

State of New Hampshire HOUSE RECORD

Second Year of the 162nd General Court
Calendar and Journal of the 2012 Session

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Concord, N. H.

Wednesday, April 25, 2012

No. 38

HOUSE JOURNAL No. 17 (cont.)

Wednesday, April 11, 2012

Rep. Jasper moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 18

Wednesday, April 25, 2012

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

Prayer was offered by House Chaplain, Reverend Roger Boucher.

Accept, O Lord, our thanks and praise for all that You have done for us; for the splendor of the whole creation, for the beauty of this state, for the wonder of life and for the mystery of love. As the green blade rises from the buried grain, from the dark earth where it has lain, give us too a spirit less casual and more faithful to the natural order in the wilderness as well as in our human lives. Here, in this chamber, where thought, responsibility and the issue of the quality of life are all at play, we ask for Your wisdom in respecting the cycles of our human condition as an enduring process of nature which You have planted for our benefit. Help us not to short circuit our future with mechanical solutions when You mean to transform our political community into a living, breathing human family, able to handle its challenges with hope and turn spiritual wastelands into a promising spring. We thank You for the torch of liberty that has provided us a rich social and national life. Strengthen our efforts to blot out ignorance and crime. Help us to respect those who enforce the laws which sustain life so that we might enjoy the benefits of true freedom, never at the expense of others and always gladly accepting its disciplines. Shower a great memory upon a man full of life, Police Chief Michael Maloney of Greenland and give a strong healing hand upon all those in blue who serve the mission of lawful and right living. We stand with them, Lord! With all the gifts that have been given us, we thank You. Keep us aware and thankful for the green arising from our hearts as it comes forth from our soil. Allow us to be born again

in this season of Your grace. We ask this in Your Holy name. Amen.

Representative Laurie Harding, member from Lebanon, led the Pledge of Allegiance.

The National Anthem was sung by Jessica Kelly Ross of Charlestown, a student at Fall Mountain Regional High School.

LEAVES OF ABSENCE

Reps. Aguiar, Beattie, Carr, Case, Champagne, Jennifer Coffey, Hofemann, Jeudy, Kidder, Knox, Levasseur, Mauro and Simpson, the day, illness.

Reps. Richard Barry, Buxton, Copeland, Shaun Doherty, Elliott, Gandia, Patrick Garrity, Grassie, Holden, Janvrin, Kotowski, Larsen, Leishman, Leonard, Lerandau, Lovett, Nordgren, John O'Connor, Oigny, Panek, Peckham, Perry, Michael Reed, Rhodes, Serlin, Kevin Sullivan, Tamburello, Terrio, Tucker, Weed and Weeden, the day, important business.

Reps. Andolina and Day, the day, illness in the family.

Rep. Hoelzel, the day, death in the family.

INTRODUCTION OF GUESTS

Michael Pedersen, guest of Rep. Rosenwald. Sheila Peterson, daughter of Rep. Peterson. Leisl Bryant, guest of Rep. Belvin. Mike Davies, guest of Rep. Owen. Tamara Howard, Ayden Hennessey and Zach Fortin wife, grandson and guest of Representative Howard. Ken Grossman and Tom Southworth, guests of Rep. Watters. Noah and Paige Hurst, Mairead, Maeve and Shaun Markey, guests of Rep. Daniel Sullivan. Lindsay and Cade Thomas Murphy, wife and son of Rep. Brian Murphy. Alex Plunkett, Brian Landry and Stacy Edgar, Boy Scouts and leader from Manchester Troop 110, guests of Rep. Hikel. Adele Smith and Stephen Ross, mother and father of the singer, guests of the House.

SENATE MESSAGE

REFUSED INTRODUCTION

The following entitled House Bills and Resolutions sent up from the House of Representatives cannot be admitted into the Senate under Senate Rule 3-3, as the subject matter of the bills was found Inexpedient to Legislate in the first year of the biennium.

HB 440-FN, requiring that New Hampshire join the lawsuit challenging federal health care reform legislation.

HB 1181, relative to offers of judgments.

HB 1214, banning corn-based ethanol as an additive to gasoline sold in New Hampshire.

HB 1232, relative to prerecorded political messages.

HB 1282-FN-L, relative to workforce housing and the definition of community.

HB 1327, relative to official oppression.

HB 1566, relative to withdrawal from a school administrative unit or an authorized regional enrollment area school.

HB 1720-FN, relative to jury trials in class actions brought under the consumer protection act.

HCR 32, to urge the Congress of the United States to withdraw the membership of the United States from the United Nations so that the United States may retain its sovereignty and control over its own funds and military forces.

HCR 34, urging Congress to withdraw the United States from the North American Free Trade Agreement (NAFTA) in accordance with Article 2205 of the agreement.

CONSENT CALENDAR

Rep. Bettencourt moved that the Consent Calendar with the relevant amendments as

printed in the day's House Record be adopted.

SB 203-FN-A, relative to limited liability companies, removed by Rep. Hoell.

SB 311-FN-A, establishing a director of the division of weights and measures and relative to the setting of weights and measures fees, removed by Rep. Bettencourt.

SB 286, relative to a controlled drug prescription health and safety program, removed by Rep. Bettencourt.

SB 142-FN, relative to reorganizing the permitting process within the department of environmental services, removed by Rep. Bettencourt.

SB 217-FN, relative to management of Cannon mountain by the department of resources and economic development, removed by Rep. Taylor

Consent Calendar adopted.

SB 205, revising the New Hampshire business corporations act, RSA 293-A. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James M. Sullivan for Commerce and Consumer Affairs: This bill would completely revise the New Hampshire business corporations act, RSA 293-A. The proposed changes to corporate formation and governance in this 200 page bill are profound and need considerable explanation and understanding. The existence of model legislation, existing New Hampshire law, both statutory and case, and the proposed changes in this bill need reconciliation and should be well understood by those who would be affected. The committee felt that a full study committee and the added time allowed to that committee will be the best option. Vote 15-0.

Amendment (1705h)

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

AN ACT establishing a committee to study RSA 293-A, the New Hampshire business corporations act.

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

1 Committee Established. There is established a committee to study RSA 293-A, the New Hampshire business corporations act.

2 Membership and Compensation.

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

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

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

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

3 Duties. The committee shall study RSA 293-A, the New Hampshire business corporations act.

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

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2012.

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

AMENDED ANALYSIS

This bill establishes a committee to study RSA 293-A, the New Hampshire business corporations act.

Referred to the Committee on Ways and Means.

SB 335, establishing a procedure for certain condominiums to waive portions of the state fire code. **REFER FOR INTERIM STUDY.**

Rep. Jerry E. Bergevin for Commerce and Consumer Affairs: This bill permits a high-rise apartment building held as a condominium to opt-out of certain state fire code requirements adopted after it was first occupied as an apartment building. It will affect only one building in New Hampshire. The committee feels that due to the Senate passing the bill, the negotiations between the condominium and the Fire Marshall have accelerated. Interim Study keeps the bill alive respecting ongoing negotiations with the state Fire Marshall and the owners of the condominiums and hopefully will allow them to reach an agreement without legislation. Vote 15-0.

SB 280, relative to the procedure for approval of medical parole. **OUGHT TO PASS.**

Rep. David A. Welch for Criminal Justice and Public Safety: Currently the statute requires a majority of seven members of the parole board to grant cases for medical parole. The criteria is in part that the inmate has a terminal, debilitating, incapacitating, or incurable medical condition and the costs of medical treatment is excessive and the public will not be in danger. This bill changes the requirement to allow the three member parole board to hear and vote to allow an inmate medical parole. Vote 15-0.

Referred to the Committee on Finance.

SB 392-FN, relative to road salt applicators. **INEXPEDIENT TO LEGISLATE.**

Rep. Spec Bowers for Executive Departments and Administration: This bill creates a voluntary certification of salt applicators, with the intention of training them to use less salt and so limiting water pollution due to salt buildup. It then grants them, and their employers, exemption from liability for slips and falls, etc, if they follow the state established best practices. However, testimony pointed out that professional salt applicators are already adopting these practices to save money on salt, but customer demands for "black pavement" and visible salt even when it would be ineffective are limiting their usefulness as a pollution control technique. Other testimony indicated that the liability exemption would not likely prevent lawsuits nor save applicators money on liability insurance until it had been tested in court – and being able to document following these best practices would be a strong, positive defense that might prevent as many lawsuits as the liability exemption. The committee fully supports training of salt applicators and encourages their use of these best practices, but believes the optional certification proposed by SB 392 would be ineffective in accomplishing its goals, while creating a new fee on the most professional salt applicators (who are taking the training and following best practices voluntarily) and a new program for DES to keep track of them. Vote 10-0.

SB 323, authorizing accounting transfers by the department of corrections. **OUGHT TO PASS.**

Rep. William S. Belvin for Finance: This bill authorizes the department of corrections to transfer funds. The authorization expires June 30, 2013. This authority is essential to achieving the department's FY 12/13 state budget obligations for two reasons: first it allows for the outsourcing of various services such as pharmacy in order to help meet back-of-the-budget reductions of \$13 million; and second it is necessary to achieve any savings from the eventual privatization of men's and/or women's correctional facilities as anticipated in HB 1 and HB 2 for the current biennium. Vote 23-0.

SB 369-FN-L, relative to aid to assisted persons. **OUGHT TO PASS.**

Rep. Paul H. Simard for Finance: This bill repeals the temporary suspension of RSA 165:20, relative to the recovery of expenses for assistance between towns. In other words it would give the assistance-providing town the right to recover expenses from the home town/municipality of the recipient of services. This bill has no fiscal impact on the state.

Vote 23-0.

SB 383-FN-L, revising the distribution of school building aid grants. **INEXPEDIENT TO LEGISLATE.**

Rep. William B. Smith for Finance: This bill changes the approach for state building aid grants to payments up front and immediately after construction. It is an approach similar to that taken in HB 533, which recently passed the House 277-19. The major difference is that this bill does not cap the expenditure, whereas HB 533 establishes a \$50 million/year cap. The committee felt that setting a cap is critical, so that school districts will have realistic expectations of funding levels until the “tail” of previous grants are substantially reduced. Vote 23-0.

SB 284, establishing a certified public health dental hygienist in New Hampshire. **OUGHT TO PASS.**

Rep. Laurie Harding for Health, Human Services and Elderly Affairs: This bill is the result of stakeholders in oral health, including members of the NH Dental Society, NH Dental Hygienist Association, the oral health coalition, and the board of dental examiners, working together to improve access to dental services in public health clinics especially in the more rural regions of NH. This bill creates a new certification of public health dental hygienist which allows a licensed dental hygienist to work in an expanded role placing temporary restorations without excavation and doing limited radiographic imaging. Services may be provided to an individual patient without the patient first seeing a dentist if the supervising dentist has provided written general authorization and standing protocols for the certified public health dental hygienist. Vote 18-0.

Referred to the Committee on Commerce and Consumer Affairs.

SB 347-FN, relative to the department of health and human services administrative appeals. **OUGHT TO PASS.**

Rep. Lynne F. Blankenbeker for Health, Human Services and Elderly Affairs: DHHS requested this bill to support a better and more efficient way to respond to changes in the law affecting benefits that might otherwise result in a large volume of administrative hearings for which no relief could be granted. Changes to the law that affect benefits potentially could create tremendous backlogs for scheduling administrative hearings in an already taxed administrative hearings process. Moreover, without this change the hearings examiner would have to conduct a hearing but would not be able to grant the appellant relief because the law would have eliminated or reduced the benefit in question. In such a circumstance when the change in benefits is due solely to a change in the law Federal Medicaid law, 42 C.F.R. 431.220 provides that no hearing is required. This bill would bring the state law on when an administrative hearing is required in line with the Medicaid regulations. The goal here is to apply that same Medicaid standard to all benefit programs administered by DHHS. Vote 16-1.

Referred to the Committee on Finance.

SB 349, relative to the administration of juvenile justice services. **OUGHT TO PASS.**

Rep. Lynne F. Blankenbeker for Health, Human Services and Elderly Affairs: The first section of this bill repeals RSA 126-A:4 II-a and II-b requiring that the department maintain a separate division or unit for all juvenile justice services that have the same status within the department as the DCYF. To require that the department continue to maintain a separate division for the administration of these services is both unnecessary and inefficient. The second section of this bill repeals RSA 169-D:5 which is in direct conflict with recent changes to the CHINS statute. Vote 17-1.

Referred to the Committee on Children and Family Law.

SB 41, relative to enforcement of the timber tax and excavation tax by the department of revenue administration. **INEXPEDIENT TO LEGISLATE.**

Rep. J. Brandon Giuda for Judiciary: This bill allows department of revenue administration officials to enter upon any lands that they believe may have an operation in violation of RSA 79, without the consent of the owner or tenant in possession, regardless of whether or not the property is designated a secured premises. Throughout this session, the committee has held fast to the belief that government power that contravenes the natural right of citizens to acquire, possess and protect property as guaranteed in Article 2 of the New Hampshire Constitution must be constrained. The committee determined that no problem existed, that the powers requested were too broad, and that the legislature has already provided the agency with a procedure to address any problem, namely the administrative warrant. Vote 16-0.

SB 214, relative to the applicability of the right-to-know law to public libraries. **OUGHT TO PASS WITH AMENDMENT.**

Rep. J. Brandon Giuda for Judiciary: This bill as amended clarifies which libraries in New Hampshire are classified as public libraries and are subject to the requirements of RSA 91-A, the Right to Know Law. This bill originated due to a lawsuit by a citizen attempting to obtain information from a non-municipal owned, accepted, controlled or majority funded library under RSA 91-A, during which the uncertainty in existing law became clear. Under this bill as amended, a public library will only be subject to RSA 91-A if the library was established or accepted by a town or city. Vote 16-0.

Amendment (1256h)

Amend the bill by replacing section 1 with the following:

1 New Section; Records and Meetings Subject to Right-to-Know Law. Amend RSA 202-A by inserting after section 3 the following new section:

202-A:3-a Records and Meetings Subject to Right-to-Know Law. A public library established or accepted by a town or city shall be deemed a “public agency,” and the library trustees a “public body,” for purposes of RSA 91-A, and they shall be subject to all applicable provisions of that chapter; provided, however, that any books, documents, records, or other information maintained by a public library that is exempted or protected from disclosure by other provisions of law shall not be subject to disclosure under RSA 91-A.

AMENDED ANALYSIS

This bill provides that the right-to-know law is applicable to public libraries established or accepted by a town or city.

SB 216, relative to notification of revocation of conditional discharge by the department of health and human services. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lucy M. Weber for Judiciary: Patients admitted involuntarily to the state hospital have been the subject of court proceedings and a finding that they were, at the time of admission, a danger to themselves or to others. With treatment, the patient may improve to the point where they may be conditionally discharged back to the community. The conditions of discharge are discussed with and agreed to by the patient, and usually include such conditions as taking medications in a timely manner, and continuing recommended therapeutic treatment. If the patient does not comply with the conditions of the discharge, certain procedural steps are required before the conditional discharge may be revoked and the patient readmitted to the state hospital. At each stage of the revocation process, the evaluating psychiatrist or APRN must complete a written form detailing why they believe the patient should be readmitted before they examine the patient. Currently, the statute requires that this written form be read to the patient in its entirety. As the patient is usually in the midst of an acute episode of mental illness, the requirement that the form be read word for word may be counterproductive or even dangerous. Personnel from the state

hospital and the Disabilities Rights Center worked together to propose this modification to the process, which requires the psychiatrist to offer a copy of the written report to the patient and to explain the report if that can be done without significant possibility of bodily harm. The explanation must be sufficiently detailed to inform the patient the reasons for the revocation, and must make it clear that a hearing is available. If this cannot be done safely, the psychiatrist must document the circumstances in writing as part of the report for the file. The committee was persuaded that this sets an appropriate balance between the rights of the patient and the safety of medical personnel and the public. Vote 14-0.

Amendment (1567h)

Amend the bill by replacing section 1 with the following:

1 Mental Health Services System; Nonemergency Involuntary Admissions Revocation of Conditional Discharge. Amend RSA 135-C:51, I-IV to read as follows:

I. If a psychiatrist or APRN, as defined in RSA 135-C:2, II-a, at a community mental health program providing continuing treatment on an outpatient basis to a person conditionally discharged pursuant to RSA 135-C:50, reasonably believes that:

(a) The person has violated a condition of the discharge; or

(b) A condition or circumstance exists which may create a potentially serious likelihood of danger to the person or to others, the psychiatrist or APRN may conduct or cause to be conducted by a treatment team member or an emergency service staff member, an examination of the person to determine if the conditional discharge should be revoked. Before an examination may be conducted, a written notice ~~[shall be prepared]~~ identifying the belief, and the reasons therefor, that a violation of the conditional discharge has occurred or other circumstances or condition exists which may create a potentially serious likelihood of danger to the person or to others ***shall be offered to and explained to the person if it can be done safely without significant possibility of bodily harm. If this cannot be done safely, a description of the circumstances indicating such risk shall be placed in the file.*** ~~[The written notice shall be offered to and read to the person prior to conducting an examination.]~~

II. A reasonable effort shall be made to find the person, in order to offer and ~~[read]~~ ***explain*** the notice required under paragraph I ***if it can be done safely without significant possibility of bodily harm. If this cannot be done safely, a description of the circumstances indicating such risk shall be placed in the file.*** If the person cannot be located or consent to an examination cannot be obtained, the psychiatrist or other representative of the community mental health program may sign a complaint. Upon issuance of such a complaint, any law enforcement officer shall take custody of the person and immediately deliver him or her to the place specified in the complaint.

III. If the psychiatrist or APRN, following the examination the psychiatrist or APRN conducted or caused to be conducted of the person, finds that the person either has violated a condition of the discharge or is in such a mental condition as a result of mental illness as to create a potentially serious likelihood of danger to himself or herself or to others, he or she may temporarily revoke the conditional discharge. If the conditional discharge is temporarily revoked, the psychiatrist, or APRN, or designee, shall prepare, offer to ~~[and read]~~ ***and explain*** to the person a written notice, ***if it can be done safely without significant possibility of bodily harm,*** giving the reasons for the revocation and ~~[the psychiatrist or APRN shall]~~ ***to*** identify the receiving facility to which the person is to be delivered. ***If this cannot be done safely, a description of the circumstances indicating such risk shall be placed in the file.***

IV. A law enforcement officer shall take custody of the person whose conditional discharge was temporarily revoked under paragraph III and deliver him or her, together with a copy of the notice and the reasons for the temporary revocation, to the receiving facility identified by the psychiatrist ***or APRN***, where he or she shall be personally examined by the administrator of the facility or designee and the reasons for temporary revocation of

the discharge shall be reviewed. Following such examination and review, if the administrator of the facility or designee finds that the person conditionally discharged has violated a condition of the discharge or is in such a mental condition as a result of mental illness as to create a potentially serious likelihood of danger to himself or herself or to others, he or she may revoke absolutely the conditional discharge. The administrator of the facility, or designee, shall prepare, offer to ~~[and read]~~ **and explain** to the person, ***if it can be done safely without significant possibility of bodily harm***, a written notice of the reasons for the absolute revocation. ***If this cannot be done safely, a description of the circumstances indicating such risk shall be placed in the file.*** The person whose conditional discharge has been absolutely revoked shall be subject to the terms and conditions of the order of involuntary admission made pursuant to RSA 135-C:34-54 from which conditional discharge was granted as if the conditional discharge had not been granted.

