HOUSE RECORD

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

Vol. 30 Concord, N.H. Wednesday, March 12, 2008 No. 24

HOUSE JOURNAL No. 7 (cont.)

Wednesday, March 5, 2008

RECESS

Rep. Wallner moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 8

Wednesday, March 12, 2008

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

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

Prayer was offered by House Chaplain, Reverend Jared Rardin, Pastor of the South Congregational Church in Concord.
Prayer of Saint Francis
Lord, make me an instrument of Thy peace;
where there is hatred, let me sow love;
where there is injury, pardon;
where there is doubt, faith;
where there is despair, hope;
where there is darkness, light;
and where there is sadness, joy.
O Divine Master,
grant that I may not so much seek to be consoled as to console;

to be understood, as to understand;
to be loved, as to love;
for it is in giving that we receive,
it is in pardoning that we are pardoned,
and it is in dying that we are born to Eternal Life.
Amen.

Rep. Jean-Guy Bergeron, member from Pelham, led the Pledge of Allegiance.

The National Anthem was sung by Kaleb Wells, a sophomore at Pinkerton High School, Jameson and Trevor Wells, 8th grade students at Hampstead Middle School and Daniel Wells, a guidance counselor at Alvirne High School; grandsons and son of Representative Roger Wells.

LEAVES OF ABSENCE

Reps. Arsenault, Benn, Bergin, Peter Cote, Forsing, Patrick Garrity, Greco, Humphries, Stephen Johnson, Laliberte and Pelkey, the day, illness.
Reps. Bishop, Bleyler, Burridge, Mark Clark, Denley, Drisko, Dumaine, Robert Elliott, Hofemann, Hutchinson, Infantine, Lisle, McRae, Miller, Sanders, Sysyn, Yvonne Thomas and Wickson, the day, important business.
Reps. Guthrie and Tupper, the day, illness in the family.

INTRODUCTION OF GUESTS

Lois Wells and Erika Wells, family of the singers, mother and daughter-in-law of Rep. Wells, guests of the House. David and Barbara Preston, brother and sister-in-law of Rep. Philip Preston. Jeremy Bougeois, guest of Rep. Warren. Devon Mercer and Jacqueline Geisheimer, guests of Rep. Levasseur. Geoff Caldes, guest of Rep. Lee Hammond.

Kathryn Coughlin, a junior at Souhegan High School, and daughter of Rep. Coughlin, Page for the Day.

INTRODUCTION OF SPECIAL GUESTS

In honor of Girl Scout Week, Representing the Girl Scouts of Swift Water Council, Patricia Mellor, CEO, Mary Ellen Hettinger, Public Relations Manager, and Anne Edwards, President of the Board of Directors.

COMMITTEE REPORTS

REGULAR CALENDAR – SPECIAL ORDERS

HB 1587-FN, relative to patient health care information. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**
Rep. Robert G. Bridgham for the Majority of Health, Human Services and Elderly Affairs: This bill extends security and privacy protections to assure that the benefits of electronic medical records are fully realized while still recognizing the inherent risks to privacy when more information is so easily available. When health information is stored in paper records, data is scattered and may not be available for timely use. Electronic medical records make information instantly available. That is the power of the electronic medical record, but national experts have stated that individuals need more control over their medical information. In current NH law, individuals have property rights over the information in their health care records. HB 1587 assures these rights by creating two options for an individual. First, individuals may obtain an audit trail of their electronic medical records, identifying who has had access and when, for any requested period within the prior 3 years.

Individuals currently have no mechanism to determine this information. Because this is data providers are required to maintain by federal law, current operations are not affected. Individuals may be charged for the audit trail, so providers will not absorb the cost. Second, individuals may restrict disclosure of their medical record in certain circumstances. To assure care, the individual who elects to restrict disclosure must provide information the provider needs. The committee responded through the amendment to all identified concerns about administrative burdens and costs raised by providers. The law that governs privacy and security, the Health Insurance Portability and Accountability Act (HIPAA), was intended to provide a minimum level of privacy and security protections that individual states may strengthen. HIPAA's protections have weaknesses. HB 1587 strengthens protections in three ways. First, the bill makes the privacy rights of NH citizens binding on business associates. These are separate enterprises that have access to protected health information for services to health care providers, such as software developers and vendors, but are not covered by HIPAA. This protection is especially important for research and marketing, since there are reports indicating use of protected health information, without consent, for marketing research. Second, the bill addresses the use of patient health information for fundraising and marketing by providers, allowed by HIPAA without patient consent. These are uses that are unrelated to the delivery of health care and the fundamental relationship of patient and provider. Third, the bill enforces its added privacy protections through complaints to NH licensing boards and agencies, to the NH department of justice, and through civil action by an aggrieved individual. Federal enforcement of HIPAA has been acknowledged to be lax since over 27,000 complaints were filed in the first four years of the privacy regulations without a single fine levied. HB 1587 also anticipates the future of health care by defining a framework for the operation of Health Information Exchange, the next step in sharing electronic medical records. This is a goal of the New Hampshire Citizens Health Initiative. Finally, HB 1587 establishes a time-limited commission involving interested parties in implementation. Vote 11-8.

Rep. Charles E. McMahon for the Minority of Health, Human Services and Elderly Affairs: It is not apparent to the minority as to what problem this bill is trying to solve. Specifically, the bill addresses the commercial access to personal health information and directs that it should be restricted beyond current law. This measure adds more costs on health care providers already spending millions of dollars complying with HIPPA regulations on patient privacy and is ongoing. Adding further restrictions to medical information will negatively affect access to health care for New Hampshire citizens. If passed, support costs will increase, coordinated care efforts will decrease and it will add the clear potential of improper medical decisions. Not one citizen testified in favor, nor any doctor, hospital, insurer or any other health care provider in the state. Further, in testimony, supporters of the bill stated it was not perfect and needed more work. The minority strongly believes the bill creates substantial problems for both patients and providers. Therefore, the bill does more harm than good which undermines the quality and access to healthcare. For these reasons, the bill is not right for New Hampshire.

Majority Amendment (0722h)

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

1 Statement of Purpose and Intent. The general court:

I. Believes that informational privacy is a core value of New Hampshire citizens.

II. Recognizes that the confidentiality of personal health information has been an ethical standard of health care providers since the time of Hippocrates.

III. Recognizes that a critical element in an individual's relationship with a health care provider is trust in the health care provider's confidentiality ethics, as well as established confidentiality rules. This trust encourages individuals to share information they would not want publicly known. This trust also promotes public health, as individuals

with potentially contagious or communicable diseases are not inhibited from seeking treatment.

IV. Recognizes that there are clinical, societal, and economic reasons for a shift to electronic health records and an interoperable network of such, if there are reasonable privacy and confidentiality measures. A paper-based health records system has clinically incomplete and fragmented information, as well as challenges in achieving security and clear auditable trails of record access. While this fragmentation often has the positive privacy consequence of preventing unauthorized disclosure of personal health information, an individual is at risk of vital information not being available in emergencies, of difficulty in maintaining continuity of care, and of adverse health outcomes due to errors. Societal concerns include an unnecessary waste of health care resources and an inability to compile aggregate data on health measures and outcomes.

V. Recognizes that people differ widely in their opinions regarding privacy and confidentiality, opinions that may be influenced by the individual's health condition as well as cultural, religious, or other beliefs, traditions, or practices. By providing individuals with reasonable choices concerning the uses and disclosures of their personal health information, the health care system and society demonstrate respect for persons. Furthermore, limiting excessive and unnecessary disclosure of personal health information helps to prevent health-based discrimination.

VI. Recognizes that public support for the electronic health record exchange depends upon public confidence and trust that personal health information will be protected. In an age in which electronic transactions are increasingly common and security lapses are reported widely, the health care industry must commit to incorporating privacy and confidentiality protections that permeate the entire health records system and respect the individual.

VII. Recognizes the difficulty in balancing the interests of privacy and confidentiality against the clinical, economic, and societal benefits of the electronic health record exchange. However, individual and societal interests are not necessarily inconsistent. There is a strong societal interest in privacy and confidentiality to promote the full candor on the part of the individual needed for quality health care. At the same time, individuals have a strong interest in giving health professionals the ability to access their personal health information to treat health conditions and safely and efficiently operate the health care system. Both the society as a whole and each individual have an interest in improvements in public health, research, and other uses of personal health information.

VIII. Recognizes that there is commercial value in personal health information and that an electronic format makes this information more accessible.

IX. Finds that commercial access to personal health information may negatively affect the patient-provider relationship, and that commercial access should, therefore, be limited.

2 Health Care Information and Rights. RSA 332-I is repealed and reenacted to read as follows:

CHAPTER 332-I
HEALTH CARE INFORMATION AND RIGHTS

332-I:1 Purpose.

I. The general court finds that:

(a) Health information is the property of the individual and should be protected at all times;

(b) Individuals are entitled to control access to their protected health information and to obtain an audit trail of who has accessed their protected health information.

II. The purpose of this chapter is to recognize the individual's ownership of his or her health information, to recognize the individual's right to privacy in the content of his or her health information, and to establish safeguards to protect health information that exceed the

regulatory requirements under sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA):

332-I:2 Definitions. In this chapter:

I. The following terms have the same meaning as given in the regulations under sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA):

(a) Business associate;
(b) Disclosure;
(c) Health care operations;
(d) Health plan;
(e) Individually identifiable health information;
(f) Protected health information;
(g) Person;
(h) Treatment;
(i) Use; and
(j) Payment.

II. "Audit trail" means a chronological record identifying specific persons who have accessed an electronic medical record, the date and time the record was accessed, and, if such information is available, the area of the record that was accessed.

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

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

V. "Health care provider" means any person, corporation, facility, or institution either licensed by this state or otherwise lawfully providing health care services, including, but not limited to, a physician, hospital, office, clinic, health center, or other health care facility licensed under RSA 151, dentist, nurse, optometrist, pharmacist, podiatrist, physical therapist, or mental health professional, and any officer, employee, or agent of such provider acting in the course and scope of employment or agency related to or supportive of health care services. If not otherwise included in the foregoing, "health care provider" also has the meaning provided in the regulations adopted under sections 262 and 264 of HIPAA.

VI. "Health information exchange" means an entity established for the primary purpose of enabling and overseeing the exchange of protected health information for clinical decision-making purposes. The entity may operate on a regional, statewide, or multi-state basis. The entity may be developed by multiple stakeholders, including, but not limited to, the department of health and human services, a non-profit entity, or a for-profit entity. For the purpose of this chapter, "health information exchange" does not include entities solely owned and operated by health care providers, integrated delivery systems, or pharmacy exchanges.

VII. "Health promotion" means the provision of public health programs by the health care provider directly or through a business associate that attempt to prevent illness and injury. "Health promotion" includes, but is not limited to:

(a) Reminders to individuals about routine preventive procedures; and

(b) Mailings providing information on dietary practices, new developments in healthcare, support groups, organ donation, cancer prevention, and health fairs.

VIII. "Individual" means the subject of the protected health information, including a guardian or other legal representative, as appropriate.

IX. "Marketing" means:

(a) To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless the communication is made:

(1) For treatment of the individual;
(2) For case management or care coordination for the individual;
(3) To direct or recommend to the individual:

(A) Alternative treatments or therapies if recommended by the individual's health care provider;

(B) Health care providers;

(C) Settings of care; or

(4) For treatment-related reminders or health promotion activities by health care providers.

(b) An arrangement between a health care provider and any other person whereby the health care provider discloses protected health information to the other person, in exchange for direct or indirect remuneration, for the other person or an affiliate of the other person to make a communication about the person's own product or service that encourages recipients of the communication to purchase or use that product or service.

X. "Medical emergency" means medically necessary care which is immediately needed to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent placing the physical or mental health of the patient in serious jeopardy.

XI. "Medical record" means any report, notes, orders, photographs, diagnostic imaging, or other recorded data or information whether maintained in written, electronic, or other form which is received or produced by a health care provider and contains information relating to the medical history, examination, diagnosis, or treatment of an individual.

332-I:3 Protected Health Information; Rights of the Individual. The individual has the following rights in regards to his or her protected health information that is in the possession of a health care provider or a business associate of the health care provider:

I. All medical information contained in the medical records in the possession of any health care provider or a business associate of a health care provider shall be deemed to be the property of the individual.

II. The charge for the copying of an individual's medical records shall not exceed $15 for the first 30 pages or $.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost. When available and at a reasonable cost, the individual may request and receive a copy of his or her protected health information in an electronic format.

III. The individual has the right to receive an audit trail, including an explanation of the audit trail, regarding access to his or her electronic medical record for any period, as identified by the individual, within the 3 years prior to the request for the audit trail. The health care provider or the business associate of a health care provider may impose a reasonable charge for providing the audit trail. Notwithstanding any provision of law to the contrary, if the individual who requests the audit trail is receiving Medicaid, the department of health and human services shall pay the full charge for the audit trail.

IV. The individual has the right to restrict disclosure of protected health information in accordance with section 332-I:4.

332-I:4 Protected Health Information; Disclosure for Treatment, Payment, and Health Care Operations.

I. As necessary, a health care provider may disclose an individual's protected health information for treatment of the individual, for payment for services rendered to the individual, or for the health care provider's essential health care operations, unless the individual elects otherwise in writing in accordance with paragraph III.

(a) Health care operations are not essential when those operations can be carried on with reasonable effectiveness and efficiency without protected health information.

(b) Health care operations that are not essential include: fundraising and disclosure of protected health information for sale, rent, or barter.

II.(a) For the purposes of this section, one or more health care providers who as of January 1, 2008 are affiliated or business associates for the purpose of sharing an electronic medical record system or comprise an organized health care arrangement, shall be considered one health care provider, if the following criteria are met:

(1) The electronic medical record system is not structured to restrict disclosure as required by this section; and

(2) After January 1, 2008, only active medical staff or other health care providers in the local community or service area who were offered the opportunity to share in the electronic medical record system prior to such date may be added to the foregoing arrangement.

(b) Active medical staff or other health care providers who have not received an offer to share in an electronic medical records system prior to January 1, 2008 may share in such an electronic medical record arrangement only when the electronic medical record system restricts disclosure between the separate providers in accordance with this section.

III. At the initial encounter with an individual, a health care provider shall inform the individual of the right to elect to restrict disclosure of the individual's protected health information pursuant to paragraph I. The following procedures shall apply to such election:

(a) If the individual elects to restrict disclosure, at the initial encounter or any time thereafter, the health care provider shall inform the individual of the possible consequences associated with such an election. The health care provider shall also supply a form, as described in paragraph VIII, on which the individual shall make the election to restrict disclosure in writing, including by electronic signature. The election is effective on the date the written election is made and the health care provider is not liable for disclosures made prior to receipt of such election.

(b) An individual may at any time revoke an election to restrict disclosure. Such revocation is effective on the date an oral or written election to revoke is made, received, and documented by the health care provider. The health care provider shall not be liable for an access denial made prior to such election.

(c) Notwithstanding an individual's election to restrict disclosure, a health care provider may, at its discretion, send an individual's name and address to a health information exchange.

IV. Notwithstanding an election by an individual to restrict disclosure, a health care provider may disclose protected health information to:

(a) An insurance issuer or other person when a written request for protected health information from the insurance issuer or other person includes the individual's signature authorizing disclosure;

(b) A pharmacist when the health care provider arranges with the individual to submit a prescription directly to the pharmacy, by phone, electronic format, or other direct submission method, and the individual does not object or request a paper prescription; or

(c) The state, when required by state law.

V. An election to restrict disclosure under this section shall not prohibit the disclosure of protected health information during a medical emergency when the treating health care provider is unable to obtain the individual's authorization due to the individual's condition or the nature of the medical emergency. The treating health care provider shall make the clinical determination as to whether or not a medical emergency exists.

VI. A health care provider shall not be required to provide treatment to an individual who elects not to disclose protected health information that the health care provider deems clinically necessary, unless such treatment is required by law. No health care provider who, in good faith, renders reasonable care shall be held liable for any adverse health outcome to an individual that results from that individual's election to limit access to his or her protected health information permitted by this section.

VII. If the individual elects to restrict disclosure of protected health information for the purpose of payment, the health care provider may condition treatment upon self-payment by the individual, unless such condition would otherwise be prohibited by law. If the individual elects to restrict disclosure for the purpose of payment, the health care provider is prohibited from submitting a claim to a health plan or other insurer. A health plan or other insurer shall not be liable for the failure to pay a claim if the individual has elected to

restrict disclosure of protected health information for the purpose of payment and the individual has not provided the health plan or other insurer with sufficient information to pay the claim.

VIII. The form on which an individual elects to restrict disclosure of protected health information shall be developed, and revised as necessary by the commissioner, and that process shall be exempt from the requirements of RSA 541-A. At a minimum, the form shall:

(a) Be written in clear, plain language, in large-type font;

(b) Contain the name of the health care provider;

(c) Meet any applicable requirements of the regulations under sections 262 and 264 of HIPAA; and

(d) Contain the following in a clear and conspicuous manner:

(1) A statement of the election;

(2) A statement that the election may be revoked at any future time, orally or in writing;

(3) A statement that the authorization will be effective until revoked;

(4) A statement that the individual has been informed of the risks and benefits associated with such an election; and

(5) Contact information for the department of justice for submission of a complaint.

332-I:5 Use and Disclosure of Protected Health Information; Marketing.

I. A health care provider, or a business associate of the health care provider, shall obtain an authorization for any use or disclosure of protected health information for marketing. Such authorization shall meet the authorization implementation specifications for marketing under the regulations adopted pursuant to sections 262 and 264 of HIPAA.

II. Protected health information disclosed for marketing shall not be disclosed by voice mail, an unattended facsimile, or through other methods of communication that are not secure.

332-I:6 Use and Disclosure of Protected Health Information; Research. A business associate of a health care provider shall adhere to the standard for use and disclosure of protected health information for research purposes that applies to covered entities under the regulations adopted pursuant to sections 262 and 264 of HIPAA.

332-I:7 Use and Disclosure of Protected Health Information; Health Information Exchange.

I. A health care provider or a business associate of a health care provider may disclose an individual's protected health information and information about the location of the individual's medical records to a health information exchange. Only a health care provider, for purposes of treatment, may have access to protected health information in a health information exchange.

II. A health information exchange shall adhere to the protected health information requirements for health care providers in state and federal law.

III. A health information exchange shall maintain an audit log of health care providers who access protected health information, including:

(a) The identity of the health care provider accessing the information;

(b) The identity of the individual whose protected health information was accessed by the health care provider;

(c) The date the protected health information was accessed; and

(d) The area of the record that was accessed.

IV. A health information exchange shall be certified to be in compliance with nationally accepted interoperability standards and practices.

V. No person shall require a health care provider to participate in a health information exchange as a condition of payment or participation.

332-I:8 Unauthorized Disclosure.

I. In the event of a disclosure, not permitted by this chapter, of protected health information by a health care provider, the health care provider shall promptly notify in writing the individual or individuals whose protected health information was disclosed.

II. In the event of a disclosure, not permitted by this chapter, of protected health information by a business associate of a health care provider, the business associate shall promptly notify the health care provider and the attorney general. The health care provider shall promptly notify in writing the individual or individuals whose protected health information was disclosed. The business associate shall be responsible for the cost of such notification.

332-I:9 Complaints; Right of Action.

I. An individual may make a written complaint relative to a violation of 332-I:1 through 332-I:8 by a health care provider to the board or agency that licenses or certifies the health care provider. Upon receipt of such complaint, the board or agency shall review the complaint and, where sufficient evidence of a violation is presented, conduct investigations to determine whether a violation of this subdivision has occurred and take appropriate action against the health care provider.

II. An individual may make a written complaint relative to a violation of 332-I:1 through 332-I:8 by a business associate of a health care provider to the department of justice. Upon receipt of such complaint, the department of justice shall review the complaint, and where sufficient evidence of a violation is presented, conduct investigations to determine whether a violation of this subdivision has occurred. Any violation of these provisions by a business associate of a health care provider shall constitute an unfair and deceptive trade practice within the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be used to enforce the provisions.

III. An aggrieved individual may bring a civil action under this subdivision and, if successful, shall be awarded special or general damages of not less than $1,000 for each violation, and costs and reasonable legal fees.

Health Care Rights

332-I:10 Health Care Rights of the Individual.

I.(a) The individual has the right to courtesy, respect, dignity, responsiveness, and timely attention to his or her needs.

(b) The individual has the right to receive information from the health care provider and to discuss the benefits, risks, and costs of appropriate treatment alternatives.

(c) The individual shall be fully informed by the health care provider of his or her medical condition, health care needs, and diagnostic test results, including the manner by which such results will be provided and the expected time interval between testing and receiving results, unless medically inadvisable and so documented in the medical record.

(d) The individual has the right to make decisions regarding the health care that is recommended by the health care provider. Accordingly, unless required by state law, individuals may accept or refuse any recommended medical treatment and be involved in experimental research upon the individual's written consent only.

(e) The health care provider shall not reveal confidential communications or information without the consent of the individual, unless provided for by law or by the need to protect the welfare of the individual or the public interest.

II. Facilities subject to RSA 151:21 and RSA 151:21-b shall be exempt from paragraph I.

3 Commission Established. There is established a commission to develop and recommend a form to elect to restrict disclosure of protected health information and to develop a reasonable charge for an audit trail.

4 Membership and Compensation.

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

(a) Four members of the house of representatives, 2 of whom shall be from the committee on health, human services and elderly affairs, appointed by the speaker of the house of representatives.

(b) One member of the senate who shall be from the health and human services committee, appointed by the president of the senate.

(c) A representative of the department of justice, appointed by the attorney general.

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

(e) A representative of the New Hampshire Hospital Association, appointed by the association.

(f) One representative of county nursing homes, appointed by the New Hampshire Association of Counties.

(g) A representative of the New Hampshire Home Care Association, appointed by the association.

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

(i) A representative of the New Hampshire Medical Group Management Association, appointed by the association.

(j) A representative of the New Hampshire Institute for Health Policy and Practice, appointed by the institute.

(k) A representative of the Institute for Health, Law and Ethics at Franklin Pierce Law Center, appointed by the dean of the law center.

(l) A representative of the New Hampshire Citizens Health Initiative, appointed by the governor.

(m) The state director of the New Hampshire chapter of AARP, or designee.

(n) The executive director of the National Alliance on Mental Illness New Hampshire, or designee.

(o) A representative of the New Hampshire Council on Developmental Disabilities, appointed by the council.

(p) A representative of an AIDS and HIV service organization, appointed by the governor.

(q) The executive director of the New Hampshire Civil Liberties Union, or designee.

(r) A representative of the New Hampshire Health Information Management Association, appointed by such association.

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

5 Duties.

I. The commission shall develop:

(a) A form to elect to restrict disclosure of protected health information for use by all New Hampshire health care providers which shall include, but shall not be limited to, the elements identified in RSA 332-I:4, VIII.

(b) A standardized, simplified procedure to ease the burden on individuals who want to opt-out of future marketing contacts.

(c) A public education plan, including education of health care providers.

(d) A recommendation for a reasonable charge for an audit trail.

II. The commission shall recommend the form or forms developed pursuant to this section to the commissioner who shall finalize the form and post it on the department's website.

6 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named

house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Eleven members of the commission shall constitute a quorum.

7 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

8 Effective Date.

I. Sections 3-7 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2009.

AMENDED ANALYSIS

This bill establishes procedures for access to health care information that is in the possession of health care providers. The bill specifies the rights of the individual who is the subject of the health care information. This bill also establishes a commission to develop a form to restrict disclosure of protected health care information.

Majority committee amendment adopted.

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

Reps. Millham, Emerson and Pilliod spoke against.

Rep. Charles McMahon spoke against and yielded to questions.

Reps. Rosenwald, Kurk and Bridgham spoke in favor.

On a division vote, 150 members having voted in the affirmative and 166 in the negative, the majority committee report failed.

Rep. Rosenwald moved Interim Study and spoke in favor.

Adopted.

HB 1185, relative to the preservation of religious freedom. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Gary B. Richardson for the Majority of Judiciary: This bill purports to prevent government from interfering with a person's free exercise of religion, but has much wider implications for zoning and in other areas. Freedom of religion is already guaranteed by our Constitution. This broadly worded bill could have unintended consequences. If specific problems exist, they should be addressed by specific legislation. Vote 11-6.

Rep. Nancy J. Elliott for the Minority of Judiciary: This bill restores the delicate balance that our forefathers placed in the Constitution to restrict government from interfering with the free exercise of religion. In recent years cities and towns have used zoning as the new way to restrict church growth and eliminate church practices that are not favored by a community. The minority of the committee believes that we need to stop government intrusion and preserve religious freedom.

Rep. Itse spoke against.

Rep. Gary Richardson spoke in favor.

Rep. Nancy Elliott requested a roll call; sufficiently seconded.

YEAS 223 NAYS 91

YEAS 223

BELKNAP

Millham, Alida	Pilliod, James	Reever, Judith	Wood, Jane

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Heard, Virginia	Martin, James	Patten, Betsey	

CHESHIRE

Allen, Peter	Butcher, Suzanne	Butterworth, Timothy	Butynski, William
Chase, William	Dunn, J. Timothy	Eaton, Daniel	Espiefs, Peter
Lerandeau, Alfred	Loll, Thomas	Plifka, Stanley Jr	Richardson, Barbara
Roberts, Kris	Robertson, Timothy	Sad, Tara	Weber, Lucy
Weed, Charles			

COOS

Hatch, William	Ingersoll, Paul Sr	Merrick, Evalyn	Remick, William
Theberge, Robert			

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Brunelle, Michael	Chase, Claudia
Christensen, Chris	Clemons, Jane	Cote, David	Daler, Jennifer
Dokmo, Cynthia	Drisko, Richard	Edwards, Andrew	Emerton, Larry
Essex, David	Fletcher, Richard	Fontas, Jeffrey	Forest, Armand
Foster, Linda	Gargasz, Carolyn	Ginsburg, Ruth	Graham, John
Hackel, Paul	Haley, Robert	Hall, Betty	Hammond, Jill
Harvey, Suzanne	Hebert, Roger	Irwin, Anne-Marie	Jean, Claudette
Jeudy, Jean	Kaelin, Michael	Kelley, John	Knowles, John
Knowles, Mary Ann	Kopka, Angeline	Kurk, Neal	Lasky, Bette
Leishman, Peter	Levasseur, Nickolas	Levesque, Melanie	Long, Patrick
Mack, Ron	Marshall, Seth	Martineau, Jesse	Matarazzo, Anthony Sr
Messier, Irene	Movsesian, Lori	O'Brien, Michael Sr	O'Neil, James
Peterson, Andy	Pilotte, Maurice	Reeves, Sandra	Rosenwald, Cindy
Scannell, David	Schulze, Joan	Shattuck, Gilman	Shaw, Kimberly
Smith, David	Spaulding, Jayne	Spratt, Stephen	Sullivan, Daniel
Sullivan, Francis	Vaillancourt, Steve	Winters, Joel	

MERRIMACK

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

ROCKINGHAM

Belanger, Ronald	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Case, Frank	Casey, Kimberley	Charron, Gene	Day, Judith

DiFruscia, Anthony	Emiro, Frank	Flockhart, Eileen	Gould, Kenneth
Griffin, Mary	Grote, Otto	Henson, John	Howard, Doreen
Kennedy, James	Kepner, Susan	Lister, Charlotte	Mann, Maureen
Marsh, Michael	McEachern, Paul	McKenna, Daniel	McKinney, Betsy
Moody, Marcia	Moore, Bennett	Nord, Susi	Pantelakos, Laura
Petterson, Don	Powers, James	Priestley, Anne	Robertson, Carl
Russell, Trinka	Serlin, Christopher	Snow, Richard	Splaine, James
Weare, Everett	Webber, James		

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Julie
Brown, Larry	Burke, Rachel	Cyr, James	DeChane, Marlene
Domingo, Baldwin	Fargo, Thomas	Goodwin, Earle	Hubbard, Pamela
Hutz, Sarah	Kaen, Naida	Knowles, William	Perry, Robert
Rollo, Deanna	Rollo, Michael	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Spang, Judith	Sprague, Dale	Vachon, Dennis
Wall, Janet	Watson, Robert		

SULLIVAN

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

NAYS 91

BELKNAP

Allen, Janet	Boyce, Laurie	Clark, Charles	Flanders, Donald
Heald, Bruce	Nedeau, Stephen	Russell, David	Thomas, John
Tilton, Franklin	Tobin, William	Wendelboe, Fran	

CARROLL

Ahlgren, Christopher	Brown, Carolyn	Knox, J. David	Merrow, Harry
Stevens, Stanley			

CHESHIRE

Emerson, Susan	Hunt, John	Johnson, Jane	Parkhurst, Henry

COOS

Stohl, Eric	Tholl, John Jr

GRAFTON

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

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christiansen, Lars
Coughlin, Pamela	Daniels, Gary	Day, Russell	Elliott, Nancy
Haefner, Robert	Hansen, Ryan	Hawkins, Ken	Hogan, Edith
Jasper, Shawn	L'Heureux, Robert	Lawrence, James	Manney, Pamela
Mooney, Maureen	Moran, Edward	O'Connell, Timothy	Ober, Lynne
Ober, Russell III	Price, Pamela	Renzullo, Andrew	Rowe, Robert

Soucy, Connie	Stepanek, Stephen	Tahir, Saghir	Villeneuve, Maurice

MERRIMACK

Anderson, Eric	Boutin, David	Reed, Dennis

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Bettencourt, David
Camm, Kevin	Dalrymple, David	Devine, James	Fesh, Bob
Flanders, John Sr	Garcia, Marilinda	Garrity, James	Gleason, John
Headd, James	Ingram, Russell	Itse, Daniel	Kappler, Lawrence
Lund, Howie	Major, Norman	McMahon, Charles	Nevins, Christopher
Nowe, Ronald	Packard, Sherman	Pearson, Mark	Quandt, Marshall
Quandt, Matthew	Rausch, James	Reagan, John	Stiles, Nancy
Waterhouse, Kevin	Welch, David	Weyler, Kenneth	Winchell, George

STRAFFORD

Mickelonis, Shawn

SULLIVAN

None

and the majority committee report was adopted.

