effect, what we are doing is increasing a fee for a person who may well be innocent and may well be incurring exorbitant other costs to “prove” his or her innocence. Rep. Bettencourt requested a roll call; sufficiently seconded.

YEAS 199 NAYS 122

YEAS 199

BELKNAP

Morrison, Gail	Pilliod, James	Reever, Judith	Wood, Jane
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CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
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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	Plifka, Stanley Jr	Richardson, Barbara	Sad, Tara
Weber, Lucy	Weed, Charles		

COOS

Hatch, William	Ingersoll, Paul Sr	King, Frederick	Merrick, Evalyn
Merrick, Scott	Theberge, Robert		

GRAFTON

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

HILLSBOROUGH

Baroody, Benjamin	Beaulieu, Jane	Beck, Catriona	Brunelle, Michael
Campbell, David	Christensen, Chris	Clemons, Jane	Cote, David
Coughlin, Pamela	Daler, Jennifer	Edwards, Andrew	Essex, David
Farley, Michael	Fontas, Jeffrey	Forest, Armand	Foster, Linda
Gargas, Carolyn	Garrity, Patrick	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Hackel, Paul	Hall, Betty	Hammond, Jill
Harvey, Suzanne	Hebert, Roger	Hinkle, Peyton	Irwin, Anne-Marie
Jean, Claudette	Judy, Jean	Kaelin, Michael	Kelley, John
L'Heureux, Robert	Lasky, Bette	Levesque, Melanie	Long, Patrick
Mack, Ron	Marshall, Seth	Martineau, Jesse	Matarazzo, Anthony Sr
Messier, Irene	Mooney, Maureen	Movsesian, Lori	O'Brien, Michael Sr
O'Connell, Timothy	Peterson, Andy	Pilotte, Maurice	Rosenwald, Cindy
Rowe, Robert	Schulze, Joan	Shattuck, Gilman	Simon, Anthony
Spratt, Stephen	Sullivan, Daniel	Sullivan, Francis	

MERRIMACK

Beauchesne, Suzanne Clarke, Claire French, Barbara Kidder, David	Blanchard, Elizabeth Davis, Frank Gile, Mary Kjellman, Eleanor Glynn Porter, Margaret Ryan, Jim Walz, Mary	Bouchard, Candace DeStefano, Stephen Greco, Vincent Lockwood, Priscilla Potter, Frances Shurtleff, Stephen Webb, Leigh	Boutin, David Ehlers, Eileen Hamm, Christine Osborne, Jessie Reardon, Tara Tilton, Joy Williams, Robert
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ROCKINGHAM

Abbott, Dennis Borden, David Day, Judith Gould, Kenneth Katsakiores, George Mann, Maureen Moody, Marcia Pantelakos, Laura Quandt, Marshall Webber, James	Allen, Mary Brown, C. Pennington Flanders, John Sr Grote, Otto Katsakiores, Phyllis Marsh, Michael Moore, Bennett Pearson, Mark Quandt, Matthew	Belanger, Ronald Cali-Pitts, Jacqueline Flockhart, Eileen Henson, John Kennedy, James McCarthy, Linda Nevins, Christopher Petterson, Don Russell, Trinka	Bishop, Franklin Casey, Kimberley Gleason, John Howard, Doreen Kepner, Susan McEachern, Paul Nord, Susi Powers, James Snow, Richard
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STRAFFORD

Brown, Jennifer Domingo, Baldwin Hutz, Sarah Perry, Robert Schmidt, Peter Wall, Janet	Brown, Larry Fargo, Thomas Kaen, Naida Rollo, Deanna Smith, Marjorie	Cyr, James Hofemann, Roland Knowles, William Rollo, Michael Spang, Judith	DeChane, Marlene Hubbard, Pamela Miller, Joseph Rous, Emma Vachon, Dennis
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SULLIVAN

Cloutier, John Gagnon, Raymond Nielsen, Ellen	Converse, Larry Gottling, Suzanne Phinizy, James	Donovan, Thomas Houde, Matthew Rodeschin, Beverly	Franklin, Peter Jillette, Arthur Jr
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NAYS 122