IV-a. All explanations provided pursuant to this section shall be sufficiently detailed and complete to inform the person of the reasons for the revocation and that he or she has a right to a hearing.

SB 379, relative to insurance fraud. **OUGHT TO PASS.**

Rep. Lucy M. Weber for Judiciary: This bill amends the NH insurance fraud statute to clarify where a case may be brought against someone who makes a fraudulent insurance claim or who obtains an insurance policy by fraud. Because so many such transactions now occur over the phone, or via computer, it can be difficult to determine where the fraud occurred, in order to determine venue—the place where a criminal prosecution must be filed. The bill provides that the case may be prosecuted where any element of the fraud or act in furtherance of the fraud occurred, where the loss (if there was one) happened, where the agent received the false statement or money, or where the policy provides coverage. These provisions make it clear that the case may be brought wherever the best evidence of the fraud is to be found. Vote 17-0.

SB 306, relative to the commercial and industrial construction property tax exemption. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Franklin W. Sterling for Municipal and County Government: This bill has two objectives. First, it clarifies and updates the procedure cities and towns use to grant tax exemptions to commercial and industrial properties both during construction and after the completion of the project. Timelines are established for the application process and for the notification of the applicant by the selectmen or assessors. The second objective of SB 306 is to insert language into RSA 32:1-13 concerning municipal budget committee towns that clearly states that budgets for economic revitalization districts created under RSA 162-K shall be reviewed and approved by the municipal budget committee. Vote 15-0.

Amendment (1621h)

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

AN ACT relative to the commercial and industrial construction property tax exemption, and relative to municipal economic development and revitalization districts.

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

3 Municipal Budget Law; Application. Amend RSA 32:2 to read as follows:

32:2 Application. RSA 32:1-13, shall apply to all towns, school districts, cooperative school districts, village districts, ***municipal economic development and revitalization districts created under RSA 162-K***, and any other municipal entities, including those created pursuant to RSA 53-A or 53-B, which adopt their budgets at an annual meeting of their voters, except RSA 32:5-b, which shall apply only in those towns or districts adopting that section pursuant to RSA 32:5-c. RSA 32:14-23, concerning budget committees, shall apply only in those towns or districts adopting that subdivision pursuant to RSA 32:14, I,

and shall apply automatically in school districts or village districts located wholly within towns adopting that subdivision.

4 Municipal Budget Law; Definitions; District. Amend RSA 32:3, IV to read as follows:

IV. "District" includes a school district, cooperative school district, village district, ~~[or]~~ district created pursuant to RSA 53-A or 53-B, **or municipal economic development and revitalization district created pursuant to RSA 162-K.**

5 Municipal Economic Development and Revitalization Districts; Maintenance and Operation. Amend RSA 162-K:12 to read as follows:

162-K:12 Maintenance and Operation. Maintenance and operation of the systems and improvements constructed under this chapter shall be under the supervision of the district administrator. The cost of maintenance and operation of the non-revenue-producing facilities together with excess of costs of operation and maintenance of revenue-producing facilities, if any, shall be charged against the development district in which it is located. The charges against each property within the district shall be in proportion to the benefit to the properties within the district 60 days before the budget submission date. The district administrator shall submit to the governing body of the municipality the maintenance and operating budget for the following year, and the prorated share of the budget to be charged to each property in the district. The budget for the district as approved by the municipality, **and pursuant to RSA 32**, shall contain necessary appropriations and provisions for collecting charges against affected properties in the district.

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

AMENDED ANALYSIS

This bill makes the application procedure for the property tax exemption for commercial and industrial construction prospective, and permanently extends the authority for the exemption. This bill also expands the municipal budget law to include municipal economic development and revitalization districts.

SB 389-L, relative to sewer commission costs. **OUGHT TO PASS.**

Rep. Betsey L. Patten for Municipal and County Government: Currently, the funds received from the collection of sewer rental are kept separate from other tax revenues and are held in the custody of the municipal treasurer. The municipal treasurer shall pay out bills on the order of the board of commissioners. A confrontation between the governing body and sewer commissioners happened in one area municipality that needed attention from the municipality and which required expenditure of money. SB 389 requires that the sewer commission pay for costs that are incurred by the municipality in support of sewer operations, including but not limited to financial audit, facility insurance, treasurer compensation and office support. The committee agreed that any costs incurred by the municipality for the sewer commission need to be paid for by the commission and not by the non-sewered taxpayers. Vote 16-0.

SB 237-FN, relative to field purchases and transfers of funds for the state park system and the bureau of trails, and the use of gifts and donations to the division of parks and recreation. **OUGHT TO PASS.**

Rep. Peter S. Bolster for Resources, Recreation and Development: The bill removes the June 30, 2012 deadline that is presently in statute on the process for field purchases and transfers of funds for the state park system and bureau of trails. The bill also establishes a fund to receive donations to the park system as well as guidelines for approving and expending such designated donation. Vote 15-0.

Referred to the Committee on Finance.

SB 247-FN-L, relative to certifying municipal culvert installers. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Winfred O. Hutchinson for Resources, Recreation and Development: This bill allows for

the department of environmental services (DES) to certify municipal culvert installers; to establish criteria, and approve vendors to provide instruction. Presently, without certification, a permit is required each time a culvert is replaced. With this certification program, a trained person can replace culverts as necessary and then, at a later time, review the list of replacements with DES. This saves time and increases efficiency for both the municipality and DES. The bill was supported by DES, DOT, and a representative of municipal DPWs. The original bill mentioned a specific vendor to supply the training. An amendment removed mention of a specific vendor. Vote 15-0.

Amendment (1632h)

Amend RSA 482-A:3, XVIII as inserted by section 2 of the bill by replacing it with the following:

XVIII. The department shall develop an installer's certification program, in accordance with paragraph XVII, and shall determine the requirements for certification, including continuing education requirements. Professional engineers who are duly licensed by the New Hampshire board of professional engineers are exempt from the program requirements of this section. All certified individuals who perform such work shall submit a quarterly report to the department fully identifying work that they performed during each quarter and documentation of continuing education requirements.

AMENDED ANALYSIS

This bill authorizes the department of environmental services to develop a certification program for municipal culvert installers.

Referred to the Committee on Commerce and Consumer Affairs.

***SB 324-FN*, relative to the use of funds generated by the Hampton Beach parking facilities. OUGHT TO PASS WITH AMENDMENT.**

Rep. Thomas J. Howard for Resources, Recreation and Development: This bill establishes a non lapsing fund for the revenues from the parking facilities at Hampton Beach, \$350,000 of which is to be transferred to the Hampton Beach capital improvement fund each year. Any remaining balance is to be used for reasonable costs of operating the seacoast area state parks and for payments to principal and interest on bonds for replacing the steel seawall in the Hampton Beach area. Capping the capital improvement fund and keeping operating costs reasonable shall allow the parks director more discretion on the use of remaining funds for the benefit of the entire "statewide" parks system. The bill was amended to include wording to give better clarity to the bills intent. Vote 16-0.

Amendment (1678h)

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

1 Operation of Beach Parking Facilities. Amend RSA 216:3, II to read as follows:

II. The state treasurer shall establish a special nonlapsing fund, which shall only lapse pursuant to paragraph III, for the revenues from the ***state*** parking facilities at Hampton Beach. ~~[Fifty percent of the payments for principal and interest of bonds and notes that are issued for the project of replacing the steel seawall with a concrete seawall in the Hampton Beach area shall be paid from this fund. If the revenues from the parking facilities at Hampton Beach exceed \$1,025,000 for the fiscal year, all revenues in excess of \$1,025,000 shall be transferred prior to the close of the fiscal year from this fund to the Hampton Beach capital improvement fund established in paragraph IV.]~~ ***Each fiscal year, the sum of \$350,000 shall be transferred from this fund to the Hampton Beach capital improvement fund established in paragraph IV. The remaining balance of the fund shall only be used to cover the reasonable costs of operating the seacoast area state parks to include appropriate levels of staffing to meet the service needs of seacoast area state parks.***

2 Operation of Beach Parking Facilities. Amend RSA 216:3, IV(a) to read as follows:

(a) There is established a nonlapsing revolving fund to be known as the Hampton Beach capital improvement fund in the department of resources and economic development. The revolving fund shall be used for capital improvements and capital equipment for the Hampton Beach-area state parks' parking and beach facilities. ***Payments for principal and interest on bonds and notes issued for the purpose of replacing the steel seawall with a concrete seawall in the Hampton Beach area shall be paid from this fund.***

3 Effective Date. This act shall take effect upon its passage.
Referred to the Committee on Public Works and Highways.

SB 330-FN, requiring an independent financial opinion prior to the leasing of any state park property to a private entity. **OUGHT TO PASS.**

Rep. David H. Russell for Resources, Recreation and Development: This bill requires an independent financial opinion prior to the leasing of any state property to a private entity. The bill applies to substantial leases (all or a majority of a park or operation) and for a lease term of at least ten years. The committee chose unanimously to recommend OTP on this bill. We heard testimony from the director of parks and recreation, and the chairman of the state park system advisory council, both of whom heartily endorsed the legislation. It merely assures the commissioner of the department of resources and economic development that a proposed lessee will be able to meet the required obligations of said lease. It requires the due diligence necessary to protect and maximize the return on the state's park assets. Vote 16-0. Referred to the Committee on Finance.

SB 399-FN, relative to the maximum permit application fee for certain municipal or state agency dredging projects. **OUGHT TO PASS.**

Rep. Andrew Renzullo for Resources, Recreation and Development: This bill limits the maximum permit application fee to \$10,000 for certain municipal and state agency dredging projects. Generally, the standard application fee for dredging projects is calculated on a per square foot basis. This can be quite expensive for large projects, far in excess of the proposed cap. Recognizing that dredging projects and state agency projects are done for the public benefit and also recognizing that it is in the interest of local taxpayers to help defray the costs of such projects, the committee feels the proposed cap is reasonable and warranted. Vote 16-0.

Referred to the Committee on Ways and Means.

SB 361, establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank R. Holden for Science, Technology and Energy: This bill establishes a commission composed of legislators and state department heads to study the feasibility of establishing energy infrastructure corridors in existing state transportation rights of way. The goals of the study are to identify if any of the state's existing transportation rights of way could be used for electric transmission lines (including underground lines) or energy pipelines, and if the state could earn recurring revenue by leasing these rights of way for such purposes. The committee amendment expanded the types of energy sources to be considered and makes it clear that this commission has no regulatory or supervisory authority over any projects. Recommendations from the commission are due out by December 1, 2012. Vote 13-0.

Amendment (1655h)

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

1 Declaration of Purpose. The legislature finds that the state would be well served by determining whether it is feasible to use existing transportation rights of way to serve as locations for utility infrastructure, including underground installations. This act establishes

a commission to conduct a feasibility study, and, if warranted, to recommend a process by which appropriate energy infrastructure corridors should be identified for specific utility facilities and a process by which bidding for these corridors and revenue for the annual use of the corridors would be established. The commission shall have no regulatory or supervisory authority over the planning, siting, construction, or operation of any past, present, or future power transmission or energy infrastructure project.

2 New Chapter; Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors Within Existing Transportation Rights of Way. Amend RSA by inserting after chapter 362-F the following new chapter:

CHAPTER 362-G

COMMISSION TO STUDY THE FEASIBILITY OF ESTABLISHING ENERGY INFRASTRUCTURE CORRIDORS WITHIN THE EXISTING TRANSPORTATION RIGHTS OF WAY

362-G:1 Definitions. In this chapter:

I. "Energy infrastructure" includes electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines, petroleum pipelines, and other energy transport pipelines or conduits.

II. "Energy infrastructure corridor" means a transportation right of way on an existing state-owned transportation right of way within which energy infrastructure could potentially be sited underground or aboveground.

III. "Potential developer" means a person that can demonstrate to the state the financial and technical capability to engage in the development and construction of energy infrastructure.

IV. "Project" means the development or construction of energy infrastructure within an energy infrastructure corridor.

V. "State-owned" means owned by the state or by a state agency or state authority.

362-G:2 Commission to Study the Feasibility of Establishing Energy Infrastructure Corridors Within the Existing Transportation Rights of Ways.

I. There is established a commission to study the feasibility of establishing energy infrastructure corridors within the existing transportation rights of ways.

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

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

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

(c) The director of the office of energy and planning, or designee.

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

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

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

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

(h) The chairman of the public utilities commission, or designee.

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

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

IV. The commission shall identify the feasibility of using state-owned transportation corridors for energy infrastructure and, if the commission finds the use of transportation corridors feasible for such use, shall specify which corridors are most appropriate for specific utility infrastructures. The commission's assessment of feasibility shall consider, but shall not be limited to the following issues:

(a) Whether such corridor or corridors materially enhance the delivery of electricity or other utilities, or both, to New Hampshire consumers and increase the reliability and security of the electricity distribution system in the state.

(b) The identification of the corridors.

- (c) The identification of available technologies.
- (d) The identification of the costs of available technologies.
- (e) Whether there would be long-term economic benefits for the state, including, but not limited to, direct financial benefits from leasing rights of ways; employment opportunities; and private sector economic development.
- (f) What the effects of such corridor or corridors are on the retail price of electricity or other utilities, or both, to businesses and residential ratepayers.
- (g) A process design to assure the efficient development of such corridor or corridors by energy distribution companies serving the state.
- (h) What actions need to be taken to assure that conflict with the public purposes for which such rights of way are already owned is minimized.
- (i) Circumstances where eminent domain might be used to complete an otherwise incomplete energy infrastructure corridor.

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

VI. Report. The commission, after public hearings, shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 2012.

3 Repeal. The following are repealed:

I. RSA 362-G, relative to the commission to study the feasibility of establishing energy infrastructure corridors within the existing transportation rights of way.

II. RSA 371:16-a, relative to the establishment of the commission to investigate the procedural rights of the landowner when a petition is presented to the public utilities commission by a utility seeking eminent domain, develop a framework for the state to provide use rights to transmission developers on state owned rights-of-way, develop policies to encourage burying such lines where practicable, and establish a structure for payment.

4 Effective Date.

I. Paragraph I of section 3 of this act shall take effect December 2, 2012.

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

Referred to the Committee on Transportation.

SB 302-FN, relative to the Honor and Remember Flag as an official symbol to recognize and honor fallen members of the armed forces. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Steven L. Cunningham for State-Federal Relations and Veterans Affairs: This bill identified a trade-marked flag, the Honor and Remember flag, designed and sold by a non-profit corporation, to be accepted by the state of New Hampshire as an official flag to be flown over the New Hampshire State House immediately beneath the state flag. The committee heard heart-breaking testimony from the loved ones of those lost in combat who are finding solace in this remembrance flag. Certainly our members were deeply moved by this testimony. The committee also heard a great deal of testimony from individual veterans and veteran organizations regarding why officially adopting a particular commercially designed and trade-marked flag would be inappropriate. In subcommittee, we discovered that there is a federal Senate bill in committee that addresses this same flag. It is significantly different than New Hampshire SB 302 and could possibly conflict with the bill under consideration. Therefore, the committee felt it prudent to not address this portion of the bill until the federal legislation either passed or failed. A less germane section of the bill addressed maintenance of neglected flags flown over State property. The committee feels that neglect of the symbols of our nation and state is shameful and the state should address this issue, anticipating little cost. The state would primarily be obligated to urge local political subdivisions and veterans organizations to step up and address this neglect in those

situations where those entities originally placed those flags and then neglected their care. The state of New Hampshire would take responsibility when no other entity does. Vote 11-1.

Amendment (1498h)

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

AN ACT relative to maintenance of flags and memorials on state-owned property.

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

1 New Subdivision; Maintenance of Flags and Memorials on State-Owned Property.

Amend RSA 3 by inserting after section 26 the following new subdivision:

Maintenance of Flags and Memorials on State-Owned Property

3:27 Maintenance of Flags and Memorials on State-Owned Property. The state of New Hampshire, in conjunction with and with the cooperation of local political subdivisions and organizations, shall maintain any veterans' memorials, including flags flown over such memorials. Organizations and political organizations which have initiated the flying of flags at such memorials shall have the primary obligation to replace such flags.

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

AMENDED ANALYSIS

This bill requires the state in conjunction with the appropriate political subdivisions and organizations, to maintain flags and memorials on state-owned property.

SCR 1, urging Congress to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States. **INEXPEDIENT TO LEGISLATE.**

Rep. Lucien A. Vita for State-Federal Relations and Veterans Affairs: This resolution, if approved by the legislature, would add New Hampshire to the list of states calling for an Article V Amendment Convention. However, this issue has already been addressed in HCR 40. In addition, the committee felt that the value of such an amendment would be minimized by necessary "escape clauses" and by the demonstrated ability of most members of congress to circumvent the wording and intent of the constitution. Vote 12-0.

SB 313-FN, relative to state photographic identification indicating veteran's status. **OUGHT TO PASS.**

Rep. John E. Tholl for Transportation: The committee feels that this issue is of benefit and important to our veterans. This will allow veterans to have some form of veterans' identification to carry with them, instead of having to carry a copy of their DD form 214 to show they are a veteran. Vote 12-0.

Referred to the Committee on Finance.

SB 315, requiring motorists to give wide berth to highway maintenance vehicles. **OUGHT TO PASS.**

Rep. Thomas W. Laware for Transportation: This bill simply expands our present "move over law" to include not only emergency vehicles such as police, fire, and ambulances but to also cover maintenance vehicles and maintenance workers on or near the side of the road. The present "move over law" states that moving traffic must give wide berth to emergency vehicles with flashing blue, red, and white strobe lights but does not include vehicles with amber warning lights. Those vehicles not presently included in the "wide berth move over law" are DOT pickup trucks and automobiles, local snow plows, tow trucks, USPS mail delivery vehicles, etc. This bill is designed to add this level of protection to these moving or stationary vehicles and also to the workers on the roadside. This includes workers such as, but not limited to, clean up crews, guardrail maintenance personnel, line painters, tow truck drivers, etc. The committee found no downside to this simple but necessary bill. It could help save lives by keeping our work crews safe while doing their job of keeping our roads and highways safe for the rest of us. Vote 12-0.

SB 317, relative to towable devices permitted to be towed by a motorboat. **OUGHT TO PASS.**

Rep. Mark H. Lindsley for Transportation: Current law states that no more than two persons may be towed on an inflatable tube by a motorboat. This bill would increase the number to six persons. There have been several inflatable devices that have become available that can carry up to twelve people. No one testified against the bill. The committee felt this bill is a safe and reasonable change to the current statute. The department of safety is in favor of this bill. Vote 12-0.

SB 333, relative to a surviving spouse's right to retain a Purple Heart plate. **OUGHT TO PASS.**

Rep. Sherman A. Packard for Transportation: This bill simply allows surviving spouses of a Purple Heart plate to retain the plate as long as he or she is living or until they remarry. This is the same as we allow surviving spouses of both the Pearl Harbor and POW plates. Though we realize that the veterans' community is split on this issue, a majority of the committee felt that this was the right thing to do. Vote 11-1.
Referred to the Committee on State-Federal Relations and Veterans Affairs.

SB 366-FN, relative to use of certain OHRVs on snowmobile trails, and relative to authorization for snowmobiles and OHRVs registered in Vermont and Maine to operate in this state. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John E. Tholl for Transportation: The committee removed the senate provision that allowed residents of Maine and Vermont to operate snowmobiles in New Hampshire without giving reciprocity to New Hampshire residents in their respective states, thus costing New Hampshire revenue without benefit to New Hampshire snowmobilers and reducing the funding for trail maintenance. The remainder of the bill allows other OHRVs that are modified to be operated on snowmobile trails as long as they meet the requirements. Vote 13-1.