HB 1192, repealing the statute on exceptions to the solemnization of marriage.
MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Lucy M. Weber for the Majority of Judiciary: RSA 457: 31 currently lists the categories of people who may solemnize marriage. Among those currently listed are a justice of the peace, an ordained minister of the gospel, any clergy not ordained but engaged in the service of the religious body to which he or she belongs, and a minister residing out of the state, but having a pastoral charge within the state. A subsequent section, RSA 457:38, titled "Exceptions," currently provides "[n}othing in this chapter shall affect the right of Jewish Rabbis residing in this state or of the people called Friends or Quakers, to solemnize marriages in the way usually practiced among them." The purpose of this bill is to remove the reference singling out these two religious groups as exceptions, and to broaden the statutory language to also include the many other religious traditions which have for so long been omitted. To do so, two changes have been made. First, a new category has been added to RSA 457:31 to allow solemnization by "a religious officiant or such other person or group as may be authorized by their church, religion, sect, or denomination to solemnize marriages in the way usually practiced among them." Second, the words "minister of the gospel" have been changed to the more inclusive "member of the clergy." The wording changes do not remove any authority from any group already authorized to perform marriages, and impose no different requirements on those already authorized to perform marriages. They simply serve to include all religious traditions. Vote 12-6.

Rep. Nancy J. Elliott for the Minority of Judiciary: This bill as amended by the committee removes all references to Christianity from our marriage laws. The minority sought to be inclusive with an amendment that accomplished the sponsors' objectives while preserving the traditional references to Christianity. This was rejected in committee. The object of the committee amendment was not to include other faiths, but to remove the Christian faith. While the majority of our citizens in NH are Christians, this intolerant change seeks to disenfranchise them.

Majority Amendment (0509h)

Amend the title of the bill by replacing it with the following:
AN ACT relative to the solemnization of marriage.
Amend the bill by replacing all after the enacting clause with the following:

1 Who May Solemnize Marriage. Amend RSA 457:31 to read as follows:

457:31 Who May Solemnize. Marriage may be solemnized***:***

I. By a justice of the peace as commissioned in the state;

II. By any [~~minister of the gospel~~] ***member of the clergy*** in the state who has been ordained according to the usage of his or her denomination, resides in the state, and is in regular standing with the denomination;

III. By any ***member of the*** clergy who is not ordained but is engaged in the service of the religious body to which he or she belongs, ***and*** resides in the state, after being licensed therefor by the secretary of state;

IV. By a religious officiant or such other person or group as may be authorized by their church, religion, sect, or denomination to solemnize marriages in the way usually practiced among them, after being licensed therefor by the secretary of state;

V. Within his or her parish, by any [~~minister~~] ***member of the clergy*** residing out of the state, but having a pastoral charge wholly or partly in this state; or

VI. By judges of the United States appointed pursuant to Article III of the United States Constitution, by bankruptcy judges appointed pursuant to Article I of the United States Constitution, or by United States magistrate judges appointed pursuant to federal law.

2 Effect of Informality. Amend RSA 457:36 to read as follows:

457:36 Effect of Informality. No marriage solemnized before a person professing to be a justice of the peace or [~~minister of the gospel~~] ***member of the clergy*** shall be void, nor shall its validity be affected on account of want of jurisdiction or authority in such supposed justice or [~~minister~~] ***clergy member***, or on account of any omission or informality in the certificate of intention of marriage, if the marriage is in other respects lawful and has been consummated with the belief on the part of either of the parties thereto that they were lawfully married.

3 Repeal. RSA 457:37, relative to exception to the solemnization of marriage, is repealed.

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

AMENDED ANALYSIS

This bill permits members of the clergy, religious officiants, and others who are licensed by the secretary of state to solemnize marriages.

Rep. Nancy Elliott spoke against.
Reps. Weber and Lasky spoke in favor.
Majority committee amendment adopted.
Rep. Nancy Elliott offered floor amendment (0773h).

Floor Amendment (0773h)

Amend the title of the bill by replacing it with the following:
AN ACT relative to the solemnization of marriage.
Amend the bill by replacing all after the enacting clause with the following:

1 Who May Solemnize Marriage. Amend RSA 457:31 to read as follows:

457:31 Who May Solemnize. Marriage may be solemnized by a justice of the peace as commissioned in the state; by any minister of the gospel in the state who has been ordained according to the usage of his or her denomination, resides in the state, and is in regular standing with the denomination; by any clergy who is ***ordained or*** not ordained but is engaged in the service of the religious body to which he or she belongs, resides in the state, after being licensed therefor by the secretary of state; within his or her parish, by any minister residing out of the state, but having a pastoral charge wholly or partly in this state;

by judges of the United States appointed pursuant to Article III of the United States Constitution, by bankruptcy judges appointed pursuant to Article I of the United States Constitution, or by United States magistrate judges appointed pursuant to federal law.

2 Effect of Informality. Amend RSA 457:36 to read as follows:

457:36 Effect of Informality. No marriage solemnized before a person professing to be a justice of the peace [~~or~~]***,*** minister of the gospel***, or clergy ordained or not ordained*** shall be void, nor shall its validity be affected on account of want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the certificate of intention of marriage, if the marriage is in other respects lawful and has been consummated with the belief on the part of either of the parties thereto that they were lawfully married.

3 Persons Authorized to Solemnize Marriage. Amend RSA 457:37 to read as follows:

457:37 Exceptions. Nothing contained in this chapter shall affect the right of [~~Jewish Rabbis residing in this state, or of the people called Friends or Quakers,~~] ***a religious officiant or such other person or group as may be authorized by their church, religion, sect, or denomination*** to solemnize marriages in the way usually practiced among them, and all marriages so solemnized shall be valid. [~~Jewish Rabbis residing out of the state may obtain a special license as provided by RSA 457:32.~~]

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

AMENDED ANALYSIS

This bill provides that, notwithstanding state laws relative to persons who may be licensed to solemnize marriages, a marriage properly solemnized by a religious officiant of a church, religion, sect, or other denomination shall be valid.

Rep. Nancy Elliott spoke in favor and yielded to questions.
Rep. Lasky spoke against.
Floor Amendment (0773h) failed.

MOTION TO LAY ON THE TABLE

Rep. Lund moved that ***HB 1192,*** repealing the statute on exceptions to the solemnization of marriage, be laid on the table.
Motion failed.

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

YEAS 242 NAYS 81

YEAS 242

BELKNAP

Flanders, Donald	Heald, Bruce	Millham, Alida	Reever, Judith
Tobin, William	Wood, Jane		

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Heard, Virginia	Knox, J. David	Martin, James	Merrow, Harry
Patten, Betsey	Stevens, Stanley		

CHESHIRE

Allen, Peter	Butcher, Suzanne	Butterworth, Timothy	Butynski, William
Chase, William	Dunn, J. Timothy	Eaton, Daniel	Espiefs, Peter

Hunt, John	Johnson, Jane	Lerandeau, Alfred	Loll, Thomas
Parkhurst, Henry	Plifka, Stanley Jr	Richardson, Barbara	Roberts, Kris
Robertson, Timothy	Sad, Tara	Weber, Lucy	Weed, Charles

COOS

Hatch, William	Ingersoll, Paul Sr	Merrick, Evalyn	Remick, William
Stohl, Eric	Theberge, Robert		

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Brunelle, Michael	Chase, Claudia
Christensen, Chris	Clemons, Jane	Cote, David	Coughlin, Pamela
Daler, Jennifer	Dokmo, Cynthia	Edwards, Andrew	Essex, David
Fontas, Jeffrey	Foster, Linda	Gargasz, Carolyn	Ginsburg, Ruth
Gorman, Mary	Graham, John	Hackel, Paul	Haley, Robert
Hall, Betty	Hammond, Jill	Harvey, Suzanne	Hebert, Roger
Irwin, Anne-Marie	Jean, Claudette	Jeudy, Jean	Kaelin, Michael
Kelley, John	Knowles, John	Knowles, Mary Ann	Kopka, Angeline
Kurk, Neal	Lasky, Bette	Leishman, Peter	Levasseur, Nickolas
Levesque, Melanie	Long, Patrick	Mack, Ron	Manney, Pamela
Marshall, Seth	Martineau, Jesse	Matarazzo, Anthony Sr	Messier, Irene
Movsesian, Lori	O'Brien, Michael Sr	O'Connell, Timothy	O'Neil, James
Ober, Russell III	Pilotte, Maurice	Rosenwald, Cindy	Scannell, David
Schulze, Joan	Shattuck, Gilman	Smith, David	Spaulding, Jayne
Spratt, Stephen	Sullivan, Francis	Vaillancourt, Steve	Winters, Joel

MERRIMACK

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

ROCKINGHAM

Abbott, Dennis	Allen, Mary	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Case, Frank	Casey, Kimberley	Charron, Gene	Day, Judith
DiFruscia, Anthony	Emiro, Frank	Flockhart, Eileen	Garrity, James
Gould, Kenneth	Grote, Otto	Henson, John	Howard, Doreen
Ingram, Russell	Kennedy, James	Kepner, Susan	Lister, Charlotte

Major, Norman	Mann, Maureen	Marsh, Michael	McEachern, Paul
McKenna, Daniel	McKinney, Betsy	Moody, Marcia	Moore, Bennett
Nevins, Christopher	Nord, Susi	Packard, Sherman	Pantelakos, Laura
Petterson, Don	Powers, James	Robertson, Carl	Russell, Trinka
Serlin, Christopher	Snow, Richard	Splaine, James	Stiles, Nancy
Webber, James	Winchell, George		

STRAFFORD

Billian, Deborah	Brennan, William	Brown, Julie	Brown, Larry
Burke, Rachel	Cyr, James	DeChane, Marlene	Domingo, Baldwin
Fargo, Thomas	Goodwin, Earle	Hubbard, Pamela	Hutz, Sarah
Kaen, Naida	Knowles, William	Mickelonis, Shawn	Perry, Robert
Rollo, Deanna	Rollo, Michael	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Spang, Judith	Sprague, Dale	Vachon, Dennis
Wall, Janet	Warren, Nancy	Watson, Robert	

SULLIVAN

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

NAYS 81

BELKNAP

Allen, Janet	Boyce, Laurie	Clark, Charles	Nedeau, Stephen
Russell, David	Thomas, John	Tilton, Franklin	Wendelboe, Fran

CARROLL

Ahlgren, Christopher	Brown, Carolyn

CHESHIRE

Emerson, Susan

COOS

King, Frederick	Tholl, John Jr

GRAFTON

Bulis, Lyle	Gionet, Edmond	Solomon, Peter

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christiansen, Lars
Daniels, Gary	Day, Russell	Drisko, Richard	Elliott, Nancy
Emerton, Larry	Fletcher, Richard	Forest, Armand	Haefner, Robert
Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton	Hogan, Edith
Jasper, Shawn	L'Heureux, Robert	Lawrence, James	Mooney, Maureen
Moran, Edward	Ober, Lynne	Peterson, Andy	Price, Pamela
Reeves, Sandra	Renzullo, Andrew	Rowe, Robert	Shaw, Kimberly
Soucy, Connie	Stepanek, Stephen	Sullivan, Daniel	Tahir, Saghir
Villeneuve, Maurice			

MERRIMACK

Boutin, David Reed, Dennis

ROCKINGHAM

Baldasaro, Alfred	Camm, Kevin	Carson, Sharon	Dalrymple, David
Devine, James	Fesh, Bob	Flanders, John Sr	Garcia, Marilinda
Gleason, John	Griffin, Mary	Headd, James	Itse, Daniel
Kappler, Lawrence	Katsakiores, George	Katsakiores, Phyllis	Lund, Howie
McMahon, Charles	Moore, Benjamin	Nowe, Ronald	Pearson, Mark
Priestley, Anne	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reagan, John	Waterhouse, Kevin	Weare, Everett	Welch, David
Weyler, Kenneth			

STRAFFORD

Berube, Roger

SULLIVAN

None

and the majority committee report was adopted.
Ordered to third reading.

HB 1432, relative to the intent of living wills. **INEXPEDIENT TO LEGISLATE.**
Rep. Lucy M. Weber for Judiciary: Currently, a living will is defined as a directive that contains the express direction that no life-sustaining treatment will be given if the person making it is near death or permanently unconscious without hope of recovery. This bill completely reverses the purpose of a document which has been in use for a very specific reason for almost a quarter of a century. Unlike the durable power of attorney for health care, the living will has always been a document that does only one thing—it preserves the maker's desire to decline life-sustaining treatment in a very limited set of circumstances. To change the entire intent of the document would result in confusion for health care providers, and delay in carrying out the wishes of the makers of the documents. Persons wishing to state with particularity what treatment they would want under differing sets of conditions have the durable power of attorney for health care available to them. Vote 12-4.
Committee report adopted.

HB 1543-FN, relative to the citizen's petition for redress of grievances by the legislature.
MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.
Rep. Gary B. Richardson for the Majority of Judiciary: This bill would require the Office of Legislative Services to draft citizens' petitions for redress of grievances on behalf of Representatives. The constitutional provision for the redress of grievances fell into disuse in the 19th century. Private grievances are now resolved by litigation and public grievances are resolved by legislative action. To involve the legislature in the resolution of private grievances would not be an advisable use of our resources. Vote 12-3.
Rep. Robert H. Rowe for the Minority of Judiciary: Part I, Articles 31 and 32 of the New Hampshire Constitution authorizes a citizen to petition the legislature for a redress of public grievances. This process has been a part of the Constitution since 1784. The quantity and frequency petitions for of redress diminished in the mid 19th century, possibly due to greater utilization of the courts as a means to resolve disputes, but the right still remains in our Constitution. This bill does not encourage nor discourage such petitions but rather establishes a methodology to quickly, efficiently and fairly process a petition if one is entered.
Reps. Itse, Hall and Ingbretson spoke against.
Reps. Gary Richardson and Weber spoke in favor.

Rep. Itse requested a roll call; sufficiently seconded.

YEAS 221 NAYS 106

YEAS 221

BELKNAP

Allen, Janet	Millham, Alida	Nedeau, Stephen	Reever, Judith

CARROLL

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

CHESHIRE

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

COOS

Hatch, William	Ingersoll, Paul Sr	King, Frederick	Merrick, Evalyn
Stohl, Eric	Theberge, Robert	Tholl, John Jr	

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Brunelle, Michael	Chase, Claudia
Christensen, Chris	Clemons, Jane	Cote, David	Daler, Jennifer
Dokmo, Cynthia	Edwards, Andrew	Emerton, Larry	Essex, David
Fontas, Jeffrey	Forest, Armand	Foster, Linda	Gargasz, Carolyn
Ginsburg, Ruth	Gorman, Mary	Graham, John	Hackel, Paul
Haley, Robert	Hammond, Jill	Harvey, Suzanne	Hebert, Roger
Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette	Jeudy, Jean
Kaelin, Michael	Kelley, John	Knowles, John	Knowles, Mary Ann
Kopka, Angeline	Lasky, Bette	Leishman, Peter	Long, Patrick
Mack, Ron	Marshall, Seth	Martineau, Jesse	Matarazzo, Anthony Sr
Movsesian, Lori	O'Brien, Michael Sr	O'Connell, Timothy	O'Neil, James
Peterson, Andy	Pilotte, Maurice	Price, Pamela	Rosenwald, Cindy
Scannell, David	Schulze, Joan	Shattuck, Gilman	Shaw, Kimberly
Smith, David	Spratt, Stephen	Sullivan, Daniel	Sullivan, Francis

MERRIMACK

Anderson, Eric	Baxley, Maureen	Beauchesne, Suzanne	Bouchard, Candace
Boutin, David	Brown, Carole	Brueggemann, Donald	Clarke, Claire

Davis, Frank	DeJoie, John	DeStefano, Stephen	Ehlers, Eileen
Foose, Robert	French, Barbara	Hager, Elizabeth	Hamm, Christine
Kelly, Sally	Kidder, David	Kjellman, Eleanor Glynn	Lockwood, Priscilla
MacKay, James	McMahon, Patricia	Osborne, Jessie	Porter, Margaret
Potter, Frances	Reardon, Tara	Richardson, Gary	Ryan, Jim
Shurtleff, Stephen	Tilton, Joy	Wallner, Mary	Walz, Mary
Webb, Leigh	Wheeler, Deborah	Williams, Robert	Yeaton, Charles

ROCKINGHAM

Abbott, Dennis	Brown, C. Pennington	Cali-Pitts, Jacqueline	Casey, Kimberley
Day, Judith	DiFruscia, Anthony	Fesh, Bob	Flanders, John Sr
Flockhart, Eileen	Gould, Kenneth	Grote, Otto	Henson, John
Howard, Doreen	Ingram, Russell	Kennedy, James	Kepner, Susan
Lister, Charlotte	Major, Norman	Mann, Maureen	Marsh, Michael
McEachern, Paul	McKenna, Daniel	McKinney, Betsy	Moore, Benjamin
Moore, Bennett	Pantelakos, Laura	Pearson, Mark	Petterson, Don
Powers, James	Priestley, Anne	Rausch, James	Robertson, Carl
Russell, Trinka	Snow, Richard	Splaine, James	Weare, Everett
Webber, James	Winchell, George		

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Jennifer
Brown, Julie	Burke, Rachel	Cyr, James	DeChane, Marlene
Fargo, Thomas	Goodwin, Earle	Hubbard, Pamela	Hutz, Sarah
Kaen, Naida	Knowles, William	Perry, Robert	Rollo, Deanna
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Vachon, Dennis	Wall, Janet	Warren, Nancy
Watson, Robert			

SULLIVAN

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

NAYS 106

BELKNAP

Boyce, Laurie	Clark, Charles	Flanders, Donald	Heald, Bruce
Pilliod, James	Russell, David	Thomas, John	Tilton, Franklin
Tobin, William	Wendelboe, Fran	Wood, Jane	

CARROLL

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

CHESHIRE

Emerson, Susan	Hunt, John	Johnson, Jane

COOS

Remick, William

GRAFTON

Bulis, Lyle	Ingbretson, Paul	Lovett, Sid	Sorg, Gregory

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christiansen, Lars
Coughlin, Pamela	Daniels, Gary	Day, Russell	Drisko, Richard
Elliott, Nancy	Fletcher, Richard	Haefner, Robert	Hall, Betty
Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton	Hogan, Edith
Kurk, Neal	L'Heureux, Robert	Lawrence, James	Levasseur, Nickolas
Manney, Pamela	Messier, Irene	Mooney, Maureen	Moran, Edward
Ober, Lynne	Ober, Russell III	Reeves, Sandra	Renzullo, Andrew
Rowe, Robert	Soucy, Connie	Spaulding, Jayne	Stepanek, Stephen
Tahir, Saghir	Vaillancourt, Steve	Villeneuve, Maurice	Winters, Joel

MERRIMACK

Blanchard, Elizabeth	Gile, Mary	Hess, David	Owen, Derek
Reed, Dennis			

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Borden, David	Camm, Kevin	Carson, Sharon
Case, Frank	Charron, Gene	Dalrymple, David	Devine, James
Emiro, Frank	Garcia, Marilinda	Garrity, James	Gleason, John
Griffin, Mary	Headd, James	Itse, Daniel	Kappler, Lawrence
Katsakiores, George	Katsakiores, Phyllis	Lund, Howie	McMahon, Charles
Moody, Marcia	Nevins, Christopher	Nord, Susi	Nowe, Ronald
Packard, Sherman	Quandt, Marshall	Quandt, Matthew	Reagan, John
Serlin, Christopher	Stiles, Nancy	Waterhouse, Kevin	Welch, David
Weyler, Kenneth			

STRAFFORD

Brown, Larry	Mickelonis, Shawn	Sprague, Dale

SULLIVAN

Gagnon, Raymond	Jillette, Arthur Jr

and the majority committee report was adopted.

HB 1441-L, relative to use of the terms "selectwoman" and "selectperson." **OUGHT TO PASS WITH AMENDMENT.**

Rep. Timothy Butterworth for Municipal and County Government: In keeping with prior decisions to encourage the use of gender-neutral language, this bill allows the use of "select board", "selectwoman" or "select person" when appropriate. Vote 12-4.

Amendment (0462h)

Amend RSA 21:28, II as inserted by section 1 of the bill by replacing it with the following:

II. The words "selectwoman," "selectperson," and "select board" may be used interchangeably with "selectman" in all instances, where appropriate.

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

AMENDED ANALYSIS

This bill authorizes the use of the terms "selectwoman," "selectperson," and "select board" when appropriate.

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Jasper spoke against and yielded to questions.
Rep. Butterworth spoke in favor.
On a division vote, 192 members having voted in the affirmative and 129 in the negative, the committee report was adopted.
Ordered to third reading.

HB 1455, increasing the amount of the veteran's property tax credit and enabling municipalities to extend the veterans' property tax credit to include all veterans who have been honorably discharged. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. Jessie L. Osborne for the Majority of Municipal and County Government: The majority of the committee believes that an honorable discharge is the only acceptable discharge for a veteran's property tax credit. If a member of the military receives a General discharge under honorable conditions it indicates that significant aspects of the member's conduct or performance of duty outweigh positive aspects of record. This can be challenged and changed by the military members to an honorable discharge and then the member would qualify for the Veteran's Tax credit. Vote 14-1.
Rep. Christopher F. Nevins for the Minority of Municipal and County Government: This bill is a continuing attempt to fairly recognize those honorably discharged veterans who have unselfishly served our nation during periods not included in the veteran credit RSA 72:28 time frame of many currently qualifying veterans may have served our country in non-combat assignments and as such still qualify for the exemption. In contrast, many of our veterans who served in missions around the world in non-combat assignments that could have put them in harms way during their years of service to our county denied the veteran's exemption simply because their period of service does not fall within the dates listed in RSA 72:28. The minority strongly believes that it is time to change the Veterans Property Tax Credit to include all of New Hampshire's Veterans so as to fully recognize all of our veteran's selfless service to our nation.
Rep. Mickelonis spoke against.
Rep. Baldasaro spoke against and yielded to questions.
Rep. Theberge spoke in favor and yielded to questions.
Rep. Mickelonis requested a roll call; sufficiently seconded.

YEAS 245 NAYS 80

YEAS 245

BELKNAP

Allen, Janet	Boyce, Laurie	Clark, Charles	Flanders, Donald
Millham, Alida	Nedeau, Stephen	Reever, Judith	Russell, David
Tilton, Franklin	Tobin, William	Wood, Jane	

CARROLL

Bridgham, Robert	Brown, Carolyn	Buco, Thomas	Butler, Edward
Chandler, Gene	Cunningham, Howard	Heard, Virginia	Knox, J. David
Martin, James	Patten, Betsey	Stevens, Stanley	

CHESHIRE

Butcher, Suzanne	Butterworth, Timothy	Butynski, William	Chase, William
Dunn, J. Timothy	Eaton, Daniel	Espiefs, Peter	Johnson, Jane

Lerandeau, Alfred	Loll, Thomas	Parkhurst, Henry	Plifka, Stanley Jr
Richardson, Barbara	Roberts, Kris	Robertson, Timothy	Sad, Tara
Weber, Lucy	Weed, Charles		

COOS

Hatch, William	Ingersoll, Paul Sr	Merrick, Evalyn	Merrick, Scott
Remick, William	Stohl, Eric	Theberge, Robert	Tholl, John Jr

GRAFTON

Aguiar, James	Almy, Susan	Andersen, Gene	Bulis, Lyle
Cooney, Mary	Estes, Carole	Friedrich, Carol	Gionet, Edmond
Hammond, Lee	Harding, A Laurie	Ingbretson, Paul	Lovett, Sid
Matheson, Robert	Mulholland, Catherine	Nordgren, Sharon	Pierce, David
Preston, Philip	Solomon, Peter	Sorg, Gregory	Williams, Burton

HILLSBOROUGH

Barry, Richard	Beaulieu, Jane	Beck, Catriona	Brunelle, Michael
Campbell, David	Chase, Claudia	Christensen, Chris	Christiansen, Lars
Clemons, Jane	Cote, David	Daler, Jennifer	Dokmo, Cynthia
Edwards, Andrew	Essex, David	Fontas, Jeffrey	Foster, Linda
Gargasz, Carolyn	Ginsburg, Ruth	Gorman, Mary	Hackel, Paul
Hall, Betty	Hammond, Jill	Hansen, Ryan	Harvey, Suzanne
Hawkins, Ken	Hebert, Roger	Hinkle, Peyton	Irwin, Anne-Marie
Jasper, Shawn	Jean, Claudette	Jeudy, Jean	Kaelin, Michael
Kelley, John	Knowles, John	Knowles, Mary Ann	Kopka, Angeline
Kurk, Neal	L'Heureux, Robert	Lasky, Bette	Leishman, Peter
Levasseur, Nickolas	Levesque, Melanie	Long, Patrick	Mack, Ron
Matarazzo, Anthony Sr	Messier, Irene	Mooney, Maureen	Moran, Edward
Movsesian, Lori	O'Brien, Michael Sr	O'Connell, Timothy	Ober, Lynne
Ober, Russell III	Peterson, Andy	Pilotte, Maurice	Price, Pamela
Renzullo, Andrew	Rosenwald, Cindy	Scannell, David	Schulze, Joan
Shattuck, Gilman	Shaw, Kimberly	Smith, David	Spaulding, Jayne
Spratt, Stephen	Tahir, Saghir	Vaillancourt, Steve	Villeneuve, Maurice
Winters, Joel			

MERRIMACK

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

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Borden, David
Brown, C. Pennington	Camm, Kevin	Case, Frank	Casey, Kimberley
Charron, Gene	Day, Judith	DiFruscia, Anthony	Flockhart, Eileen
Garcia, Marilinda	Gould, Kenneth	Grote, Otto	Henson, John

Lister, Charlotte	Mann, Maureen	Marsh, Michael	McEachern, Paul
McKenna, Daniel	Moody, Marcia	Moore, Bennett	Petterson, Don
Powers, James	Rausch, James	Russell, Trinka	Snow, Richard
Waterhouse, Kevin	Webber, James	Welch, David	Weyler, Kenneth

STRAFFORD

Berube, Roger	Billian, Deborah	Brown, Jennifer	Brown, Julie
Brown, Larry	Browne, Brendon	Burke, Rachel	Cyr, James
DeChane, Marlene	Domingo, Baldwin	Fargo, Thomas	Hubbard, Pamela
Hutz, Sarah	Kaen, Naida	Knowles, William	Perry, Robert
Rollo, Deanna	Rollo, Michael	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Spang, Judith	Sprague, Dale	Vachon, Dennis
Wall, Janet	Warren, Nancy	Watson, Robert	

SULLIVAN

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

NAYS 80

BELKNAP

Heald, Bruce	Pilliod, James	Thomas, John	Wendelboe, Fran

CARROLL

Ahlgren, Christopher	Merrow, Harry

CHESHIRE

Emerson, Susan	Hunt, John

COOS

King, Frederick

GRAFTON

McLeod, Martha

HILLSBOROUGH

Batula, Peter	Bergeron, Jean-Guy	Day, Russell	Drisko, Richard
Elliott, Nancy	Emerton, Larry	Fletcher, Richard	Forest, Armand
Graham, John	Haefner, Robert	Haley, Robert	Hogan, Edith
Lawrence, James	Manney, Pamela	Marshall, Seth	Martineau, Jesse
O'Neil, James	Reeves, Sandra	Rowe, Robert	Soucy, Connie
Stepanek, Stephen	Sullivan, Daniel	Sullivan, Francis	

MERRIMACK

Brown, Carole	Hess, David	Kjellman, Eleanor Glynn	Reed, Dennis

ROCKINGHAM

Belanger, Ronald	Bettencourt, David	Cali-Pitts, Jacqueline	Carson, Sharon

Dalrymple, David	Devine, James	Emiro, Frank	Fesh, Bob
Flanders, John Sr	Garrity, James	Gleason, John	Griffin, Mary
Headd, James	Howard, Doreen	Ingram, Russell	Itse, Daniel
Katsakiores, George	Katsakiores, Phyllis	Kennedy, James	Kepner, Susan
Lund, Howie	Major, Norman	McKinney, Betsy	McMahon, Charles
Moore, Benjamin	Nevins, Christopher	Nord, Susi	Nowe, Ronald
Packard, Sherman	Pearson, Mark	Priestley, Anne	Quandt, Marshall
Quandt, Matthew	Reagan, John	Robertson, Carl	Serlin, Christopher
Splaine, James	Stiles, Nancy	Weare, Everett	Winchell, George

STRAFFORD

Brennan, William	Goodwin, Earle	Mickelonis, Shawn

SULLIVAN

None

and the majority committee report was adopted.