BELKNAP

Boyce, Laurie Thomas, John	Heald, Bruce Tilton, Franklin	Millham, Alida Tobin, William	Russell, David Wendelboe, Fran
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CARROLL

Ahlgren, Christopher Martin, James	Chandler, Gene Morrow, Harry	Denley, William Patten, Betsey	Knox, J. David
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CHESHIRE

Emerson, Susan Robertson, Timothy	Hunt, John	Johnson, Jane	Pelkey, Stephen
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COOS

Remick, William

Stohl, Eric

Tholl, John Jr

GRAFTON

Bulis, Lyle
Williams, Burton

Dingman, Vernon III

Gionet, Edmond

Ingbretson, Paul

HILLSBOROUGH

Barry, Richard
Crane, Elenore Casey
Elliott, Nancy
Haefner, Robert
Holden, Randolph
Knowles, Mary Ann
Levasseur, Nickolas
Ober, Lynne
Shaw, Barbara
Stepanek, Stephen
Villeneuve, Maurice

Batula, Peter
Daniels, Gary
Fletcher, Richard
Haley, Robert
Infantine, William
Kurk, Neal
Manney, Pamela
Ober, Russell III
Smith, David
Tahir, Saghir
Winters, Joel

Bergeron, Jean-Guy
Day, Russell
Goyette, Peter
Hawkins, Ken
Jasper, Shawn
Lawrence, James
Moran, Edward
Price, Pamela
Soucy, Connie
Ulery, Jordan

Clark, Mark
Dokmo, Cynthia
Graham, John
Hogan, Edith
Knowles, John
Lessard, Rudy
O'Neil, James
Renzullo, Andrew
Spaulding, Jayne
Vaillancourt, Steve

MERRIMACK

Anderson, Eric
MacKay, James

Brown, Carole
Tupper, Frank

Hess, David

Kelly, Sally

ROCKINGHAM

Baldasaro, Alfred
Carson, Sharon
Devine, James
Emiro, Frank
Griffin, Mary
Kappler, Lawrence
McMahon, Charles
Rausch, James
Splaine, James
Wells, Roger

Bedrick, Jason
Case, Frank
DiFruscia, Anthony
Fesh, Bob
Hutchinson, Karen
Lund, Howie
Nowe, Ronald
Reagan, John
Stiles, Nancy
Weyler, Kenneth

Bettencourt, David
Charron, Gene
Dumaine, Dudley
Garcia, Marilinda
Ingram, Russell
Major, Norman
Packard, Sherman
Robertson, Carl
Weare, Everett

Camm, Kevin
Dalrymple, David
Elliott, Robert
Garritty, James
Itse, Daniel
McKinney, Betsy
Priestley, Anne
Sanders, Elisabeth
Welch, David

STRAFFORD

Brennan, William
Sprague, Dale

Brown, Julie
Watson, Robert

Burke, Rachel

Mickelonis, Shawn

SULLIVAN

Ferland, Brenda

Skinder, Carla

and the majority committee report was adopted.

Ordered to third reading.

Reps. Leishman and Nedeau declared a conflict of interest on **HB 1414-FN**, and did not participate.

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 it be to meet Wednesday, March 5, 2008.
Adopted.

LATE SESSION

Third reading and final passage

HB 1133, relative to the age of majority for purposes of pornography-related offenses.
HB 1294, establishing the offense of public urination or defecation.
HB 1638, establishing an oversight commission on motor vehicle fines.
HB 1167, relative to substituting generically equivalent drug products.
HB 1201, allowing communities to conduct point of dispensing exercises to test emergency management operations plans, allowing qualified health professionals to prescribe and administer flu vaccine during such exercises, and granting immunity to such qualified health professionals.
HB 1442-FN-A-L, relative to the taxation of farm buildings and land under farm buildings.
HB 1352, relative to the comprehensive state development plan.
HB 1202, relative to monitoring privately owned water distribution programs.
HB 1471, relative to time limits for excavating and dredging permits.
HB 1456, naming route 202 in Strafford county the Charles E. Smith Memorial Highway.
HB 1309-FN-A, relative to the definition of "cigarette".
HB 1414-FN, increasing the fee for bail commissioners.

RECESS