Amendment (1480h)

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

AN ACT relative to use of certain OHRVs on snowmobile trails.

Amend the bill by deleting sections 3 and 4 and renumbering the original section 5 to read as 3.

AMENDED ANALYSIS

This bill provides for a snowmobile endorsement for OHRVs which use tracks, cleats, or skis.

Referred to the Committee on Finance.

SB 307-FN, relative to the refund of tax overpayment related to a fraudulent investment scheme. **OUGHT TO PASS.**

Rep. Bill Ohm for Ways and Means: This bill, submitted at the request of the DRA, provides a refund for taxpayers who are victims of a fraudulent investment scheme. The victim paid taxes on income that did not exist, and lost that money. While federal law allows a deduction for a "theft loss," that deduction is not readily applicable to New Hampshire taxes. In addition, a three year statute of limitations complicates the process. DRA has proposed that the taxpayer have a 180 day window, beginning after an amended federal tax return has been filed, to petition for a New Hampshire refund. The taxpayer can submit the same paperwork to the DRA for validation. The committee concurs that this is a fair and equitable procedure. Vote 21-0.

Referred to the Committee on Finance.

REGULAR CALENDAR

SB 404-FN, relative to funding for pupils enrolled in vocational education programs.
OUGHT TO PASS WITH AMENDMENT.

Rep. Michael A. Balboni for Education: This bill does 5 things affecting current Education policy regarding career and technical education (CTE) programs. First, it changes the definition of “sending district” in an attempt to clarify the entity responsible for paying the tuition of a student attending a CTE program outside their resident district. Legislative intent has always been for the student’s district of residence to pay the tuition cost. Recently, however, a few districts have balked at paying and have used the ambiguity in the current statutory definition of “sending district” in their defense. Earlier this year, the committee worked on the definition of “sending district” to fix this problem. The result was incorporated into HB 1202 which passed the House on March 7th (consent calendar) and is currently in the Senate. The House definition is much clearer than the Senate definition in this bill. Therefore, the committee amendment replaces the Senate definition with the House version. Second, the bill changes the percentage of tuition for which the sending district is responsible. Since their inception, CTE programs have been a partnership between the state and local school districts with the state responsible for 75 percent of the tuition cost and the local sending district responsible for the remaining 25 percent. However, this bill would increase the local district’s responsibility to 33-1/3 percent. The committee believes this increase would be an unfunded mandate in violation of Article 28-a. Therefore, the committee amendment returns the percentage of local tuition responsibility to the current 25 percent. Third, the bill enables the state board of education, through its rule-making authority (RSA 541-A), to develop a new formula for determining the tuition and transportation costs for CTE programs and new procedures for disbursement of funds. Because of recent events where the state board of education has used rule-making to go beyond legislative intent, creating greater and unnecessary burdens on our local school districts, the committee believes it is important for the Legislature to be more involved in the rule-making process. Therefore, when the state board of education develops this new formula and the disbursement procedures, the committee amendment requires the state board to consult with the House and Senate committees responsible for education policy and financial matters. Fourth, the bill would prohibit any chartered public school, any chartered public school student, or any school district in which a chartered public school is located, from receiving any tuition and transportation reimbursement funds. The committee believes this is not good education policy. The state has made a commitment to encourage the growth of CTE programs and any public school or district that deserves such cost reimbursement should receive it. Therefore the committee amendment removes this prohibition. Fifth, the bill would eliminate the ability for any district providing a CTE program to charge a “differential vocational education rate” to out of district students. This differential is the prorated additional cost to maintain a CTE program above the average education cost per student not in the program. The differential is typically negotiated between the sending district and the district providing the CTE program. The differential funds are required to be used only for the maintenance and upgrade of CTE facilities and equipment. Because technology improves each year, it is important for CTE programs to keep up with the latest advances. The committee believes it is good policy for everyone, in district and out of district, utilizing a CTE program to contribute to its maintenance and to the upgrade of equipment. Therefore the committee amendment restores the ability for districts providing CTE programs to charge a “differential.” Vote 16-0.

Amendment (1674h)

Amend the bill by replacing sections 1-3 with the following:

- 1 Regional Vocational Education; Definition. Amend RSA 188-E:2, II to read as follows:
 - II. “Sending district” shall mean:

(a) A school district where students reside~~[-and for whom said district has tuition responsibility,]~~ who attend a regional center, regional course, or alternative education program other than within the district itself; **or**

(b) If a student attends a chartered public school the sending district shall be the school district in which the student resides.

2 Regional Vocational Education; Reimbursement for Students Attending Career and Technical Education Programs. RSA 188-E:6 is repealed and reenacted to read as follows:

188-E:6 Reimbursement for Students Attending Career and Technical Education Programs.

I. The state shall reimburse the state's portion of the cost of tuition and transportation, as provided in this section, for a student attending an approved career and technical education (CTE) program.

II. A student's sending district shall be financially responsible for an amount equal to 25 percent of the per student cost of a CTE program, as calculated by the department of education.

III. Any student who attends an approved CTE program that provides instruction in subject areas approved by the state board of education shall be eligible for reimbursement of tuition and transportation costs. Students enrolled in introductory CTE programs, pre-CTE programs, or other CTE programs offering instruction in subject areas not approved by the state board of education shall not be eligible for tuition and transportation reimbursement.

IV. In consultation with the house and senate committees responsible for education policy and financial matters, the state board of education shall, in rules adopted pursuant to RSA 541-A, develop a formula for determining the tuition and transportation costs for approved career technical education programs and procedures for disbursement of funds.

3 Regional Vocational Education; Tuition. Amend RSA 188-E:7 to read as follows:

188-E:7 Tuition. The department of education is authorized to pay from its regular budget tuition for full or part-time students, attending programs at designated vocational centers or designated vocational educational courses at other comprehensive high schools, whose residence is in a district where the high school of normal attendance does not offer a similar vocational education course. The department is authorized to pay from its budget for at risk students who reside in a school district in which the high school does not offer an alternative education program, to attend an alternative education program at a regional vocational education center or the associated high school. ~~[The tuition payment shall not exceed the cost of attending the regional vocational education center.]~~ The liability of the state and local school districts for tuition shall be determined by the state board under rules adopted pursuant to RSA 541-A, provided that a receiving district may charge a student from a sending district a differential vocational education rate and that the receiving district shall deposit that differential into its capital reserve account to be used for vocational centers and equipment, **and provided that the state's tuition liability for a student enrolled in an alternative education program shall not exceed the per student cost, as calculated by the department of education, of a student enrolled in a career and technical education program.**

Amendment adopted.

Committee report adopted and referred to the Committee on Finance.

SB 314-FN, relative to state-owned vehicle fleet management. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter T. Hansen for Executive Departments and Administration: The original bill addressed the belief that state employees were using state vehicles for personal use in the range of 1.5 million miles per year. That bill established a mileage reimbursement procedure for use of state owned vehicles by employees based on that information attempting to recoup what was believed to be significant personal mileage reimbursements. It was established during testimony that the mileage figure mentioned above was in fact the result of the IRS

definition of non- business miles and not the commonly accepted definition of personal miles. It was established that there continued to exist a minute amount of unauthorized use of state vehicles and that the Vehicle Utilization Review Committee, enormously successful in reducing unauthorized travel, continues to monitor this issue. The bill as amended adds a new section to RSA 21-I (21-I:19-j) which promotes fiscal responsibility in the use of state vehicles as is currently being monitored by the Vehicle Utilization Review Committee, establishes clear, precise and commonly understood definitions of the terms “personal use” and the IRS term of “non-business miles”, establishes the conditions under which employees must reimburse the state for their personal use miles, defines exemptions for paying personal miles, defines certain types of vehicles exempt from personal mileage consideration- typically emergency response vehicles- establishes that reimbursed funds will be transferred by the agency to the fund under which the vehicles cost is funded, directs that the Vehicle Utilization committee approve all exemptions under this paragraph and establishes an appeals process for decisions made under this paragraph. Vote 10-0.

Amendment (1682h)

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

1 New Section; State-Owned Vehicle Fleet Management; Mileage Reimbursement.

Amend RSA 21-I by inserting after section 19-i the following new section:

21-I:19-j State-Owned Vehicle Fleet Management; Mileage Reimbursement.

I. The purpose of this section is to promote fiscal responsibility in the use of state-owned vehicles, as is currently being performed by the vehicle utilization committee. By necessity, reporting on the use of state-owned vehicles includes the Internal Revenue Service’s term “non-business miles.” As it relates to the state’s fleet vehicles, “non-business miles” does not equate to personal miles and in most instances, represents mileage incurred for legitimate, bona fide business purposes. This section is intended to clarify instances of legitimate business uses for state-owned vehicles.

II. Any person who drives any state-owned vehicle for personal or non-business use, including, but not limited to commuting between an employee’s home and regular place of business, shall reimburse the state for mileage, subject to the exemptions in paragraphs IV and V. Reimbursement shall be made by payroll deduction. The amount of reimbursement shall approximate the benefit derived from the use of the vehicle as prescribed by the Internal Revenue Service’s published reimbursement rate.

III. Funds received under this section shall be transferred by the agency to the fund under which the vehicle’s cost is funded.

IV.(a) This section shall not apply to the use of vehicles:

(1) That are qualified non-personal use vehicles, including law enforcement vehicles. A qualified non-personal use vehicle is any vehicle that the employee is not likely to use more than minimally for personal purposes because of its design. Classification of these vehicles as such, should generally conform with Internal Revenue Service guidance for “qualified non-personal use vehicles”;

(2) For a job assignment which, based on its duties, makes such mileage required by the employer for bona fide business reasons of the state; or

(3) For emergency purposes at the discretion of the agency commissioner.

(b) The vehicle utilization committee established pursuant to RSA 21-I:19-h shall approve all exemptions under this paragraph. The commissioner of administrative services shall maintain a list of vehicles and job assignments for which the exemption has been approved. This list shall be reported to the fiscal committee of the general court.

V. Further exemptions or appeals of decisions of the vehicle utilization review committee under this section may be submitted to and granted by the fiscal committee of the general court.

2 Effective Date. This act shall take effect on January 1, 2013.

Amendment adopted.

Committee report adopted and referred to the Committee on Ways and Means.

SB 343-FN, establishing an independent board of psychologists. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Randall A. Whitehead for the Majority of Executive Departments and Administration: This bill allows New Hampshire licensed psychologists to establish their own independent board to regulate their profession. Currently, they are governed by the board of mental health practices. This bill will allow for an administrative structure that will allow our psychologists to practice in a most professional manner and will allow this important profession to expand and flourish for the benefit of all our citizens. Vote 7-3.

Rep. Spec Bowers for the Minority of Executive Departments and Administration: This bill is all but a carbon copy of HB 476, which the House voted Interim Study in January. Interim Study was the right decision three months ago and ITL is the right decision for SB 343 now. Nothing has changed that would justify passing the same bill today that we decided to Interim Study in January. During the public hearing, we heard the same arguments that were made for HB 476 a year ago. The testimony included outdated facts from 2009 and earlier. In past years there were problems with the board of mental health practices (BMHP), which regulates psychologists and four related disciplines. Previous boards were chastised by the Judiciary, JLCAR, this House and the Senate and by the Governor and Council. At this time, the repair of these problems is well underway. Improvements made over the last year include: the entire board has been replaced and is now under the leadership of a respected judge. In addition to personnel changes, there are structural improvements through both legislation and rulemaking. The legitimate concerns of the psychologists have been addressed by recently passed HB 1508, which created greater privacy rights, enhanced due process, and curtailed frivolous complaints. At the direction of the board, the attorneys' orientation has changed from reflexive prosecution to thoughtful correction. The purpose of the Interim Study recommendation remains the same. If the improvements underway are insufficient or ineffective, then we have HB 476 ready to introduce and support. During the hearing of SB 343, we heard nothing mentioned about improving public health and safety. We should avoid adding yet another board when there is no demonstrated need at this time. The House has given its word to give the new BMHP a year to improve and for us to monitor progress. There was no new information introduced at the SB 343 hearing that would justify us breaking our word.

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

Rep. Weyler offered floor amendment (1816h).

Floor Amendment (1816h)

Amend RSA 329-B:12 as inserted by section 1 of the bill by replacing it with the following:

329-B:12 Fees. The board shall establish fees for review of applicants; licensure; renewal of license; reinstatement of license; inactive license status; reactivation of an inactive license; examination of applicants; transcribing and transferring records; and other services, including investigations, and hearings conducted under this chapter.

Rep. Weyler spoke in favor and yielded to questions.

Floor amendment (1816h) adopted.

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

Reps. Bowers and Dan McGuire spoke against.

Rep. Sytek spoke against and yielded to questions.

Reps. Whitehead and Hawkins spoke in favor.

Rep. White requested a roll call; sufficiently seconded.

YEAS 249 NAYS 81

YEAS 249

BELKNAP

Accornero, Harry
Luther, Robert
St. Cyr, Jeffrey

Comtois, Guy
Millham, Alida
Tilton, Franklin

Fields, Dennis
Pilliod, James
Tobin, William

Kingsbury, Robert
Russell, David

CARROLL

Ahlgren, Christopher
McConkey, Mark
Umberger, Karen

Babson, David Jr
Merrow, Harry

Chandler, Gene
Patten, Betsey

Fleck, Joseph
Schmidt, Stephen

CHESHIRE

Butynski, William
Hawkes, Samuel
Meador, David
Roberts, Kris
Tatro, Bruce

Byrnes, John
Johnsen, Gladys
Moore, Charles
Sad, Tara
Weber, Lucy

Chase, Cynthia
Johnson, Jane
Moore, Robert Jr
Smith, Edwin

Dwinell, Richard
Lindsey, Steven
Parkhurst, Henry
Sterling, Franklin Jr

COOS

Coulombe, Gary
Remick, William
Thomas, Yvonne

Daugherty, Duffy
Richardson, Herbert
Tremblay, Marc

Hatch, William
Theberge, Robert

Merrick, Evalyn
Tholl, John Jr

GRAFTON

Almy, Susan
Bulis, Lyle
Harding, Laurie
Reilly, Harold Sr
Taylor, Kathleen

Benn, Bernard
Cooney, Mary
Mirski, Paul
Shackett, Jeffrey
Townsend, Charles

Bradley, Lester
Gionet, Edmond
Pastor, Beatriz
Simard, Paul
White, Andrew

Brosseau, Charles
Gould, Franklin
Pierce, David
Sova, Charles

HILLSBOROUGH

Avard, Kevin
Belanger, James
Brownrigg, Randall Jr
Champagne, Norma

Balboni, Michael
Belvin, William
Burt, John
Christensen, D.L.
Chris

Baroody, Benjamin
Bergevin, Jerry
Campbell, David
Christiansen, Lars

Barry, J. Gail
Brown, Kevin
Cebrowski, John
Coffey, James

Condra, William
Daniels, Gary
Flanagan, Jack
Gidge, Kenneth
Graham, John
Hawkins, Kenneth
Hopper, Gary
LeBrun, Donald
Mecheski, Holly
Ober, Russell III
Pepino, Leo
Proulx, Mark
Rosenwald, Cindy
Silva, Peter
Sullivan, Daniel

Cote, David
Donovan, Daniel
Fredette, Robert
Gimas, John
Haefner, Robert
Hikel, John
Hutchinson, Winfred
Long, Patrick
Messier, Irene
Ohm, Bill
Peterson, Lenette
Ramsey, Peter
Scotsas, Lisa
Soucy, Connie
Sullivan, Peter

Cusson-Cail, Kathleen
Drisko, Richard
Gagne, Larry
Goley, Jeffrey
Hansen, Peter
Hinch, Richard
Jasper, Shawn
McCarthy, Michael
Notter, Jeanine
Palmer, Barry
Porter, Marjorie
Renzullo, Andrew
Seidel, Carl
Souza, Kathleen
Thomas, Joseph

Daler, Jennifer
Erickson, Duane
Gargasz, Carolyn
Gonzalez, Carlos
Hardwick, Harry
Hogan, Edith
Krasucki, Joseph
McClarren, Donald
Ober, Lynne
Pellegrino, Tony
Pratt, Calvin
Robbins, David
Shaw, Barbara
Stroud, Kathleen
Twombly, Timothy

Ulery, Jordan

Villeneuve, Moe

Whitehead, Randall

MERRIMACK

Blankenbeker, Lynne
Foose, Robert
Hess, David
Patten, Dick
Shurtleff, Stephen
Williams, Robert

Bouchard, Candace
Gile, Mary
Lauer-Rago, Kathleen
Reed, Dennis
Smith, Todd
Winter, Steven

Deloge, Helen
Giuda, J. Brandon
Lockwood, Priscilla
Rice, Chip
Wallner, Mary Jane

DeStefano, Stephen
Hamm, Christine
Palfrey, David
Richardson, Gary
Watrous, Rick

ROCKINGHAM

Abrami, Patrick
Baldasaro, Alfred
DeSimone, Debra
Ferrante, Beverly
Headd, James
Kolodziej, Walter
Major, Norman
Murphy, Brian
Perkins, Amy
Read, Robin Jr
Ritter, Glenn
Sheffert, Kenneth
Welch, David

Allen, Mary
Belanger, Ronald
Devine, James
Fesh, Robert
Itse, Daniel
Lovejoy, Patricia
Manuse, Andrew
Nevins, Chris
Perkins, Lawrence
Reagan, John
Sanders, Elisabeth
Shuler, Wyman III
Weyler, Kenneth

Antosz, Jason
Birdsell, Regina
DiPentima, Rich
Garrity, James
Kappler, Lawrence
Lundgren, David
McKinney, Betsy
Packard, Sherman
Quandt, Marshall
Reichard, Kevin
Schlachman, Donna
Waddell, James

Azarian, Gary
Comerford, Timothy
Dowling, Patricia
Hagan, Joseph
Katsakiores, Phyllis
MacMahon, Bruce
Moody, Marcia
Pantelakos, Laura
Quandt, Matt
Rice, Frederick
Sedensky, John
Ward, Joanne

STRAFFORD

Berube, Roger
DeLemus, Susan
Jones, Laura
Pelletier, Marsha
Spainhower, Dale
Watters, David

Brown, Julie
Ginsburg, Philip
Newton, Clifford
Pitre, Joseph
Spang, Judith

Browne, Brendon
Horrigan, Timothy
O'Connor, William
Roberts, Jenna
Sprague, Dale

Cataldo, Sam
Jones, Kyle
Parsons, Robbie
Schmidt, Peter
Wall, Janet

SULLIVAN

Cloutier, John
Laware, Thomas
Schmidt, Andrew

Cunningham, Steven
Lefebvre, Benjamin
Smith, Steven

Gagnon, Raymond
Osgood, Joe

LaCasse, Paul Sr
Rodeschin, Beverly

NAYS 81

BELKNAP

Greemore, Robert

Malone, Robert

Swinford, Elaine

Worsman, Colette

CARROLL

McCarthy, Frank

Pettengill, Laurie

Tregenza, Norman

CHESHIRE

Cartwright, Anne

Hunt, John

COOS

Rappaport, Laurence

GRAFTON

Ingbretson, Paul	Ladd, Rick Jr	Smith, Suzanne	Sorg, Gregory
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HILLSBOROUGH

Ball, J. Michael	Boehm, Ralph	DeJong, Cameron	Gorman, Mary
Greazzo, Phil	Katsiantonis, Thomas	Kurk, Neal	Maltz, Jonathan
McGuinness, Sean	Murphy, Keith	Palmer, Stephen	Parison, James
Pilotte, Maurice	Rokas, Ted	Rowe, Robert	Simmons, Tammy
Stepanek, Stephen	Swank, Matthew	Vaillancourt, Steve	Warden, Mark
Willette, Robert			

MERRIMACK

Cohn, Seth	Frazer, June	Hill, Gregory	Hoell, J.R.
Keane, Thomas	Kreis, Kenneth Sr	Lindsley, Mark	MacKay, James
McDonnell, John	McGuire, Carol	McGuire, Dan	Owen, Derek
Potter, Frances	Richardson, Jon	Seaworth, G. Brian	Smith, Molly
Soltani, Tony			

ROCKINGHAM

Bates, David	Bettencourt, David	Brown, Paul	Cali-Pitts, Jacqueline
Charron, Gene	Chirichiello, Brian	Davenport, Joshua	Duarte, Joe
Garcia, Marilinda	Griffin, Mary	Norelli, Terie	Okerman, Richard
Sapareto, Frank	Schroadter, Adam	Smith, William	Sullivan, James
Sytek, John	Tasker, Kyle	Tremblay, Stella	Waterhouse, Kevin
Webb, James			

STRAFFORD

Groen, Warren	Hooper, Dorothea	Keans, Sandra	Munck, Philip
Vita, Carol	Vita, Lucien		

SULLIVAN

Bowers, Spec Howard, Thomas
and the motion of Ought to Pass with Amendment was adopted and referred to the
Committee on Ways and Means.