Reps. Daniels, Kappler and Coughlin declared a conflict of interest on ***HB 1455,*** and did not participate.

Rep. Panelakos did not vote and notified that Clerk that she wished to be recorded in favor.

Reps. Mooney, Tahir and Baldasaro voted Yea and intended to vote Nay.

HB 1573-FN-L, relative to hazardous and dilapidated buildings. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Larry Brown for Municipal and County Government: It has been the general opinion of the committee that hazardous and dilapidated buildings are a social and economic blight, as well as a danger to the health, safety and welfare of a community wherever found, but particularly where the underlying land value is less than clean up costs. The bill, as amended, provides that a municipality may recover its costs of bringing a property into compliance as a lien against the subject property, a subordinate lien against that real property's insurance proceeds or as a subordinate lien on a "same ownership" in sate property. This is an effective compromise on a difficult issue. Vote 15-1.

Amendment (0430h)

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

1 Order; Contents. Amend RSA 155-B:3 to read as follows:

155-B:3 Order; Contents. The order shall state, in writing, the grounds therefor, specifying the necessary repairs, if any, and providing a reasonable time for compliance. It shall also state that a motion for summary enforcement of the order will be made to the court of the district or municipality in which the hazardous building is situated unless corrective action is taken, or unless an answer is filed within the time specified in RSA 155-B:6 ***and that any costs, attorney's fees, and expenses incurred by the municipality in bringing the property into compliance may be enforced as a lien against the subject property and any other property owned by the same owner in the state pursuant to RSA 155-B:9, II***.

2 Enforcement of Judgment. Amend RSA 155-B:9 to read as follows:

155-B:9 Enforcement of Judgment.

I. If a judgment is not complied with in the time prescribed, the governing body may cause the building to be repaired, razed, or removed as set forth in the judgment. The cost of such repairs, razing, or removal shall be a lien against the real estate on which the building is located and may be levied and collected in the same manner as provided in RSA 80 for tax liens. When the building is razed or removed by the municipality, the governing body may sell the salvage and valuable materials at public auction upon 3 days' posted notice.

II. If the value of the subject real estate is deemed by the municipality to have insufficient value, based on the current tax assessment, to cover the cost of repairs, razing, or removal, the governing body may place a lien for the balance of the cost on any other real property in the state that is owned by the same owner, which additional lien may be levied and collected in the same manner as provided in RSA 80 for tax liens; provided that RSA 80:59 giving such liens priority over all other liens shall not apply. The municipal lien shall be subordinate to any lien of record on such real property.

3 New Sections; Municipal Lien on Owner's Interest in Property Insurance Proceeds; Sale of Materials. Amend RSA 155-B by inserting after section 9 the following new section:

155-B:9-a Municipal Lien on Owner's Interest in Property Insurance Proceeds. If the owner has no other real property within the state, a municipality may assert a lien on the owner's interest in any real property insurance proceeds that are payable as a result of the damage or destruction of that property owner's real property located in the municipality. The municipal lien shall be subordinate to any lien holder of record, and to any rights, title, or interest in such real property insurance proceeds in favor of any lender holding a mortgage on such real property and who was named as an additional insured or loss payee, by means of loss payable endorsement or otherwise, on any policy of insurance insuring such real property. The insurer's obligations under this section shall commence upon its receipt of a copy of the order under RSA 155-B:4, and shall apply only to insurance proceeds held by the insurer as of that date and due to be paid to the owner. The lien, the estimated cost of which shall be approved by the court, shall be for the purpose of reimbursing the municipality for all costs permitted to be recovered by it under RSA 155-B if the municipality elects to demolish the property. Any unexpended funds from the lien shall be returned to the property owner. The property owner shall, within 72 hours of the receipt of a written request by the municipality, provide the municipality with the names, addresses, agents, and policy numbers of all insurance companies which have provided the property owner with insurance on the property. The lien shall automatically expire if the owner rebuilds or demolishes the real property in the manner required by this chapter.

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

Amendment adopted.

Committee report adopted and ordered to third reading.

INTRODUCTION OF SPECIAL GUESTS

Petra Barstow and Charlie Pantelakos, Jr., daughter and son of Rep. Pantelakos.

The House recessed at 12:30 p.m.

RECESS

(Speaker Norelli in the Chair)

The House reconvened at 1:45 p.m.

INTRODUCTION OF SPECIAL GUESTS

Leadership Greater Concord, guests of Reps. Hamm and Gile.

ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly Enrolled Senate Bill numbered 146.

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

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

HB 1154, establishing a commission to study flooding in the town of Bradford, specifically Lake Massasecum, Lake Todd, and the watershed. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**
Rep. Harry C. Merrow for the Majority of Resources, Recreation and Development: The majority of the committee felt that the flooding problem has been sufficiently studied. The Army Corps of Engineers studied it after the flood of April 1987 and put forth four alternatives that could alleviate the problem. The cost is estimated to be in excess of $3 million for each alternative remedy. More studies would likely come to the same conclusion. Vote 9-7.
Rep. Suzanne H. Gottling for the Minority of Resources, Recreation and Development: More frequent and increasingly severe floods pose a threat to many year-round and vacation homes along Lake Massasecum in Bradford, New Hampshire. This is a unique watershed–wide situation where water from the Warner River flows backward into the lake. Many studies by state and federal agencies have examined the problem and proposed solutions. So far, after 50 years, there has been no remedy while the problem increases. The primary duties of the commission are 1) to study the entire watershed around Lake Todd, Lake Massasecum, and the Warner River and 2) to explore funding sources for addressing the problem. DES has stated it "will welcome the opportunity to work with the commission."
Rep. Gottling spoke against.
Reps. Merrow and Aguiar spoke in favor.
On a division vote, 213 members having voted in the affirmative and 92 in the negative, the majority committee report was adopted.

HB 1264, relative to prohibiting ATV and trail bike use on state-owned rail trails acquired using federal funds. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**
Rep. Donald A. Brueggemann for the Majority of Resources, Recreation and Development: Since the mid 1990's, the state has tapped into federal transportation enhancement (TE) funds in order to purchase several unused rail corridors with a mileage totaling about 160 miles. The purpose of these funds was to make these trails available for local use and they came with the stipulation that they be used only for non-motorized recreation with the sole exception of snowmobiles. Initially this stipulation was enforced, as documented by several letters from DRED in response to requests regarding ATV use. Over the years, DRED latched onto the tenuous argument that because ATV's could be considered "snow traveling vehicles" in the winter, they were de facto snowmobiles. A 2006 clarification of the definition of "snowmobile" in New Hampshire statutes made this already questionable assertion untenable and DRED's decision to allow winter use of ATV's was challenged. Correspondence from the US Department of Transportation makes clear that the state is not in compliance with the agreed use of the trails and says that "ATV's must be prohibited from (such) trails. . ." In response, New Hampshire DOT and DRED initiated a waiver application to be exempted from this prohibition. The majority of the committee believes that such a waiver is a policy change that, if desired, should be initiated by the legislature. It is a betrayal to the municipalities in which these trails run and private groups who participated in the acquisition of the trails to alter their use without a public process. It is also not clear that these trails are appropriate for ATV use. Although the phrase "multi-use" has a pleasant ring, the truth is that ATV's are often incompatible with other uses, including cross country skiers, snowshoers and snowmobiles, because of their tendency to rut up trails. Also a Fish and Game memo asserts that if winter use is allowed for ATV's, summer enforcement is "extremely difficult". HB 1264 requires that DRED and the Trails Bureau abide by the original agreement and no longer allow ATV use on these rail trails. Rail trails purchased with other funds are not affected nor are 95% of other winter ATV trails. The amendment places Trails Bureau responsibility for non-motorized trails in a more appropriate section and reinstates DRED responsibility for obtaining easements and rights-of way that had been

deleted. Vote 10-6.
Rep. Christopher J. Ahlgren for the Minority of Resources, Recreation and Development: The minority believes that this bill is an unintended consequence of 2005 legislation. Due to this sweeping legislation, ATV's and snowmobiles were separated by definition. Previous to this, ATV's and snowmobiles were both considered "snow traveling vehicles" as a matter of policy. This separation negated the Department of Resources and Economic Development's (DRED) ability to consider ATV's on snow covered trails as snowmobiles. The Federal Highway Administration (FHWA) offered three options that would enable DRED to continue their ten year policy of allowing ATV's on the rail trails. DRED chose to apply for a waiver as provided by federal law and is currently awaiting a decision. Unfortunately, this bill prohibits the use of ATV's on the rail trails even if the waiver is granted.

Majority Amendment (0315h)
Amend section 1 of the bill by replacing it with the following:
1 New Paragraph; Use of Statewide Trail System. Amend RSA 216-F:2 by inserting after paragraph III the following new paragraph:
IV. The bureau of trails shall have the responsibility of coordinating, planning, and managing the non-motorized trail systems on properties owned or managed by the department of resources and economic development. The bureau also shall administer any funds provided to the department of resources and economic development for non-motorized trails.
Majority committee amendment adopted.
Majority committee report adopted and ordered to third reading.

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. **INEXPEDIENT TO LEGISLATE.**
Rep. Frank W. Davis for Ways and Means: This CACR would enshrine in the state constitution the provision that no new tax on personal income may be adopted in New Hampshire. While some committee members strongly oppose a new tax on personal income, they do not wish to limit the options available to future legislatures which may be required to respond to emergencies or unforeseen circumstances. CACR's on this issue have been submitted to the legislature three times in the past ten years. Each was defeated by a large margin or a voice vote. The majority of the committee believe that the New Hampshire Constitution should remain as a framework of government. They strongly believe that a constitutional amendment is not necessary to limit legislators in performing their duties. Vote 14-1.
Reps. Bettencourt, Itse and Camm spoke against.
Rep. Davis spoke in favor.
Rep. Bettencourt requested a roll call; sufficiently seconded.

YEAS 213 NAYS 120

YEAS 213

BELKNAP

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

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Heard, Virginia			

CHESHIRE

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	Roberts, Kris	Robertson, Timothy	Sad, Tara
Weber, Lucy	Weed, Charles		

COOS

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

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Brunelle, Michael	Campbell, David
Chase, Claudia	Clemons, Jane	Cote, David	Daler, Jennifer
Dokmo, Cynthia	Edwards, Andrew	Essex, David	Farley, Michael
Fontas, Jeffrey	Forest, Armand	Foster, Linda	Gargasz, Carolyn
Ginsburg, Ruth	Gorman, Mary	Graham, John	Hackel, Paul
Haley, Robert	Hall, Betty	Hammond, Jill	Harvey, Suzanne
Hebert, Roger	Irwin, Anne-Marie	Jean, Claudette	Jeudy, Jean
Kaelin, Michael	Kelley, John	Knowles, John	Knowles, Mary Ann
Kopka, Angeline	Lasky, Bette	Leishman, Peter	Levasseur, Nickolas
Levesque, Melanie	Mack, Ron	Marshall, Seth	Martineau, Jesse
Matarazzo, Anthony Sr	Messier, Irene	Movsesian, Lori	O'Brien, Michael Sr
O'Connell, Timothy	O'Neil, James	Peterson, Andy	Pilotte, Maurice
Rochette, Eric	Rosenwald, Cindy	Scannell, David	Schulze, Joan
Shattuck, Gilman	Shaw, Kimberly	Simon, Anthony	Smith, David
Spratt, Stephen	Sullivan, Daniel	Sullivan, Francis	

MERRIMACK

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

ROCKINGHAM

Abbott, Dennis	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Casey, Kimberley	Day, Judith	DiFruscia, Anthony	Flockhart, Eileen
Gould, Kenneth	Grote, Otto	Henson, John	Howard, Doreen
Kennedy, James	Kepner, Susan	Lister, Charlotte	Mann, Maureen

Marsh, Michael	McEachern, Paul	Moody, Marcia	Moore, Bennett
Nord, Susi	Pantelakos, Laura	Petterson, Don	Powers, James
Robertson, Carl	Russell, Trinka	Serlin, Christopher	Snow, Richard
Splaine, James	Webber, James		

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Jennifer
Brown, Julie	Brown, Larry	Browne, Brendon	Burke, Rachel
Cyr, James	DeChane, Marlene	Domingo, Baldwin	Fargo, Thomas
Goodwin, Earle	Hubbard, Pamela	Hutz, Sarah	Kaen, Naida
Knowles, William	Perry, Robert	Rollo, Deanna	Rollo, Michael
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Spang, Judith
Sprague, Dale	Vachon, Dennis	Wall, Janet	Warren, Nancy
Watson, Robert			

SULLIVAN

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

NAYS 120

BELKNAP

Allen, Janet	Boyce, Laurie	Clark, Charles	Flanders, Donald
Heald, Bruce	Nedeau, Stephen	Russell, David	Thomas, John
Tilton, Franklin	Tobin, William	Wendelboe, Fran	

CARROLL

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

CHESHIRE

Allen, Peter	Emerson, Susan	Hunt, John	Johnson, Jane

COOS

King, Frederick	Remick, William	Stohl, Eric

GRAFTON

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

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christensen, Chris
Christiansen, Lars	Coughlin, Pamela	Crane, Elenore Casey	Daniels, Gary
Day, Russell	Drisko, Richard	Elliott, Nancy	Emerton, Larry
Fletcher, Richard	Haefner, Robert	Hansen, Ryan	Hawkins, Ken
Hinkle, Peyton	Hogan, Edith	Infantine, William	Jasper, Shawn
Kurk, Neal	L'Heureux, Robert	Long, Patrick	Manney, Pamela
Mooney, Maureen	Moran, Edward	Ober, Lynne	Ober, Russell III
Price, Pamela	Reeves, Sandra	Renzullo, Andrew	Rowe, Robert
Soucy, Connie	Spaulding, Jayne	Stepanek, Stephen	Tahir, Saghir

Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Maurice	Winters, Joel

MERRIMACK

Anderson, Eric	Boutin, David	Hess, David	Reed, Dennis
Williams, Robert			

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Camm, Kevin	Carson, Sharon	Case, Frank
Charron, Gene	Dalrymple, David	Devine, James	Emiro, Frank
Fesh, Bob	Flanders, John Sr	Garcia, Marilinda	Garrity, James
Gleason, John	Griffin, Mary	Headd, James	Ingram, Russell
Itse, Daniel	Kappler, Lawrence	Katsakiores, George	Katsakiores, Phyllis
Lund, Howie	Major, Norman	McKinney, Betsy	Nevins, Christopher
Nowe, Ronald	Packard, Sherman	Pearson, Mark	Priestley, Anne
Quandt, Marshall	Quandt, Matthew	Rausch, James	Reagan, John
Stiles, Nancy	Weare, Everett	Welch, David	Wells, Roger
Weyler, Kenneth	Winchell, George		

STRAFFORD

Mickelonis, Shawn

SULLIVAN

Rodeschin, Beverly

and the committee report was adopted.

HB 1241-FN-A, requiring a discount to wholesalers on cash purchases of tobacco tax stamps. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. William A. Hatch for the Majority of Ways and Means: This bill would establish a discount of one cent per tobacco stamp for wholesalers. Though some of the bipartisan majority agreed that some discount may be appropriate, one cent is excessive. Also considered was that there was no mechanism to replace the revenues lost. Vote 10-6.

Rep. Roger G. Wells for the Minority of Ways and Means: The minority believes there is considerable work and expense in placing the tobacco stamps on the cigarette packages and feels the wholesalers should be compensated for their effort. The people paying meals and rooms tax have far less expense and are compensated much greater. This rebate was previously given but was removed by a committee of conference.

Reps. Camm and Vaillancourt spoke against.

Rep. Hatch spoke in favor.

On a division vote, 215 members having voted in the affirmative and 117 in the negative, the majority committee report was adopted.

HB 1511-FN-A, relative to fees for laboratory services and establishing a laboratory services fund. **INEXPEDIENT TO LEGISLATE.**

Rep. Peyton B. Hinkle for Ways and Means: This bill creates a fund into which will be deposited laboratory service fees. This is simply an attempt to create yet another fund for the purchase of capital equipment that should really be funded through the capital budget. The public health laboratories are able to continue operating without the capital equipment they would like to purchase, so this does not constitute a public health emergency. It is the committee's feeling that a fund should not be created in the middle of the biennium, and that the expenditures for capital equipment should be justified by testimony before the Finance Committee. Vote 14-1.

Committee report adopted.

HB 1577-FN-A-L, relative to revenue sharing between the state and municipalities of vehicle fines and forfeitures. **INEXPEDIENT TO LEGISLATE.**
Rep. Ron J. Mack for Ways and Means: This bill proposes that from each fine and forfeiture collected by a court, there shall be deducted 10 percent of the fine and the same shall be deposited with the town or city treasurer. The sponsor contended that towns should be reimbursed for the "clean-up of accident scenes on state highways." Although the committee was sympathetic with the sponsors' attempt to provide funds for this service provided by some towns, it could not decrease the state general fund by approximately $1,045,000 in FY 2009. The department of safety also stated that there would be considerable administrative difficulty and cost in determining which town should get the money from each fine. Vote 14-0.
Committee report adopted.

BILLS REMOVED FROM CONSENT CALENDAR

HB 1356-FN, prohibiting the use of certain information to underwrite motor vehicle insurance coverage. **REFER FOR INTERIM STUDY.**
Rep. Matthew S. Houde for Commerce: This bill would have made it an unfair insurance practice to ask for social security number, occupation, or level of educational attainment for use in the underwriting and rating process. An amendment offered by the sponsor would have limited the areas of inquiry to occupation and level of educational attainment. The committee received studies that arrived at different conclusions: one indicating the use of such factors has a potentially discriminatory result and another suggesting their use was justified. Few companies doing business in New Hampshire actually use the factors of occupation and educational attainment. Furthermore, the Department of Insurance reviews actuarial design to determine that their use is justified (i.e., that there is a correlation between those factors and loss ratio, and that they are not used exclusively). However, since there was evidence presented that a change in one of these factors - when all other factors are consistent - can result in significant rate disparities; the committee believes additional study is appropriate. Vote 14-2.
Rep. Hatch spoke against.
Rep. Kurk spoke against and yielded to questions.
Rep. Houde spoke in favor and yielded to questions.
On a division vote, 244 members having voted in the affirmative and 76 in the negative, the committee report was adopted.

HB 1255, relative to declarations filed by candidates for office. **INEXPEDIENT TO LEGISLATE.**
Rep. David M. Pierce for Election Law: This bill would make it a misdemeanor for an officeholder to not assume the duties of the office to which he is elected. The Committee voted unanimously against this bill for two reasons. First, the bill would unfairly penalize the officeholder who is not able to assume the duties of office for reasons outside his control. Second, the bill only penalizes the officeholder who won't "assume" the duties of office. Because an officeholder "assumes" the duties of office when he takes the oath of office, the bill fails its purpose of penalizing the officeholder who won't perform the duties of office. Vote 14-0.
Rep. Vaillancourt spoke against.
Rep. Pierce spoke in favor.
Rep. Vaillancourt requested a roll call; sufficiently seconded.

YEAS 237 NAYS 87

YEAS 237

BELKNAP

Allen, Janet	Flanders, Donald	Millham, Alida	Morrison, Gail
Pilliod, James	Reever, Judith	Russell, David	Thomas, John
Tobin, William			

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Chandler, Gene
Cunningham, Howard	Heard, Virginia	Knox, J. David	Patten, Betsey

CHESHIRE

Allen, Peter	Butcher, Suzanne	Butterworth, Timothy	Butynski, William
Dunn, J. Timothy	Eaton, Daniel	Espiefs, Peter	Lerandeau, Alfred
Mitchell, Bonnie	Parkhurst, Henry	Plifka, Stanley Jr	Richardson, Barbara
Roberts, Kris	Sad, Tara	Weber, Lucy	Weed, Charles

COOS

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

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Brunelle, Michael	Campbell, David
Chase, Claudia	Christensen, Chris	Clemons, Jane	Cote, David
Dokmo, Cynthia	Drisko, Richard	Edwards, Andrew	Emerton, Larry
Essex, David	Farley, Michael	Fletcher, Richard	Foster, Linda
Ginsburg, Ruth	Gorman, Mary	Graham, John	Hackel, Paul
Haefner, Robert	Hall, Betty	Hammond, Jill	Harvey, Suzanne
Hebert, Roger	Hinkle, Peyton	Irwin, Anne-Marie	Jasper, Shawn
Jean, Claudette	Jeudy, Jean	Kaelin, Michael	Kelley, John
Knowles, John	Knowles, Mary Ann	Kopka, Angeline	Lasky, Bette
Leishman, Peter	Levesque, Melanie	Long, Patrick	Mack, Ron
Marshall, Seth	Martineau, Jesse	Matarazzo, Anthony Sr	Mooney, Maureen
Movsesian, Lori	O'Brien, Michael Sr	O'Connell, Timothy	O'Neil, James
Peterson, Andy	Pilotte, Maurice	Price, Pamela	Reeves, Sandra
Rochette, Eric	Rosenwald, Cindy	Rowe, Robert	Scannell, David
Schulze, Joan	Shattuck, Gilman	Shaw, Kimberly	Simon, Anthony
Smith, David	Spaulding, Jayne	Spratt, Stephen	Sullivan, Daniel
Sullivan, Francis	Tahir, Saghir		

MERRIMACK

Baxley, Maureen	Blanchard, Elizabeth	Bouchard, Candace	Boutin, David
Brown, Carole	Brueggemann, Donald	Clarke, Claire	Davis, Frank

DeJoie, John	DeStefano, Stephen	Ehlers, Eileen	Foose, Robert
French, Barbara	Gile, Mary	Hager, Elizabeth	Hess, David
Kelly, Sally	Kidder, David	Kjellman, Eleanor Glynn	McMahon, Patricia
Osborne, Jessie	Owen, Derek	Porter, Margaret	Potter, Frances
Reardon, Tara	Richardson, Gary	Ryan, Jim	Shurtleff, Stephen
Tilton, Joy	Wallner, Mary	Walz, Mary	Webb, Leigh
Wheeler, Deborah	Williams, Robert	Yeaton, Charles	

ROCKINGHAM

Abbott, Dennis	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Case, Frank	Casey, Kimberley	Day, Judith	Devine, James
DiFruscia, Anthony	Fesh, Bob	Flanders, John Sr	Flockhart, Eileen
Gleason, John	Gould, Kenneth	Grote, Otto	Henson, John
Howard, Doreen	Kennedy, James	Lister, Charlotte	Mann, Maureen
Marsh, Michael	McEachern, Paul	McKenna, Daniel	McKinney, Betsy
Moody, Marcia	Moore, Bennett	Nord, Susi	Pantelakos, Laura
Pearson, Mark	Petterson, Don	Powers, James	Priestley, Anne
Quandt, Marshall	Robertson, Carl	Russell, Trinka	Serlin, Christopher
Snow, Richard	Splaine, James	Weare, Everett	Webber, James
Winchell, George			

STRAFFORD

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

SULLIVAN

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

NAYS 87

BELKNAP

Boyce, Laurie	Clark, Charles	Nedeau, Stephen	Tilton, Franklin
Wendelboe, Fran			

CARROLL

Ahlgren, Christopher	Brown, Carolyn	Martin, James

CHESHIRE

Chase, William	Emerson, Susan	Hunt, John	Johnson, Jane
Robertson, Timothy			

COOS

Remick, William	Stohl, Eric

GRAFTON

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

HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christiansen, Lars
Coughlin, Pamela	Crane, Elenore Casey	Daniels, Gary	Day, Russell
Elliott, Nancy	Hawkins, Ken	Hogan, Edith	Infantine, William
Kurk, Neal	L'Heureux, Robert	Lawrence, James	Levasseur, Nickolas
Manney, Pamela	Messier, Irene	Moran, Edward	Ober, Lynne
Ober, Russell III	Renzullo, Andrew	Soucy, Connie	Stepanek, Stephen
Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Maurice	Winters, Joel

MERRIMACK

Anderson, Eric	Lockwood, Priscilla	MacKay, James	Reed, Dennis

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Bettencourt, David
Camm, Kevin	Carson, Sharon	Charron, Gene	Dalrymple, David
Emiro, Frank	Garcia, Marilinda	Garrity, James	Griffin, Mary
Headd, James	Ingram, Russell	Itse, Daniel	Kappler, Lawrence
Katsakiores, George	Katsakiores, Phyllis	Kepner, Susan	Lund, Howie
Major, Norman	Nevins, Christopher	Nowe, Ronald	Packard, Sherman
Quandt, Matthew	Rausch, James	Reagan, John	Stiles, Nancy
Welch, David	Wells, Roger	Weyler, Kenneth	

STRAFFORD

Brown, Julie	Sprague, Dale

SULLIVAN

Ferland, Brenda	Skinder, Carla

and the committee report was adopted.

HB 1348, relative to the milk producers emergency relief fund. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Richard H. Snow for Environment and Agriculture: This bill consolidates and makes technical corrections to the two emergency dairy relief bills passed by the legislature during the last session. One (HB 407, Chapter 374, 2007) was a short-term immediate appropriation and the second (SB 235, Chapter 381, 2007) was a long-range, dedicated fund program. Both addressed the cyclical nature of federally controlled producer prices in the dairy industry. This bill repeals the short-term program, which admirably served its purpose. The bill requires that the department of agriculture, markets and foods continue to monitor any farms that benefited from the bill to ensure that they live up their part of the bargain and continue producing milk. The bill, as introduced, was intended to move any monies not expended in the short-term bill into the fund established in the long-range program. The committee believed that would be viewed as contrary to the intent of the legislature in the original bill. The proposed amendment returns it to the general fund. The fund established in the long-range bill was amended to allow it to accept private money as well as appropriations, to allow additional sources of funding. A number of other housekeeping changes were made to the long-range bill to clear up ambiguities or clarify the intent of the legislation. Vote 16-0.

Amendment (0664h)

Amend the bill by replacing section 3 with the following:

3 Milk Producers Emergency Relief Fund Established. Amend RSA 184:107 to read as follows:

184:107 Milk Producers Emergency Relief Fund Established.

I. There is established a milk producers emergency relief fund in the office of the state treasurer. This fund shall be administered by the commissioner who shall deposit into the fund any appropriations made to the department from the general fund to be used consistent with the definitions and provisions of this subdivision, to reimburse New Hampshire producers of raw milk when the base price of milk falls below the target price. The fund shall be nonlapsing and shall be continually appropriated to the department. The treasurer may invest the proceeds of the fund as provided by law and any income earned on such investment shall be credited to the fund. ***In addition, the commissioner is authorized to accept public sector and private sector grants, gifts, or donations of any kind for the purpose of funding the provisions of this subdivision. The commissioner may employ legal counsel as deemed necessary.***

II. Beginning with the month of July in 2008, for each month that the base price is below the target price, each ***eligible*** participating milk producer in the state shall ***be eligible to*** receive an amount of money equal to the month's production in hundredweight multiplied by the difference between the target price and the base price for the month. The commissioner shall make payment from the fund on a quarterly basis after all information necessary to compute payment amounts is available for the applicable prior 3-month period.

III. In the event there is an insufficient balance in the fund to make full payment to all producers, the commissioner shall prorate payments to each producer to the extent funds are available. Any amount not paid to a producer shall be carried forward and later paid should sufficient funds become available.

IV. The commissioner shall continue to ensure compliance with agreements previously signed by milk producers under the provisions of RSA 184-B:2(v) until August 1, 2009 or such later date that he or she deems advisable. If a milk producer does not comply with an agreement singed under the provisions of RSA 184-B:2(v) he or she shall reimburse moneys received under this chapter to the commissioner. Such moneys shall be deposited into the general fund.