SB 407-FN, relative to the purchasing policy of the department of information technology and relative to the transfer of federal grant funds. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kenneth Hawkins for Executive Departments and Administration: This bill sets up a procedure that the Department of Administrative Services, director of plant and property management, and the Office of Information Technology will use for procurement of computer hardware, software, and other related items. It also allows departments with the prior approval of the fiscal committee, and the Governor and Council to transfer federal grant funds between class codes to avoid lapsing funds. The amendment will allow agencies to procure items on the approved standards list up to \$5,000.00 versus the \$500.00 now. It keeps in place the \$500.00 limit on items not on the approved standards list. Vote 10-0.

Amendment (1706h)

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

AN ACT relative to the purchasing policy of the department of information technology, increasing the amount required for competitive bidding, and relative to the transfer of federal grant funds.

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-6 to read as 6-9, respectively:

3 Department of Administrative Services; Division of Plant and Property Management. Amend RSA 21-I:11, I(a) to read as follows:

(a) "Supplies" shall mean all materials, equipment, printing, furniture, furnishings, and books, of every name and nature, including computer hardware, software, related licenses, media, and documentation, and ~~[standard off-site]~~ support and maintenance ~~[generally offered to the public for such computer hardware or software]~~ **services, excluding any systems that collect or store data off-site.**

4 Department of Administrative Services; Division of Plant and Property Management; Purchasing Approval. Amend RSA 21-I:11, III(a) to read as follows:

(a) When the best interests of the state would be served thereby and the purchase involves a total expenditure of not more than ~~[\$2,000]~~ **\$10,000** or is a purchase in an approved class;

5 Department of Administrative Services; Division of Plant and Property Management; Purchasing Approval. Amend RSA 21-I:11, IV to read as follows:

IV. Except where competitive bidding has been employed, no purchase involving an expenditure of more than ~~[\$2,000]~~ **\$10,000** or purchase in an approved class may be made by the director of plant and property management without the written approval of the commissioner. In requesting such approval, the director shall first state in writing his reasons for not employing competitive bidding.

AMENDED ANALYSIS

This bill amends the purchasing policy of the department of information technology for computer hardware, software, and related support and maintenance services. The bill increases the amount required for competitive bidding. The bill also authorizes the transfer of certain federal grant funds.

Amendment adopted.

Committee report adopted and referred to the Committee on Ways and Means.

SB 362-FN, relative to benefits related to service of certain part-time judges of probate retiring because of permanent disability. **INEXPEDIENT TO LEGISLATE.**

Rep. William S. Belvin for Finance: The bill concerns the unique spousal survivor benefits of part time probate judges. These three judges were and are not part of either the judicial retirement system for judges or the New Hampshire Retirement System. They will not be replaced due to the creation of the new circuit court which will handle probate matters. At present there is a surviving spouse of a deceased part time probate judge who would collect one half of the judge's pay until the judge would have turned 70 in 2018, under the bill's provisions. The committee recognizes the unfortunate circumstances this bill addresses, but is concerned about setting precedents for future unique claims that could grow from the example set by the passage of SB 362-FN, and consequently voted ITL. Vote 17-6.

Committee report adopted.

SB 287, relative to confidential prescription data. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kathleen J. Cusson-Cail for the Majority of Health, Human Services and Elderly Affairs: This brings the RSAs in compliance with the 2011 Supreme Court decision on *IMS Health, Inc. v. Sorrell* relative to patient identifiable data in prescription records under the Controlled Drug Act. It protects patient data and prevents identifiable data from being sold to any person or entity. Vote 15-3.

Rep. James R. MacKay for the Minority of Health, Human Services and Elderly Affairs: In

2006, the House and Senate unanimously adopted a policy of prohibiting drug companies from using New Hampshire's doctors' identifiable prescribing history as part of protecting the privacy of patients' medical records. The Legislature believed that knowing the identity of a patient's physician can give away sensitive information on the patient's medical condition. The Legislature believed this privacy protection also to be sound fiscal policy, and, indeed, it was. Prescription drug spending in New Hampshire had been growing exponentially, doubling from \$500 million in 2000 to \$1 billion in 2008. However, during the period the law was enforced beginning in 2009, the annual growth in prescription drug spending slowed by \$10 million a year, from an average increase of \$62 million a year to \$52 million a year. When the US Supreme Court found the law to be an unconstitutional infringement on drug companies' free speech, the majority opinion suggested a way that states could implement the same policy in a constitutional manner. This suggestion by Justice Kennedy was to use the HIPAA Privacy rule to assert the state's interest. The Minority amendment seeks to pursue Justice Kennedy's suggestion and requires that the identity of a patient's health care provider be treated with the same privacy protections as the patient's own medical information. This amendment was adopted by a subcommittee on this bill but not by the full committee. One of the arguments against the amendment was that it would likely lead to potentially expensive litigation. The Minority strongly believes fear of litigation should not drive public policy. The Minority believes the initial law from 2006 has the same value now as it did then, and potential constitutional language should be adopted to continue to uphold New Hampshire's interest in good privacy and fiscal policy.

The question being adoption of the majority committee report of Ought to Pass.
Rep. Kurk offered floor amendment (1780h).

Floor Amendment (1780h)

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

AN ACT relative to confidential prescription data and relative to the medical records law.

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

3 Statement of Intent. The general court recognizes the significance of a patient's right to privacy as it relates to the entire patient-provider relationship. The general court believes that a patient's right to privacy protection includes the identity of his or her health care provider to insure confidentiality of the patient's diagnosis, treatment, or medical condition. Privacy protection should include the identity of the provider without interfering with the uses authorized by state or federal law. The general court finds that a provider's identity is central to the nature and scope of an individual's medical care. In this era of medical specialization, the identity of a health care provider may clearly identify or imply a medical condition, diagnosis, and treatment course. Because it is the finding of the general court that the patient must be in control of the entire patient-provider relationship, the general court finds that de-identification of a patient from medical information is insufficient to protect the patient's privacy interest in the patient's medical information. It is the intent of the general court to provide only very narrow circumstances when medical information can be disclosed without permission from the patient. The general court finds that the purpose of RSA 332-I is not only to ensure that patients have access to their own medical records, but it also provides for patients' rights to privacy as it relates to the entire patient-provider relationship.

4 New Section; Release of Medical Information. Amend RSA 332-I by inserting after section 2 the following new section:

332-I:2-a Release of Medical Information. Release of medical information to any person, or release by the authorized recipient of medical information, shall be prohibited without written authorization from the patient or the patient's authorized representative except as allowed by state or federal law, including, but not limited, to release as may be necessary for treatment, payment, or health care operations, as those terms are defined in 45 C.F.R.

164.501, or to law enforcement officials for valid law enforcement purposes. For the purposes of this paragraph, “medical information” means information that directly identifies the patient or the patient’s health care provider and that relates to a patient’s physical, mental, or behavioral condition, personal or family medical history or medical treatment. Medical information does not include information that protects the anonymity of the patient and health care provider by means of encryption or encoding of individual identifiers, or information pertaining to or derived from federally sponsored, authorized, or regulated research governed by 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46.

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

AMENDED ANALYSIS

This bill implements the ruling of the Supreme Court in *IMS Health Inc. v. Sorrell*, 131 S. Ct. 2653 (2011), which held that a prohibition on the use of prescriber-identifiable data in prescription **records for commercial purposes violates the First Amendment**.

This bill also clarifies the release of a patient’s medical information.

Reps. Rosenwald and Kurk spoke in favor.

Rep. Rosenwald requested a roll call; sufficiently seconded.

YEAS 226 NAYS 106

YEAS 226

BELKNAP

Accornero, Harry	Comtois, Guy	Fields, Dennis	Greemore, Robert
Luther, Robert	Malone, Robert	Pilliod, James	Russell, David
St. Cyr, Jeffrey	Swinford, Elaine	Worsman, Colette	

CARROLL

Babson, David Jr	Fleck, Joseph	Patten, Betsey	Pettengill, Laurie
Tregenza, Norman			

CHESHIRE

Butynski, William	Cartwright, Anne	Chase, Cynthia	Emerson, Susan
Hawkes, Samuel	Hunt, John	Johnsen, Gladys	Lindsey, Steven
Meador, David	Moore, Charles	Moore, Robert Jr	Parkhurst, Henry
Roberts, Kris	Sad, Tara	Sterling, Franklin Jr	Tatro, Bruce
Weber, Lucy			

COOS

Coulombe, Gary	Hatch, William	Merrick, Evalyn	Rappaport, Laurence
Remick, William	Theberge, Robert	Thomas, Yvonne	Tremblay, Marc

GRAFTON

Almy, Susan	Benn, Bernard	Bradley, Lester	Brosseau, Charles
Cooney, Mary	Gould, Franklin	Harding, Laurie	Ingretson, Paul
Ladd, Rick Jr	Pastor, Beatriz	Pierce, David	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Smith, Suzanne	Sova, Charles
Taylor, Kathleen	Townsend, Charles	White, Andrew	

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Ball, J. Michael	Baroody, Benjamin
Brown, Kevin	Brownrigg, Randall Jr	Burt, John	Christensen, D.L.
			Chris

Christiansen, Lars
Coughlin, Sean
Gagne, Larry
Gorman, Mary
Hogan, Edith
Kurk, Neal
McClarren, Donald
Palmer, Barry
Peterson, Lenette
Robbins, David
Seidel, Carl
Souza, Kathleen
Ulery, Jordan
Whitehead, Randall

Coffey, James
Cusson-Cail, Kathleen
Gidge, Kenneth
Greazzo, Phil
Hopper, Gary
Lambert, George
McGuinness, Sean
Palmer, Stephen
Pilotte, Maurice
Rokas, Ted
Shaw, Barbara
Sullivan, Peter
Vaillancourt, Steve

Condra, William
Daler, Jennifer
Gimas, John
Hardwick, Harry
Katsiantonis, Thomas
Long, Patrick
Messier, Irene
Parison, James
Porter, Marjorie
Rosenwald, Cindy
Simmons, Tammy
Thomas, Joseph
Villeneuve, Moe

Cote, David
Daniels, Gary
Gonzalez, Carlos
Hawkins, Kenneth
Krasucki, Joseph
Maltz, Jonathan
Murphy, Keith
Pellegrino, Tony
Pratt, Calvin
Scontsas, Lisa
Soucy, Connie
Twombly, Timothy
Warden, Mark

MERRIMACK

Bouchard, Candace
Foose, Robert
Hamm, Christine
MacKay, James
Patten, Dick
Richardson, Jon
Wallner, Mary Jane

Cohn, Seth
Frazer, June
Hill, Gregory
McGuire, Carol
Potter, Frances
Seaworth, G. Brian
Watrous, Rick

Deloge, Helen
Gile, Mary
Hoell, J.R.
Owen, Derek
Rice, Chip
Shurtleff, Stephen
Williams, Robert

DeStefano, Stephen
Giuda, J. Brandon
Kreis, Kenneth Sr
Palfrey, David
Richardson, Gary
Soltani, Tony
Winter, Steven

ROCKINGHAM

Antosz, Jason
Belanger, Ronald
Comerford, Timothy
Dowling, Patricia
Itse, Daniel
MacMahon, Bruce
Moody, Marcia
Pantelakos, Laura
Quandt, Matt
Schroadter, Adam
Tasker, Kyle
Welch, David

Azarian, Gary
Birdsell, Regina
DeSimone, Debra
Ferrante, Beverly
Katsakiores, Phyllis
Major, Norman
Murphy, Brian
Perkins, Amy
Read, Robin Jr
Sedensky, John
Tremblay, Stella

Baldasaro, Alfred
Cali-Pitts, Jacqueline
Devine, James
Griffin, Mary
Lovejoy, Patricia
Manuse, Andrew
Nevins, Chris
Perkins, Lawrence
Sanders, Elisabeth
Shuler, Wyman III
Waterhouse, Kevin

Bates, David
Charron, Gene
DiPentima, Rich
Hagan, Joseph
Lundgren, David
McKinney, Betsy
Okerman, Richard
Quandt, Marshall
Schlachman, Donna
Smith, William
Webb, James

STRAFFORD

Berube, Roger
Ginsburg, Philip
Jones, Kyle
Newton, Clifford
Roberts, Jenna
Sprague, Dale

Browne, Brendon
Groen, Warren
Jones, Laura
O'Connor, William
Schmidt, Peter
Wall, Janet

Cataldo, Sam
Hooper, Dorothea
Keans, Sandra
Pelletier, Marsha
Spainhower, Dale
Watters, David

DeLemus, Susan
Horrigan, Timothy
Munck, Philip
Pitre, Joseph
Spang, Judith

SULLIVAN

Bowers, Spec
LaCasse, Paul Sr
Schmidt, Andrew

Cloutier, John
Laware, Thomas

Cunningham, Steven
Lefebvre, Benjamin

Gagnon, Raymond
Osgood, Joe

BELKNAP

Kingsbury, Robert	Millham, Alida	Tilton, Franklin	Tobin, William
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CARROLL

Ahlgren, Christopher	Chandler, Gene	McCarthy, Frank	McConkey, Mark
Merrow, Harry	Schmidt, Stephen	Umberger, Karen	

CHESHIRE

Byrnes, John	Dwinell, Richard	Johnson, Jane	Smith, Edwin
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COOS

Daugherty, Duffy	Richardson, Herbert	Tholl, John Jr	
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GRAFTON

Bulis, Lyle	Gionet, Edmond	Mirski, Paul	Sorg, Gregory
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HILLSBOROUGH

Barry, J. Gail	Belanger, James	Belvin, William	Bergevin, Jerry
Boehm, Ralph	Campbell, David	Cebrowski, John	Champagne, Norma
DeJong, Cameron	Donovan, Daniel	Drisko, Richard	Erickson, Duane
Flanagan, Jack	Fredette, Robert	Gargas, Carolyn	Goley, Jeffrey
Graham, John	Haefner, Robert	Hansen, Peter	Hikel, John
Hinch, Richard	Hutchinson, Winfred	Jasper, Shawn	LeBrun, Donald
McCarthy, Michael	Mecheski, Holly	Moran, Edward	Notter, Jeanine
Ober, Lynne	Ober, Russell III	Ohm, Bill	Pepino, Leo
Proulx, Mark	Ramsey, Peter	Renzullo, Andrew	Rowe, Robert
Silva, Peter	Stepanek, Stephen	Stroud, Kathleen	Sullivan, Daniel
Swank, Matthew	Willette, Robert		

MERRIMACK

Blankenbeker, Lynne	Hess, David	Keane, Thomas	Lauer-Rago, Kathleen
Lindsley, Mark	Lockwood, Priscilla	McDonnell, John	McGuire, Dan
Reed, Dennis	Sanborn, Laurie	Smith, Molly	Smith, Todd

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Bettencourt, David	Brown, Paul
Chirichiello, Brian	Davenport, Joshua	Fesh, Robert	Garcia, Marilinda
Garritty, James	Headd, James	Kappler, Lawrence	Kolodziej, Walter
Packard, Sherman	Reichard, Kevin	Rice, Frederick	Ritter, Glenn
Sapareto, Frank	Sheffert, Kenneth	Sullivan, James	Sytek, John
Waddell, James	Ward, Joanne	Weyler, Kenneth	

STRAFFORD

Brown, Julie	Parsons, Robbie	Vita, Carol	Vita, Lucien
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SULLIVAN

Howard, Thomas	Rodeschin, Beverly	Smith, Steven	
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and floor amendment (1780h) was adopted.

The motion of Ought to Pass with Amendment adopted and ordered to third reading.

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

SB 357, establishing a commission to study how the Patient Protection and Affordable Care Act of 2009, as amended, will affect emergency and ambulance providers. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. James R. MacKay for the Majority of Health, Human Services and Elderly Affairs: The majority of the committee was sympathetic to the concerns of the sponsors of this bill. However, it was felt that these concerns could be addressed directly by the statewide professional organization with their own membership and with the assistance of interested legislators without the need for legislation. The focus of this legislation is on the impact of Patient Protection and Affordable Care Act of 2009 in reimbursement of the cost of delivering emergency medical services in New Hampshire. The committee majority felt that there are more immediate issues regarding uncompensated care that need attention at this time. Vote 12-6.

Rep. Lynne F. Blankenbeker for the Minority of Health, Human Services and Elderly Affairs: The voluminous Patient Protection Affordable Care Act (PPACA) addresses many different areas of health care delivery. The ambulance and emergency providers have serious concerns surrounding the PPACA and its impact on the services provided by them. They have requested that the legislature study that piece of the PPACA as it applies to their practice in our state. As legislators, it is incumbent upon us to be as informed as possible, especially in light of a new federal health care plan that will dramatically change health care delivery to the citizens of our state. This study commission is vital to the legislators to gain a full understanding of this area of PPACA.

The question being adoption of the majority committee report of Inexpedient to Legislate.

Rep. Blankenbeker spoke against and yielded to questions.

Rep. Harding spoke in favor.

On a division vote, 238 members having voted in the affirmative and 53 in the negative, the majority committee report was adopted.

SB 409-FN, relative to the use of marijuana for medicinal purposes. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Evalyn S. Merrick for Health, Human Services and Elderly Affairs: Over several years, the medical use of marijuana has been extensively studied by the legislature in collaboration with several health care organizations. There is no question as to the importance of marijuana for those suffering from serious and painful illnesses. This legislation contains many safeguards to its responsible use. This legislation takes effect on July 1, 2012 allowing time for any needed changes and will sunset on July 1, 2015. Vote 12-4.

Amendment (1751h)

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

1 New Chapter; Use of Marijuana for Medicinal Purposes. Amend RSA by inserting after chapter 126-U the following new chapter:

CHAPTER 126-V

USE OF MARIJUANA FOR MEDICINAL PURPOSES

126-V:1 Definitions. In this chapter:

I. Provider-patient relationship” means a relationship between a provider and a patient that includes:

- (a) Taking a medical history;
- (b) Performing a relevant physical examination;
- (c) Reviewing prior treatment and treatment response;
- (d) Obtaining and reviewing relevant diagnostic test results;
- (e) The provider being available for and offering follow-up care and treatment to

the patient, including but not limited to patient examinations;

- (f) Creating and maintaining patient records; and
- (g) Notifying the patient's primary care provider when appropriate.

II. "Cultivation location" means a locked and enclosed site, under the control of the qualifying patient or designated caregiver who has reported the location of the site to the department, where marijuana is cultivated in accordance with the provisions of this chapter.

III.(a) "Debilitating medical condition" means the presence of both:

- (1) A chronic or terminal disease; and
- (2) Symptoms or treatment results that include at least one of the following:

wasting syndrome, severe pain that has not responded to previously prescribed medication or surgical measures for more than 3 months, elevated intraocular pressure, severe nausea, severe vomiting, seizures, or severe, persistent muscle spasms.

(b) "Chronic or terminal disease" means cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, Crohn's disease, agitation of Alzheimer's disease, multiple sclerosis, inflammatory autoimmune-mediated arthritis, Parkinson's disease, systemic lupus erythematosus, quadriplegia, paraplegia, sickle cell disease, cerebral palsy, epilepsy, spinal cord injury, intractable skeletal muscular spasticity, traumatic brain injury, Tourette's Syndrome, spinal cord disease, chronic pancreatitis with cysts, one or more injuries that significantly interfere with daily activities as documented by the patient's treating provider, or painful peripheral neuropathy only if the application is accompanied by medical records that confirm the objective presence of painful peripheral neuropathy that has been refractory to other treatments.

(c) The commissioner of the department of health and human services may waive the requirements of subparagraph (a)(1) upon written request accompanied by a written recommendation from the provider.

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

V. "Designated caregiver" means an individual:

- (a) Who is at least 21 years of age; and
- (b) Who has agreed to assist with a qualifying patient's medical use of

marijuana; and

- (c) Who has never been convicted of any drug-related offense; and
- (d) Who possesses a valid registry identification card issued pursuant to RSA

126-V:4

VI. "Marijuana" means all parts of any plant of the Cannabis genus of plants, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plants which are incapable of germination.

VII. "Medical use" means the acquisition, possession, cultivation, preparation, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms or results of treatment associated with the qualifying patient's debilitating medical condition. It shall not include the use of marijuana by a designated caregiver who is not a qualifying patient.

VIII. "Provider" means a physician licensed to prescribe drugs to humans under RSA 329 and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances, or an advanced practice registered nurse (APRN) licensed pursuant to RSA 326-B, except that in relation to a visiting qualifying patient, "provider" means an individual licensed to prescribe drugs to humans in the state of

the patient's residence and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances.

IX. "Qualifying patient" means an individual who has been diagnosed by a provider as having a debilitating medical condition and who possesses a valid registry identification card issued pursuant to RSA 126-V:4.

X. "Registry identification card" means a document issued by the department pursuant to RSA 126-V:4 that identifies an individual as a qualifying patient or a designated caregiver.

XI. "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.

XII. "Unusable marijuana" means any marijuana, other than usable marijuana, including the seeds, stalks, and roots of the plant.

XIII. "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

XIV. "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of New Hampshire or who has been a resident of New Hampshire for fewer than 30 days.

XV. "Written certification" means a document signed by a provider stating that in the provider's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a provider-patient relationship of at least 3 months in duration, the patient has a debilitating medical condition, and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. If the patient's debilitating medical condition is of recent or sudden onset and the certifying provider is primarily responsible for the patient's care related to his or her debilitating medical condition, the 3-month requirement for the provider-patient relationship required in this paragraph shall not apply. The written certification shall be valid for up to one year. The date of expiration and the patient's debilitating medical condition shall be specified on the written certification.

126-V:2 Possession of Medical Marijuana by a Qualifying Patient or Designated Caregiver.

I. A qualifying patient shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege for the medical use of marijuana in accordance with this chapter, if the qualifying patient possesses, cultivates, or possesses and cultivates, an amount of marijuana that does not exceed the following:

(a) If the qualifying patient does not have a designated caregiver for the possession and cultivation of marijuana that occurs at the cultivation location reported to the department, or while transporting marijuana and marijuana plants and seedlings to a new cultivation location that has been reported to the department within the prior 21 days:

- (1) Six ounces of usable marijuana; and
- (2) Any amount of unusable marijuana; and
- (3) Four mature marijuana plants and 12 seedlings, with a total canopy of no more than 100 square feet.

(b) If the qualifying patient is not at the cultivation location reported to the department:

- (1) Two ounces of usable marijuana; and
- (2) Any amount of unusable marijuana.

II. A designated caregiver shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing entity, for the medical use of marijuana in accordance with this chapter on behalf of a qualifying patient if the designated caregiver possesses or cultivates, or both, an amount of marijuana that does not exceed the following:

(a) If at the cultivation location reported to the department, or while transporting marijuana and marijuana plants and seedlings to a new cultivation location that has been reported to the department within the prior 21 days:

(1) Six ounces of usable marijuana; and
(2) Any amount of unusable marijuana; and
(3) Four mature marijuana plants and 12 seedlings, with a total canopy of no more than 100 square feet.

(b) If not at the cultivation location reported to the department:

(1) Two ounces of usable marijuana; and
(2) Any amount of unusable marijuana.

III. A qualifying patient or designated caregiver shall not be subject to arrest, prosecution, or penalty for giving marijuana to a qualifying patient or a visiting qualifying patient where nothing of value is transferred in return, or for offering to do the same, if the person giving the marijuana does not knowingly cause the recipient to possess more marijuana than is permitted by this section.

IV.(a) A qualifying patient is presumed to be lawfully engaged in the medical use of marijuana in accordance with this chapter if the qualifying patient possesses a valid registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this chapter.

(b) A designated caregiver is presumed to be lawfully engaged in assisting with the medical use of marijuana in accordance with this chapter if the designated caregiver possesses a valid registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this chapter.

(c) The presumptions made in subparagraphs (a) and (b) may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms or effects of the treatment associated with the debilitating medical condition, in accordance with this chapter.

V. A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied such a right solely for conduct allowed under this chapter and there shall be no presumption of neglect or child endangerment.

VI. Notwithstanding paragraph III, a designated caregiver may receive compensation for costs, not including labor, associated with assisting a qualifying patient who has designated the designated caregiver to assist him or her with the medical use of marijuana. Such compensation shall not constitute the sale of controlled substances.

VII. A provider shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the New Hampshire board of medicine or any other occupational or professional licensing entity, solely for providing written certifications or for otherwise stating that, in the provider's professional opinion, and in the context of a provider-patient relationship, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana, provided that nothing shall prevent a professional licensing entity from sanctioning a provider for failing to properly evaluate a patient's medical condition.

VIII. Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana as allowed under this chapter, or acts incidental to such use, shall not be seized or forfeited if the basis for the seizure or forfeiture is activity related to marijuana that is exempt from state criminal penalties under this chapter.

IX. An individual shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing entity, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this chapter.

X. A valid registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting qualifying patient to possess marijuana for medical purposes, shall have the same force and effect as a valid registry identification card issued by the department in this state, provided that:

(a) The visiting qualifying patient shall also produce a statement from his or her provider stating that the visiting qualifying patient has a debilitating medical condition as defined in RSA 126-V:1, III; and

(b) A visiting qualifying patient shall not cultivate marijuana in New Hampshire.

XI.(a) Any qualifying patient or registered caregiver who sells marijuana to another person who is not a qualifying patient or registered caregiver under this chapter shall be subject to the penalties specified in RSA 318-B:26, IX-a, shall have his or her registry identification card revoked, and shall be subject to other penalties as provided in RSA 318-B:26.

(b) The department may revoke the registry identification card of a qualifying patient or registered caregiver who violates any other provision of this chapter, and the qualifying patient or registered caregiver shall be subject to any other penalties established in law for the violation.

XII. Where a state or local law enforcement agency encounters an individual who, during the course of an investigation, credibly asserts that he or she is a qualifying patient or designated caregiver, the law enforcement agency shall not provide any information from any marijuana-related investigation of the individual or entity to any law enforcement agency that does not recognize the protection of this chapter, and any prosecution of the individual or entity for a violation of this chapter shall be conducted pursuant to the laws of this state. This paragraph shall not apply in cases where the state or local law enforcement agency has probable cause to believe the person is distributing marijuana to a person who is not allowed to possess it under this chapter.

XIII. A person who ceases to be a qualifying patient or designated caregiver shall have 10 days after notification by the department to dispose of marijuana in one of the following ways:

(a) If the person was a designated caregiver and the qualifying patient who designated the caregiver is still a qualifying patient, but has designated a new caregiver or will cultivate plants himself or herself, the designated caregiver may transfer marijuana to the new person who will cultivate for the qualifying patient;

(b) The person may notify local law enforcement and request that they dispose of the marijuana;

(c) The person may dispose of marijuana, after mixing marijuana with other ingredients such as soil to render it unusable; or

(d) The person may donate usable marijuana to a qualifying patient.

XIV. For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana in accordance with this chapter shall be considered the equivalent of the authorized use of any other medication used at the direction of a provider, and shall not constitute the use of an illicit substance.

126-V:3 Prohibitions and Limitations On the Use of Medical Marijuana.

I. A qualifying patient may use medical marijuana on privately owned real property only with the permission of the property owner.

II. Nothing in this chapter shall exempt any person from arrest or prosecution for:

(a) Being under the influence of marijuana while:

(1) Operating a motor vehicle, commercial vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power; or

(2) In his or her place of employment, without the written permission of the employer; or

- (3) Operating heavy machinery or handling a dangerous instrumentality.
 - (b) The use or possession of marijuana by a qualified patient or designated caregiver for purposes other than for medical use as permitted by this chapter.
 - (c) The smoking of marijuana in any public place, including:
 - (1) A school bus, public bus, or other public vehicle; or
 - (2) A place of employment, without the written permission of the employer;
- or
- (3) The grounds of any preschool, elementary, or secondary school; or
 - (4) Any correctional facility; or
 - (5) Any public park, public beach, public recreation center, public field, or youth center.

III. Nothing in this chapter shall be construed to require:

- (a) Any health insurance provider, health care plan, or medical assistance program to be liable for any claim for reimbursement for the medical use of marijuana; or
- (b) Any individual or entity in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property. This chapter shall not limit an individual or entity in lawful possession of property, or an agent of such individual or entity, from expelling an individual who uses marijuana without permission from their property and from seeking civil and criminal penalties for the unauthorized use of marijuana on their property; or
- (c) Any accommodation of the medical use of marijuana on the property or premises of any place of employment or on the property or premises of any jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained. This chapter shall in no way limit an employer's ability to discipline an employee for ingesting marijuana in the workplace or for working while under the influence of marijuana;

IV. Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of \$500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter.

V. A qualifying patient or designated caregiver who is found to be in possession of marijuana outside of his or her home and is not in possession of his or her registry identification card, may be subject to a \$100 fine.

126-V:4 Departmental Administration.

I. Except as provided in paragraph V, the department shall issue a registry identification card to a person applying as a qualifying patient who submits all of the following information:

- (a) Written certification as defined in RSA 126-V:1.
- (b) An application or renewal fee not to exceed \$200.
- (c) Name, residential and mailing address, and date of birth of the applicant, except that if the applicant is homeless, no residential address is required.
- (d) Name, address, and telephone number of the applicant's provider.
- (e) Name, address, and date of birth of the applicant's designated caregiver, if any.

A qualifying patient shall have only one designated caregiver.

(f) Street address of the cultivation location, if the qualifying patient does not have a designated caregiver.

(g) A statement signed by the applicant, pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter and acknowledging that his or her diversion of marijuana is punishable as a class B felony and revocation of his or her registry identification card, in addition to other penalties for the illegal sale of marijuana.

II.(a) Except as provided in paragraph V, the department shall issue a registry identification card to a person applying as a designated caregiver who submits all of the following information:

- (1) An application or renewal fee not to exceed \$200.
- (2) Name, residential and mailing address, and date of birth of the applicant.
- (3) Name, residential and mailing address, and date of birth of the qualifying patient for whom the applicant will act as designated caregiver, except that if the qualifying patient is homeless, no residential address is required. A designated caregiver shall act on behalf of only one qualifying patient.
- (4) A complete set of fingerprints.
- (5) Street address of the cultivation location.
- (6) A statement indicating the applicant's preference as to whether the applicant requests the department to retain his or her fingerprints on file for any renewal application or whether the applicant requests the department to destroy his or her fingerprints and acknowledges that the applicant shall resubmit fingerprints if the applicant applies for renewal as a designated caregiver.
- (7) A signed statement from the applicant agreeing to act as the designated caregiver for the qualifying patient named in the application and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter and acknowledging that the diversion of marijuana is punishable as a class B felony and revocation of one's registry identification card, in addition to other penalties for the illegal sale of marijuana.

(b) A person who is applying to be a designated caregiver shall submit to a state and federal criminal records check. The department shall request the department of safety to perform the state and federal criminal records check and the department of safety shall complete such records checks and convey the findings of such checks to the department within 30 days of the request. The department and the department of safety may exchange necessary data including fingerprint data with the Federal Bureau of Investigation without disclosing that the records check is related to the provisions of this chapter and acts permitted by it. Unless the applicant stated that he or she prefers his or her fingerprints to be kept on file for any renewal, the department and the department of safety shall destroy each set of fingerprints obtained pursuant to this chapter after the criminal records check is complete.

III. The department shall verify the information contained in an application or renewal submitted pursuant to this section. The department shall approve or deny an application or renewal for a qualifying patient within 15 days of receipt of the application. The department shall approve or deny an application or renewal to serve as a designated caregiver within 45 days of receipt of the application. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or the applicant previously had a registry identification card revoked for violating the provisions of this chapter, or if the department determines that the information provided was falsified. The department shall notify an applicant of the denial of an application. An applicant who is aggrieved by a department decision may request an administrative hearing at the department.

IV. The department shall issue registry identification cards to persons applying as a qualifying patient or designated caregiver within 5 days of approving an application or renewal. Each registry identification card shall expire one year after the date of issuance, unless the provider states in the written certification that he or she believes the qualifying patient would benefit from medical marijuana only until a specified earlier date, then the registry identification card shall expire on that date. Registry identification cards shall contain all of the following:

- (a) Name, mailing address, and date of birth of the qualifying patient or designated caregiver.
- (b) The date of issuance and expiration date of the registry identification card.

(c) A random 10-digit identification number, containing at least 4 numbers and at least 4 letters, that is unique to the qualifying patient or the designated caregiver.

(d) A designation that the person is either a “qualifying patient” or a “designated caregiver.” If the person is a designated caregiver, the identification card shall include the random 10-digit identification number of the qualifying patient for whom he or she is providing care.

(e) A photograph of the qualifying patient or designated caregiver.

(f) A statement that the qualifying patient or designated caregiver is permitted under state law to possess marijuana pursuant to this chapter for the medical use of the qualifying patient.

(g) For a qualifying patient’s registry identification card, a statement that either:

(1) The person is a qualifying patient who has not designated a caregiver and is therefore exempt from state penalties for cultivating marijuana; or

(2) The person is a qualifying patient who has designated a caregiver, and therefore shall not be permitted to cultivate marijuana.

V. The department shall not issue a registry identification card to an applicant under 18 years of age who is applying as a qualifying patient unless:

(a) The applicant’s provider has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian with responsibility for health care decisions for the applicant; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the applicant consents in writing to:

(1) Allow the applicant’s medical use of marijuana; and

(2) Control the acquisition of the marijuana and the frequency of the medical use of marijuana by the applicant; and

(c) The custodial parent or legal guardian completes an application in accordance with the requirements of paragraph I on behalf of the applicant.

VI. The department shall send each approved qualifying patient and caregiver a statement with the registry identification card explaining federal law on the possession of marijuana and that possession of a state registry identification card does not protect a person from federal criminal penalties.

VII.(a) A qualifying patient shall notify the department of any change in his or her name, address, or designated caregiver within 10 days of such change. If the qualifying patient’s certifying provider notifies the department in writing that either the qualifying patient no longer suffers from a debilitating medical condition or that the provider no longer believes the qualifying patient would receive benefit from the medical use of marijuana, the registry identification card shall become void upon notification by the department to the qualifying patient.

(b) When a qualifying patient or a designated caregiver notifies the department of any change to a name or address, the department shall issue the qualifying patient or designated caregiver a new registry identification card with a new random 10-digit identification number within 15 days of receiving the updated information and a \$10 fee.

(c) If a qualifying patient notifies the department of a change in his or her designated caregiver and the prospective designated caregiver meets the requirements of this chapter, the department shall issue the designated caregiver a registry identification card with a new random 10-digit identification number within 45 days of receiving the designated caregiver’s application.

(d) A qualifying patient or designated caregiver who fails to notify the department of any changes to his or her name, address, designated caregiver, or cultivation location shall be guilty of a violation and may be subject to a fine not to exceed \$150.

(e) If a qualifying patient or designated caregiver loses his or her registry identification card, he or she shall notify the department and submit a \$10 fee within 10 days

of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random 10-digit identification number.

VIII. Mere possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the individual or property of the individual possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

IX.(a) The department shall create and maintain a confidential registry of each individual who has applied for and received a registry identification card as a qualifying patient or a designated caregiver in accordance with the provisions of this chapter. Each entry in the registry shall contain the qualifying patient's or designated caregiver's name, mailing address, date of birth, date of registry identification card issuance, date of registry identification card expiration, random 10-digit identification number, street address at which the marijuana plants will be cultivated or possessed, and the effective date of any change of cultivation location. The confidential registry and the information contained in it shall be exempt from disclosure under RSA 91-A.

(b)(1) Except as specifically provided in this chapter, no person shall have access to any information about qualifying patients or designated caregivers in the department's confidential registry, or any information otherwise maintained by the department about providers, except for authorized employees of the department in the course of their official duties and local and state law enforcement personnel who have detained or arrested an individual who claims to be engaged in the medical use of marijuana.

(2) If a local or state law enforcement officer submits a sworn affidavit to the department affirming that they have probable cause to believe marijuana is possessed or cultivated at a specific address, an authorized employee for the department may disclose whether the location is associated with a qualifying patient, designated caregiver, or a cultivation location.

(3) If a local or state law enforcement officer submits a sworn affidavit to the department affirming that they have probable cause to believe a specific individual possesses or cultivates marijuana, an authorized employee for the department may disclose whether the person is a qualifying patient or a designated caregiver, provided that the law enforcement officer provides the person's name and address or name and date of birth.

(4) Counsel for the department may notify law enforcement officials about falsified or fraudulent information submitted to the department where counsel has made a legal determination that there is probable cause to believe the information is false or falsified.

X. Within 5 days of learning of the death of a qualifying patient, a surviving family member, caretaker, executor, or the patient's designated caregiver shall notify the department that the qualifying patient has died. Within 5 days of learning of the death of a qualifying patient, the surviving family member, caretaker, executor, or the patient's designated caregiver shall either request that the local law enforcement agency remove any remaining marijuana or shall dispose of the marijuana in a manner that is specified by the department by rule.

XI. The department shall submit to the legislature an annual report that shall not disclose any identifying information about qualifying patients, designated caregivers, or providers, but shall contain, at a minimum, the following information:

(a) The number of applications and renewals filed for registry identification cards.