AMENDED ANALYSIS

This bill:

I. Repeals the emergency dairy assistance program.

II. Allows the department of agriculture, markets and food to reclaim money from milk producers who go out of business before August 1, 2009.

III. Allocates any money leftover from the emergency dairy assistance program to the milk producers emergency relief fund.

IV. Makes various changes to the milk producers emergency relief fund board.

Reps. Kurk and Snow spoke against.

Committee amendment failed.

Rep. Snow offered floor amendment (0860h).

Floor Amendment (0860h)

Amend the bill by deleting section 2 and renumbering the original sections 3-8 to read as 2-7, respectively.

Amend the bill by replacing section 2 with the following:

2 Milk Producers Emergency Relief Fund Established. Amend RSA 184:107 to read as follows:

184:107 Milk Producers Emergency Relief Fund Established.

I. There is established a milk producers emergency relief fund in the office of the state treasurer. This fund shall be administered by the commissioner who shall deposit into the fund any appropriations made to the department from the general fund to be used consistent with the definitions and provisions of this subdivision, to reimburse New Hampshire producers of raw milk when the base price of milk falls below the target price. The fund shall be nonlapsing and shall be continually appropriated to the department. The treasurer may invest the proceeds of the fund as provided by law and any income earned on such investment shall be credited to the fund. ***In addition, the commissioner is authorized to accept public sector and private sector grants, gifts, or donations of any kind for the purpose of funding the provisions of this subdivision. The commissioner may employ legal counsel as deemed necessary.***

II. Beginning with the month of July in 2008, for each month that the base price is below the target price, each ***eligible*** participating milk producer in the state shall ***be eligible to*** receive an amount of money equal to the month's production in hundredweight multiplied by the difference between the target price and the base price for the month. The commissioner shall make payment from the fund on a quarterly basis after all information necessary to compute payment amounts is available for the applicable prior 3-month period.

III. In the event there is an insufficient balance in the fund to make full payment to all producers, the commissioner shall prorate payments to each producer to the extent funds are available. Any amount not paid to a producer shall be carried forward and later paid should sufficient funds become available.

IV. The commissioner shall continue to ensure compliance with agreements previously signed by milk producers under the provisions of RSA 184-B:2, V until August 1, 2009 or such later date that he or she deems advisable. If a milk producer does not comply with an agreement singed under the provisions of RSA 184-B:2, V he or she shall reimburse moneys received under this chapter to the commissioner. Such moneys shall be deposited into the general fund.

AMENDED ANALYSIS

This bill:

I. Repeals the emergency dairy assistance program.

II. Allows the department of agriculture, markets and food to reclaim money from milk producers who go out of business before August 1, 2009.

III. Allocates any money leftover from the emergency dairy assistance program to general fund.

IV. Makes various changes to the milk producers emergency relief fund board.

Floor amendment (0860h) adopted.

Committee report adopted and ordered to third reading.

HB 1458, relative to milk producers and hauling and stop charges. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Tara A. Sad for Environment and Agriculture: Imagine you are the manufacturer of a product. A customer buys your product and sends a truck to pick it up from your factory. Even though the ownership of the product transferred to the customer the minute he loaded it on the truck, a week later you get a bill for the shipping costs of the product from your factory to the customer's house, and he expects you to pay it. Sound crazy? Well, this is what is, and has been, the practice in the dairy industry. The farmers are billed for hauling their milk, milk that is no longer their property, to the processing plant. They are also charged a fee simply because the truck stopped at their farm. This bill is an attempt to put an end to this practice and thereby save the small New Hampshire farmers the $1,500 to $3,000 a month they are currently paying. In order to give this shift necessary weight in the industry, we need to have the support of neighboring states. Vermont and New York have similar bills in their legislatures at this time. The effective date of July 2009 will give these states the time necessary to join us in changing this practice. Vote 16-0.

Amendment (0633h)

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

1 New Section; Hauling and Stop Charges. Amend RSA 184 by inserting after section 110 the following new section:

184:111 Hauling and Stop Charges.

I. "Hauling and stop charges of milk" means those costs incurred in the process of picking up the milk from the milk producer and hauling or delivering the milk from the milk producer to the milk processor.

II. Hauling and stop charges of milk loaded at the farm shall not be charged back to the selling milk producer. No additional charges shall be made and no costs may be shifted from other benefits the farmer receives to contravene the purpose of this section. No funds shall be transferred away from the milk producer in paid producer differentials or any premiums the farmer would receive, but for this section.

III. The commissioner may adopt rules pursuant to RSA 541-A relative to implementing the cessation of hauling and stop charges to the milk producer.

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

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. O'Connell spoke against and yielded to questions.
Rep. Jasper spoke against.
Rep. Phinizy offered floor amendment (0846h).

Floor Amendment (0846h)

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect July 1, 2010.

Rep. Phinizy spoke in favor.
Floor amendment (0846h) adopted.
Committee report adopted and ordered to third reading.

HB 1522, relative to care standards for farm animals. **INEXPEDIENT TO LEGISLATE.**
Rep. Robert H. Haefner for Environment and Agriculture: This bill is a California bill that is being pushed, across the country, by the Humane Society of the U.S. Does one size fit all in New Hampshire? The Humane Society of the U.S. testimony is that this bill is aimed at factory farms. We have no factory farms in NH. The prime sponsor indicates that it is intended to legislate care standards for chickens, pigs and calves. Testimony during the "chicken bills" last year was that we have no caged birds in NH. A hog farmer has indicated that she does not use farrowing crates, but asked that we not take that option away from her, if for no other reason than for her safety. The NH farm bureau indicates that there are no commercial veal operations in NH. The wording on this bill does not limit care to just calves, pigs and chickens but refers to "farm animals." That would mean that barns with stanchions would not be allowed. Horses and cows would have to be housed so that they could stand up, lie down, and turn around without touching the sides of any enclosure they are in. That would be devastating to our NH dairy industry. Alvirne High School in Hudson has the last high school dairy farm in the state. This legislation may well put that farm out of business. It has not only educational value, but historical significance. If the Hudson school district chose to build a new stanchion free barn, would that be a 28A Issue? While the intention of the sponsors is admirable, the bill is not needed in NH and is in fact an anti-farm bill. Vote 16-0.
Committee report adopted.

HB 1585-FN, relative to regulation of fuel gas fitters by the state fire marshal.

INEXPEDIENT TO LEGISLATE.
Rep. Russell C. Day for Executive Departments and Administration: This bill would exempt plumbers from the necessary installation and safety training of fuel gas fittings. Extensive testimony described the very real need to require appropriate training in proper installation techniques. A secondary issue of the use of fees received was resolved as the fire marshal's office already sends those excess monies to the general fund after deducting for expenses. Vote 16-1.
Rep. Wendelboe spoke against.
Rep. Russell Day spoke in favor.
Committee report failed.
Rep. Wendelboe moved Ought to Pass and offered floor amendment (0838h).

Floor Amendment (0838h)

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

1 Fuel Gas Fitters; Fees. Amend RSA 153:28, I(d) to read as follows:

(d) After the first year, fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the previous fiscal year. Fees shall be deposited in the fire standards and training and emergency medical services fund, established by RSA 21-P:12-d***, and used for the purposes of operating expenses of the state fire marshal's administration of this subdivision. Fees collected in excess of actual operating expenses shall be deposited in the general fund as unrestricted revenue***.

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

AMENDED ANALYSIS

This bill clarifies the distribution of fees received by the state fire marshal for licensing fuel gas fitters.
Rep. Wendelboe spoke in favor.
Floor amendment (0838h) adopted.
Motion of Ought to Pass with Amendment adopted.
Ordered to third reading.

(Deputy Speaker Foster in the Chair)

BILLS REMOVED FROM CONSENT CALENDAR (CONT'D)

HB 1389, requiring hospitals to report on criteria for placing patients on waiting lists for organ transplants. **INEXPEDIENT TO LEGISLATE.**
Rep. Peter L. Batula for Health, Human Services and Elderly Affairs: The sponsors of this bill have good intentions to require hospitals to report on criteria for placing patients on waiting lists for organ transplants. Our understanding of the bill is that a person needing a liver transplant went to a Massachusetts hospital for a potential liver transplant and the result was that at least one hospital would only consider putting the person on a transplant wait list if the person had insurance coverage. The committee was unanimous in thinking the bill was premature for New Hampshire because only one hospital in New Hampshire performs organ transplants and that hospital (Dartmouth-Hitchcock Medical Center) does not require an individual to prove insurance coverage or ability to pay prior to putting the potential patient on an organ transplant wait list. The bill is not needed at his time. Vote 17-0.
Rep. Crane spoke against.
Rep. MacKay spoke in favor.
On a division vote, 273 members having voted in the affirmative and 35 in the negative, the committee report was adopted.

HB 1447-FN, relative to Medicaid for employed adults with disabilities. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Suzanne S. Butcher for Health, Human Services and Elderly Affairs: HB 350, Chapter 67 of 2001 established Medicaid for Employed Adults with Disabilities (MEAD) to "ensure the availability of long-term supports to workers with disabilities who are medically eligible for medicaid, enabling them to maximize their employment potential." The program has been very successful, enabling over 1,000 individuals with disabilities to work without losing their medical insurance. This bill clarifies that should they need to leave the program, MEAD participants may retain and use savings they have accumulated under the program and still be eligible for medical assistance. This bill allows people with disabilities who are self-employed to participate in MEAD even if they earn less than minimum wage. It also provides that individuals who are eligible for home- and community-based care (HCBC) services may participate in MEAD. The amendment ensures that this will be available even to workers whose income is small. The department of health and human services advised the committee that this would allow about 100 additional individuals to participate in MEAD and that the net cost could be managed through the existing budget. In consultations with the federal centers for Medicare and Medicaid services, the department confirmed that the state has flexibility to implement these provisions. Vote 19-0.

Amendment (0568h)

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

1 Definitions; Work Incentive Program. Amend RSA 167:6, IX to read as follows:

IX. For purposes hereof, a person with a disability between 18 and 64 years of age who is eligible to participate in the work incentive program***, known as Medicaid for employed adults with disabilities (MEAD),*** shall be eligible for medical assistance as medically needy or categorically needy. The department of health and human services shall establish a sliding fee scale for participants to contribute to the cost of ***such*** medical assistance. Participants in the [~~work incentive~~] ***MEAD*** program shall be employed at the time of enrollment***, and may remain enrolled during temporary unemployment for medical reasons or other good cause***.

2 Rulemaking; Reference to Medicaid for Employed Adults with Disabilities Added. Amend RSA 167:3-c, XII to read as follows:

XII. The ***MEAD*** work incentive program under RSA 167:6, IX ***and RSA 167:3-i*** as follows:

(a) Eligibility for the program, including medical need and asset and income limits.

(b) Participant employment requirements.

(c) Premiums to be paid by participants, on a sliding fee scale based on the net income of program participants.

(d) Termination of participation for nonpayment of premium or other good cause.

(e) Requirements that the participant disclose any employer-sponsored health insurance available to the participant.

3 New Section; MEAD Work Incentive Program. Amend RSA 167 by inserting after section 3-h the following new section:

167:3-i MEAD Work Incentive Program.

I. Pursuant to section 1902(a)(10)(A)(ii)(XV) of the Social Security Act, 42 U.S.C. section 1396a(a)(10)(A)(ii)(XV), the department of health and human services shall establish and administer a work incentive program, known as Medicaid for employed adults with disabilities (MEAD). The purpose of the program shall be to ensure the availability of long-term supports to workers with disabilities who are medically eligible for Medicaid, enabling them to maximize their employment potential and financial independence and prevent impoverishment and dependence upon cash assistance programs.

II. In addition to the requirements of RSA 167:6, IX, the MEAD program shall:

(a) Exclude from consideration resources accumulated from earnings, including interest earned by the resource, by a MEAD-eligible individual beginning on or after the date

of eligibility through the period of MEAD eligibility and kept in a separate account from other resources, when determining future eligibility for other medical assistance programs.

(b) Provide continued eligibility during periods of temporary unemployment provided that the individual is unable to work for medical reasons but is likely to return to work, or the individual becomes unemployed for other good cause and is actively seeking employment.

(c) Define employment for eligibility purposes in a manner that permits a self-employed individual to earn less than the federal minimum wage.

(d) Permit individuals who are eligible for home and community-based care waiver services and who qualify for a special income limit, to receive medical assistance through the MEAD program, if they so choose, even if their total income is between the standard of need and the special income limit.

(e) Provide notice and an opportunity for a fair hearing in the event of any adverse action affecting eligibility for or enrollment in the MEAD program.

(f) Establish oversight and enforcement procedures to prevent fraud and to assure that participants are consistently engaging in gainful employment.

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

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Kurk spoke in favor.
Committee report adopted and ordered to third reading.

HB 1176, relative to jury duty. **REFER FOR INTERIM STUDY.**
Rep. Gary B. Richardson for Judiciary: A majority of the committee felt that this bill warrants further consideration, but should not be adopted at this time. The committee would like additional input from the administrative office of the courts relating to the costs and logistics of maintaining master jury lists on a county by county basis. Vote 11-4.
Committee report adopted.

HB 1333, relative to post-foreclosure eviction actions. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Maureen C. Mooney for Judiciary: This bill clarifies the law with regard to termination of tenancy and notice to quit. The bill defines "purchaser at a mortgage foreclosure sale" and adds it to RSA 540:0, I and II to make the law consistent. Vote 16-2.

Amendment (0626h)

Amend the bill by replacing section 2 with the following:

2 Termination of Tenancy; Notice to Quit by Purchaser at a Mortgage Foreclosure Sale. Amend RSA 540:2, I and the introductory paragraph of paragraph II to read as follows:

I. The lessor [~~or~~]***,*** owner***, or purchaser at a mortgage foreclosure sale, with the written consent of the mortgagee,*** of nonrestricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and [~~5~~] ***540:5***.

II. The lessor [~~or~~]***,*** owner***, or purchaser at a mortgage foreclosure sale, with the written consent of the mortgagee,*** of restricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and [~~5~~] ***540:5***, but only for one of the following reasons:

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 Definition; Other Good Cause. Amend RSA 540:2, V to read as follows:

V. "Other good cause" as set forth in paragraph II(e) of this section includes, but is not limited to, any legitimate business or economic reason and need not be based on the

action or inaction of the tenant, members of his family, or guests. ***"Other good cause" as set forth in paragraph II(e) of this section may include the sale of the property at a foreclosure sale provided that the purchaser at the foreclosure sale specifies why the foreclosure sale warrants eviction of the tenants.***
Rep. Gary Richardson spoke against.
Committee amendment failed.
Rep. Gary Richardson offered floor amendment (0851h).

Floor Amendment (0851h)

Amend the bill by replacing section 2 with the following:

2 Termination of Tenancy; Notice to Quit by Purchaser at a Mortgage Foreclosure Sale. Amend RSA 540:2, I and the introductory paragraph of RSA 540:2, to read as follows:

I. The lessor [~~or~~]***,*** owner***, or purchaser at a mortgage foreclosure sale with the written consent of the mortgagee,*** of nonrestricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and [~~5~~] ***540:5***.

II. The lessor [~~or~~]***,*** owner***, or purchaser at a mortgage foreclosure sale with the written consent of the mortgagee,*** of restricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and [~~5~~] ***540:5***, but only for one of the following reasons:

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 Definition; Other Good Cause. Amend RSA 540:2, V to read as follows:

V. "Other good cause" as set forth in [~~paragraph~~] ***subparagraph*** II(e) of this section includes, but is not limited to, any legitimate business or economic reason and need not be based on the action or inaction of the tenant, members of his ***or her*** family, or guests.

Rep. Gary Richardson spoke in favor.
Floor amendment (0851h) adopted.
Committee report adopted and ordered to third reading.

HB 1392-FN, relative to prohibited activities of lobbyists. **INEXPEDIENT TO LEGISLATE.**
Rep. Elizabeth S. Hager for Legislative Administration: The committee believes that our laws already address the problem outlined by the sponsor. The committee has been looking at the lobbyist laws for the last several years. Vote 10-0.
Rep. Vaillancourt spoke against.
Rep. Hager spoke in favor.
Committee report adopted.

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.

BILLS REMOVED FROM CONSENT CALENDAR (CONT'D)

HB 1464, relative to the availability of proposed amendments to bills and resolutions. **REFER FOR INTERIM STUDY.**
Rep. John P. Gleason for Legislative Administration: The committee wishes to applaud the intent of the sponsor of this bill. The issue of public transparency with regard to amendments is laudable. The committee however, does not feel that enough time is available to give serious consideration to this subject. An interim study will allow for proper attention to this serious subject. Vote 10-0.

Rep. Winters spoke against.
Rep. Michael Rollo spoke in favor.
On a division vote, 205 members having voted in the affirmative and 54 in the negative, the committee report was adopted by the necessary two-thirds.

CLERK'S NOTE

The constitutionally required two-thirds of the membership for action by majority vote was declared present.

BILLS REMOVED FROM CONSENT CALENDAR (CONT'D)

HB 1349, relative to membership on the council on resources and development. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Suzanne H. Gottling for Resources, Recreation and Development: This housekeeping bill allows a member of the council on resources and development to appoint a designee to serve on the council when the agency commissioner or director is unable to serve. Vote 17-0.

Amendment (0087h)

Amend the title of the bill by replacing it with the following:
AN ACT relative to the membership and duties of the council on resources and development.
Amend the bill by replacing all after section 2 with the following:

3 Disposal of State-Owned Real Estate; Role of the Council on Resources and Development. Amend RSA 4:40, I to read as follows:

I. Except as provided in RSA 4:39-c, RSA 228:31-b, and RSA 204-D, upon recommendation of the head of any state department having jurisdiction over the same ***and with the approval of the council on resources and development,*** all requests for the disposal or leasing of state-owned properties shall be reviewed and approved by the long range capital planning and utilization committee[~~, with advice from the council on resources and development,~~] prior to submission to the governor and council for approval. Upon determination that the property is no longer needed by the state, the governor and council shall first offer it to the town, city, or county in which the property is located. If the town, city, or county refuses the offer, the governor and council may sell, convey, transfer, or lease the real property.

4 Council on Resources and Development; Responsibilities. Amend RSA 162-C:2, IV to read as follows:

IV. Make studies and recommendations concerning changes to effectively coordinate the work of the agencies which have membership in the council***. Recommendations adopted by a majority vote of the council shall be binding on the affected agencies which have membership in the council, unless the recommendations are in conflict with existing laws or rules***;

5 Surplus Lands Housing Program; Sale of Land by New Hampshire Housing Finance Authority. Amend RSA 204-D:4, V to read as follows:

V. The authority may sell or otherwise transfer land transferred to the authority pursuant to this chapter upon which affordable housing has been constructed only if the authority has established controls to ensure that the housing shall remain affordable to persons of low or moderate income for a period of at least 30 years after such sale or transfer. The authority may sell or otherwise transfer undeveloped land transferred to the authority under this chapter only after receiving approval from the long range capital planning and utilization committee[~~, with advice from~~] ***and*** the council on resources and development established in RSA 162-C and final approval by the governor and council. The authority may lease land which is transferred to the authority under this chapter.

6 Leasing Railroad Properties. Amend RSA 228:57-a, II to read as follows:

II. The provisions of RSA 4:40, requiring first offering the land for lease to political subdivisions, shall not apply to this section. However, leases shall continue to be approved by ***the council on resources and development and*** the long range capital planning and utilization committee[~~, with advice from the council on resources and development,~~] before final approval by the governor and council.

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

AMENDED ANALYSIS

This bill:

I. Permits a member of the council on resources and development to appoint a designee to serve in his or her position on the council and removes one of the members on the council from the department of safety.

II. Clarifies the filing date for the smart growth report that the council files with the general court and governor.

III. Requires the council on resources and development to approve a state agency's recommendation for the disposal of state-owned lands.

IV. Makes certain council recommendations binding on members of the council of resources and economic development.

V. Requires the New Hampshire housing finance authority to obtain the approval of the council on resources and development prior to the transfer of lands under the surplus lands housing program.

Rep. Spang spoke against.

Committee amendment failed.

Motion of Ought to Pass adopted and ordered to third reading.

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.

(Speaker Norelli in the Chair)

REGULAR CALENDAR

HB 1184, relative to religious practices of children placed outside the home pursuant to RSA 169-C. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: REFER FOR INTERIM STUDY.**

Rep. Elizabeth D. Blanchard for the Majority of Children and Family Law: This bill provides that if a child is placed outside the home in an abuse or neglect preceding, the court shall arrange for the child to continue the child's religious practices or that of the child's family. The majority of the committee decided that this bill is not necessary based on testimony which indicated that group homes and foster families currently accommodate a child's religion. Also, the members of the committee who toured YDC observed that the spiritual needs of the juvenile residents are provided. Vote 14-4.

Rep. Anthony P. Matarazzo for the Minority of Children and Family Law: While there is in place an opportunity to have access to a place of worship or pursuit of religious practice, many group homes for juveniles do nothing to encourage it. These children are hungry for the sense of stability and belonging that faith can provide. Therefore the minority agrees that the group homes shall post the availability of access and do more to encourage participation in the child's faith of choice.

Rep. Matarazzo spoke against.

Rep. Blanchard spoke in favor.

On a division vote, 176 members having voted in the affirmative and 60 in the negative, the majority committee report was adopted by the necessary two-thirds.

CLERK'S NOTE

The constitutionally required two-thirds of the membership for action by majority vote was declared present.

REGULAR CALENDAR (CONT'D)

HB 1217, relative to violations of conditional release by delinquent children. **REFER FOR INTERIM STUDY.**

Rep. Daniel C. Itse for Children and Family Law: The committee recognized that clarification of the court's authority may be needed, but was concerned that it was introduced to address one case. There were further concerns as to whether or not current law provides sufficient due process. Therefore, the committee intends to study the issue further. Vote 12-4.

Committee report adopted.

HB 1291, requiring persons under 18 years of age to wear ski helmets. **INEXPEDIENT TO LEGISLATE.**

Rep. Ruth Ginsburg for Children and Family Law: Committee research demonstrated that there is already a growing movement by various juvenile skiing groups to encourage the use of helmets. The committee decided that a positive approach using various incentives would be more beneficial. Vote 15-3.

Committee report adopted.

HB 1477, relative to cellular phone and satellite television records for child support enforcement. **MAJORITY: OUGHT TO PASS. MINORITY: REFER FOR INTERIM STUDY.**

Rep. Edward P. Moran for the Majority of Children and Family Law: This bill recognizes technological changes in the arena of child support. It seeks to include cell phone and satellite customer name and address records which were not included in existing law, while those subscribing to land lines and cable were included. The minority had reservations about the administrative subpoena authorization in current law that would be carried forward. The majority was unaware of any abuse connected with the authorization. At the end of 2007, uncollected child support amounted to over $169,700,000 in New Hampshire. Vote 13-2.

Rep. Daniel C. Itse for the Minority of Children and Family Law: The minority of the committee agrees with majority that collection of the child support in arrears is an important issue. However, we were uncomfortable with the administrative (Executive Department) subpoena of private records, rather than judicial subpoena.

Majority committee report adopted and ordered to third reading.

HB 1243, amending the timeframes for involuntary civil commitment of sexually violent predators. **OUGHT TO PASS WITH AMENDMENT.**

Rep. George D. Winchell for Criminal Justice and Public Safety: This bill, as amended, excludes weekends and holidays from the calculation of deadlines for evaluating whether a person is a sexually violent predator. This bill also allows that if a person's incarceration sentence expires at any point in the process prior to the trial on the merits of a petition (such as defense motion to continue); the court shall hold a hearing within 10 days of the expiration of the sentence. This bill is the request of the Department of Justice as a "house cleaning bill." Vote 13-4.

Amendment (0413h)

Amend RSA 135-E:3, VII as inserted by section 1 of the bill by replacing it with the following:

VII. The time limitations set forth in this section are not mandatory. Non adherence to the time limitations shall not preclude a county attorney or attorney general from

requesting that a person be evaluated by a multi-disciplinary team, a multi-disciplinary team from conducting such an evaluation, or a county attorney or attorney general from filing a petition to have the person declared a sexually violent predator. If the person's incarcerative sentence will expire at any point in the process prior to trial on the merits, the county attorney or attorney general shall notify the court of the expiration date and request that the court conduct a probable cause hearing. The court shall schedule a hearing within 10 days of receipt of the notice. If the person's sentence expires before a probable cause hearing, the person shall be held in an appropriate secure facility pending the hearing. If the court concludes following the hearing that there is probable cause to believe that the person is a sexually violent predator, the court shall order that the person remain in custody and be held in an appropriate secure facility pending trial.
Amendment adopted.
Committee report adopted and ordered to third reading.

HB 1501-FN, relative to the penalty for certain sexual assault cases where the perpetrator is under 21 years of age. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. David A. Welch for the Majority of Criminal Justice and Public Safety: This bill would reduce the penalty for engaging in sexual penetration of a person under 16 years old but more than 13 years old where the difference in age between the actor and the other person is 3 years or more from a Class B felony to a Class A misdemeanor if such actor is under 21 years of age. Consider the extreme of a 20 year old college student and a 13 year old middle school student. Are we to consider the maturity as equal, or are we to continue our protection of young children when they make immature decisions that could involve life long consequences? Vote 13-4.
Rep. Timothy N. Robertson for the Minority of Criminal Justice and Public Safety: This bill seeks to address the problem of non-violent offenders being placed on the NH Sex Offender Registry. No two offenders are the same and we should not be using a one-size fits all approach to classify them. A commission to study a comprehensive sex offender classification system in NH would be a step towards ensuring that all individuals on the public registry pose a credible threat to the public. Placing a non-violent or non-coercive 19 year old on a public registry for having sexual relations with his 15 year old girlfriend does not help to protect our communities. The state of New Hampshire has an obligation to ensure that citizens who are classified publicly as a sex offender are those who truly pose a threat to our children and communities. The state must also find ways to provide education to parents about keeping their children safe and teach teens about the legal consequences of having sex with a partner who has not reached the age of consent (currently, 16).
Rep. Robertson spoke against and yielded to questions.
Rep. Welch spoke in favor.
On a division vote, 240 members having voted in the affirmative and 64 in the negative, the majority committee report was adopted.

MOTION TO SPECIAL ORDER

Rep. Price moved that ***HB 1281,*** prohibiting public schools from requiring health insurance as a condition of enrollment, be made a Special Order as the first order of business for Thursday, March 13, 2008.
Adopted.

REGULAR CALENDAR (CONT'D)

HB 1285, relative to organization of or withdrawal from a school administrative unit. **INEXPEDIENT TO LEGISLATE.**
Rep. Kimberley S. Casey for Education: SAU withdrawal is a complicated and difficult issue.

There is already an SAU Oversight Committee and a Co-Operative District Study Committee, and rather than work counterproductively, and outside the efforts of these two bodies, whose sole work is to understand the nuance and complexity of SAU/Co-Op withdrawals and formation, the bill was deemed inexpedient to legislate. Vote 15-4. Committee report adopted.

HB 1330, relative to the process for nonrenewal of teacher contracts. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. J. Timothy Dunn for the Majority of Education: The amended version of this bill does three things: First, it amends RSA 189: 14-a III by deleting a sentence that removes the responsibility of administration to assist a teacher who is having difficulty meeting the standards set by the district. In other words, nothing more is demanded of an administrator than to tell a teacher in writing each month he or she is not practicing up to standards, and at the end of the year that person will be non-renewed. That is not regarded as sound policy in business or industry. That practice is as close to making teachers employees at will as you can get and not say so. The commissioner of education strongly supports this change as best educational practice. Second, it amends RSA 189: 14-b I. The amendment allows a non-renewed teacher who is in a bargaining unit which has won the right to arbitration through collective bargaining, the choice of arbitration or the hearing set forth in current law. Third, it amends RSA 273-A:4 by removing the prohibition against negotiating the right to arbitration in the master agreement. It gives local bargaining groups the right to bargain for arbitration in cases of non-renewal. This allows for local control of negotiated contracts. It is not good policy for the state to determine what is and what is not negotiable. In no other instance does the state rule on what can and cannot be negotiated. Finally, nothing in this amended bill or in current law affects the right to be heard by the New Hampshire Commission for Civil Rights or the US Equal Employment Opportunity Commission. Vote 11-8.

Rep. James M. O'Neil for the Minority of Education: This bill completely rescinds the due process provisions for non-renewing teacher contracts recommended by a blue ribbon study committee including then Governor Jean Shaheen's legal counsel in 2002, and which was enacted into law (Chapter 204) in 2003. In its place, it reenacts the pre-2003 language with all of its defects and redundancies, and with absolutely no evidence that current law is deficient or unfair. Under current law, a teacher is entitled to a due process hearing before his or her school board before that teacher's contract can be terminated. If the teacher is dissatisfied with the school board's decision, there is a right of appeal to the state board of education. The committee was told that there have been only eight teacher non-renewals throughout the entire state in the last four years. None was appealed to the state board of education. Under this bill, if a teacher is dissatisfied with the hearing before that teacher's school board, the teacher would be entitled to an entirely new hearing - either before the state board of education or in arbitration under a collective bargaining agreement. But it doesn't end there. Since the bill does not specify that the arbitration is "binding" or that the state board's decision is "final," the teacher can then file suit in either state or federal court and receive yet another hearing. Furthermore, if the teacher alleges employment discrimination, he or she could also challenge the non-renewal and receive hearings at the New Hampshire Commission for Civil Rights or the United States Equal Employment Opportunity Commission. In short, this is a teachers union bill. Other than the equivocal testimony of the commissioner of education, the only two witnesses before the committee in favor of the bill were teacher union representatives. This bill will increase the costs, resources and administrative time devoted to teacher non-renewal issues in all of our school districts. That would make it extremely difficult, time-consuming and expensive for school districts to replace poor teachers. It could spawn potentially endless litigation at unknown additional cost to our local taxpayers. And it replaces the easily understandable appellate

review standard of "clearly erroneous" with the very subjective, trial de novo concepts of "unjust or unreasonable." By changing this standard, the hearing officer is empowered to substitute his or her own subjective judgment of what is reasonable or just for that of the local school board. Further, this bill repeals a key sentence enacted in 2000 during Governor Shaheen's administration which specifies that remedial assistance is not required for teachers facing possible non-renewal. The committee received testimony that this deletion could, as well, lead to protracted litigation. In conclusion, there were no persuasive reasons given to the committee to enact this bill.

Majority Amendment (0658h)

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

1 School Boards; Failure to be Renominated or Reelected. Amend RSA 189:14-a, III to read as follows:

III. In cases of nonrenomination because of unsatisfactory performance, the superintendent of the local school district shall demonstrate, at the school board hearing, by a preponderance of the evidence, that the teacher had received written notice that the teacher's unsatisfactory performance may lead to nonrenomination, that the teacher had a reasonable opportunity to correct such unsatisfactory performance, and that the teacher had failed to correct such unsatisfactory performance. [~~Nothing in this paragraph shall be construed to require the superintendent or the school board to provide a teacher with remedial assistance to correct any deficiencies that form the basis for such teacher's nonrenomination.~~]

2 School Boards; Review by State Board. Amend RSA 189:14-b to read as follows:

189:14-b Review by State Board.

I. A teacher aggrieved by such decision may [~~request~~] ***either petition*** the state board of education for review thereof ***or request arbitration under the terms of a collective bargaining agreement, if applicable, but shall not do both***. Such request must be in writing and filed with the state board within 10 days after the issuance of the decision to be reviewed. Upon receipt of such request, the state board shall notify the school board of the request for review, and shall forthwith proceed to a consideration of the matter. Such consideration shall include a hearing if either party shall request it. The state board shall issue its decision within 30 days after the request for review is filed, and the decision of the state board shall be final and binding upon both parties. [~~A request for review under this section shall constitute the exclusive remedy available to a teacher on the issue of the nonrenewal of such teacher.~~]

II. The state board of education shall uphold a decision of a local school board to nonrenew a teacher's contract unless the local school board's decision is [~~clearly erroneous~~] ***unjust or unreasonable***

3 Public Employee Labor Relations; Grievance Procedures. Amend RSA 273-A:4 to read as follows:

273-A:4 Grievance Procedures. Every agreement negotiated under the terms of this chapter shall be reduced to writing and shall contain workable grievance procedures. [~~No grievance resulting from the failure of a teacher to be renewed pursuant to RSA 189:14-a shall be subject to arbitration or any other binding resolution, except as provided by RSA 189:14-a and RSA 189:14-b. Any such provision in force as of the effective date of this section shall be null and void upon the expiration date of that collective bargaining agreement.~~]

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

On a division vote, 170 members having voted in the affirmative and 123 in the negative, the majority committee amendment was adopted.

Rep. Dunn offered floor amendment (0801h).

Floor Amendment (0801h)

Amend the bill by replacing section 2 with the following:

2 School Boards; Review by State Board. Amend RSA 189:14-b, I to read as follows:

I. A teacher aggrieved by such decision may [~~request~~] ***either petition*** the state board of education for review thereof ***or request arbitration under the terms of a collective bargaining agreement, if applicable, but shall not do both***. Such request must be in writing and filed with the state board within 10 days after the issuance of the decision to be reviewed. Upon receipt of such request, the state board shall notify the school board of the request for review, and shall forthwith proceed to a consideration of the matter. Such consideration shall include a hearing if either party shall request it. The state board shall issue its decision within 30 days after the request for review is filed, and the decision of the state board shall be final and binding upon both parties. [~~A request for review under this section shall constitute the exclusive remedy available to a teacher on the issue of the nonrenewal of such teacher.~~]

Rep. Dunn spoke in favor.
Floor amendment (0801h) adopted.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Reps. Cunningham and Hess spoke against.
Rep. O'Neil spoke against and yielded to questions.
Reps. Reever and Dunn spoke in favor.
On a division vote, 157 members having voted in the affirmative and 132 in the negative, the majority committee report was adopted.
Ordered to third reading.
Rep. Morrison declared a conflict of interest on ***HB 1330,*** and did not participate.

HB 1273, establishing a commission to study "clean elections" funding. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. Shawn N. Jasper for the Majority of Election Law: As the House has already voted to establish a commission to study public financing of elections; the committee felt that it would be prudent to wait for the recommendations of that committee prior to establishing another commission on elections. While the sponsor did offer an amendment to make it clear that the duties of each commission would not overlap, the committee felt that we would nonetheless be asking the office of the secretary of state and attorney general to provide a great deal of staff time over a short period of time. There was also a strong feeling that the duties proposed for the commission should be done by the committee itself. Vote 11-4.
Rep. James R. Splaine for the Minority of Election Law: This bill creates a commission of 14 members to study our election laws concerning campaign disclosures and spending requirements, and to recommend improvements. Such a review is coming due. We should be sure our laws are clear and complete.
Majority committee report adopted.

HB 1397-FN, relative to retention of political expenditure receipts. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**
Rep. David R. Boutin for the Majority of Election Law: This bill would require every political committee or candidate to retain receipts for expenditures of $10 or more for two years after the election. The committee applauds the sponsors' efforts to make our election laws more transparent. However, although the law now authorizes the attorney general to review all statements of campaign expenditures, the law does not authorize the attorney general to review the receipts themselves and HB 1397 does not grant that authority. Accordingly, there is no point to retaining campaign expenditure receipts without a means to enforce it. Vote 11-4.
Rep. James R. Splaine for the Minority of Election Law: This bill requires that receipts be

kept of all expenditures in excess of $10 by candidates or campaigns, which is a good thing to do in order to require more transparency in our campaign spending laws.
Majority committee report adopted.

HB 1398-FN, requiring that certain political contributions be made in cash. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. Shawn N. Jasper for the Majority of Election Law: The bill would require that no political contribution of $100 or more be made in cash. First and foremost, cash is the legal tender of these United States and to prevent people from using legal tender for a legal purpose strikes the committee as being wrong. While the goal of the sponsor is to insure that all large donations are reported, current law already requires that all political donations of $25 or more be reported. If that requirement is being ignored, it is hard to believe that passing another law would turn any dishonest politician (if there are any in New Hampshire) into honest ones. In fact it may have just the opposite effect; many of us when we first run for office may not be familiar with all election laws. Turning away a contribution just because it is made in cash could be hard to do. Many people do not have checking accounts and prefer to do their business in cash, which is their legal right. Vote 13-2.
Rep. James R. Splaine for the Minority of Election Law: This bill prohibits candidates or campaigns from accepting contributions of more than $100, so that large contributions will be traceable. This makes sense so that we will have transparency in our campaign disclosure laws.
Majority committee report adopted.

HB 1399-FN, relative to the limit for political contributions. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. Richard B. Drisko for the Majority of Election Law: The intent of this bill is to lower the limits for political contributions. The committee felt that the current caps beyond which monetary penalties are assessed were adequate and working. In addition, candidates readily exceed the current caps if they wish to succeed. Vote 12-3.
Rep. James R. Splaine for the Minority of Election Law: It is important to discourage greater and more spending in campaigns by encouraging candidates to abide by the state's voluntary campaign spending limits. This bill has an incentive for candidates to accept the voluntary campaign spending limits by allowing them to raise $5,000 but if they do not accept the voluntary limits, they can only raise $500 from each source.
Majority committee report adopted.

HB 1454, relative to electoral college electors. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. Janet F. Allen for the Majority of Election Law: During the public hearing regarding this bill, the committee was given an example of what could happen if this bill became law. If all of the voters in New Hampshire voted for one particular candidate and a different candidate won in all of the other states, then all 4 of the New Hampshire electoral college votes would go to the other candidate. This example alone tells the voters in New Hampshire that their vote does not count and they may as well have not voted at all. This would be incredibly unfair to the voters of New Hampshire. Vote 11-4.
Rep. James R. Splaine for the Minority of Election Law: The minority believes that the electoral college is an anachronistic vestige which may have served the country well when we were without rapid transportation and immediate communication. It may have been a useful check on a population which had not proven itself responsible or resistant to spontaneous manipulation. But the existing system gives inordinate power to the smallest states which have vetoed attempts in the United States Senate to amend the Constitution more than 30 times. The status quo also disenfranchises voters in uncompetitive states which are ignored in the consultant driven 17-19 state strategies of the major parties. With the electoral

college in place, we are guaranteed to end up with presidents who have received a minority of the popular vote. The minority agrees with top constitutional scholars whose research findings focus on the profoundly undemocratic nature of the electoral college. This bill would have been a good way to fix this undemocratic vestige.
Rep. Weed yielded to questions.
Majority committee report adopted.

HB 1554-FN, relative to challenges of voters. **OUGHT TO PASS WITH AMENDMENT.**
Rep. David M. Pierce for Election Law: New Hampshire law permits anyone to challenge another's right to vote for no reason at all. As a result, mass, indiscriminate and groundless challenges of voters have been made solely for the purpose of preventing or delaying voters from voting. But the right to vote is the fundamental right that protects all other rights. It should not be undermined except upon a showing of good cause. HB 1554 requires a showing of good cause by requiring a challenger to state – under oath -- specific, articulable facts that a voter is ineligible to vote. HB 1554 brings a balanced approach to this issue because it protects the right to vote and the ability to assert a challenge if it is legitimate and well grounded. Vote 11-3.

Amendment (0560h)
Amend the bill by deleting section 3 and renumbering the original sections 4-6 to read as 3-5, respectively.
Amendment adopted.
Committee report adopted and ordered to third reading.

HB 1314, relative to animal cruelty. **INEXPEDIENT TO LEGISLATE.**
Rep. Timothy D. O'Connell for Environment and Agriculture: Current law enables the taking of a dog's life if, in effect, the animal is running loose without supervision only under two conditions. First, that such dog suddenly assaults a person peaceably walking or riding. Second, if such a dog is attacking livestock or other domestic animals. The bill removes "worrying" from acts of "wounding" and "killing of livestock". Although not commonly recognized, historically "worrying" is defined as tearing at the throat, gnawing, or dragging around with the teeth. There was no public testimony in favor of the bill. The majority, as well as the state veterinarian, feels the bill is unnecessary and weakens the overall effectiveness of current law. Vote 15-1.
Committee report adopted.

HB 1473, restricting the placement of fertilizer within 250 feet of the reference line of any property. **INEXPEDIENT TO LEGISLATE.**
Rep. Timothy D. O'Connell for Environment and Agriculture: Currently under Chapter 483-B, the comprehensive shoreland protection act, no fertilizer except limestone can be placed within 25 feet of the mean high water line of such designated water bodies. The bill increases the specified distance ten-fold to 250 feet. Although the majority of the committee recognized the environmental consequences of eutrophication due to improper use of fertilizers there was no scientific backup presented to support the bill as drafted. Vote 15-1.
Committee report adopted.

HB 1502-FN, relative to disposal of used needles. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Richard H. Snow for Environment and Agriculture: This bill prohibits the future disposal of medical sharps in the normal solid waste disposal stream. The current disposal of needles and other medical sharps by the general public into our normal trash bins puts the people that have to handle our trash on a daily basis in danger of physical harm. Puncture wounds, particularly with infected needles, can cause permanent physical disability. As our

state moves towards single-source resource recovery, these kinds of injuries will become more frequent, impacting workers compensation costs that are borne by our business community. The bill also establishes a public/private informational effort to educate the public about the dangers associated with the current disposal methods and provide current information about safe disposal methods. Facilities disbursing sharps to the public will be required to participate in a take-back disposal program. There are a number of currently available commercial programs that are both easily and economically available. The educational component of the bill will become immediately invoked, but the other provisions of the bill do not become effective until July 1, 2009, allowing time for the facilities and the public to become fully aware and informed about the program. Vote 16-2.

Amendment (0748h)

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

1 New Paragraph; Educational Program. Amend RSA 149-M:27 by inserting after paragraph IV the following new paragraph:

V. The department shall cooperate with other departments, groups, and organizations interested in developing an educational program and materials designed to educate the public about the safe disposal of needles, syringes, and other similar medical instruments.

2 Refuse Reduction; Disposal of Needles. RSA 149-M:27, V is repealed and reenacted to read as follows:

V.(a) No person shall place any needles, syringes, or other medical instruments that are capable of puncturing the skin for the delivery of medication in any container used for the collection of solid waste, recyclable materials, construction and demolition debris, or compost.

(b) Any person who disburses, within this state, needles, syringes, or other medical instruments that are capable of puncturing the skin for the delivery of medication shall participate in a take-back disposal program for needles, syringes, and other similar medical instruments which is approved by the department.

(c) Any person who violates this paragraph may be subject to the penalties and enforcement provisions of RSA 149-M:16.

(d) The department shall cooperate with other departments, groups, and organizations interested in developing an educational program and materials designed to educate the public about the safe disposal of needles, syringes, and other similar medical instruments.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2009.

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

AMENDED ANALYSIS

This bill:

I. Prohibits the disposal of medical needles in waste collection containers effective July 1, 2009.

II. Requires any person who disburses needles, syringes, or other similar medical instruments to participate in a take-back program approved by the department of environmental services effective July 1, 2009.

III. Requires the department of environmental services to develop an educational program to educate the public about the safe disposal of needles, syringes, or other similar medical instruments.

Amendment adopted.

Committee report adopted and ordered to third reading.

HB 1208, allowing dental hygienists to engage in independent practice. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Alida I. Millham for the Majority of Executive Departments and Administration: While independent practice for dental hygienists has some appeal, the HB 1208 proposal is not appropriate. It does not provide any criteria for an expanded practice responsibility and would allow a new graduate, without working experience, to set up an independent practice. Dental hygienists cannot, by statute, diagnose or treat so this proposal would separate one function of dental care from a more integrated approach of prevention and diagnosis and treatment. The function of the dental hygienists is only one piece of the dental care people require. In addition, Medicaid reimbursement requires the service of a dentist in the program, especially with the early periodic screening diagnosis and treatment program (EPSDT). Independent practices for dental hygiene would not qualify for EPSDT and Medicaid; therefore, require total state dollar payment without federal match dollars. At this point in time, this is not good public policy. There is another bill, HB 1487, from the Health and Human Services Committee that provides for a study of advanced dental hygiene practice. That is where this subject should begin. Vote 11-6.
Rep. John Reagan for the Minority of Executive Departments and Administration: Dental hygienists are licensed by the state and allowed to see and treat patients without a dentist present. It is fair to allow the hygienists to establish their own offices to provide oral hygiene to the general public. Competition often improves service and always lowers the price. Those not insured should be allowed to purchase dental hygiene services without having to subsidize a full dental practice.
On a division vote, 196 members having voted in the affirmative and 68 in the negative, the majority committee report was adopted.

HB 1552-FN, relative to establishing a single liquor commissioner. **REFER FOR INTERIM STUDY.**
Rep. Maurice L. Pilotte for Executive Departments and Administration: The committee heard compelling testimony for the current commission structure (3 commissioners), as well as for changing to a single commissioner model. Issues identified in making the change as suggested in this bill were twofold. (1) There is no specific recommendation for the administrative structure of the commission in the transition period from three to two and ultimately to one commissioner. (2) There is no specific recommendation for the commission's structure once the transition is complete. The committee also reviewed a recommendation of the 1994 Performance Audit: "We believe the three- member SLC structure has outlived its usefulness and stands in the way of a more efficient, effective and economical organization with streamlined and professional management." Therefore, this issue warrants additional study. Vote 10-5.
Committee report adopted.

HB 1396-FN, relative to requiring prescriptions to be ordered pursuant to a practitioner-patient relationship. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Frank G. Case for Health, Human Services and Elderly Affairs: This bill makes it unlawful for a pharmacy to ship controlled drugs to patients in New Hampshire without a prescription from a practitioner who has a valid relationship with the patient. The relationship is defined based on board of medicine rules and includes an exam, a history, a diagnosis, a treatment plan and documentation of all prescription drugs. Presently there are online pharmacies that may be located anywhere in the world and ship controlled drugs without a valid prescription. These "rogue" pharmacies have websites that advertise "oxycodone—no prescription." The consumer fills out an online survey or questionnaire, which is relayed to a physician who approves it for a fee without having had legitimate contact with the patient. The amendment addresses a concern about telemedicine and a program where a physician at a Boston hospital prescribes a drug for a patient at an emergency department in New Hampshire. This bill will not interfere with legitimate mail order pharmacies or any valid prescription written by a prescriber in another state with

whom the patient has a relationship. The committee believes prescription drug abuse is a significant problem, and this bill can be a tool for law enforcement. The bill was requested by the board of pharmacy and was also supported by the attorney general and the New Hampshire Medical Society. Vote 18-0.

Amendment (0745h)

Amend the bill by replacing section 3 with the following:

3 New Paragraph; Controlled Drugs; Definition; Practitioner-Patient Relationship. Amend RSA 318-B:1 by inserting after paragraph XXVI the following new paragraph:

XXVI-a. "Practitioner-patient relationship" means a medical connection between a licensed practitioner and a patient that includes an in-person exam, a history, a diagnosis, a treatment plan appropriate for the licensee's scope of practice, and documentation of all prescription drugs including name and dosage. A licensee may prescribe for a patient whom the licensee does not have a practitioner-patient relationship under the following circumstances: for a patient of another licensee for whom the prescriber is taking call; for a patient examined by another New Hampshire licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient's first appointment. The definition of a practitioner-patient relationship shall not apply to a practitioner licensed in another state who is consulting to a New Hampshire licensed practitioner with whom the patient has a relationship.

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

5 Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2, V(c) and (d) to read as follows:

(c) By the concealment of a material fact; [~~or~~]

(d) By the use of a false name or the giving of a false address[~~.~~] ***; or***

(e) By submission of an electronic or on-line medical history form that fails to establish a valid practitioner-patient relationship.

6 New Paragraphs; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting after paragraph XII-a the following new paragraphs:

XII-b. It shall be unlawful for any person to knowingly obtain, or attempt to obtain, or to assist a person in obtaining or attempting to obtain a prescription for a controlled substance without having formed a valid practitioner-patient relationship.

XII-c. It shall be unlawful for any person to, by written or electronic means, solicit, facilitate or enter into any agreement or contract to solicit or facilitate the dispensing of controlled substances pursuant to prescription orders that do not meet the federal and state requirements for a controlled drug prescription, and without an established valid practitioner-patient relationship.

XII-d. It shall be unlawful for any pharmacy to ship finished prescription products, containing controlled substances, to patients residing in the State of New Hampshire, pursuant to any oral, written or online prescription order that was generated based upon the patient's submission of an electronic or online medical history form. Such electronic or online medical questionnaires, even if followed by telephonic communication between practitioner and patient, shall not be deemed to form the basis of a valid practitioner-patient relationship.

XII-e. It shall be unlawful for any pharmacist to knowingly dispense a controlled substance pursuant to any oral, written, or electronic prescription order, which he or she knows or should have known, was generated based upon the patient's submission of an electronic or online medical history form. Such electronic or online medical questionnaires, even if followed by telephonic communication between practitioner and patient, shall not be deemed to form the basis of a valid practitioner-patient relationship.

7 New Section; Physicians and Surgeons; Definition of Physician-Patient Relationship. Amend RSA 329 by inserting after section 1-b the following new section:

329:1-c Physician-Patient Relationship. "Physician-patient relationship" means a medical connection between a licensed physician and a patient that includes an in-person exam, a history, a diagnosis, a treatment plan appropriate for the licensee's medical specialty, and documentation of all prescription drugs including name and dosage. A licensee may prescribe for a patient whom the licensee does not have a physician-patient relationship under the following circumstances: writing admission orders for a newly hospitalized patient; for a patient of another licensee for whom the prescriber is taking call; for a patient examined by a physician assistant, nurse practitioner, or other licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient's first appointment. Prescribing drugs to individuals without a physician-patient relationship shall be unprofessional conduct subject to discipline under RSA 329:17, VI. The definition of a physician-patient relationship shall not apply to a physician licensed in another state who is consulting to a New Hampshire licensed physician with whom the patient has a relationship.

8 New Subparagraph; Physicians and Surgeons; Disciplinary Proceedings. Amend RSA 329:17, VI by inserting after subparagraph (k) the following new subparagraph:

(l) Has knowingly obtained, attempted to obtain or assisted a person in obtaining or attempting to obtain a prescription for a controlled substance without having formed a valid physician-patient relationship pursuant to RSA 329:1-c.

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

Amendment adopted.

Committee report adopted and ordered to third reading.

HB 1487, establishing a commission to study the creation of an advanced dental hygiene practitioner to increase access to oral health care. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Barbara C. French for Health, Human Services and Elderly Affairs: This bill as amended establishes a legislative committee to study practice of advanced dental hygiene practitioners (ADHP) and to study various models, which include dental care by other dental professionals, currently being proposed by the American Dental Association, the American Dental Hygienists' Association and other national and state groups to increase access to oral health care. The committee shall also determine potential fiscal and programmatic impacts on New Hampshire Medicaid dental programs. Vote 13-4.

Amendment (0458h)

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

AN ACT establishing a committee to study practice by advanced dental hygiene practitioners and ways to increase access to oral health care.

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

1 Committee Established. There is established a committee to study practice by advanced dental hygiene practitioners and ways to increase access to oral health care.

2 Membership and Compensation.

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

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

(b) One member of the senate, appointed by the president of the senate.

II. The committee shall solicit information from any agency, person, or entity the committee deems relevant to its study.

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

3 Duties. The committee shall study practice by advanced dental hygiene practitioners (ADHP) and shall study various models currently being proposed by the American Dental Association, the American Dental Hygienists Association, and other national and state

groups to increase access to oral health care. The committee shall ascertain the fiscal and programmatic impacts on New Hampshire Medicaid dental programs.

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

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

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

AMENDED ANALYSIS

This bill establishes a committee to study practice by advanced dental hygiene practitioners and ways to increase access to oral health care.

Amendment adopted.

Committee report adopted and ordered to third reading.

HB 1173, relative to the definition of a trust. **INEXPEDIENT TO LEGISLATE.**

Rep. Lucy M. Weber for Judiciary: This bill would have removed trusts created for the purpose of land conservation or the holding of conservation easements from the definition of a trust. The bill was intended to address a number of issues arising out of the creation and subsequent administration of conservation easements, and these concerns applied not only to easements held by trusts but also the creation and administration of open space set-asides held by other private entities such as homeowners associations. The bill as presented would not have effectively addressed the concerns of the sponsor, and would have had far-reaching consequences for established land trusts. Significant consideration was given to the creation of a study commission or referral for interim study. The majority believed that the concerns of the sponsor could not be addressed appropriately by a study purporting to consider trust administration issues, but rather should be taken up in a new bill specifically addressing the land use issues. Vote 13-6.

Committee report adopted.

HB 1265, establishing a duty for owners of businesses and institutions to provide protection to customers and employees and liability for failure to provide protection. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Lucy M. Weber for the Majority of Judiciary: This bill provides that any business or institution that prohibits members of the public from carrying a firearm onto the premises is strictly liable to provide the level of protection they would have had absent the prohibition. The majority was concerned about a number of issues arising out of the bill. Because the bill expressly imposed strict liability, no amount of effort taken to protect the public would be deemed adequate if a tragic event took place. This places too heavy a burden on the business or institution. The majority believes that the business owner has the right to restrict firearms if he or she chooses, and the public can then choose to patronize the establishment or not. The bill as drafted would also create significant issues with respect to school zones, airports and other places where firearms are now banned. Finally, a representative of the banking industry testified that they departed years ago from the practice of having armed guards in banks because they have determined that their presence increases the likelihood of severe injury or death in the course of a bank robbery. Vote 12-2.

Rep. Nancy J. Elliott for the Minority of Judiciary: In recent years, shootings have increased in “gun free” zones. Because a posted “gun free” zone attracts those intent on harming others and because a law abiding citizen is prohibited from carrying a gun to protect himself and his family, the minority believes that such prohibiting establishments should be responsible for the safety of those on their premises.

Majority committee report adopted.

HB 1536, relative to periodic payments of judgments. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Peter S. Espiefs for the Majority of Judiciary: Presently, when a court renders a judgment for the payment of money which the defendant fails to pay, the plaintiff can seek enforcement by filing a petition for a court ordered payment under the provisions of RSA 524:6-a. Under existing court procedure, the court then notifies ONLY the defendant to appear for a hearing at which the court examines him or her regarding his or her financial condition and ability to pay the judgment. This places the court in the position of interrogator for the plaintiff, and creates the appearance that the court is acting as a collection agent of the plaintiff. It is the committee's view that inquiry into a defendant's ability to pay is a continuation of the legal proceedings requiring the production of evidence from both the plaintiff and the defendant about the extent of and any limitations on the defendant's ability. This bill assures that the plaintiff as well as the defendant will be present to produce sufficient evidence at an RSA 524:6-a hearing to enable the court to make a fair decision and order. Finally, this bill also gives the court some discretion as to whether or not to hold the defendant in contempt should its orders be violated. Overall, it enhances the purpose and integrity of RSA 524:6-a proceedings, and will conserve state resources. Vote 14-4.

Rep. Gregory M. Sorg for the Minority of Judiciary: Under current law, the judgment creditor is not required to be present at the hearings at which the judge determines from time to time the amount of the periodic payments a judgment debtor must pay towards the judgment against him. This bill would require the presence of the judgment creditor or his legal representative at each such hearing. Very often, the periodic payments a judgment debtor is ordered to pay are very small, and the minority believes that to require such presence would place an undue and unnecessary burden and expense upon the judgment creditor. No judge or other representative of the district courts appeared at the public hearing to express any dissatisfaction with the present system, by which the judge usually conducts the inquiries of the judgment debtor directly and alone.

Majority Amendment (0707h)

Amend RSA 524:6-a as inserted by section 1 of the bill by replacing it with the following:

524:6-a Periodic Payment of Judgments. Whenever judgment is rendered against any person in this state, the court in which the judgment is rendered shall either at the time of rendition of the judgment inquire of the defendant as to the defendant's ability to pay the judgment in full or, upon petition of the plaintiff after judgment, order the defendant to appear in court for such inquiry. ***The court shall require the presence of the plaintiff or his or her representative at any inquiry requested by petition of the plaintiff.*** The court may at either time order the defendant to make such periodic payments as the court in its discretion deems appropriate. If the court orders the defendant to make periodic payments at the time of rendition of judgment, the order shall not provide for payments to begin until after the appeal period has expired. Failure to make such periodic payments [~~shall~~] ***may*** constitute civil contempt of court. The court may order the appropriate agencies to make an investigation and recommendation as to the defendant's ability to pay the judgment. The judgment may be enforced against any property of any kind of the debtor, except such property as is now exempt from attachment or execution. Unless the parties otherwise agree, after an order for periodic payments has been issued by the court, no writ of execution shall be issued by the court without prior notice to the defendant.

AMENDED ANALYSIS

This bill requires the plaintiff's presence or the presence of the plaintiff's representative at a hearing requested by such plaintiff on a defendant's ability to make full payment of a judgment. The bill also removes the court's statutory directive that a failure to make

periodic payments constitutes civil contempt, but gives the court discretion to hold the plaintiff in contempt for failure to make periodic payments.
Majority committee amendment adopted.
Majority committee report adopted and ordered to third reading.

UNANIMOUS CONSENT

Rep. Andy Peterson addressed the House.