(b) The number of qualifying patients and designated caregivers approved in the state.

(c) The nature of the debilitating medical conditions of the qualifying patients.

(d) The number of registry identification cards revoked.

(e) The number of providers providing written certifications for qualifying patients.

126-V:5 Affirmative Defense.

I. Except as provided in RSA 126-V:3, it is an affirmative defense to any prosecution for an offense involving marijuana or marijuana paraphernalia intended for medical use that:

(a) The defendant is a qualifying patient in possession of a valid registry identification card and at the time of arrest or prosecution was in possession of a quantity of marijuana that was not more than allowed under this chapter, and the qualifying patient was engaged in the medical use of marijuana in accordance with the provisions of this chapter; or

(b)(1) The defendant is a designated caregiver in possession of a valid registry identification card and at the time of arrest or prosecution was in possession of a quantity of marijuana that was not more than allowed under this chapter; and

(2) The designated caregiver was engaged in the medical use of marijuana on behalf of a qualifying patient in accordance with the provisions of this chapter.

(c) If a defendant proves the elements of the affirmative defense listed in subparagraph (I)(a) or (b), the charges shall be dismissed with prejudice.

II. A person who is arrested for possession, cultivation, or transportation of marijuana, or possession of marijuana paraphernalia, may raise as an affirmative defense that he or she is person with a debilitating medical condition who is not yet in possession of a valid registry identification card if:

(a) Prior to the arrest, the person submitted to the department a valid application to become a qualifying patient, complete with a written certification, but the person had not yet received a registry identification card from the department; and

(1) The person does not possess more than 2 ounces of usable marijuana and any amount of unusable marijuana, if the marijuana is not on the person's property; or

(2) If the marijuana is on the person's property, the person does not possess more than 6 ounces of usable marijuana and any amount of unusable marijuana and is not cultivating more than 6 mature marijuana plants and 12 seedlings, which shall be in a locked and enclosed location on the person's property.

(b) The affirmative defense under this section shall not be available to a person who has violated any of the provisions of RSA 126-V:3, I-IV.

(c) If a defendant proves the elements of the affirmative defense listed in this paragraph, the defendant shall be acquitted of any charge to which the defendant proved the affirmative defense.

III. A person who is arrested for possession, cultivation, or transportation of marijuana, or possession of marijuana paraphernalia, prior to the date on which the department begins accepting registry identification card applications may raise as an affirmative defense that he or she is a person with a debilitating medical condition who is not yet in possession of a valid registry identification card if:

(a) The person produces a written statement signed by a provider stating that in the provider's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a provider-patient relationship of at least 3 months duration, unless the person's debilitating medical condition is of recent or sudden onset in which case the 3-month time requirement shall not apply, the person has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the person; and

(1) The person does not possess more than 2 ounces of usable marijuana and any amount of unusable marijuana, if the marijuana is not on the person's property; and

(2) If the marijuana is on the person's property, the person does not possess more than 6 ounces of usable marijuana and any amount of unusable marijuana, and does

not possess or is not cultivating more than 6 mature marijuana plants and 12 seedlings which shall be in a locked and enclosed location.

(b) The affirmative defense under this section shall not be available to a person who has violated any of the provisions of RSA 126-V:3, I-IV.

(c) If a defendant proves the elements of the affirmative defense listed in this paragraph, the defendant shall be acquitted of any charge to which the defendant proved the affirmative defense.

126-V:6 Rulemaking.

I. Not later than 90 days after the effective date of this chapter, the department shall adopt rules, pursuant to RSA 541-A, governing the manner in which it shall consider applications for issuance and renewals of registry identification cards for qualifying patients and designated caregivers and setting fees for applications and renewals for registry identification cards.

II. The department may accept gifts, grants, donations, loans, or other funds from private sources without the approval of the governor and council in order to reduce the application and renewal fees.

126-V:7 Registry Identification Card Fund. There is hereby established in the office of the state treasurer a fund to be known as the registry identification card fund which shall be kept separate and distinct from all other funds. The fund is established to pay for the operational expenses of the program for permitting the use of marijuana for medicinal purposes as established in this chapter. The moneys in this fund shall be nonlapsing and continually appropriated to the department. Interest on fund balances shall accrue to the fund. All fees and fines received by the department and all monetary gifts, grants, loans, donations received by the department pursuant to this chapter shall be deposited in the fund.

2 New Subparagraph; Application of Receipts; Registry Identification Card Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (307) the following new subparagraph:

(308) Moneys deposited in the registry identification card fund established in RSA 126-V:7.

3 New Paragraph; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting after paragraph I-a the following new paragraph:

I-b. It shall be unlawful for a qualifying patient or designated caregiver as defined under RSA 126-V:1 to sell marijuana to another person who is not a qualifying patient or designated caregiver. A conviction for the sale, diversion, or transfer of marijuana to a person who is not a qualifying patient or designated caregiver shall not be construed to preclude or limit a prosecution or conviction of any person for sale of marijuana or any other offense defined in this chapter.

4 New Paragraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26 by inserting after paragraph IX the following new paragraph:

IX-a. A qualifying patient or designated caregiver as defined in RSA 126-V:1 who is convicted of selling, diverting, or transferring marijuana to a person who is not a qualifying patient or designated caregiver shall be guilty of a class B felony and shall be sentenced to a maximum term of imprisonment of not more than 7 years, a fine of not more than \$300,000, or both.

5 Repeal. The following are repealed:

I. RSA 126-V:1 through RSA 126-V:7, relative to use of marijuana for medicinal purposes.

II. RSA 6:12, I(b)(308), relative to the registry identification card fund.

III. RSA 318-B:2, I-b, relative to selling, diverting, or transferring marijuana to a person who is not a qualifying patient or a designated caregiver.

IV. RSA 318-B:26, IX-a, relative to the penalty for selling, diverting, or transferring marijuana to a person who is not a qualifying patient or a designated caregiver.

6 Applicability. The provisions of RSA 126-V:1-5 as inserted by section 1 of this act shall take effect on the earlier of July 1, 2013 or certification by the commissioner of the department of health and human services to the secretary of state and the director of the office of legislative services that sufficient funds are available in the registry identification card fund established in RSA 126-V:7 to meet the expenses of the use of marijuana for medicinal purposes program established in RSA 126-V from the effective date of this section until July 1, 2013.

7 Effective Date.

I. RSA 126-V:1-5 as inserted by section 1 of this act shall take effect as provided in section 6 of this act.

II. Section 5 of this act shall take effect July 1, 2015.

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

Amendment adopted.

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

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BELKNAP

Accornero, Harry
Luther, Robert
Russell, David

Comtois, Guy
Malone, Robert
St. Cyr, Jeffrey

Greemore, Robert
Millham, Alida
Swinford, Elaine

Kingsbury, Robert
Pilliod, James

CARROLL

Babson, David Jr
Schmidt, Stephen

McCarthy, Frank
Tregenza, Norman

Marrow, Harry
Umberger, Karen

Patten, Betsey

CHESHIRE

Cartwright, Anne
Johnsen, Gladys
Moore, Charles
Sad, Tara
Weber, Lucy

Chase, Cynthia
Johnson, Jane
Moore, Robert Jr
Smith, Edwin

Dwinell, Richard
Lindsey, Steven
Parkhurst, Henry
Sterling, Franklin Jr

Hawkes, Samuel
Meador, David
Roberts, Kris
Tatro, Bruce

COOS

Coulombe, Gary
Thomas, Yvonne

Hatch, William
Tremblay, Marc

Merrick, Evalyn

Theberge, Robert

GRAFTON

Almy, Susan
Gould, Franklin
Pastor, Beatriz
Simard, Paul
Taylor, Kathleen

Benn, Bernard
Harding, Laurie
Pierce, David
Smith, Suzanne
Townsend, Charles

Cooney, Mary
Ingbretson, Paul
Reilly, Harold Sr
Sorg, Gregory
White, Andrew

Gionet, Edmond
Mirski, Paul
Shackett, Jeffrey
Sova, Charles

HILLSBOROUGH

Avard, Kevin
Belanger, James
Campbell, David

Balboni, Michael
Boehm, Ralph
Champagne, Norma

Ball, J. Michael
Brown, Kevin
Christensen, D.L.

Baroody, Benjamin
Burt, John
Christiansen, Lars

Coffey, James
DeJong, Cameron
Flanagan, Jack
Gidge, Kenneth
Hogan, Edith
Kurk, Neal
Maltz, Jonathan
Notter, Jeanine
Parison, James
Pratt, Calvin
Robbins, David
Seidel, Carl
Stepanek, Stephen
Swank, Matthew
Villeneuve, Moe

Cote, David
Donovan, Daniel
Fredette, Robert
Gimas, John
Hopper, Gary
Lambert, George
McGuinness, Sean
Ober, Lynne
Peterson, Lenette
Proulx, Mark
Rokas, Ted
Shaw, Barbara
Stroud, Kathleen
Twombly, Timothy
Warden, Mark

Chris
Coughlin, Sean
Drisko, Richard
Gagne, Larry
Gorman, Mary
Hutchinson, Winfred
LeBrun, Donald
Messier, Irene
Ober, Russell III
Pilotte, Maurice
Ramsey, Peter
Rosenwald, Cindy
Simmons, Tammy
Sullivan, Daniel
Ulery, Jordan
Whitehead, Randall

Daler, Jennifer
Erickson, Duane
Gargas, Carolyn
Greazzo, Phil
Katsiantonis, Thomas
Long, Patrick
Murphy, Keith
Ohm, Bill
Porter, Marjorie
Renzullo, Andrew
Scontsas, Lisa
Souza, Kathleen
Sullivan, Peter
Vaillancourt, Steve
Willette, Robert

MERRIMACK

Blankenbeker, Lynne
Foosse, Robert
Hill, Gregory
Lockwood, Priscilla
McGuire, Dan
Rice, Chip
Shurtleff, Stephen
Winter, Steven

Bouchard, Candace
Frazer, June
Hoell, J.R.
MacKay, James
Owen, Derek
Richardson, Gary
Wallner, Mary Jane

Cohn, Seth
Gile, Mary
Keane, Thomas
McDonnell, John
Patten, Dick
Richardson, Jon
Watrous, Rick

Deloge, Helen
Hamm, Christine
Kreis, Kenneth Sr
McGuire, Carol
Potter, Frances
Seaworth, G. Brian
Williams, Robert

ROCKINGHAM

Antosz, Jason
Cali-Pitts, Jacqueline
Davenport, Joshua
Ferrante, Beverly
Lundgren, David
Moody, Marcia
Packard, Sherman
Rice, Frederick
Schroadter, Adam
Sullivan, James
Waddell, James

Azarian, Gary
Charron, Gene
DiPentima, Rich
Itse, Daniel
MacMahon, Bruce
Murphy, Brian
Pantelakos, Laura
Ritter, Glenn
Sedensky, John
Sytek, John
Waterhouse, Kevin

Baldasaro, Alfred
Chirichiello, Brian
Dowling, Patricia
Katsakiores, Phyllis
Manuse, Andrew
Nevins, Chris
Read, Robin Jr
Sapareto, Frank
Sheffert, Kenneth
Tasker, Kyle
Webb, James

Brown, Paul
Comerford, Timothy
Duarte, Joe
Lovejoy, Patricia
McKinney, Betsy
Okerman, Richard
Reagan, John
Schlachman, Donna
Smith, William
Tremblay, Stella
Welch, David

STRAFFORD

Berube, Roger
DeLemus, Susan
Jones, Kyle
Pelletier, Marsha
Spainhower, Dale
Watters, David

Brown, Julie
Ginsburg, Philip
Jones, Laura
Pitre, Joseph
Spang, Judith

Browne, Brendon
Hooper, Dorothea
Keans, Sandra
Roberts, Jenna
Sprague, Dale

Cataldo, Sam
Horrigan, Timothy
Parsons, Robbie
Schmidt, Peter
Wall, Janet

SULLIVAN

Bowers, Spec
Howard, Thomas
Schmidt, Andrew

Cloutier, John
LaCasse, Paul Sr
Smith, Steven

Cunningham, Steven
Laware, Thomas

Gagnon, Raymond
Lefebvre, Benjamin

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BELKNAP

Fields, Dennis	Tilton, Franklin	Tobin, William	Worsman, Colette
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CARROLL

Ahlgren, Christopher Pettengill, Laurie	Chandler, Gene	Fleck, Joseph	McConkey, Mark
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CHESHIRE

Butynski, William	Byrnes, John	Emerson, Susan	Hunt, John
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COOS

Daugherty, Duffy Tholl, John Jr	Rappaport, Laurence	Remick, William	Richardson, Herbert
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GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Ladd, Rick Jr
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HILLSBOROUGH

Barry, J. Gail	Belvin, William	Bergevin, Jerry	Brownrigg, Randall Jr
Cebrowski, John	Condra, William	Cusson-Cail, Kathleen	Daniels, Gary
Goley, Jeffrey	Gonzalez, Carlos	Graham, John	Haefner, Robert
Hansen, Peter	Hardwick, Harry	Hikel, John	Hinch, Richard
Jasper, Shawn	Krasucki, Joseph	McCarthy, Michael	McClarren, Donald
Mecheski, Holly	Moran, Edward	Palmer, Barry	Palmer, Stephen
Pellegrino, Tony	Pepino, Leo	Rowe, Robert	Silva, Peter
Soucy, Connie	Thomas, Joseph		

MERRIMACK

DeStefano, Stephen	Giuda, J. Brandon	Hess, David	Lauer-Rago, Kathleen
Lindsley, Mark	Palfrey, David	Reed, Dennis	Sanborn, Laurie
Smith, Molly	Smith, Todd	Soltani, Tony	

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Bates, David	Belanger, Ronald
Bettencourt, David	Birdsell, Regina	DeSimone, Debra	Devine, James
Fesh, Robert	Garcia, Marilinda	Garrity, James	Griffin, Mary
Hagan, Joseph	Headd, James	Kappler, Lawrence	Kolodziej, Walter
Major, Norman	Perkins, Amy	Perkins, Lawrence	Quandt, Marshall
Quandt, Matt	Reichard, Kevin	Sanders, Elisabeth	Shuler, Wyman III
Ward, Joanne	Weyler, Kenneth		

STRAFFORD

Groen, Warren	Munck, Philip	O'Connor, William	Vita, Carol
Vita, Lucien			

SULLIVAN

Osgood, Joe	Rodeschin, Beverly		
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and the committee report was adopted and referred to the Committee on Finance.

SB 225-FN-L, relative to fees for vital records. **INEXPEDIENT TO LEGISLATE.**

Rep. Priscilla P. Lockwood for Municipal and County Government: This bill changes the amount of money from the vital statistics fees going to the vital records, the state and the municipalities. Presently a fee of \$15 is divided with \$8 to vital records, \$3 to the state and \$4 to the municipalities. The original bill cut out the amount for the state and an amendment kept the state and reduced vital statistics. There was little support for the small changes in the bill and the committee felt that the fee schedules should remain unchanged. Vote 11-5.

Reps. Greazzo and Simmons spoke against and yielded to questions.

Rep. Vaillancourt spoke against.

Rep. Lynne Ober spoke in favor and yielded to questions.

On a division vote, 236 members having voted in the affirmative and 85 in the negative, the committee report was adopted.

The House recessed at 12:15 p.m.

RECESS

The House reconvened at 1:40 p.m.

(Speaker O'Brien in the Chair)

REGULAR CALENDAR (CONT'D)

SB 272-FN, relative to truancy. **OUGHT TO PASS.**

Rep. Philip L. Munck for Municipal and County Government: When the budget for the current biennium was adopted, the Children In Need for Supervision (CHINS) program was discontinued. Under the CHINS laws, police and school resource officers were able to take truant children into various alternative programs to get them back into school. That tool is no longer available. This bill allows a municipality to adopt a truancy ordinance which would allow police and school resource officers in that community to take control of truant children and oblige them to participate in programs that are less extreme than introduction to the criminal justice system. The bill is awkward in AREA and Cooperative School districts that span more than one municipality. It will work very well where the school district and the municipality are co-terminus which is the case in most of the state's cities and larger towns. The committee believes given that this is an early bill, the need to enact it now overrode the desirability of making the bill more compatible with Cooperative and AREA school districts. A floor amendment by the committee provides for the destruction of any truancy records arising from this bill when the child reaches the age of 18 years-old. The committee unanimously agreed that the floor amendment makes it a much better bill. Vote 12-4.

SPECIAL ORDERED

Without objection, the Speaker made ***SB 272-FN***, relative to truancy, a Special Order to the end of the Calendar.

REGULAR CALENDAR (CONT'D)

SB 378, allowing municipalities to remove snow from private roads and driveways and class VI highways. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James E. Coffey for Municipal and County Government: Snow removal for all roads, streets and driveways by some local governments has been a long established practice supported by the citizens over a long period of time. At the same time the NH Department of Revenue has begun to disallow appropriations passed by the town meetings. This bill establishes a specific method that would allow the legislative body to adopt the practice and funding of snow removal on "all" roads, driveways and streets and is enabling as it requires voter approval. After voter approval, the bill requires that municipalities to require an opt-

in process. The bill also specifies that any plowing done on private roads does not constitute acceptance of the road as a public road. This bill would also allow the legislative body to select what types of snow removal would be appropriate. Private roads and class VI roads could be done with or without driveways. This bill empowers the citizenry to determine the type and level of snow removal they want for their community. Vote 13-3.

Amendment (1640h)

Amend the bill by replacing section 1 with the following:

1 New Section; Repair of Highways; Snow Removal. Amend RSA 231 by inserting after section 59-a the following new section:

231:59-b Snow Removal; Private Roads and Driveways and Class VI Highways. A municipality may appropriate and expend sums and may charge fees for the removal of snow from private roads and driveways and class VI highways if such snow removal has been authorized by vote of the legislative body pursuant to RSA 39:3, RSA 40:13, or RSA 49:-D:3 as applicable.

I. Any vote granting snow removal authority shall remain in effect until amended or rescinded by the legislative body.

II. Prior to any snow removal operations authorized under this section, the governing body shall adopt rules for an annual written authorization procedure enabling property owners to participate in the snow removal program and any fees that may be charged. A governing body may adopt rules governing operations, including storm parameters that will trigger the plowing of private roads and driveways and any other operational issues that it may deem appropriate.

III. The granting of snow removal authority as provided in this section, and any exercise of such authority by the municipality, shall not constitute acceptance of any private road or driveway as a municipal highway and shall not affect any other operation of law.

IV. A legislative body's vote to expend funds pursuant to this section shall be considered an appropriation for a public purpose.

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment. Rep. Daniels offered floor amendment (1841h).

Floor Amendment (1841h)

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

AN ACT allowing municipalities to remove snow from private roads and driveways and class VI highways, and relative to decertification of a bargaining unit.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Subparagraph; Decertification. Amend RSA 273-A:10, VI by inserting after subparagraph (c) the following new subparagraph:

(d) If the dues-paying membership of an employee organization is less than the number of employees needed to certify a bargaining unit, and such number is less than 50 percent of the number of positions comprising the bargaining unit, a secret ballot election may be requested by the board of the public employer to determine whether or not certification of the employee organization shall remain in effect. If such request is made, the cost of holding the secret ballot election shall be borne by the public employer, though the cost of promotional materials shall be borne by the respective parties. If the result of the secret ballot election results in the continuation of certification of the employee organization, no subsequent request shall be made by the board of the public employer for one year.