MOTION TO PRINT REMARKS

Rep. Daniel Eaton moved that the remarks made by Rep. Andy Peterson be printed in the Permanent Journal.
Adopted.

REMARKS

Rep. Andy Peterson: Thank you, Madam Speaker. I rise to offer a few words of remembrance for a gentleman whom some of you, many of you, knew and who participated here honorably and well in the House of Representatives for many years. I received a phone call yesterday from our, now Fire Chief, Joe Lenox in Peterborough that Mert Dyer passed away yesterday morning. I wanted to ask the House's indulgence to make a few observations, as a person who served along side him and had the opportunity to get to know him in many roles over the course of my lifetime. A quote that came to mind this morning as I thought about this is one that we know well and often refer to and that is the quote from our President Thomas Jefferson, "(T)he price of freedom is eternal vigilance." Mert Dyer was a veteran who served in the Army. He served between the years of 1955 and 1957 in the Army and I was born in 1956, so I can't say I knew him well in that capacity. Although we think of those words from Thomas Jefferson when we think about how freedom is not free and think of those who stand in our stead in harm's way. I think we also need to think about the much less spectacular and sometimes passed over day by day efforts of people like the people I'm looking out in this room at right now and trying to get it right in legislation and trying to do the job and do the job well in this building. Mert Dyer served for seven terms as a Representative in the House, all of those terms on the Executive Departments and Administration Committee. He was Vice Chair of the Committee from 1995 to 1996, 1997 to 1998 and 2001 to 2002 during which time I was Chairman of the Committee so we worked very closely together, really chaired the committee together in many ways. He served in the House between the years of 1989 and 2002 and he was among other things, Chairperson in 1998 to 2000 of the Joint Committee on Administrative Rules. In addition, in our community, he was a volunteer Fire Chief, in that great tradition, between the years of 1966 to 1978. He served as the President of the New Hampshire Chief's Association in 1974 to 1975 and also was the President of the New England Association of Fire Chiefs in 1978. He was a Selectman in our town for three terms and he served on the New Hampshire Retirement System Board. Mert was known in this House as really the authority on retirement issues and he stood for the solvency of this system in a way that we now are beginning, everyone of us, to grasp the tremendous importance of defending that system so that those monies are there for the retirees and that they will be able to count on those monies being available when they are least able to advocate for themselves and are in need. This is something that Mert Dyer knew well and he would come down to the microphone again and again and again and remind us of the necessity of keeping that system solvent. Mert has a walkway named after him that goes to our Fire Museum, the Mert Dyer Walkway going to the Aquarius Fire Museum in Peterborough and I know that his comrades and people he's worked with on the Fire Department there are deeply shaken by his passing. It came after a mercifully short period of declining health and I hope that those of you who

knew him will share with me a good thought for Mert and remember his service well. Thank you, Madam Speaker.
A moment of silence was observed in honor and memory of former State Representative Mert Dyer.

The House recessed at 6:25 p.m.

RECESS

(Speaker Norelli in the Chair)
The House reconvened at 1:00 p.m., March 13, 2008.

LEAVES OF ABSENCE

Reps. Bergin, Boutin, Peter Cote, Stephanie Eaton, Foose, Forsing, Greco, Humphries, Stephen Johnson, Sally Kelly, Laliberte and Mann, the day, illness.
Reps. Bishop, Bleyler, Burridge, Mark Clark, Denley, DeStefano, Robert Elliott, Forest, James Garrity, Goodwin, Heald, Hutchinson, Hutz, Jasper, Lisle, McRae, Michael Rollo and Wickson, the day, important business.
Reps. Barry, Guthrie and Tupper, the day, illness in the family.
Rep. Beauchesne, the day, death in the family.

INTRODUCTION OF GUESTS

Scott Pearson, brother of Rep. Pearson. Mick Walsh, Jessie Knapp and Dan Seaton, guests of Rep. Rous.

REGULAR CALENDAR (CONT'D)

SPECIAL ORDER
HB 1281, prohibiting public schools from requiring health insurance as a condition of enrollment. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**
Rep. Pamela G. Price for the Majority of Education: This legislation would prohibit public schools within the university system and the community college system from requiring health insurance as a condition of enrollment. One year ago, UNH set a policy to require health insurance of all full time students. A student must buy the school offered health insurance unless they can prove that they already have coverage. Plymouth and Keene are considering a similar policy. Testimony was given that almost 88 percent of UNH freshmen and sophomores have insurance. A low income student, defined as "Pell eligible" would pay almost $900 more after a $500 credit to defray the cost. This is in addition to the $530 health services fee required for all students. The committee has heard concerns with college affordability and that average student loans are growing. The majority believe that this mandate will provide another barrier for the low income student to attend our premier state school. The amendment allows an exception where health insurance is a requirement of the program of the student. This recognizes that there are some programs of study, such as in the allied health fields, that require insurance because this is a requirement of the clinical providers or institutions where they train. Vote 10-7.
Rep. Kimberley S. Casey for the Minority of Education: After a decade of discussion, research, and data collection, the University of New Hampshire made the decision to require health insurance for its full time students. The USNH board of trustees and administrators considered cost and the effect on lower income students, but concluded this is the policy that best protects the health and safety of the entire university community. The decision was supported by both the Graduate Students' Organization and the Undergraduate Student Senate whose endorsement was unanimous. Why did the committee choose to micromanage

the university administration, the board of trustees, and the students who attend the university? Members had concerns about additional financial burden to students although testimony indicated there had been not one single potential student who was unable to attend because of the requirement, that Pell-eligible students receive a $500 supplement, and that total costs are similar to charges for New Hampshire Healthy Kids. The most frequently voiced concern had to do with a dislike of mandates, but uninsured students affect everyone's welfare and costs. More and more students require ongoing attention for physical and mental health needs that fall between what University Health Services can provide and what would be met by local emergency rooms. If students resist referrals or medication because they lack insurance, their needs can escalate and disrupt the educational process. In a time when we witness one campus tragedy after another, it is evident that university students can be considered a "high risk demographic." Health and safety should transcend ideological concerns. Let's not micromanage a policy that the university and trustees have carefully and thoughtfully considered and implemented.

Majority Amendment (0630h)

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

AN ACT prohibiting public schools from requiring health insurance as a condition of enrollment except if health insurance is a requirement of the student's program of study.

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

1 New Subdivision; State College and University System; Miscellaneous Provisions. Amend RSA 187-A by inserting after section 42 the following new subdivision:

Miscellaneous Provisions

187-A:43 Health Insurance Requirement Prohibited. No institution within the university system of New Hampshire shall require a student, as a condition of enrollment, to purchase a health insurance policy either through the institution or a private insurer, except if health insurance is a requirement of the student's program of study.

2 New Section; Community College System of New Hampshire; Health Insurance Requirement Prohibited. Amend RSA 188-F by inserting after section 21 the following new section:

188-F:22 Health Insurance Requirement Prohibited. No institution within the community college system of New Hampshire shall require a student, as a condition of enrollment, to purchase a health insurance policy either through the institution or a private insurer, except if health insurance is a requirement of the student's program of study.

AMENDED ANALYSIS

This bill prohibits institutions within the university system and the community college system of New Hampshire from requiring a student to purchase health insurance as a condition of enrollment, except if health insurance is a requirement of the student's program of study.

Majority committee amendment adopted.

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

Reps. Judith Day and Scott Merrick spoke against and yielded to questions.

Reps. Claire Clark and Price spoke in favor.

Rep. Cooney spoke against.

Rep. Levasseur spoke in favor and yielded to questions.

On a division vote, 174 members having voted in the affirmative and 147 in the negative, the majority committee report was adopted.

Ordered to third reading.

HB 1435, requiring certain food programs to comply with Centers for Disease Control/Institute of Medicine standards. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Nancy F. Stiles for Education: The goal of this legislation is to redirect behavior for health and wellness in children. This bill as amended improves food quality access and practices. It slows the implementation for a healthier school environment to a schedule that is reasonable for school districts without making radical changes or restricting fundraising or booster club activities. We are facing a rising obesity problem nationwide especially in children with rising medical costs both short term and long term. The state has an interest: testimony told us that 38 percent of Medicaid children have been identified as overweight or obese and the state pays 50 percent of that cost. Vote 14-5.

Amendment (0690h)

Amend the bill by replacing sections 2-3 with the following:

2 New Paragraph; School Boards; Food and Nutrition Programs. Amend RSA 189:11-a by inserting after paragraph VII the following new paragraph:

VIII.(a) School districts shall ensure that food sold to pupils as part of the school meals program complies with the United States Department of Agriculture National School Lunch Program/School Breakfast Program guidelines for school meals.

(b) During breakfast and lunch periods, a public school shall be encouraged to sell foods as complete reimbursable meals in compliance with the federal meals program guidelines. This subparagraph shall not prohibit the sale of fruit, nonfried vegetables, legumes, beverages, dairy products, or grain products as individual food items if they meet the requirements set forth in subparagraph (a).

(c) For food and beverages made available through other school venues, the state shall adopt the current Institute of Medicine Nutrition Standards. The New Hampshire Coordinated School Health Council shall develop a definitions page for dissemination to schools to assist with implementation guidelines and shall create a science-based exceptions list of foods that are nutrient dense but exceed the Institute of Medicine standards. This shall not supersede any current or future federally approved national nutrition standards.

(d) These nutrition standards will apply to all foods outside of the school meals program made available to pupils from the beginning to the end of the school day and shall be implemented in the following manner:

(1) A la carte sales and vending machines beginning in school year 2008-2009.

(2) Snack bars and school stores beginning in school year 2010-2011.

(e) School-associated groups or other members of the school community sponsoring food related activities shall be encouraged to follow the nutrition standards whenever possible.

(f) The individual responsible for oversight and enforcement of the school wellness policy shall be responsible for monitoring the implementation of this paragraph.

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

AMENDED ANALYSIS

This bill implement procedures for the sale of food and beverages in public schools.

Amendment adopted.

Rep. French offered floor amendment (0903h).

Floor Amendment (0903h)

Amend the bill by replacing sections 2-3 with the following:

2 New Paragraph; School Boards; Food and Nutrition Programs. Amend RSA 189:11-a by inserting after paragraph VII the following new paragraph:

VIII.(a) School districts shall ensure that food sold to pupils as part of the school meals program complies with the United States Department of Agriculture National School Lunch Program/School Breakfast Program guidelines for school meals.

(b) During breakfast and lunch periods, a public school shall be encouraged to sell foods as complete reimbursable meals in compliance with the federal meals program

guidelines. This subparagraph shall not prohibit the sale of fruit, nonfried vegetables, legumes, beverages, dairy products, or grain products as individual food items if they meet the requirements set forth in subparagraph (a).

(c) For food and beverages made available through other school venues, the state shall adopt the current New Hampshire Healthy School Coalition nutrition guidelines until superseded by the Institute of Medicine Nutrition Standards or other federally adopted school nutrition standards. The New Hampshire Coordinated School Health Council shall develop a definitions page that complements these guidelines for dissemination to schools to assist with implementation.

(d) These nutrition standards will apply to all foods outside of the school meals program made available to pupils from the beginning to the end of the school day and shall be implemented in the following manner:

(1) A la carte sales and vending machines beginning in school year 2008-2009.

(2) Classroom parties and celebrations beginning in school year 2009-2010.

(3) Snack bars, fund raising, and school stores beginning in school year 2010-2011.

(e) School-associated groups or other members of the school community sponsoring food related activities shall be encouraged to follow the nutrition standards whenever possible. Classroom parties, celebrations, and other events may feature food that does not meet these guidelines if the event is approved by the local school district and offered after the last lunch of the school day.

(f) Nothing in this paragraph shall cause the course offerings of an academic culinary program to be altered or modified.

(g) The individual responsible for oversight and enforcement of the school wellness policy shall be responsible for monitoring the implementation of this paragraph.

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

AMENDED ANALYSIS

This bill implements procedures for the sale of food and beverages in public schools.

Rep. French spoke in favor.
Rep. Stiles spoke in favor and yielded to questions.
Rep. Price spoke against.
Floor amendment (0903h) failed.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Wendelboe spoke against and yielded to questions.
Rep. Stiles spoke in favor.
On a division vote, 180 members having voted in the affirmative and 136 in the negative, the committee report was adopted.
Ordered to third reading.

HB 1519-FN, relative to the determination of gainful occupation for a group II member receiving a disability retirement allowance from the retirement system. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. Ken Hawkins for the Majority of Executive Departments and Administration: Currently, when a public employee goes on disability, that person receives a disability check and a pension from the New Hampshire Retirement System that equals the persons normal pay. If the person goes to work in a job not affected by the disability, and earns more than what the pay and pension would be, the pension is reduced. This bill would have exempted Group II from this requirement. The committee took into account the $200,000 impact on employer contribution rates, the fact that this covers Group II only, and of the 33 employees affected, 16 are Group I and 17 are Group II. We also considered the fact that HB 1645, concerning the retirement system, is still being worked on and could address this issue. Vote 9-7.
Rep. Pamela V. Manney for the Minority of Executive Departments and Administration: The

minority believes this bill fixes an inequity in the current law placed on Group II members (police, fire) forced to retire due to an on the job career-ending injury and receiving accidental disability allowances. Currently, Group II members who work their 20 years can retire as early as age 45. If they desire, they can work another job, earn as much as they want and still receive their full pension benefit. In contrast, earnings of a Group II member hurt on the job are capped until the age of 70, an additional 25 years. This means that a Group II member receiving a disability retirement allowance (set at 2/3rd of his or her average final compensation at the time of injury) is stuck for the rest of his or her life in the position/pay grade that he or she last held. The only increase to the benefit is when that position's salary is increased due to inflation. It never takes into account what the individual could have earned from overtime or potential promotions. For example: A Group II person who had been earning $30,000 a year at the time of injury will receive a pension of $20,000 a year in disability benefits. If the person goes back to work in the computer industry, the earnings are now capped at only $10,000 a year, anything over that must be paid back to the retirement system. This creates a great hardship to Group II workers, forced to retire at a young age, who have families to support and find it difficult to do so under the current law. This bill will allow the earning cap to be lifted at 45 years of age, the same as those Group II members not hurt on the job and bring equity between Group II members.
Rep. Manney spoke against.
Rep. Hawkins spoke in favor.
On a division vote, 215 members having voted in the affirmative and 100 in the negative, the majority committee report was adopted.
Reps. Weare and Emiro declared a conflict of interest on ***HB 1519-FN,*** and did not participate.

HB 1139, relative to party access to voter information. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**
Rep. Shawn N. Jasper for the Majority of Election Law: As introduced this bill would have merely removed the gender and year of birth from the voter information provided by the secretary of state. The sponsor suggested an amendment, portions of which were adopted by the committee. The committee's amendment sets the fee that the secretary of state shall charge for selling the state wide voter list. Additionally it provides that each municipality would receive the amount they would charge if the list were purchased directly from the community. There is some concern that the fee, which would be around $7,000 for the state wide list, is high and may be challenged as constituting a tax. The majority believes that due to the extraordinary amount of work that the supervisors of the check lists must do to gather this information to create the list, the fee is defensible. In fact, the representative from the attorney general's office did feel that the fee could be defended. The amendment further requires that anyone who buys the list and resells it must pay, to the secretary of state, the original cost of the list, each time they resell it. The sponsor had suggested that voters be allowed to opt out of having their name appear on any list which is sold by either the municipality or the secretary of state. The committee believes that there is a strong public interest in having candidates being able to directly contact potential voters. Voters are free to throw away unwanted mailings, but candidates should have the opportunity to make themselves known to potential voters. Taken to the possible extreme, there would be no public checklist available, as all voters could opt out. Vote 8-6.
Rep. James R. Splaine for the Minority of Election Law: Some of the members were opposed to the approximately $7000 cost of the statewide list. Others were opposed to the elimination of the "opt out" provision for copies of the statewide list. We are looking forward to a Senate bill dealing with the same issue.

Majority Amendment (0536h)
Amend the title of the bill by replacing it with the following:

AN ACT relative to availability of checklists and access to voter information.
Amend the bill by replacing all after the enacting clause with the following:

1 Availability of Checklist; Copies. Amend RSA 654:31, III-VI to read as follows:

III. Any person may view the data that would be available on the public checklist, as corrected by the supervisors of the checklist, on the statewide centralized voter registration database maintained by the secretary of state at the state records and archives center during normal business hours, but the person viewing data at the state records and archives center may not print, duplicate, transmit, or alter the data. The secretary of state may only provide copies of the most recent public checklist to a political committee of a political party as defined in RSA 664:2, V, or to a candidate who has filed for consideration for any office in any primary or general election or who has been nominated for any office in a general election. The secretary of state may not provide public checklists of less than the entire state. The secretary of state [~~may~~] ***shall*** charge a fee of [~~up to~~] $25 plus $0.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges for each copy of the statewide public checklist. ***In addition, the secretary of state shall charge and collect on behalf of and remit to the supervisors of the checklist of each city and town the amount that such supervisors would have charged had the public checklist of their city or town been purchased from them.*** The secretary of state may provide public checklists as prescribed in this section on paper, computer disk, computer tape, electronic transfer, or any other form.

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

V. ***A person who sells or otherwise makes available to another person, directly or indirectly, a list acquired pursuant to paragraph II or III shall pay to the secretary of state for each such other person the amount set forth in paragraph III which the secretary of state shall remit to the supervisors of the checklist.***

VI. No person shall use or permit the use of checklist information provided by the secretary of state ***or by the supervisors of the checklist*** for commercial purposes. Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person. ***The secretary of state may insert inauthentic entries into copies of the public checklist provided under this section for purposes of facilitating enforcement of this paragraph.***

[~~VI.~~] ***VII.*** This section shall not be construed to restrict the transfer of checklist information to the state or federal courts as required by RSA 654:45 for any lawful purpose.

2 Access to Statewide Voter Information. Amend RSA 654:46 to read as follows:

654:46 [~~Party~~] Access to ***Statewide*** Voter Information.

I. Notwithstanding any other provision of law, the secretary of state shall, upon request, provide to a party, as defined in RSA 652:11, a list of the name, street address, mailing address, town or city, [~~gender, year of birth,~~] voter history, and party affiliation, if any, of every registered voter in the state. In this section, "voter history" means the elections at which the voter voted. The secretary of state [~~may~~] ***shall*** charge a fee of [~~up to~~] $25 plus $0.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges for each copy of the list provided under this section. ***In addition, the secretary of state shall charge and collect on behalf of and remit to the supervisors of the checklist of each city and town the amount that such supervisors would have charged had the public checklist of their city or town been purchased from them.*** The secretary of state may provide lists as prescribed in this section on paper, computer disk, computer tape, electronic transfer, or any other form. ***Except for fees collected on behalf of a city or town,*** fees collected by the secretary of state under this section shall be deposited in the election fund established pursuant to RSA 5:6-d.

II. ***A party who sells or otherwise makes available to another person, directly or indirectly, a list acquired pursuant to paragraph I shall pay to the secretary of state for each such other person the amount set forth in paragraph I which the secretary of state shall remit to the supervisors of the checklist.***

III. No party shall use or permit the use of voter information provided by the secretary of state under paragraph I for commercial purposes as defined in RSA 654:31, I(b). Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person. ***The secretary of state may insert inauthentic entries into the voter information provided under this section for purposes of facilitating enforcement of this paragraph.***

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

AMENDED ANALYSIS

This bill:

I. Removes gender and year of birth from the list of voter information that the secretary is required to provide to political parties.

II. Authorizes the use of inauthentic entries to facilitate the enforcement of prohibitions on using voter information for commercial purposes.

III. Requires the secretary of state to collect additional fees for voter information and remit a portion of the fees to cities and towns.

LAID ON THE TABLE

Rep. Daniel Eaton moved that ***HB 1139,*** relative to party access to voter information, be laid on the table.

On a division vote, 204 members having voted in the affirmative and 107 in the negative, the motion was adopted.

REGULAR CALENDAR (CONT'D)

HB 1612-FN-L, relative to county and state obligations for costs for nursing care and services, and for court orders for children services. **INEXPEDIENT TO LEGISLATE.**

Rep. Fran Wendelboe for Finance: The sponsors' intent on HB 1612 was very well intended. While many legislators are frustrated with the complex issues involved with the county/state relationship on the cost of juvenile justice and nursing homes, however well intentioned, this bill is premature. There are several issues at the heart of the bill currently in litigation. The suggested county share on juvenile justice would be viewed as an Article 28A issue. The department of health and human services and the counties are making progress in their efforts to resolve these issues. In addition there is a study commission established in HB 2 looking at the same issues. Vote 22-0.

LAID ON THE TABLE

Rep. Daniel Eaton moved that ***HB 1612-FN-L,*** relative to county and state obligations for costs for nursing care and services, and for court orders for children services, be laid on the table.

Adopted.

PROTEST

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, Rep. Vaillancourt requested that his protest be entered in the Permanent Journal.

I enter a protest over this motion as abuse of tabling privilege in accordance with Part 2, Article 24 of the New Hampshire Constitution.

REGULAR CALENDAR (CONT'D)

CACR 30, relating to the oath of office. Providing that the name of the state in the oath of office be corrected. **INEXPEDIENT TO LEGISLATE.**
Rep. Lucy M. Weber for Judiciary: CACR 30 provides two changes to Article 84 of the Constitution. First, the letter "s" in the word "state" would be changed from the current lower case "s" to a capital "S." Second, the oath would change from bearing "faith and true allegiance to the United States of America" to supporting "the Constitution of the United States of America." The changes arise out of a 1970 amendment to Article 84 in which the oath of allegiance to the United States was added. At that time, the Constitution as printed used the phrase "state of New Hampshire" throughout. Subsequent research of original sources shows that the Constitution as originally drafted favored the usage "State of New Hampshire" and in more recent printings, that style has been preferred. However, the lower case "s" having been affirmatively adopted by the voters in 1970, it cannot be changed without a subsequent act of the voters. The majority of the committee believes that although the better practice, if creating a new amendment, would have been to change the style and possibly the wording of the oath as well, the passage of 38 years without any problems arising out of the current language makes this change unnecessary. Vote 12-8.
Committee report adopted.

HB 1160, establishing the women's health protection act. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**
Rep. Bette R. Lasky for the Majority of Judiciary: While it is laudable that the sponsors of HB 1160 have titled their bill "Women's Health Protection Act," the clear intent of it is to provide "protection" to only one aspect of a woman's health. This bill does not in any way focus on the #1 killer of women, heart disease, or on the eradication of breast cancer, but seeks to deny, and impose significant burdens on a woman's reproductive health decision making. HB 1160 imposes extraordinary and unreasonable burdens on medical providers and inserts the government into the doctor-patient relationship by dictating the content of information given to the patient and makes one medical provider liable for the quality of care of another provider. Vote 11-3.
Rep. Nancy J. Elliott for the Minority of Judiciary: The minority believes that this bill would protect women from the psychological and physical harm caused by abortions in our state. This bill calls for women seeking an abortion to have a medical and psychological screening prior to the abortion. As we know, many women suffer from the emotional effects of an abortion for many years. A licensed physician would be required to perform the procedure and that physician would be required to carry insurance and have hospital admitting privileges. The women of this state deserve to have the best medical care and this would raise the minimum standard for abortion.
Rep. Soucy requested a roll call; sufficiently seconded.

YEAS 236 NAYS 79

YEAS 236

BELKNAP

Allen, Janet	Arsenault, Beth	Millham, Alida	Morrison, Gail
Pilliod, James	Reever, Judith	Russell, David	Thomas, John
Tobin, William			

CARROLL

Ahlgren, Christopher	Bridgham, Robert	Buco, Thomas	Butler, Edward
Chandler, Gene	Cunningham, Howard	Heard, Virginia	Knox, J. David
Martin, James	Merrow, Harry	Patten, Betsey	

CHESHIRE

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

COOS

Hatch, William	Merrick, Evalyn	Merrick, Scott	Remick, William
Stohl, Eric	Theberge, Robert	Tholl, John Jr	

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Brunelle, Michael	Campbell, David
Chase, Claudia	Christensen, Chris	Clemons, Jane	Cote, David
Dokmo, Cynthia	Drisko, Richard	Emerton, Larry	Essex, David
Farley, Michael	Fletcher, Richard	Foster, Linda	Gargasz, Carolyn
Ginsburg, Ruth	Gorman, Mary	Graham, John	Hackel, Paul
Hall, Betty	Hammond, Jill	Harvey, Suzanne	Hebert, Roger
Irwin, Anne-Marie	Jeudy, Jean	Kaelin, Michael	Kelley, John
Knowles, John	Knowles, Mary Ann	Kopka, Angeline	Kurk, Neal
Lasky, Bette	Leishman, Peter	Levasseur, Nickolas	Levesque, Melanie
Long, Patrick	Mack, Ron	Marshall, Seth	Messier, Irene
Movsesian, Lori	O'Brien, Michael Sr	O'Connell, Timothy	O'Neil, James
Ober, Russell III	Peterson, Andy	Pilotte, Maurice	Price, Pamela
Rosenwald, Cindy	Scannell, David	Schulze, Joan	Shattuck, Gilman
Simon, Anthony	Smith, David	Spaulding, Jayne	Spratt, Stephen
Sullivan, Francis	Vaillancourt, Steve	Winters, Joel	

MERRIMACK

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

ROCKINGHAM

Abbott, Dennis	Belanger, Ronald	Borden, David	Brown, C. Pennington
Cali-Pitts, Jacqueline	Case, Frank	Casey, Kimberley	Day, Judith
Flanders, John Sr	Flockhart, Eileen	Gould, Kenneth	Grote, Otto
Henson, John	Howard, Doreen	Ingram, Russell	Kennedy, James

Kepner, Susan	Lister, Charlotte	Major, Norman	Marsh, Michael
McEachern, Paul	McKenna, Daniel	McKinney, Betsy	Moody, Marcia
Moore, Bennett	Nord, Susi	Nowe, Ronald	Pantelakos, Laura
Petterson, Don	Powers, James	Priestley, Anne	Robertson, Carl
Russell, Trinka	Sanders, Elisabeth	Serlin, Christopher	Snow, Richard
Splaine, James	Stiles, Nancy	Weare, Everett	Webber, James
Wells, Roger			

STRAFFORD

Brennan, William	Brown, Jennifer	Brown, Julie	Brown, Larry
Burke, Rachel	Cyr, James	DeChane, Marlene	Domingo, Baldwin
Fargo, Thomas	Grassie, Anne	Hubbard, Pamela	Kaen, Naida
Knowles, William	Mickelonis, Shawn	Miller, Joseph	Perry, Robert
Rollo, Deanna	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Sprague, Dale	Vachon, Dennis	Wall, Janet
Warren, Nancy	Watson, Robert		

SULLIVAN

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

NAYS 79

BELKNAP

Boyce, Laurie	Clark, Charles	Flanders, Donald	Nedeau, Stephen
Tilton, Franklin	Wendelboe, Fran		

CARROLL

Brown, Carolyn	Stevens, Stanley

CHESHIRE

Emerson, Susan	Johnson, Jane

COOS

None

GRAFTON

Bulis, Lyle	Dingman, Vernon III	Ingbretson, Paul	Sorg, Gregory

HILLSBOROUGH

Batula, Peter	Bergeron, Jean-Guy	Christiansen, Lars	Coughlin, Pamela
Daniels, Gary	Day, Russell	Elliott, Nancy	Goyette, Peter
Haefner, Robert	Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton
Hogan, Edith	Infantine, William	Jean, Claudette	L'Heureux, Robert
Lawrence, James	Manney, Pamela	Matarazzo, Anthony Sr	Mooney, Maureen
Ober, Lynne	Reeves, Sandra	Renzullo, Andrew	Rowe, Robert
Soucy, Connie	Stepanek, Stephen	Sullivan, Daniel	Tahir, Saghir
Ulery, Jordan	Villeneuve, Maurice		

MERRIMACK

None

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Bettencourt, David
Camm, Kevin	Carson, Sharon	Charron, Gene	Dalrymple, David
Devine, James	DiFruscia, Anthony	Dumaine, Dudley	Emiro, Frank
Fesh, Bob	Garcia, Marilinda	Gleason, John	Griffin, Mary
Headd, James	Itse, Daniel	Kappler, Lawrence	Katsakiores, George
Katsakiores, Phyllis	Lund, Howie	McMahon, Charles	Nevins, Christopher
Packard, Sherman	Pearson, Mark	Quandt, Marshall	Quandt, Matthew
Rausch, James	Reagan, John	Welch, David	Weyler, Kenneth
Winchell, George			

STRAFFORD

Hofemann, Roland

SULLIVAN

Rodeschin, Beverly

and the majority committee report was adopted.