AMENDED ANALYSIS

This bill allows a municipality by approval of its legislative body to remove snow from private roads and driveways and class VI highways.

This bill also permits the board of certain public employers to require a secret ballot election to determine whether certification of an employee organization shall remain in effect.

Rep. Jasper spoke in favor.

Rep. Goley spoke against, yielded to questions and requested a roll call; sufficiently seconded.

YEAS 219 NAYS 106

YEAS 219

BELKNAP

Accornero, Harry	Comtois, Guy	Fields, Dennis	Flanders, Donald
Greemore, Robert	Kingsbury, Robert	Malone, Robert	Pilliod, James
Russell, David	St. Cyr, Jeffrey	Swinford, Elaine	Tilton, Franklin
Tobin, William	Worsman, Colette		

CARROLL

Ahlgren, Christopher	Babson, David Jr	Chandler, Gene	Fleck, Joseph
McCarthy, Frank	McConkey, Mark	Morrow, Harry	Patten, Betsey
Pettengill, Laurie	Schmidt, Stephen	Trogenza, Norman	Umberger, Karen

CHESHIRE

Byrnes, John	Cartwright, Anne	Dwinell, Richard	Hunt, John
Johnson, Jane	Moore, Charles	Moore, Robert Jr	Smith, Edwin
Sterling, Franklin Jr			

COOS

Daugherty, Duffy	Rappaport, Laurence	Tholl, John Jr
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GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Mirski, Paul	Reilly, Harold Sr	Simard, Paul
Sorg, Gregory	Sova, Charles		

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Ball, J. Michael	Barry, J. Gail
Belanger, James	Belvin, William	Bergevin, Jerry	Boehm, Ralph
Brown, Kevin	Burt, John	Cebrowski, John	Champagne, Norma
Christensen, D.L.	Christiansen, Lars	Coffey, James	Condra, William
Chris			
Coughlin, Sean	Cusson-Cail, Kathleen	Daniels, Gary	DeJong, Cameron
Donovan, Daniel	Drisko, Richard	Erickson, Duane	Flanagan, Jack
Fredette, Robert	Gagne, Larry	Gonzalez, Carlos	Graham, John
Greazzo, Phil	Haefner, Robert	Hansen, Peter	Hardwick, Harry
Hawkins, Kenneth	Hinch, Richard	Hogan, Edith	Hutchinson, Winfred
Infantine, William	Jasper, Shawn	Krasucki, Joseph	Kurk, Neal
Lambert, George	LeBrun, Donald	Maltz, Jonathan	McClarren, Donald
McGuinness, Sean	Mecheski, Holly	Murphy, Keith	Notter, Jeanine
Ober, Lynne	Ober, Russell III	Ohm, Bill	Palmer, Barry
Palmer, Stephen	Parison, James	Pellegrino, Tony	Pepino, Leo
Peterson, Lenette	Pratt, Calvin	Renzullo, Andrew	Robbins, David
Rowe, Robert	Scontsas, Lisa	Seidel, Carl	Silva, Peter

Simmons, Tammy
Stroud, Kathleen
Ulery, Jordan
Willette, Robert

Soucy, Connie
Swank, Matthew
Villeneuve, Moe

Souza, Kathleen
Thomas, Joseph
Warden, Mark

Stepanek, Stephen
Twombly, Timothy
Whitehead, Randall

MERRIMACK

Blankenbeker, Lynne
Hill, Gregory
Lauer-Rago, Kathleen
McGuire, Dan
Seaworth, G. Brian

Cohn, Seth
Hoell, J.R.
Lindsley, Mark
Palfrey, David
Smith, Molly

Giuda, J. Brandon
Keane, Thomas
McDonnell, John
Richardson, Jon
Winter, Steven

Hess, David
Kreis, Kenneth Sr
McGuire, Carol
Sanborn, Laurie

ROCKINGHAM

Abrami, Patrick
Bates, David
Brown, Paul
Davenport, Joshua
Fesh, Robert
Hagan, Joseph
Kolodziej, Walter
Manuse, Andrew
Nevins, Chris
Reichard, Kevin
Sapareto, Frank
Shuler, Wyman III
Tasker, Kyle
Waterhouse, Kevin

Antosz, Jason
Belanger, Ronald
Charron, Gene
Devine, James
Garcia, Marilinda
Headd, James
Lundgren, David
McKinney, Betsy
Okerman, Richard
Rice, Frederick
Schroadter, Adam
Smith, William
Tremblay, Stella
Webb, James

Azarian, Gary
Bettencourt, David
Chirichiello, Brian
Duarte, Joe
Garrity, James
Itse, Daniel
MacMahon, Bruce
McMahon, Charles
Packard, Sherman
Ritter, Glenn
Sedensky, John
Sullivan, James
Waddell, James
Welch, David

Baldasaro, Alfred
Birdsell, Regina
Comerford, Timothy
Ferrante, Beverly
Griffin, Mary
Kappler, Lawrence
Major, Norman
Murphy, Brian
Reagan, John
Sanders, Elisabeth
Sheffert, Kenneth
Sytek, John
Ward, Joanne
Weyler, Kenneth

STRAFFORD

Cataldo, Sam
Jones, Laura
Parsons, Robbie

DeLemus, Susan
Munck, Philip
Pitre, Joseph

Groen, Warren
Newton, Clifford
Vita, Carol

Jones, Kyle
O'Connor, William
Vita, Lucien

SULLIVAN

Bowers, Spec
Osgood, Joe

Cunningham, Steven
Rodeschin, Beverly

Howard, Thomas
Smith, Steven

Laware, Thomas

NAYS 106

BELKNAP

Millham, Alida

CARROLL

None

CHESHIRE

Butynski, William
Johnsen, Gladys
Sad, Tara

Chase, Cynthia
Lindsey, Steven
Tatro, Bruce

Emerson, Susan
Meador, David
Weber, Lucy

Hawkes, Samuel
Roberts, Kris

COOS

Coulombe, Gary
Richardson, Herbert

Hatch, William
Theberge, Robert

Merrick, Evalyn
Thomas, Yvonne

Remick, William
Tremblay, Marc

GRAFTON

Almy, Susan
Harding, Laurie
Smith, Suzanne

Benn, Bernard
Ladd, Rick Jr
Taylor, Kathleen

Cooney, Mary
Pastor, Beatriz
Townsend, Charles

Gould, Franklin
Shackett, Jeffrey
White, Andrew

HILLSBOROUGH

Baroody, Benjamin
Gargas, Carolyn
Gorman, Mary
Messier, Irene
Rokas, Ted
Sullivan, Peter

Campbell, David
Gidge, Kenneth
Hopper, Gary
Pilotte, Maurice
Rosenwald, Cindy
Vaillancourt, Steve

Cote, David
Gimas, John
Katsiantonis, Thomas
Porter, Marjorie
Shaw, Barbara

Daler, Jennifer
Goley, Jeffrey
Long, Patrick
Proulx, Mark
Sullivan, Daniel

MERRIMACK

Bouchard, Candace
Frazer, June
MacKay, James
Rice, Chip
Wallner, Mary Jane

Deloge, Helen
Gile, Mary
Owen, Derek
Richardson, Gary
Watrous, Rick

DeStefano, Stephen
Hamm, Christine
Patten, Dick
Shurtleff, Stephen
Williams, Robert

Foose, Robert
Lockwood, Priscilla
Potter, Frances
Soltani, Tony

ROCKINGHAM

Allen, Mary
Lovejoy, Patricia
Perkins, Amy
Read, Robin Jr

Cali-Pitts, Jacqueline
Moody, Marcia
Perkins, Lawrence
Schlachman, Donna

DiPentima, Rich
Norelli, Terie
Quandt, Marshall

Katsakiores, Phyllis
Pantelakos, Laura
Quandt, Matt

STRAFFORD

Berube, Roger
Hooper, Dorothea
Roberts, Jenna
Sprague, Dale

Brown, Julie
Horrigan, Timothy
Schmidt, Peter
Wall, Janet

Browne, Brendon
Keans, Sandra
Spainhower, Dale
Watters, David

Ginsburg, Philip
Pelletier, Marsha
Spang, Judith

SULLIVAN

Cloutier, John
and floor amendment (1841h) was adopted.

Gagnon, Raymond

Lefebvre, Benjamin

Schmidt, Andrew

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

YEAS 221 NAYS 105

YEAS 221

BELKNAP

Accornero, Harry
Greemore, Robert
Russell, David
Tobin, William

Comtois, Guy
Kingsbury, Robert
St. Cyr, Jeffrey
Worsman, Colette

Fields, Dennis
Malone, Robert
Swinford, Elaine

Flanders, Donald
Pilliod, James
Tilton, Franklin

CARROLL

Ahlgren, Christopher	Babson, David Jr	Chandler, Gene	Fleck, Joseph
McCarthy, Frank	McConkey, Mark	Morrow, Harry	Patten, Betsey
Pettengill, Laurie	Schmidt, Stephen	Tregenza, Norman	Umberger, Karen

CHESHIRE

Byrnes, John	Cartwright, Anne	Dwinell, Richard	Hunt, John
Johnson, Jane	Moore, Charles	Moore, Robert Jr	Smith, Edwin
Sterling, Franklin Jr			

COOS

Daugherty, Duffy	Rappaport, Laurence	Tholl, John Jr
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GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Reilly, Harold Sr	Simard, Paul	Sorg, Gregory
Sova, Charles			

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Ball, J. Michael	Barry, J. Gail
Belanger, James	Belvin, William	Bergevin, Jerry	Boehm, Ralph
Brown, Kevin	Burt, John	Cebrowski, John	Champagne, Norma
Christensen, D.L.	Christiansen, Lars	Coffey, James	Condra, William
Chris			
Coughlin, Sean	Cusson-Cail, Kathleen	Daniels, Gary	DeJong, Cameron
Donovan, Daniel	Drisko, Richard	Erickson, Duane	Flanagan, Jack
Fredette, Robert	Gagne, Larry	Gargas, Carolyn	Gonzalez, Carlos
Graham, John	Greazzo, Phil	Haefner, Robert	Hansen, Peter
Hardwick, Harry	Hawkins, Kenneth	Hikel, John	Hinch, Richard
Hogan, Edith	Hutchinson, Winfred	Infantine, William	Jasper, Shawn
Krasucki, Joseph	Kurk, Neal	Lambert, George	LeBrun, Donald
Maltz, Jonathan	McCarthy, Michael	McClarren, Donald	McGuinness, Sean
Mecheski, Holly	Murphy, Keith	Notter, Jeanine	Ober, Lynne
Ober, Russell III	Ohm, Bill	Palmer, Barry	Palmer, Stephen
Parison, James	Pellegrino, Tony	Pepino, Leo	Peterson, Lenette
Pratt, Calvin	Renzullo, Andrew	Robbins, David	Rowe, Robert
Scontsas, Lisa	Seidel, Carl	Silva, Peter	Simmons, Tammy
Soucy, Connie	Souza, Kathleen	Stepanek, Stephen	Stroud, Kathleen
Swank, Matthew	Thomas, Joseph	Twombly, Timothy	Ulery, Jordan
Villeneuve, Moe	Warden, Mark	Whitehead, Randall	Willette, Robert

MERRIMACK

Blankenbeker, Lynne	Cohn, Seth	Giuda, J. Brandon	Hess, David
Hill, Gregory	Hoell, J.R.	Keane, Thomas	Kreis, Kenneth Sr
Lauer-Rago, Kathleen	Lindsley, Mark	McDonnell, John	McGuire, Carol
McGuire, Dan	Palfrey, David	Richardson, Jon	Sanborn, Laurie
Seaworth, G. Brian	Smith, Molly	Winter, Steven	

ROCKINGHAM

Abrami, Patrick	Antosz, Jason	Azarian, Gary	Baldasaro, Alfred
Bates, David	Belanger, Ronald	Bettencourt, David	Birdsell, Regina
Brown, Paul	Charron, Gene	Chirichiello, Brian	Comerford, Timothy

Davenport, Joshua
Fesh, Robert
Hagan, Joseph
Kolodziej, Walter
Manuse, Andrew
Nevins, Chris
Reichard, Kevin
Sapareto, Frank
Shuler, Wyman III
Tasker, Kyle
Waterhouse, Kevin

Devine, James
Garcia, Marilinda
Headd, James
Lundgren, David
McKinney, Betsy
Okerman, Richard
Rice, Frederick
Schroadter, Adam
Smith, William
Tremblay, Stella
Webb, James

Duarte, Joe
Garrity, James
Itse, Daniel
MacMahon, Bruce
McMahon, Charles
Packard, Sherman
Ritter, Glenn
Sedensky, John
Sullivan, James
Waddell, James
Welch, David

Ferrante, Beverly
Griffin, Mary
Kappler, Lawrence
Major, Norman
Murphy, Brian
Reagan, John
Sanders, Elisabeth
Sheffert, Kenneth
Sytek, John
Ward, Joanne
Weyler, Kenneth

STRAFFORD

Cataldo, Sam
Jones, Laura
Parsons, Robbie

DeLemus, Susan
Munck, Philip
Pitre, Joseph

Groen, Warren
Newton, Clifford
Vita, Carol

Jones, Kyle
O'Connor, William
Vita, Lucien

SULLIVAN

Bowers, Spec
Osgood, Joe

Cunningham, Steven
Rodeschin, Beverly

Howard, Thomas
Smith, Steven

Laware, Thomas

NAYS 105

BELKNAP

Millham, Alida

CARROLL

None

CHESHIRE

Butynski, William
Johnsen, Gladys
Roberts, Kris

Chase, Cynthia
Lindsey, Steven
Sad, Tara

Emerson, Susan
Meador, David
Tatro, Bruce

Hawkes, Samuel
Parkhurst, Henry
Weber, Lucy

COOS

Coulombe, Gary
Richardson, Herbert

Hatch, William
Theberge, Robert

Merrick, Evalyn
Thomas, Yvonne

Remick, William
Tremblay, Marc

GRAFTON

Almy, Susan
Harding, Laurie
Smith, Suzanne

Benn, Bernard
Ladd, Rick Jr
Taylor, Kathleen

Cooney, Mary
Pastor, Beatriz
Townsend, Charles

Gould, Franklin
Shackett, Jeffrey
White, Andrew

HILLSBOROUGH

Baroody, Benjamin
Gidge, Kenneth
Hopper, Gary
Pilotte, Maurice
Rosenwald, Cindy
Vaillancourt, Steve

Campbell, David
Gimas, John
Katsiantonis, Thomas
Porter, Marjorie
Shaw, Barbara

Cote, David
Goley, Jeffrey
Long, Patrick
Proulx, Mark
Sullivan, Daniel

Daler, Jennifer
Gorman, Mary
Messier, Irene
Rokas, Ted
Sullivan, Peter

MERRIMACK

Bouchard, Candace	Deloge, Helen	DeStefano, Stephen	Foose, Robert
Frazer, June	Gile, Mary	Hamm, Christine	Lockwood, Priscilla
MacKay, James	Owen, Derek	Potter, Frances	Rice, Chip
Richardson, Gary	Shurtleff, Stephen	Soltani, Tony	Wallner, Mary Jane
Watrous, Rick	Williams, Robert		

ROCKINGHAM

Allen, Mary	Cali-Pitts, Jacqueline	DiPentima, Rich	Katsakiores, Phyllis
Lovejoy, Patricia	Moody, Marcia	Norelli, Terie	Pantelakos, Laura
Perkins, Amy	Perkins, Lawrence	Quandt, Marshall	Quandt, Matt
Read, Robin Jr	Schlachman, Donna		

STRAFFORD

Berube, Roger	Brown, Julie	Browne, Brendon	Ginsburg, Philip
Hooper, Dorothea	Horrigan, Timothy	Keans, Sandra	Pelletier, Marsha
Roberts, Jenna	Schmidt, Peter	Spainhower, Dale	Spang, Judith
Sprague, Dale	Wall, Janet	Watters, David	

SULLIVAN

Cloutier, John	Gagnon, Raymond	Lefebvre, Benjamin	Schmidt, Andrew
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and the committee report was adopted and referred to the Committee on Constitutional Review and Statutory Recodification.

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

PROTEST

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

The introduction of the non-germane amendment to HB 1645 may be allowable under House Rules, but it is an affront to our states tradition of representative democracy.

Rep. Timothy Horrigan, Strafford, District 7.

REGULAR CALENDAR (CONT'D)

SB 291, relative to the use of currently allowed impact fees by municipalities. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David B. Campbell for Public Works and Highways: This bill, as amended, allows revenues collected from municipal impact fees for municipal roadways to be used on state-owned roads, provided that such improvements are related to impacts caused by the development. The bill neither alters the current statutory prohibition on municipalities assessing impact fees for state roads, nor allows a town or city to use state roads when calculating impact fees. As amended, this bill has the support of all the interested parties including the NH Homebuilders and Remodelers Association, NH Association of Realtors, Local Government Center, NH Planners Association, Associated General Contractors, NH Department of Transportation and the sponsors. A non-germane amendment has been appended to SB 291, for which public notice was duly given and a separate public hearing was held by the committee. This amendment authorizes \$550,000 to be appropriated from the fire standards and training and emergency medical services fund for the purpose of establishing a North Country fire training facility in Bethlehem within the current biennium. The testimony was unanimous in its support of a training facility that will save travel time, increase training hours and safety for North Country fire and emergency personnel. The committee vote was also unanimous. Vote 12-0.

Amendment (1571h)

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

AN ACT relative to the use of currently allowed impact fees by municipalities and making an appropriation to establish a North Country fire training facility.

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

1 Impact Fee. Amend the introductory paragraph of RSA 674:21, V to read as follows:

V. As used in this section "impact fee" means a fee or assessment imposed upon development, including subdivision, building construction, or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; ~~public~~ **municipal** road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing, and disposal facilities; public library facilities; and public recreational facilities not including public open space. No later than July 1, 1993, all impact fee ordinances shall be subject to the following:

2 New Subparagraphs; Innovative Land Use Control. Amend RSA 674:21, V by inserting after subparagraph (j) the following new subparagraphs:

(k) Revenue from impact fees imposed upon development and collected by a municipality under RSA 674:21, V for construction of or improvement to municipal road systems may be expended upon state highways within the municipality only for improvement costs that are related to the capital needs created by the development. Such improvements may include items such as, but not limited to, traffic signals and signage, turning lanes, additional travel lanes, and guard rails. No such improvements shall be constructed or installed without approval of the state department of transportation. In no event shall impact fees be used for any improvements to roads, bridges, or interchanges that are part of the interstate highway system. Nothing in RSA 674:21, V shall be construed as allowing or authorizing additional impact fees merely by virtue of having approved the expenditure of collected fee revenue for construction of or improvement of state highways, nor shall it be construed as allowing the adoption of new impact fees devoted to assessing impacts to state highways.

(l) No later than 60 days following the end of the fiscal year, any municipality having adopted an impact fee ordinance shall prepare a report listing all expenditures of impact fee revenue for the prior fiscal year, identifying the capital improvement project for which the fees were assessed and stating the dates upon which the fees were assessed and collected. The annual report shall enable the public to track the payment, expenditure, and status of the individually collected fees to determine whether said fees were expended, retained, or refunded.

3 Appropriation. The sum of \$550,000 is hereby appropriated to the department of safety, division of fire standards and training and emergency medical services, for the biennium ending June 30, 2013 for the purpose of establishing a North Country fire training facility. Said sum shall be a charge against the fire standards and training and emergency medical services fund established in RSA 21-P:12-d.