HB 1495-FN, relative to parental notification. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Maureen Baxley for the Majority of Judiciary: The committee feels that the laws currently in place are working well and there is no need for imposing this barrier between doctor and patient. In the vast majority of cases, patients do include their parents in the process. In the small number of cases where patients do not include their parents there are compelling reasons such as abuse and it would be counterproductive and detrimental to the patient's health and/ or well-being. The medical community has excellent protocols and ethical guidelines for treating minors and the committee feels these decisions are best made on a case by case basis by experts in adolescent medicine. Vote 11-6.

Rep. Maureen C. Mooney for the Minority of Judiciary: HB 1495 would bring back into our law the parental notification statute with the constitutionally approved "medical emergency" health exception. The bill also contains a judicial bypass exception. The judicial bypass allows a girl the option of accessing a judge, in place of her parents, if the girl is unable to communicate with her parents. Upon passage, New Hampshire would join 42 other states that currently have either parental notification or consent laws. The minority of the committee feels strongly that a constitutionally sound parental notification law is first and foremost needed for the safety, health and best interest of minor girls. The bill also enhances parental rights. Parents should be informed of medical procedures which may have grave long-term consequences on their minor daughters. We feel that parents can properly ensure their daughters are aware of the risks involved before an abortion and can adequately assist with medical care after an abortion. The bill also protects providers. Notified parents are the primary and best resources for giving providers their minor daughters' medical histories. This protective measure can prevent medical malpractice and protect the patient's health. HB 1495 is essential to protect minor girls' wellness, and parental awareness. We emphatically urge its passage.

Reps. Lawrence and Bettencourt spoke against.

Rep. Wendelboe spoke against and yielded to questions.

Reps. Lasky and Hager spoke in favor.

Rep. Ulery requested a roll call; sufficiently seconded.

YEAS 190 NAYS 128

YEAS 190

BELKNAP

Allen, Janet	Millham, Alida	Morrison, Gail	Pilliod, James
Reever, Judith	Russell, David		

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Heard, Virginia			

CHESHIRE

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

COOS

Hatch, William	Merrick, Evalyn	Merrick, Scott	Theberge, Robert

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Campbell, David	Chase, Claudia
Clemons, Jane	Cote, David	Daler, Jennifer	Dokmo, Cynthia
Drisko, Richard	Essex, David	Farley, Michael	Foster, Linda
Gargasz, Carolyn	Ginsburg, Ruth	Gorman, Mary	Graham, John
Hackel, Paul	Hall, Betty	Hammond, Jill	Harvey, Suzanne
Hebert, Roger	Irwin, Anne-Marie	Jeudy, Jean	Kaelin, Michael
Kelley, John	Knowles, John	Knowles, Mary Ann	Kopka, Angeline
Lasky, Bette	Leishman, Peter	Levasseur, Nickolas	Levesque, Melanie
Long, Patrick	Mack, Ron	Marshall, Seth	Messier, Irene
Movsesian, Lori	O'Brien, Michael Sr	Peterson, Andy	Rosenwald, Cindy
Scannell, David	Shattuck, Gilman	Simon, Anthony	Spaulding, Jayne
Spratt, Stephen	Sullivan, Francis		

MERRIMACK

Anderson, Eric	Baxley, Maureen	Blanchard, Elizabeth	Bouchard, Candace
Brown, Carole	Brueggemann, Donald	Clarke, Claire	Davis, Frank
DeJoie, John	French, Barbara	Gile, Mary	Hager, Elizabeth
Hamm, Christine	Kidder, David	Kjellman, Eleanor Glynn	Lockwood, Priscilla
MacKay, James	McMahon, Patricia	Osborne, Jessie	Owen, Derek
Porter, Margaret	Potter, Frances	Reardon, Tara	Richardson, Gary
Ryan, Jim	Shurtleff, Stephen	Tilton, Joy	Wallner, Mary

Walz, Mary	Wheeler, Deborah	Williams, Robert	Yeaton, Charles

ROCKINGHAM

Abbott, Dennis	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Casey, Kimberley	Day, Judith	Flockhart, Eileen	Gould, Kenneth
Grote, Otto	Henson, John	Howard, Doreen	Kennedy, James
Kepner, Susan	Lister, Charlotte	Marsh, Michael	McEachern, Paul
McKenna, Daniel	Moody, Marcia	Moore, Bennett	Nord, Susi
Pantelakos, Laura	Petterson, Don	Powers, James	Robertson, Carl
Russell, Trinka	Serlin, Christopher	Snow, Richard	Splaine, James
Webber, James			

STRAFFORD

Brennan, William	Brown, Jennifer	Brown, Larry	Burke, Rachel
DeChane, Marlene	Domingo, Baldwin	Grassie, Anne	Hubbard, Pamela
Kaen, Naida	Knowles, William	Mickelonis, Shawn	Miller, Joseph
Perry, Robert	Rollo, Deanna	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Spang, Judith	Sprague, Dale	Vachon, Dennis
Wall, Janet	Warren, Nancy	Watson, Robert	

SULLIVAN

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

NAYS 128

BELKNAP

Boyce, Laurie	Clark, Charles	Flanders, Donald	Nedeau, Stephen
Thomas, John	Tilton, Franklin	Tobin, William	Wendelboe, Fran

CARROLL

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

CHESHIRE

Butynski, William	Emerson, Susan	Johnson, Jane

COOS

Remick, William	Stohl, Eric	Tholl, John Jr

GRAFTON

Bulis, Lyle	Dingman, Vernon III	Ingbretson, Paul	Sorg, Gregory
Williams, Burton			

HILLSBOROUGH

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

Goyette, Peter	Haefner, Robert	Haley, Robert	Hansen, Ryan
Hawkins, Ken	Hinkle, Peyton	Hogan, Edith	Infantine, William
Jean, Claudette	Kurk, Neal	L'Heureux, Robert	Lawrence, James
Manney, Pamela	Matarazzo, Anthony Sr	Mooney, Maureen	Moran, Edward
O'Connell, Timothy	O'Neil, James	Ober, Lynne	Ober, Russell III
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Renzullo, Andrew
Rowe, Robert	Shaw, Kimberly	Smith, David	Soucy, Connie
Stepanek, Stephen	Sullivan, Daniel	Tahir, Saghir	Ulery, Jordan
Vaillancourt, Steve	Villeneuve, Maurice	Winters, Joel	

MERRIMACK

Ehlers, Eileen	Hess, David	Reed, Dennis	Webb, Leigh

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Camm, Kevin	Carson, Sharon	Case, Frank
Charron, Gene	Dalrymple, David	Devine, James	DiFruscia, Anthony
Dumaine, Dudley	Emiro, Frank	Fesh, Bob	Flanders, John Sr
Garcia, Marilinda	Gleason, John	Griffin, Mary	Headd, James
Ingram, Russell	Itse, Daniel	Kappler, Lawrence	Katsakiores, George
Katsakiores, Phyllis	Lund, Howie	Major, Norman	McKinney, Betsy
McMahon, Charles	Nevins, Christopher	Nowe, Ronald	Packard, Sherman
Priestley, Anne	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reagan, John	Sanders, Elisabeth	Stiles, Nancy	Weare, Everett
Welch, David	Wells, Roger	Weyler, Kenneth	Winchell, George

STRAFFORD

Cyr, James	Fargo, Thomas	Hofemann, Roland

SULLIVAN

Donovan, Thomas	Gagnon, Raymond	Rodeschin, Beverly

and the majority committee report was adopted.

HB 1498-FN, relative to notification of a parent or guardian by medical professionals when treating a minor. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Frances D. Potter for the Majority of Judiciary: NH statutes support confidential treatment for minors with respect to mental health (RSA 135-C: 16), drugs & alcohol (318-B: 12-a) sexually-transmitted infections (RSA 141-C: 18) HIV/AIDS (141-F: 5) and others if a minor is mature. The AMA representative stated that AMA ethical guidelines support confidential treatment of mature minors. Also, the practical issues of notifying parents would be problematic. It would be impossible to delay treatment of a minor in an emergency room more than 6 hours without incurring charges of malpractice. Vote 11-6.

Rep. Gregory M. Sorg for the Minority of Judiciary: The frustration the minority feels generally on the subject of parental notification bills stems in large part from its view that the majority keeps shifting the basis for its opposition to them. Once it was the lack of a judicial bypass. Such a bypass was supplied. Then it was the lack of a specific exception for medical emergencies, notwithstanding the existing common law self-defense immunity, statutory civil immunity at RSA 329:25, and statutory criminal immunity at RSA 672:3. Such specific exception was added. Now it is back to the judicial bypass, which this time is said to be inappropriate due to the lack of expertise of judges on medical subjects. But the purpose of the judicial bypass is not to determine medical questions, but to explore the basis

of the minor's opposition to notifying her parents of the pregnancy. The judiciary, in particular judges of the district and family courts, who deal routinely with domestic matters, are eminently qualified to decide such matters. Indeed, testimony at the public hearing indicated that minors seeking a judicial bypass are seldom turned down except when the court determines that the basis of the fear of the parents' reaction is unreasonable. Abortion is almost the only surgical procedure in which the "growth" to be removed is one whose loss has the potential to be grievously regretted forever. It is not one to be made by a frightened child on her own, but in consultation with the two people in the world who love her most, her parents. Children often have little understanding of the depths of love and understanding of which parents are capable in a crisis, because those depths thankfully seldom have to be tested. Every section of this bill is modeled on statutes of other states that have been upheld in federal court. Its constitutionality not being open to dispute, the full House can no longer hide behind legalistic quibbles, but must answer the question at the heart of this bill, namely whether or not it supports parents' fundamental right to rear their own children.
Rep. Lund requested a roll call; sufficiently seconded.

YEAS 207 NAYS 111

YEAS 207

BELKNAP

Allen, Janet	Millham, Alida	Morrison, Gail	Pilliod, James
Reever, Judith	Russell, David		

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Heard, Virginia	Martin, James		

CHESHIRE

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

COOS

Hatch, William	Merrick, Evalyn	Merrick, Scott	Theberge, Robert

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Brunelle, Michael	Campbell, David
Chase, Claudia	Clemons, Jane	Cote, David	Daler, Jennifer
Dokmo, Cynthia	Drisko, Richard	Emerton, Larry	Essex, David
Farley, Michael	Fletcher, Richard	Foster, Linda	Gargasz, Carolyn
Ginsburg, Ruth	Gorman, Mary	Graham, John	Hackel, Paul
Hall, Betty	Hammond, Jill	Harvey, Suzanne	Hebert, Roger

Irwin, Anne-Marie	Jeudy, Jean	Kaelin, Michael	Kelley, John
Knowles, John	Knowles, Mary Ann	Kopka, Angeline	Lasky, Bette
Leishman, Peter	Levasseur, Nickolas	Levesque, Melanie	Long, Patrick
Mack, Ron	Marshall, Seth	Messier, Irene	Movsesian, Lori
O'Brien, Michael Sr	O'Connell, Timothy	Ober, Russell III	Peterson, Andy
Price, Pamela	Rosenwald, Cindy	Scannell, David	Schulze, Joan
Shattuck, Gilman	Simon, Anthony	Spaulding, Jayne	Spratt, Stephen
Sullivan, Francis	Vaillancourt, Steve		

MERRIMACK

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

ROCKINGHAM

Abbott, Dennis	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Case, Frank	Casey, Kimberley	Day, Judith	DiFruscia, Anthony
Flanders, John Sr	Flockhart, Eileen	Gould, Kenneth	Grote, Otto
Henson, John	Howard, Doreen	Kennedy, James	Kepner, Susan
Lister, Charlotte	Marsh, Michael	McEachern, Paul	McKenna, Daniel
Moody, Marcia	Moore, Bennett	Nord, Susi	Pantelakos, Laura
Petterson, Don	Powers, James	Robertson, Carl	Russell, Trinka
Serlin, Christopher	Snow, Richard	Splaine, James	Stiles, Nancy
Webber, James			

STRAFFORD

Brennan, William	Brown, Jennifer	Brown, Larry	Burke, Rachel
Cyr, James	DeChane, Marlene	Domingo, Baldwin	Fargo, Thomas
Grassie, Anne	Hubbard, Pamela	Kaen, Naida	Knowles, William
Mickelonis, Shawn	Miller, Joseph	Perry, Robert	Rollo, Deanna
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Spang, Judith
Sprague, Dale	Vachon, Dennis	Wall, Janet	Warren, Nancy
Watson, Robert			

SULLIVAN

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

NAYS 111

BELKNAP

Boyce, Laurie	Clark, Charles	Flanders, Donald	Nedeau, Stephen
Thomas, John	Tilton, Franklin	Tobin, William	Wendelboe, Fran

CARROLL

Ahlgren, Christopher	Brown, Carolyn	Knox, J. David	Merrow, Harry
Patten, Betsey	Stevens, Stanley		

CHESHIRE

Emerson, Susan	Johnson, Jane		

COOS

Remick, William	Stohl, Eric	Tholl, John Jr	

GRAFTON

Bulis, Lyle	Dingman, Vernon III	Ingbretson, Paul	Sorg, Gregory
Williams, Burton			

HILLSBOROUGH

Batula, Peter	Bergeron, Jean-Guy	Christensen, Chris	Christiansen, Lars
Coughlin, Pamela	Crane, Elenore Casey	Daniels, Gary	Day, Russell
Elliott, Nancy	Goyette, Peter	Haefner, Robert	Haley, Robert
Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton	Hogan, Edith
Infantine, William	Jean, Claudette	Kurk, Neal	L'Heureux, Robert
Lawrence, James	Manney, Pamela	Matarazzo, Anthony Sr	Mooney, Maureen
Moran, Edward	O'Neil, James	Ober, Lynne	Pilotte, Maurice
Reeves, Sandra	Renzullo, Andrew	Rowe, Robert	Shaw, Kimberly
Smith, David	Soucy, Connie	Stepanek, Stephen	Sullivan, Daniel
Tahir, Saghir	Ulery, Jordan	Villeneuve, Maurice	Winters, Joel

MERRIMACK

Anderson, Eric	DeJoie, John	Hess, David	Reed, Dennis

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Camm, Kevin	Carson, Sharon	Charron, Gene
Dalrymple, David	Devine, James	Dumaine, Dudley	Emiro, Frank
Fesh, Bob	Garcia, Marilinda	Gleason, John	Griffin, Mary
Headd, James	Ingram, Russell	Itse, Daniel	Kappler, Lawrence
Katsakiores, George	Katsakiores, Phyllis	Lund, Howie	Major, Norman
McKinney, Betsy	McMahon, Charles	Nevins, Christopher	Nowe, Ronald
Packard, Sherman	Priestley, Anne	Quandt, Marshall	Quandt, Matthew
Rausch, James	Reagan, John	Sanders, Elisabeth	Weare, Everett
Welch, David	Wells, Roger	Weyler, Kenneth	Winchell, George

STRAFFORD

Hofemann, Roland			

SULLIVAN

Donovan, Thomas	Rodeschin, Beverly		

and the majority committee report was adopted.

HB 1517-FN, relative to parental consent for abortions. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS**

Rep. Gary B. Richardson for the Majority of Judiciary: This bill would make it a

misdemeanor to perform an abortion on a minor without parental consent unless a superior court justice found, after a hearing, that the minor was mature and capable of giving informed consent. A majority of the committee was opposed to involving a judge in the decision of whether to require parental consent. The majority supports the American Medical Association Principles of Medical Ethics which state that physicians should permit a competent minor to consent to medical care. Vote 12-6.
Rep. Nancy J. Elliott for the Minority of Judiciary: This bill is the mirror image of Massachusetts law. This law has worked well for our neighboring state for many years. It has a judicial bypass for girls who are unable to obtain consent and this bypass gives an added safety net for those girls that may be victims of rape or incest. This bill would restore parental involvement when their minor child seeks an abortion and the minority believes this is a good thing.
Rep. Gary Richardson yielded to questions.
Rep. Villeneuve requested a roll call; sufficiently seconded.

YEAS 211 NAYS 109

YEAS 211

BELKNAP

Allen, Janet	Millham, Alida	Morrison, Gail	Pilliod, James
Reever, Judith	Russell, David	Thomas, John	

CARROLL

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

CHESHIRE

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

COOS

Hatch, William	Merrick, Evalyn	Merrick, Scott	Theberge, Robert
Tholl, John Jr			

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Campbell, David	Chase, Claudia
Christensen, Chris	Clemons, Jane	Cote, David	Daler, Jennifer
Dokmo, Cynthia	Drisko, Richard	Essex, David	Farley, Michael
Foster, Linda	Gargasz, Carolyn	Ginsburg, Ruth	Gorman, Mary
Graham, John	Hackel, Paul	Hall, Betty	Hammond, Jill

Harvey, Suzanne	Hebert, Roger	Irwin, Anne-Marie	Jeudy, Jean
Kaelin, Michael	Kelley, John	Knowles, John	Knowles, Mary Ann
Kopka, Angeline	Kurk, Neal	Lasky, Bette	Leishman, Peter
Levasseur, Nickolas	Levesque, Melanie	Long, Patrick	Mack, Ron
Marshall, Seth	Messier, Irene	Movsesian, Lori	O'Brien, Michael Sr
O'Connell, Timothy	Ober, Russell III	Peterson, Andy	Rosenwald, Cindy
Scannell, David	Schulze, Joan	Shattuck, Gilman	Simon, Anthony
Spaulding, Jayne	Spratt, Stephen	Sullivan, Francis	Vaillancourt, Steve

MERRIMACK

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

ROCKINGHAM

Abbott, Dennis	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Case, Frank	Casey, Kimberley	Day, Judith	Flanders, John Sr
Flockhart, Eileen	Gould, Kenneth	Grote, Otto	Henson, John
Howard, Doreen	Ingram, Russell	Kennedy, James	Kepner, Susan
Lister, Charlotte	Marsh, Michael	McEachern, Paul	McKenna, Daniel
Moody, Marcia	Moore, Bennett	Nord, Susi	Pantelakos, Laura
Petterson, Don	Powers, James	Robertson, Carl	Russell, Trinka
Serlin, Christopher	Snow, Richard	Splaine, James	Stiles, Nancy
Weare, Everett	Webber, James		

STRAFFORD

Brennan, William	Brown, Jennifer	Brown, Larry	Burke, Rachel
DeChane, Marlene	Domingo, Baldwin	Fargo, Thomas	Grassie, Anne
Hubbard, Pamela	Kaen, Naida	Knowles, William	Mickelonis, Shawn
Miller, Joseph	Perry, Robert	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Spang, Judith	Sprague, Dale
Vachon, Dennis	Wall, Janet	Warren, Nancy	Watson, Robert

SULLIVAN

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

NAYS 109

BELKNAP

Boyce, Laurie	Clark, Charles	Flanders, Donald	Nedeau, Stephen
Tilton, Franklin	Tobin, William	Wendelboe, Fran	

CARROLL

Brown, Carolyn	Knox, J. David	Stevens, Stanley	

CHESHIRE

Butynski, William	Emerson, Susan	Johnson, Jane	

COOS

King, Frederick	Remick, William	Stohl, Eric	

GRAFTON

Bulis, Lyle	Dingman, Vernon III	Ingbretson, Paul	Sorg, Gregory
Williams, Burton			

HILLSBOROUGH

Batula, Peter	Bergeron, Jean-Guy	Brunelle, Michael	Christiansen, Lars
Coughlin, Pamela	Crane, Elenore Casey	Daniels, Gary	Day, Russell
Elliott, Nancy	Emerton, Larry	Fletcher, Richard	Goyette, Peter
Haefner, Robert	Haley, Robert	Hansen, Ryan	Hawkins, Ken
Hinkle, Peyton	Hogan, Edith	Infantine, William	Jean, Claudette
L'Heureux, Robert	Lawrence, James	Manney, Pamela	Matarazzo, Anthony Sr
Mooney, Maureen	Moran, Edward	O'Neil, James	Ober, Lynne
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Renzullo, Andrew
Rowe, Robert	Shaw, Kimberly	Smith, David	Soucy, Connie
Stepanek, Stephen	Sullivan, Daniel	Tahir, Saghir	Ulery, Jordan
Villeneuve, Maurice	Winters, Joel		

MERRIMACK

Reed, Dennis	Webb, Leigh		

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Camm, Kevin	Carson, Sharon	Charron, Gene
Dalrymple, David	Devine, James	DiFruscia, Anthony	Dumaine, Dudley
Emiro, Frank	Fesh, Bob	Garcia, Marilinda	Gleason, John
Griffin, Mary	Headd, James	Itse, Daniel	Kappler, Lawrence
Katsakiores, George	Katsakiores, Phyllis	Lund, Howie	Major, Norman
McKinney, Betsy	McMahon, Charles	Nevins, Christopher	Nowe, Ronald
Packard, Sherman	Priestley, Anne	Quandt, Marshall	Quandt, Matthew
Rausch, James	Reagan, John	Sanders, Elisabeth	Welch, David
Wells, Roger	Weyler, Kenneth	Winchell, George	

STRAFFORD

Cyr, James	Hofemann, Roland		

SULLIVAN

Donovan, Thomas	Gagnon, Raymond	Rodeschin, Beverly	

and the majority committee report was adopted.

HB 1588-FN, relative to the verification of the state of residency of an unemancipated minor seeking an abortion in New Hampshire. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Philip Preston for the Majority of Judiciary: While reproductive health care professionals, in fulfilling their responsibilities, are required to follow New Hampshire's RSAs, this bill would also require them to know and follow the laws that would apply to any out-of-state female patient under the age of 18 if she were seeking an abortion in her own state. In this situation, failure of health care providers to follow out-of-state abortion laws that are at variance with New Hampshire's would make them guilty of a felony. Since this bill could affect temporary New Hampshire residents from many states and therefore place an undue legal burden on physicians, the majority of the committee believes this bill is unrealistic, inappropriate and Inexpedient to Legislate. Vote 12-6.
Rep. Gregory M. Sorg for the Minority of Judiciary: Although stated in general terms, this bill addresses principally the phenomenon whereby, in order to evade Massachusetts' parental consent law. Pregnant minors residing in the Bay State travel to New Hampshire, which has no parental consent or notification law, to have their abortions. The minority believes that New Hampshire should not by this means both thwart the policy decision of our sister state and become a magnet state in the service of the abortion industry. As drafted, this bill prohibits performing abortions on minors unable to prove they do not reside in states with parental notification or consent laws. A legitimate objection was raised that abortion providers cannot reasonably be expected to know either which state have such laws or the specifics of those laws. The proposed minority amendment addresses this concern by changing the bill from one prohibiting performing abortions on minors unable to prove they do not reside in states with parental notification or consent laws to one limiting abortions on minors to those who can prove they reside in New Hampshire, subject to the "competing harms" exception of RSA 672:3 in the event of a medical emergency necessitating an abortion on a non-resident.
Rep. Sorg spoke against.
Rep. Philip Preston spoke in favor.
Rep. Soucy requested a roll call; sufficiently seconded.

YEAS 210 NAYS 106

YEAS 210

BELKNAP

Allen, Janet	Millham, Alida	Morrison, Gail	Pilliod, James
Reever, Judith	Russell, David		

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Cunningham, Howard
Heard, Virginia	Martin, James	Patten, Betsey	

CHESHIRE

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

COOS

Hatch, William	Merrick, Evalyn	Merrick, Scott	Theberge, Robert
Tholl, John Jr			

GRAFTON

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

HILLSBOROUGH

Beaulieu, Jane	Beck, Catriona	Campbell, David	Chase, Claudia
Clemons, Jane	Cote, David	Daler, Jennifer	Dokmo, Cynthia
Drisko, Richard	Essex, David	Farley, Michael	Foster, Linda
Gargasz, Carolyn	Ginsburg, Ruth	Gorman, Mary	Graham, John
Hackel, Paul	Hall, Betty	Hammond, Jill	Harvey, Suzanne
Hebert, Roger	Irwin, Anne-Marie	Jeudy, Jean	Kaelin, Michael
Kelley, John	Knowles, John	Knowles, Mary Ann	Kopka, Angeline
Kurk, Neal	Lasky, Bette	Leishman, Peter	Levasseur, Nickolas
Levesque, Melanie	Long, Patrick	Mack, Ron	Marshall, Seth
Messier, Irene	Moran, Edward	Movsesian, Lori	O'Brien, Michael Sr
O'Connell, Timothy	O'Neil, James	Ober, Russell III	Peterson, Andy
Rosenwald, Cindy	Scannell, David	Shattuck, Gilman	Shaw, Kimberly
Simon, Anthony	Spaulding, Jayne	Spratt, Stephen	Sullivan, Francis
Vaillancourt, Steve	Winters, Joel		

MERRIMACK

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

ROCKINGHAM

Abbott, Dennis	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Case, Frank	Casey, Kimberley	Day, Judith	Flockhart, Eileen
Gould, Kenneth	Grote, Otto	Henson, John	Howard, Doreen
Ingram, Russell	Kennedy, James	Kepner, Susan	Lister, Charlotte
Marsh, Michael	McEachern, Paul	McKenna, Daniel	McKinney, Betsy
Moody, Marcia	Nord, Susi	Pantelakos, Laura	Petterson, Don
Powers, James	Priestley, Anne	Robertson, Carl	Russell, Trinka
Serlin, Christopher	Snow, Richard	Splaine, James	Weare, Everett
Webber, James			

STRAFFORD

Brennan, William	Brown, Jennifer	Brown, Larry	Burke, Rachel
Cyr, James	DeChane, Marlene	Domingo, Baldwin	Fargo, Thomas
Hubbard, Pamela	Kaen, Naida	Knowles, William	Mickelonis, Shawn
Miller, Joseph	Perry, Robert	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Spang, Judith	Sprague, Dale
Vachon, Dennis	Wall, Janet	Warren, Nancy	Watson, Robert

SULLIVAN

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

NAYS 106

BELKNAP

Boyce, Laurie	Clark, Charles	Flanders, Donald	Nedeau, Stephen
Thomas, John	Tilton, Franklin	Tobin, William	Wendelboe, Fran

CARROLL

Ahlgren, Christopher	Brown, Carolyn	Knox, J. David	Merrow, Harry
Stevens, Stanley			

CHESHIRE

Butynski, William	Emerson, Susan	Johnson, Jane

COOS

King, Frederick	Remick, William	Stohl, Eric

GRAFTON

Bulis, Lyle	Dingman, Vernon III	Ingbretson, Paul	Sorg, Gregory

HILLSBOROUGH

Batula, Peter	Bergeron, Jean-Guy	Brunelle, Michael	Christensen, Chris
Christiansen, Lars	Coughlin, Pamela	Crane, Elenore Casey	Daniels, Gary
Day, Russell	Elliott, Nancy	Emerton, Larry	Fletcher, Richard
Goyette, Peter	Haefner, Robert	Haley, Robert	Hansen, Ryan
Hawkins, Ken	Hinkle, Peyton	Hogan, Edith	Infantine, William
Jean, Claudette	L'Heureux, Robert	Lawrence, James	Manney, Pamela
Matarazzo, Anthony Sr	Mooney, Maureen	Ober, Lynne	Pilotte, Maurice
Price, Pamela	Reeves, Sandra	Renzullo, Andrew	Rowe, Robert
Smith, David	Soucy, Connie	Stepanek, Stephen	Sullivan, Daniel
Tahir, Saghir	Ulery, Jordan	Villeneuve, Maurice	

MERRIMACK

Hess, David	MacKay, James	Reed, Dennis

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Camm, Kevin	Carson, Sharon	Charron, Gene
Dalrymple, David	Devine, James	DiFruscia, Anthony	Dumaine, Dudley
Emiro, Frank	Fesh, Bob	Flanders, John Sr	Gleason, John
Griffin, Mary	Headd, James	Itse, Daniel	Kappler, Lawrence
Katsakiores, George	Katsakiores, Phyllis	Lund, Howie	Major, Norman
McMahon, Charles	Nevins, Christopher	Nowe, Ronald	Packard, Sherman
Quandt, Marshall	Quandt, Matthew	Rausch, James	Reagan, John
Sanders, Elisabeth	Stiles, Nancy	Welch, David	Wells, Roger

Weyler, Kenneth Winchell, George

STRAFFORD

Hofemann, Roland

SULLIVAN

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

MOTION TO SPECIAL ORDER

Rep. Sorg moved that ***HB 1589-FN,*** prohibiting the lethal injection of any substance as part of the abortion process, be made a Special Order for the next session day in its Regular Calendar order.
Adopted.

REGULAR CALENDAR (CONT'D)

HB 1469, relative to public employee terms of employment, bargaining units, and dispute resolution. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**
Rep. Jeffrey P. Goley for the Majority of Labor, Industrial and Rehabilitative Services: This bill adds safety considerations to the terms and conditions of employment and must be brought up during negotiations. But it still gives management the rights in determining the number of its personnel and the number of personnel for task performance. Vote 9-4.
Rep. Gary L. Daniels for the Minority of Labor, Industrial and Rehabilitative Services: The bill as amended adds "matters related to safety considerations" to those items that must be negotiated. The problem is that there is no definition of "safety considerations," meaning that property taxpayers will now need to fund the time it takes for negotiating parties to define "safety considerations," a definition that not even the committee could agree upon. "The use of technology" remains a management right and therefore raises a question when technological advancements in safety equipment are developed – must they be negotiated or not? The minority of the committee feels these questions need to be answered before this legislation becomes law. The minority is also concerned that the inclusion of "safety considerations" as a negotiated item may in fact be to the detriment of the public employee if a new or enhanced "safety consideration" is developed while employees are stuck with an antiquated "safety consideration" in their contract.

Majority Amendment (0609h)

Amend the title of the bill by replacing it with the following:
AN ACT` relative to the definition of public employee terms and conditions of employment.
Amend the bill by replacing all after the enacting clause with the following:

1 Definitions. Amend RSA 273-A:1, XI to read as follows:

XI. "Terms and conditions of employment" means wages, hours**,** and other conditions of employment***, including matters directly related to safety considerations,*** other than managerial policy within the exclusive prerogative of the public employer, or confided exclusively to the public employer by statute or regulations adopted pursuant to statute. The phrase "managerial policy within the exclusive prerogative of the public employer" shall be construed to include but shall not be limited to the functions, programs and methods of the public employer, including the use of technology, the public employer's organizational structure, and the selection, direction and number of its personnel, so as to continue public control of governmental functions.

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

AMENDED ANALYSIS

This bill adds safety considerations to terms and conditions of employment.
Majority committee amendment adopted.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Rep. Daniels spoke against.
Rep. DeJoie spoke in favor and yielded to questions.

MOTION TO LAY ON THE TABLE

Rep. Packard moved that ***HB 1469,*** relative to the definition of public employee terms and conditions of employment, be laid on the table.
On a division vote, 144 members having voted in the affirmative and 150 in the negative, the motion failed.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
On a division vote, 147 members having voted in the affirmative and 151 in the negative, the majority committee report failed.

Rep. Gorman moved Refer for Interim Study and spoke in favor.
Rep. Hess spoke in favor.
Motion adopted.

REGULAR CALENDAR (CONT'D)

CACR 22, relating to: the membership of the senate. Providing that: the senate shall consist of 36 members. **INEXPEDIENT TO LEGISLATE.**
Rep. Cynthia J. Dokmo for Legislative Administration: The sponsor brought this CACR forward due to his concern about the time demands placed on each Senator. He believes that increasing the number of Senators will decrease the work load. The majority believes that if Senators feel their work load is overwhelming, then this CACR should originate in that body. Vote 5-4.
Rep. Schmidt spoke against.
On a division vote, 202 members having voted in the affirmative and 87 in the negative, the committee report was adopted.

CACR 26, relating to: the state senate. Providing that: state senators shall be 25 years of age or older. **OUGHT TO PASS.**
Rep. Elizabeth S. Hager for Legislative Administration: The committee feels that the barriers to entry to our general court should be as few as possible. The voters should again have a chance to say that anyone old enough to serve in the US Congress is old enough to serve in our Senate. Vote 9-1.
Rep. Lee Hammond yielded to questions.
On a division vote, 181 members having voted in the affirmative and 111 in the negative, the committee report failed lacking the necessary three-fifths vote.

MOTION TO SPECIAL ORDER

Rep. DiFruscia moved that ***CACR 28,*** relating to: compensation of members of the legislature. Providing that: compensation of members of the legislature be increased to $100 per week, be made a Special Order for the next session day at the beginning of the Calendar.
On a division vote, 201 members having voted in the affirmative and 89 in the negative, the motion was adopted.

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.

(Deputy Speaker Foster in the Chair)

REGULAR CALENDAR (CONT'D)

HB 1420, relative to the applicability of zoning ordinances to auto salvage yards.
MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Betsey L. Patten for the Majority of Municipal and County Government: There are existing junk yards/auto salvage yards that have been licensed by the department of environmental services pursuant to RSA 236:114 and RSA 236:121. The department requires that a renewal license has to comply with the best management practices (BMPs) which it has established. When a pre-existing, non-conforming auto salvage yard applies for renewal the BMPs will dictate required changes, such as adding a building or changing the location of an existing structure which are more environmentally friendly compared to the existing operation. The amendment allows, but does require, a local zoning board of adjustment to grant a variance to the existing junk yard/auto salvage yard without the finding of "hardship" for the purpose of making improvements to the yard to comply with the BMPs. The amendment states that all other requirements for granting a variance must be met and that the BMPs are only for the proposed improvements to the existing use. The majority of the committee recognizes that to have "green" auto salvage yards is an important step in protecting our environment. Vote 10-5.

Rep. Robert A. Srnec for the Minority of Municipal and County Government: This bill would eliminate hardship as one of the criteria for an existing junk yard to obtain a variance from a local zoning board of adjustment. The proponents of this measure advocate it as necessary to encourage the clean up of sites with serious environmental situations. The minority is in complete support of this worthy objective. However, there is no need to gut decades of established zoning law to achieve this goal. There are potentially serious unintended consequences from such a drastic change to the generally understood concepts that control zoning cases. Hardship is perhaps the most important of the five requirements that must be satisfied before a zoning board may grant the relief of a variance. In addition, once granted a variance is permanently "attached" to the real estate in question. The minority of the committee is convinced that an entirely separate procedure, equally effective but that does not tamper with existing variance criteria, could easily be established to assist existing junk yards in cleaning themselves up.

Majority Amendment (0524h)

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Zoning Variance; Junk Yards. Amend RSA 674:33 by inserting after paragraph V the following new paragraph:

VI. Notwithstanding subparagraph I(b), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, to an existing junk yard required to be licensed under RSA 236:114, for the purpose of making improvements to bring the yard into compliance with the best management practices developed by the department of environmental services for the automobile salvage industry, provided that all other requirements for granting the variance are met, and further provided that these requirements shall apply only to the proposed improvements to the existing use.

AMENDED ANALYSIS

This bill allows a zoning board of adjustment to grant a variance to a licensed junk yard for the purpose of complying with best management practices developed by the department of environmental services.
Majority committee amendment adopted.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Rep. Simon spoke against and yielded to questions.
Rep. Patten spoke in favor and yielded to questions.
On a division vote, 205 members having voted in the affirmative and 53 in the negative, the majority committee report was adopted by the necessary two-thirds.
Ordered to third reading.
Rep. Bergeron declared a conflict of interest on ***HB 1420,*** and did not participate.

CLERK'S NOTE

The constitutionally required two-thirds of the membership for action by majority vote was declared present.

MOTION TO PRINT REMARKS

Rep. Kurk moved that the remarks made during the debate on ***HB 1420,*** relative to the applicability of zoning ordinances to auto salvage yards, be printed in the Permanent Journal.
Adopted.

REMARKS

Rep. Simon: Thank you, Madam Speaker. Members of the House, my apologies to each and every one of you for prolonging this day, but my conscience simply would not allow me to stay silent. We have here today in HB 1420 a decent idea that is wrapped in horrible policy. The bill before you as amended would allow a local zoning board of adjustment at its whim and caprice apparently, because there are no standards in it, to not require an existing auto salvage yard, junk yard that is under a clean up order from the Department of Environmental Services. It would eliminate the requirement of a hardship – of that applicant showing a hardship in that situation. I believe that we are headed down a very dangerous, slippery slope with changing, with tampering with, fifty years of established New Hampshire variance law. I believe, though, that there are ways, an entirely separate procedure could be set up to deal with these requests because I am also tremendously sympathetic to the idea of allowing junk yards that have been polluting our environment to clean themselves up. Ladies and gentlemen, this is not the way to do it. There's one exception and you will probably hear about it, or one near exception. In a case coming out of Manchester involving, as I recall it, a disabled individual who was denied a variance and it went to federal court. The result of that was a procedure that allows a temporary approval for a handicapped person to alter their residence in a way to accommodate their disability. Very, very narrow temporary exception. That's the closest thing though that we've come to just changing the historic variance requirements. Beyond that terrible policy consideration, I think we are creating more confusion and more difficulty for our zoning boards of adjustment because the bill, as you have it before you, simply says that the zoning board may not require hardship in this kind of case. Again, we are only talking about junk yards that are under remedial orders from the Department of Environmental Services, but the zoning board has absolute discretion, so I give you the hypothetical of one community – we'll make it very simple. One community, one zoning board, obviously, that has two cases of auto salvage yards that are facing remediation orders. The way the bill is written, the zoning board in one case could decide that applicant A, you don't have to prove hardship, but applicant B, you

have to. We have no standards by which the zoning board is to make this decision of whether they are going to require proof of hardship or not. As I say, this is bad policy. I ask you to join me in pushing the red button and voting no on this committee report so that I can rise and make an alternative motion because I truly believe that there is a way that we can have both. There is a way, I believe, a procedure that does not do violence to established variance law that would allow us to give approvals to junk yards in this situation, to allow themselves to clean themselves up. We can have both. I ask you to join me in pushing the red button. Thank you.
Deputy Speaker: Representative Spang, you may inquire.
Rep. Spang: Thank you, Representative. I have a question about the hardship issue. If DES were to require that a junk yard do something in order to comply with environmental restrictions, but the junk yard was unable to do it because of the nature of its site, wouldn't that qualify as a hardship and therefore be possible under existing law?
Rep. Simon: Representative, I think you are entirely right. I think that would be an element of a well presented variance application.
Speaker: The Chair recognizes the member from Moultonborough to speak for the committee report.
Rep. Patten: Thank you, Madam Speaker. Before I go any further, I have to respectfully disagree with the last answer that the member from Municipal and County gave and from the question that the Representative from Resources, because I can't remember where you live, Judy. I believe that hardship says that you can use your land for nothing else. I do not feel that an order from DES removes the right for you to use your land for anything else. I do respectfully disagree with my colleague. I want to stand before you today and say to you that in writing the blurb and going with the majority of the committee to pass with amendment, is to let you know that I think that we in our wisdom here in the legislature have given a partnership to the Department of Environmental Services and to our local zoning boards to be able to say to these nonconforming, pre-existing junk yards, or the more politically correct, auto salvage yards, that what we want you to do is that we understand that we have operators out there that really want to clean up their act and do what DES has required under the best management practices and we have also said at the legislature that in order to maintain and continue your junk yard, you need to have a license and you need to have it renewed. Now, if we do not give the operators of the junk yards a valve to be able to do a change and it may be that what DES wants them to do is to be able to put something on the ground, concrete, so that what happens is when they change the oil when they do whatever they have to do with the antifreeze or whatever, that if it gets on the ground, it doesn't penetrate the ground. That to me is what I think is the reason for most of our pre-existing, nonconforming junk yards want to be able to do to clean up. In the process, the first time this bill came to us and the original bill was that was a request just to say let's do it, forget what the zoning ordinance has to say. The committee did not feel that was appropriate so we worked on it, the sponsor worked on it and we came up with the amendment on page 880 that doesn't require a zoning board to grant a variance or special exception depending on what it is you want to do in my town. Anything that is commercial needs to have a special exception. In other towns, there are districts that do that. What they do, they may grant a variance without having to find that strict hardship criteria which says, sorry, you can use your land for anything else, but you can't use it to put the concrete down to be able to do your clean up as you wanted. I also know that, again, as the partnership and what we want to do is that we want to be able to be good at the local level to be able to clean up and be able to have our auto salvage yards, which we all need, to be a lot greener. So, I am hoping that what you will do is that you will go with the majority of the committee on Municipal and County and vote ought to pass as amended. Thank you.
Deputy Speaker: Does the member yield to a question? Representative Kurk, you may inquire.

Rep. Kurk: Thank you, Madam Speaker and thank you for taking my question. It's two parts. I appreciate what the committee is doing and I can support that, but I am concerned about unintended consequences. Imagine a junk yard that sits next to a piece of land that is not zoned for junk yards and the same person owns both of them. Under this bill, if the individual wants to expand his junk yard onto his neighboring property not zoned for junk yards, but in the process of doing so claims that this expansion is going to be for green purposes, will he be allowed to do so, because he doesn't have to prove hardship?
Rep. Patten: First of all, what I would say if you have one parcel of land where you have your junk yard and you own the next, what happens is that junk yard is on that one parcel of land. It doesn't just kind of say, okay I can take the boundary away and make, to me, make the junk yard a larger parcel of land. I don't believe, in the process of expansion, this is only and the bill says that the requirements shall apply only to the proposed improvements to the existing use. So, if DES says put in a cement barrier so that you can put your cars and do all of the junk on the cement instead of the ground, its not that you can expand to your next parcel of land.
Deputy Speaker: Does the member yield to a further question?
Rep. Kurk: Thank you, Madam Speaker and thank you, again. The second question is a variation on the first. The individual doesn't wish to expand to a neighboring property, but he wishes to expand his business and he can't do so on his property because he can't show hardship. For example, he wants to build a building within setbacks or something. Could he achieve his objective by piggy-backing on the green exception so that part of his building is going to be to meet the green rules, but the rest of it really is for a significant non-green expansion?
Rep. Patten: I don't think that the member from Weare really wants to listen to what I have to say, but that's okay. We've been here before. The green exception – if DES and again with the partnership that we have said we want to be sure that you're doing the BMP's and we want to have approval from the local level. This is the way to have both of those things, but it is only for cleaning up and doing what you say is the green clause to it, but it cannot be for an expansion. An expansion would have to go back, as we all know, to the local zoning board and would have to meet all of the requirements of the zoning ordinance. I have great, sometimes great trust in our local zoning boards. I have sometimes great trust in DES to be able to say what it is they want to do. I think what we have to do is try this so that we don't lose our auto salvage yards. Thank you.

REGULAR CALENDAR (CONT'D)

HB 1209, establishing a 6-year transportation improvement plan. **INEXPEDIENT TO LEGISLATE.**
Rep. David B. Campbell for Public Works and Highways: Earlier in the session, the committee unanimously voted for SB 84 (a retained bill, which was amended to establish a 6 year State Transportation Plan). The House passed SB 84 on a voice vote and is waiting a response from the Senate. The majority felt this bill was duplicative. Vote 10-6. Committee report adopted.

HB 1590-FN, establishing a DWI fatality memorial sign program. **OUGHT TO PASS WITH AMENDMENT.**
Rep. John A. Graham for Public Works and Highways: This bill, as amended, will allow the next of kin of an individual killed by a driver who was operating under the influence of drugs, or alcohol, to apply for a sign to be placed near the site of the accident urging other motorists not to drink and drive. These signs would include the name of the victim and would remain standing for a period not to exceed 2 years. These cautionary signs would be placed at a cost to the applicant. There would also have to be substantial evidence, gathered by law enforcement officials, that the accident was caused by a driver operating under the influence. The signs could be placed along any state owned and maintained roadway, but

due to federal regulations, will not be placed along the inter-state system. Vote 15-1.

Amendment (0697h)

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

AN ACT establishing a DWI victim fatality sign program.

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

1 New Subdivision; DWI Victim Fatality Sign Program. Amend RSA 236 by inserting after section 48 the following new subdivision:

DWI Victim Fatality Sign Program

236:48-a DWI Victim Fatality Sign Program.

I. A next of kin may apply to the department of transportation to sponsor a sign memorializing an individual who was fatally injured in a traffic accident, occurring after July 1, 2006, in which there is substantial evidence gathered by law enforcement that another driver caused the accident while driving in violation of RSA 265-A:2 or RSA 265-A:3. The applicant shall complete a DWI victim fatality sign application furnished by the department. The applicant shall include with the application:

(a) The date of the accident.

(b) The location of the accident.

(c) The name of the driver driving while intoxicated or under the influence of drugs.

(d) An affidavit by the applicant that the individual to be memorialized was fatally injured in the traffic accident and that there is substantial evidence gathered by law enforcement that the other driver was at fault and that drugs or alcohol were involved.

(e) The name of the individual who was fatally injured as it should appear on the name plaque.

II. Within 60 days, or as soon as practical, after the department of transportation receives a correctly completed application submitted under paragraph I and the department has inspected the proposed site for the sign, the department shall send a written decision to the applicant as to whether the proposed sign installation is in compliance with this section.

III.(a) A sign that the department approves under this section shall be placed in the state-maintained highway right-of-way, at cost to an applicant, near the location of the accident and facing the oncoming traffic, without obstructing the visibility of an existing traffic sign.

(b) Signs shall not be placed within an interstate right-of-way, or on-ramps and off-ramps of such highways.

(c) The department shall furnish, install, and retain ownership of the DWI fatality sign.

IV. If a sign is applied for under paragraph I and approved by the department, the department shall install a DWI fatality sign that reads "PLEASE DON'T DRINK AND DRIVE" and a separate name plaque that reads "IN MEMORY OF (the victim's name)."

V. No more than 3 name plaques of victims may appear below the DWI fatality sign on a single sign installation.

VI. Unless it determines that public safety requires removal, the department shall keep a sign installation in its designated location for 2 years after the date of its installation. After the 2-year period ends, the department shall remove the sign. No petition for time extension or re-erection of such sign shall be accepted.

2 Rulemaking. Amend RSA 21-L:12 by inserting after paragraph XLVII the following new paragraph:

XLVIII. Application procedures for DWI fatality signs authorized by RSA 236:48-a.

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

AMENDED ANALYSIS

This bill establishes a DWI victim fatality sign program.

Amendment adopted.

Committee report adopted and ordered to third reading.

(Speaker Norelli in the Chair)

REGULAR CALENDAR (CONT'D)

HB 1562, relative to procedures of the site evaluation committee. **INEXPEDIENT TO LEGISLATE.**

Rep. Suzanne Harvey for Science, Technology and Energy: This bill required expanded criteria for the evaluation of siting, construction, and operation of new power facilities in the state. Entities would have to present a complete environmental assessment to the public utilities commission's site evaluation committee that goes far beyond the specific site involved. The majority of the committee believed that these requirements, by creating costly and time-consuming obstacles to the siting process, would deter developers from building renewable energy resources in our state. Vote 8-3.

Committee report adopted.

HB 1431-FN, establishing a permanent state defense force. **REFER FOR INTERIM STUDY.**

Rep. Kris E. Roberts for State-Federal Relations and Veterans Affairs: The committee felt that a state guard offers numerous opportunities for the citizens of New Hampshire to provide valuable volunteer services to their communities. However, there continue to be serious issues and concerns about the creation and use of the state guard. Due to the uncertainty and disagreements the committee supported Interim Study. Vote 13-3.

Committee report adopted.

HB 1576-FN, relative to the employment of veterans on certain national holidays. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank R. Emiro for State-Federal Relations and Veterans Affairs: Veterans are those that represent our nation at home and abroad during times of peace, conflicts, and war. It is the veteran that protects our individual rights, liberties, and freedoms. Veteran's Day is set forth to thank and honor all our U.S. veterans for their dedication and service to our nation. Holidays were for a day of no work to recognize what the day stands for. There is no better way to show our gratitude to our veteran in the State of New Hampshire then to allow them their day. What is a veteran's day ceremony or parade without veterans? Vote 9-3.

Amendment (0202h)

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

AN ACT relative to the employment of veterans on Veterans' Day.

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Veteran Holidays. Amend RSA 115-A by inserting after section 28 the following new subdivision:

Veteran Holidays

115-A:29 Veteran Holidays.

I. Any veteran who has received an honorable discharge from the armed forces shall have a preference not to work on Veterans' Day or within 24 hours of the aforementioned holiday without penalty.

II. Emergency responders such as police, firefighters, and 911 operators shall have the holiday preference described in paragraph I so long as there is another qualified emergency responder available.

AMENDED ANALYSIS

This bill allows honorably discharged veterans no longer active in the armed forces a preference not to work on Veterans' Day.

Amendment adopted.

Committee report adopted and ordered to third reading.

HCR 12, urging the federal government to withdraw the United States from the North American Free Trade Agreement (NAFTA). **INEXPEDIENT TO LEGISLATE.**
Rep. David F. Scannell for State-Federal Relations and Veterans Affairs: Unless proven otherwise, NAFTA is a lawful treaty entered into by the United States, Canada and Mexico. The Constitution prevents states from entering into treaties and limits the power to make treaties to the President based on the advice and consent of the Senate. Once a treaty is signed into effect there appears to be nothing in the Constitution that allows the Senate to change or end any treaty. HCR 12 is asking our legislative delegation under Article 2205 of NAFTA to use all of their efforts, energies, and diligence to withdraw the United States from NAFTA. It appears that any such legislative attempt would be ruled unconstitutional as congress does not have the authority. Vote 8-2.
Committee report adopted.

HB 1251, requiring wrecker operators to make certain reports to the department of transportation. **INEXPEDIENT TO LEGISLATE.**
Rep. Jennifer M. Brown for Transportation: This bill would place an onerous responsibility on the wrecker operators whose job it is to remove vehicles after an accident. They are not properly trained to offer an opinion on fault. DOT wanted this bill solely so it can get the information on whom to bill for any damage done to state property faster than it can get it from the police. The committee felt that the 15 days. The police have to file their report should be soon enough for the department of transportation to get all of the information it needs. Vote 11-3.
Committee report adopted.

HB 1404-FN, relative to liability insurance for passenger rail service. **OUGHT TO PASS.**
Rep. Michael B. O'Brien for Transportation: This bill requires the NH Rail Transit Authority to secure and maintain a liability insurance policy for passenger rail service. This is a critical step in our continuing efforts to improve transportation and reach the policy goal of the restoration of commuter rail service. The liability thresholds match up with current insurance requirements imposed by the Commonwealth of Massachusetts and are commended to us by all the stakeholders in the rail expansion project including our newly established NH Rail Authority. Significant concern regarding the impact of the bill on causes of action was considered as was a request of numerous participants to seek an advisory opinion of the Justices of the Supreme Court. The committee considered all factors of the debate, but supported the legislation as consistent with our role as policy makers and fastened our concern on the need to keep moving forward towards alternative transportation methods. Finally, the invitation to seek an advisory opinion of the Supreme Court was not favored as ultimately any such requests of the Court should be employed sparingly and the committee strongly and unanimously believed action on the part of the House in support of changes to our transportation methods were necessary. Vote 13-0.
Committee report adopted and ordered to third reading.

HB 1345, establishing a commission to study vehicle dealer licenses. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Peter F. Bergin for Transportation: This bill was amended to establish a commission to study vehicle dealer licenses, dealer plates and temporary plates. The last time dealer licenses and other subjects were studied was ten years ago. As a result, the majority of the committee felt it was time to study this subject again. This will give the transportation committee an opportunity to study the issue and bring forward legislation for the next session. Vote 8-6.

Amendment (0131h)

Amend the title of the bill by replacing it with the following:
AN ACT establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates.
Amend the bill by replacing section 1 with the following:
1 Commission Established. There is established a commission to study vehicle dealer licenses, dealer plates, and temporary plates.
Amend the bill by replacing section 3 with the following:
3 Duties. The commission shall study the licensing requirements for each type of vehicle dealer and evaluate the appropriateness of the existing classifications and the requirements for each license type and the use of dealer registration plates; the types and uses of temporary plates; and inspection requirements in relation to the use of dealer and temporary plates.

AMENDED ANALYSIS

This bill establishes a commission to study vehicle dealer licenses, dealer plates, and temporary plates.
Amendment adopted.
Committee report adopted and ordered to third reading.

MOTION TO RECONSIDER

Having voted on the prevailing side, Rep. Infantine moved that the House reconsider its action whereby it adopted the motion of Refer to Interim Study on ***HB 1469,*** relative to the definition of public employee terms and conditions of employment.
Motion failed.

MOTION TO SPECIAL ORDER

Without objection, the Chair made the remainder of the bills on today's calendar Special Orders for the next session day as the first order of business.

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 Tuesday, March 18, 2008 at 10:00 a.m.
Adopted.

LATE SESSION

Third reading and final passage

HB 1192, relative to the solemnization of marriage.
HB 1441-L, relative to use of the terms "selectwoman" and "selectperson."
HB 1573-FN-L, relative to hazardous and dilapidated buildings.
HB 1264, relative to prohibiting ATV and trail bike use on state-owned rail trails acquired using federal funds.
HB 1348, relative to the milk producers emergency relief fund.
HB 1458, relative to milk producers and hauling and stop charges.
HB 1585-FN, relative to regulation of fuel gas fitters by the state fire marshal.
HB 1447-FN, relative to Medicaid for employed adults with disabilities.
HB 1333, relative to post-foreclosure eviction actions.
HB 1349, relative to membership on the council on resources and development.
HB 1477, relative to cellular phone and satellite television records for child support

enforcement.
HB 1243, amending the timeframes for involuntary civil commitment of sexually violent predators.
HB 1330, relative to the process for nonrenewal of teacher contracts.
HB 1554-FN, relative to challenges of voters.
HB 1502-FN, relative to disposal of used needles.
HB 1396-FN, relative to requiring prescriptions to be ordered pursuant to a practitioner-patient relationship.
HB 1487, establishing a committee to study practice by advanced dental hygiene practitioners and ways to increase access to oral health care.
HB 1536, relative to periodic payments of judgments.
HB 1281, prohibiting public schools from requiring health insurance as a condition of enrollment except if health insurance is a requirement of the student's program of study.
HB 1435, requiring certain food programs to comply with Centers for Disease Control/Institute of Medicine standards.
HB 1420, relative to the applicability of zoning ordinances to auto salvage yards.
HB 1590-FN, establishing a DWI victim fatality sign program.
HB 1576-FN, relative to the employment of veterans on Veterans' Day.
HB 1404-FN, relative to liability insurance for passenger rail service.
HB 1345, establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates.

RECESS MOTION

Rep. Wallner moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages.
Adopted.

The House recessed at 5:45 p.m.

RECESS

(Rep. Franklin in the Chair)

RESOLUTION

Rep. Welch offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 301, 310, 317, 318, 328, 332, 335, 356, 371, 376, 381, 409, 434, 439, 440, 442, 475, 507, 513, 515, 519, 522, 526 and 528 and Constitutional Amendment Concurrent Resolution number 34 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 AND CACR

First, second reading and referral

SB 301-FN, requiring insurers to cover prescriptions for durable medical equipment filled near the patient's residence. (Commerce)
SB 310-FN, relative to changes to games of chance. (Executive Departments and Administration)
SB 317-FN, relative to the retail sale of tobacco products. (Executive Departments and Administration)
SB 318-FN, establishing a commission to study the creation of a large animal care worker classification. (Executive Departments and Administration)
SB 328, relative to civil forfeitures for certain waste disposal violations. (Resources,

Recreation and Development)
SB 332-FN, relative to resomation of human remains. (Health, Human Services and Elderly Affairs)
SB 335, allowing certain judges to terminate membership in the judicial retirement plan and elect senior active status. (Executive Departments and Administration)
SB 356-FN, prohibiting offenders against children from participating in or being a spectator at certain activities or events. (Criminal Justice and Public Safety)
SB 371, making various changes to the city of Manchester employees' contributory retirement system. (Municipal and County Government)
SB 376, requiring local fire chiefs to annually inspect all school buildings within his or her jurisdiction and report on the condition of all such school buildings. (Education)
SB 381, relative to conservation commissions. (Municipal and County Government)
SB 409, relative to conservation and preservation restrictions. (Resources, Recreation and Development)
SB 434, relative to providers of electronic communication services and an extension for compliance with the REAL ID Act of 2005. (Science, Technology and Energy)
SB 439, relative to money transmitters and mortgage servicing companies. (Commerce)
SB 440, relative to requiring occupational boards and commissions to include relevant military experience or training in satisfying requirements for engaging in a regulated profession. (Executive Departments and Administration)
SB 442-FN, requiring that the proceeds of fees for motions to appear in court pro hac vice be paid into the law library revolving fund. (Finance)
SB 475, relative to the definition of advance fees in the real estate practice act. (Commerce)
SB 507-FN, relative to extended terms of imprisonment for criminal street gang members. (Criminal Justice and Public Safety)
SB 513-FN, relative to fighting animals. (Criminal Justice and Public Safety)
SB 515-FN-A, relative to the combat veteran business tax credit. (Ways and Means)
SB 519-FN, imposing a per diem fine on dam owners and operators for failure to repair damage. (Resources, Recreation and Development)
SB 522-FN, relative to licensing requirements for small quantity biodiesel producers and distributors and prohibiting the sale or delivery of biodiesel not meeting the state ASTM standard. (Executive Departments and Administration)
SB 526, relative to the death benefit for police officers and firefighters killed in the line of duty. (Executive Departments and Administration)
SB 528-FN, relative to a mercury-added thermostat collection program. (Executive Departments and Administration)
CACR 34, relating to: funding of public education. Providing that: the general court shall define an adequate education and distribute state funds for public education in a manner that alleviates local disparities. (Finance)

RECESS