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect 60 days after its passage.

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

AMENDED ANALYSIS

This bill:

I. Allows municipalities to use revenue from existing impact fees for capital improvements to state highways within the municipality.

II. Requires annual reports by a municipality with an impact fee ordinance.

III. Makes an appropriation to establish a North Country fire training facility.

Amendment adopted.

Committee report adopted and referred to the Committee on Municipal and County Government.

SB 374, naming marine patrol headquarters in honor of David Barrett. **OUGHT TO PASS.**

Rep. Carl W. Seidel for Public Works and Highways: This bill names marine patrol headquarters in Gilford and any new building holding such headquarters as the David Barrett Marine Patrol Headquarters in honor of the late director of safety services, David T. Barrett. David Barrett served his country in the armed forces and this state in various local police forces before being appointed as director of the division of safety services where he went on to become the longest serving director in the history of that division. The numerous sponsors of this bill and the department of safety recommended this honor in appreciation of his service to the state. Vote 10-0.

Committee report adopted and ordered to third reading.

SB 256, relative to public utilities commission contracts with consultants. **OUGHT TO PASS.**

Rep. James M. Garrity for Science, Technology and Energy: This bill requires that Public Utilities Commission (PUC) contracts with consultants above certain dollar amounts be approved by Governor and Council. This brings the PUC in line with other state agencies and meets the #1 observation/recommendation of the Legislative Budget Assistant's April 2012 performance audit report on the PUC: "Ensure contracts and expenditures are approved according to state policy." The PUC had argued that this requirement may slow down some adjudicative dockets and that opposing parties in a docket may use this step as a lobbying opportunity to derail a PUC docket. The bipartisan majority of the committee feels that the G&C assurance that ratepayer/taxpayers funds are being used properly far outweighs any possible process delays. Vote 11-2.

Committee report adopted and referred to the Committee on Executive Departments and Administration.

SB 244-FN, relative to the administration of the New Hampshire retirement system.

OUGHT TO PASS WITH AMENDMENT.

Rep. Kenneth Hawkins for Special Committee on Public Employee Pensions Reform: This bill is a housekeeping bill to correct language that was contained in SB 3 & HB 2 (Chapter 224) in 2011. There were 5 sections where the language used in the bills passed caused confusion at the New Hampshire Retirement System. The bill was introduced to correct the wording, but keep the intent. The amendment adds one item that was not included by the Senate relating to the audited financial report. We changed the reporting date from December 1st to December 31 to allow the retirement system board one extra month to review it. There were a few other minor changes from the retirement system since the Senate passed bills to ensure the final wording of RSA 100 was being implemented as intended. Vote 9-2.

Amendment (1679h)

Amend the bill by replacing section 1 with the following:

1 Retirement System; Average Final Compensation. Amend RSA 100-A:1, XVIII(a) to read as follows:

(a) For members who have attained vested status prior to January 1, 2012, the average annual earnable compensation of a member during his or her highest 3 years of creditable service, or during all of the years in his or her creditable service if less than 3 years. For purposes of this calculation, the inclusion of the average annual compensation for

extra and special duty in the 3 years shall not exceed the average annual amount of compensation for extra and special duty paid to the member over the member's last 7 years ***of creditable service on or after July 1, 2009, as reported by the employer in accordance with RSA 100-A:16, VI***, or over all of the years in his or her creditable service ***on or after July 1, 2009*** if less than 7 years.

Amend the bill by replacing all after section 3 with the following:

4 Earnable Compensation. Amend RSA 100-A:1, XVII(b)(1) to read as follows:

(b)(1) For members who have not attained vested status prior to January 1, 2012, the full base rate of compensation paid, as determined by the employer, plus compensation over base pay. Compensation over base pay shall include as applicable, subject to subparagraphs (2), (3), and (4), any overtime pay, ~~holiday and vacation pay, sick pay,~~ cost of living bonus, annual longevity pay, additional pay for extracurricular and instructional activities, compensation for extra and special duty, and any military differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or living quarters if subject to federal income tax, but excluding other compensation except supplemental pay paid by the employer while the member is receiving workers' compensation and teacher development pay that is not part of the contracted annual salary.

5 Definition of Part-Time. RSA 100-A:1, XXXIV is repealed and reenacted to read as follows:

XXXIV. "Part-time," for purposes of employment of a retired member of the New Hampshire retirement system but excepting per diem court security officers and court bailiffs, means employment during a calendar year by one or more employers of the retired member which shall not exceed 32 hours in each normal calendar week. Employment in some instances may exceed 32 hours in any normal calendar week provided that in such case, the part-time employment of the retired member shall not exceed 1,300 hours in a calendar year, so long as such part-time employment does not occur outside of a 5-consecutive-month period in any 12-month period.

6 Maximum Benefit Limitation. Amend RSA 100-A:6-a to read as follows:

100-A:6-a Maximum Retirement Benefit. Notwithstanding any other provision of this chapter to the contrary, for members who commenced service before July 1, 2009, ***or have attained vested status prior to January 1, 2012***, a member's initial calculation of the retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed 100 percent of the member's highest year of earnable compensation. For members who commenced service on or after July 1, 2009 ~~or~~ ***and*** have not attained vested status prior to January 1, 2012, a member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed the lesser of 85 percent of the member's average final compensation or \$120,000. Nothing in this section shall affect the ability of a member to receive disability benefits pursuant to RSA 100-A:6, II(b) and (c). This provision shall not limit the application of supplemental allowances.

7 Audited Financial Report. Amend RSA 100-A:15, VI(a) to read as follows:

VI.(a) The board of trustees shall complete, not later than 120 days after the close of each fiscal year, a comprehensive annual financial report concerning the preceding fiscal year in a manner consistent with generally accepted accounting principles. The system's comprehensive annual financial report shall be audited annually in accordance with generally accepted governmental auditing standards by a qualified independent auditor selected by the audit committee. The auditor shall present the audited financial report and resulting findings to the audit committee for its approval and acceptance by December ~~[+]~~ **31** of each year unless the board of trustees for good cause shall extend such period.

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

Amendment adopted.

Committee report adopted and referred to the Committee on Finance.

SB 155-FN-A, relative to section 179 expense deductions under the business profits tax. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Bill Ohm for the Majority of Ways and Means: New Hampshire follows the IRS code in permitting certain business assets to be written off in the year they are purchased, rather than depreciated over several years. This is known as the IRS Section 179 deduction. In 2000, the New Hampshire limit was set at \$20,000. The sponsors feel that an increase is overdue, is revenue neutral, and would stimulate the New Hampshire economy. The committee concurs and proposes an amendment to raise the limit to \$25,000 and set the effective date to January 1, 2012. While the IRS limit may change at unknown intervals and with little notice, the committee wants to make clear its intention to raise the New Hampshire limit to \$25,000. Vote 18-3.

Rep. William A. Hatch for the Minority of Ways and Means: This bill is relative to section 179 and increases expense deductions a business can take under the business profits tax. Under 179, when a company purchases equipment they allow deductions of additional monies in the depreciation allowances the first year. In current New Hampshire law the amount is \$20,000 and this bill increases the amount to \$25,000. The fiscal note stated the impact to state revenues can not be calculated but based on current activity the minority believes it certainly would be at least in the range of \$5 million and has the potential of more. The minority objects because again we are introducing a law that will reduce our revenues by an unknown amount which takes away the state's ability to do what it is responsible for. The minority would like to point out that businesses locate and stay for many reasons other than the tax credits. In fact infrastructure, educated work force availability, utility access and cost and more that surpass tax credits importance. With that the minority believes we should not continue to erode our limited resources for items that may or may not benefit the states economic strength and believes this bill does so.

Majority Amendment (1722h)

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

1 New Section; Business Profits Tax; Gross Business Profits; Expense Deductions.

Amend RSA 77-A by inserting after section 3 the following new section:

77-A:3-a Expense Deductions. Notwithstanding the definition of Internal Revenue Code in RSA 77-A:1, XX(l), in determining gross business profits before net operating loss and special deductions, a business organization shall calculate expense deductions not to exceed \$25,000 as permitted under Internal Revenue Code section 179 using the version of the United States Internal Revenue Code in effect as of January 1, 2012.

2 Application. Section 1 of this act shall apply to any qualifying section 179 property as that term is defined in the United State Internal Revenue Code with respect to property placed into service on or after January 1, 2012.

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

AMENDED ANALYSIS

This bill allows a business organization to calculate expense deductions not to exceed \$25,000 according to the federal Internal Revenue Code section 179 in effect as of January 1, 2012 in the calculation of gross business profits under the business profits tax.

SPECIAL ORDERED

Without objection, the Speaker made ***SB 155-FN-A***, relative to section 179 expense deductions under the business profits tax, and ***SB 295-FN-A***, increasing the research and development tax credit against the business profits tax, Special Orders to the end of the Calendar.

SB 295-FN-A, increasing the research and development tax credit against the business profits tax. **MAJORITY: OUGHT TO PASS. MINORITY: OUGHT TO PASS WITH**

AMENDMENT.

Rep. Gary S. Azarian for the Majority of Ways and Means: Increasing the research and development tax credit from \$1 million to \$2 million will allow New Hampshire to be more competitive in attracting and retaining jobs within the state. Research and development tax credits are instrumental to start-ups in the early stages of product development to insure that product will reach commercial application and development. Vote 15-6.

Rep. Susan W. Almy for the Minority of Ways and Means: Five years ago the research and development tax credit was passed at the \$1 million level with both a five-year sunset and a mechanism to require the department of resources and economic development to collect and report on the effect of the program. A research and development tax credit provides a check-off that lets New Hampshire into the game when out-of-state business are considering setting up a new state. The size of that tax credit, unless we go for hundreds of millions, is irrelevant to that goal. The firm-specific analysis we expected to receive would have helped us to decide whether a larger tax credit would help individual firms to grow enough to justify the use of extremely limited state resources. This information was not collected, due to a change in the agency administering the credit. Now we are being asked to expand the credit with no data. The major trade associations have not collected any, but believe it works based on theory and anecdotal information. One firm came forward to say it worked for them. The minority believes that an increase should not be granted until there is some evidence that will have an effect commensurate with the loss of state resources. Part of the minority also believes that preferential tax credits should not exist. The minority wishes to amend the bill to simply repeal the sunset.

BILLS REMOVED FROM THE CONSENT CALENDAR

***SB 203-FN-A*, relative to limited liability companies. OUGHT TO PASS WITH AMENDMENT.**

Rep. Jennifer R. Coffey for Commerce and Consumer Affairs: This bill is an important and small-business friendly modernization of New Hampshire's Limited Liability Company Act. New Hampshire's current LLC laws were originally enacted in 1993 and amended in 1997. There have been no significant improvements to the law since that time. New Hampshire is a state built around small business and although there are some examples of larger companies that are LLCs, the LLC has become, by a wide margin, the entity of choice for the small businesses community. SB 203 retains many of the provisions of our current LLC Act, but adds numerous important new features that will make the Act significantly more user-friendly for small New Hampshire businesses. These new features include language comprehensively defining the fiduciary duties of members and managers; elimination of ambiguous language in the current Act, the elimination of numerous legalisms in favor of "plain English," and easier to understand definitions of key technical terms, such as "allocation," "distribution," "dissociation," and "dissolution." The amendment passed by the committee cleaned up some arcane language and removed sections of the bill that eliminated the collection of the real estate transfer tax during statutory conversions (when a corporation converts to an LLC). SB 203, in the form passed by the committee, has no impacts on state revenues. The bill is supported by the Manchester and Nashua Chambers of Commerce as well as the BIA and it represents an important and positive step forward for our small business community. Vote 15-0.

Amendment (1708h)

Amend RSA 304-C:149, VIII(b)-(c) as inserted by section 2 of the bill by replacing it with the following:

(b) All property, real, personal, and mixed, and all debts due on whatever account, and all other related claims, and all and every other interest of or belonging to or due to the converting business entity before its statutory conversion shall remain vested in the converting business entity after the statutory conversion.

(c) The title to all real estate and other interests therein vested in the converting business entity after its statutory conversion shall not revert or be in any way impaired by reason of the conversion.

Amend RSA 304-C as inserted by section 2 of the bill by deleting RSA 304-C:149, VIII(g).

Amend RSA 304-C as inserted by section 2 of the bill by deleting RSA 304-C:149, IX.

Amend RSA 304-C:153 as inserted by section 2 of the bill by replacing it with the following:

304-C:153 Successor to Deceased Member of Single-Member Limited Liability Company Becomes Member. Unless the operating agreement provides otherwise, a person who succeeds to the limited liability company interest of a deceased member of a single-member limited liability company is admitted as the member of the limited liability company.

Amend RSA 304-C:159, IV as inserted by section 2 of the bill by replacing it with the following:

IV. All property, real, personal, and mixed, and all debts due on whatever account, including promises to make capital contributions and subscriptions for shares, and all other related claims, and all and every other interest of or belonging to or due to each of the constituent entities shall be vested in the surviving entity without further act or deed;

Rep. Hoell spoke against.

Rep. Hunt spoke in favor and yielded to questions.

Rep. Gary Richardson requested a roll call; sufficiently seconded.

YEAS 273 NAYS 47

YEAS 273

BELKNAP

Accornero, Harry
Malone, Robert
St. Cyr, Jeffrey

Fields, Dennis
Millham, Alida
Swinford, Elaine

Flanders, Donald
Pilliod, James
Tilton, Franklin

Kingsbury, Robert
Russell, David
Tobin, William

CARROLL

Ahlgren, Christopher
McCarthy, Frank
Pettengill, Laurie

Babson, David Jr
McConkey, Mark
Schmidt, Stephen

Chandler, Gene
Merrow, Harry
Umberger, Karen

Fleck, Joseph
Patten, Betsey

CHESHIRE

Butynski, William
Dwinell, Richard
Johnsen, Gladys
Moore, Charles
Sad, Tara
Weber, Lucy

Byrnes, John
Emerson, Susan
Johnson, Jane
Moore, Robert Jr
Smith, Edwin

Cartwright, Anne
Hawkes, Samuel
Lindsey, Steven
Parkhurst, Henry
Sterling, Franklin Jr

Chase, Cynthia
Hunt, John
Meador, David
Roberts, Kris
Tatro, Bruce

COOS

Coulombe, Gary
Rappaport, Laurence
Thomas, Yvonne

Daugherty, Duffy
Remick, William
Tremblay, Marc

Hatch, William
Theberge, Robert

Merrick, Evalyn
Tholl, John Jr

GRAFTON

Almy, Susan
Bulis, Lyle
Ingbretson, Paul
Simard, Paul

Benn, Bernard
Cooney, Mary
Ladd, Rick Jr
Smith, Suzanne

Bradley, Lester
Gionet, Edmond
Reilly, Harold Sr
Sorg, Gregory

Brosseau, Charles
Harding, Laurie
Shackett, Jeffrey
Sova, Charles

Taylor, Kathleen

Townsend, Charles

White, Andrew

HILLSBOROUGH

Balboni, Michael
Belanger, James
Campbell, David

Ball, J. Michael
Belvin, William
Cebrowski, John

Baroody, Benjamin
Boehm, Ralph
Champagne, Norma

Barry, J. Gail
Brown, Kevin
Christensen, D.L.
Chris

Christiansen, Lars
Coughlin, Sean
Drisko, Richard
Gargas, Carolyn
Gonzalez, Carlos
Hansen, Peter
Hogan, Edith
Jasper, Shawn
LeBrun, Donald
McGuinness, Sean
Ober, Lynne
Palmer, Stephen
Porter, Marjorie
Rokas, Ted
Seidel, Carl
Soucy, Connie
Sullivan, Daniel
Whitehead, Randall

Coffey, James
Daler, Jennifer
Erickson, Duane
Gidge, Kenneth
Gorman, Mary
Hardwick, Harry
Hopper, Gary
Katsiantonis, Thomas
Long, Patrick
Mecheski, Holly
Ober, Russell III
Parison, James
Proulx, Mark
Rosenwald, Cindy
Shaw, Barbara
Souza, Kathleen
Thomas, Joseph

Condra, William
Daniels, Gary
Flanagan, Jack
Gimas, John
Graham, John
Hawkins, Kenneth
Hutchinson, Winfred
Krasucki, Joseph
McCarthy, Michael
Messier, Irene
Ohm, Bill
Pellegrino, Tony
Renzullo, Andrew
Rowe, Robert
Silva, Peter
Stepanek, Stephen
Ulery, Jordan

Cote, David
Donovan, Daniel
Gagne, Larry
Goley, Jeffrey
Haefner, Robert
Hinch, Richard
Infantine, William
Kurk, Neal
McClarren, Donald
Notter, Jeanine
Palmer, Barry
Pilotte, Maurice
Robbins, David
Scontsas, Lisa
Simmons, Tammy
Stroud, Kathleen
Villeneuve, Moe

MERRIMACK

Blankenbeker, Lynne
Frazer, June
Hess, David
Lauer-Rago, Kathleen
McDonnell, John
Palfrey, David
Sanborn, Laurie
Watrous, Rick

Bouchard, Candace
Gile, Mary
Hill, Gregory
Lindsley, Mark
McGuire, Carol
Potter, Frances
Shurtleff, Stephen
Williams, Robert

Deloge, Helen
Giuda, J. Brandon
Keane, Thomas
Lockwood, Priscilla
McGuire, Dan
Rice, Chip
Smith, Molly
Winter, Steven

Foose, Robert
Hamm, Christine
Kreis, Kenneth Sr
MacKay, James
Owen, Derek
Richardson, Gary
Wallner, Mary Jane

ROCKINGHAM

Abrami, Patrick
Baldasaro, Alfred
Birdsell, Regina
Davenport, Joshua
Fesh, Robert
Headd, James
Lundgren, David
Moody, Marcia
Packard, Sherman
Quandt, Marshall
Reichard, Kevin
Sedensky, John
Sullivan, James
Ward, Joanne

Allen, Mary
Bates, David
Cali-Pitts, Jacqueline
Devine, James
Garcia, Marilinda
Kappler, Lawrence
Major, Norman
Murphy, Brian
Pantelakos, Laura
Quandt, Matt
Rice, Frederick
Sheffert, Kenneth
Sytek, John
Waterhouse, Kevin

Antosz, Jason
Belanger, Ronald
Chirichiello, Brian
DiPentima, Rich
Griffin, Mary
Kolodziej, Walter
McKinney, Betsy
Nevins, Chris
Perkins, Amy
Read, Robin Jr
Sanders, Elisabeth
Shuler, Wyman III
Tasker, Kyle
Welch, David

Azarian, Gary
Bettencourt, David
Comerford, Timothy
Duarte, Joe
Hagan, Joseph
Lovejoy, Patricia
McMahon, Charles
Norelli, Terie
Perkins, Lawrence
Reagan, John
Schlachman, Donna
Smith, William
Waddell, James
Weyler, Kenneth

STRAFFORD

Berube, Roger

Brown, Julie

Browne, Brendon

Cataldo, Sam

DeLemus, Susan
Munck, Philip
Roberts, Jenna
Sprague, Dale
Watters, David

Ginsburg, Philip
O'Connor, William
Schmidt, Peter
Vita, Carol

Horrigan, Timothy
Pelletier, Marsha
Spainhower, Dale
Vita, Lucien

Keans, Sandra
Pitre, Joseph
Spang, Judith
Wall, Janet

SULLIVAN

Cloutier, John
LaCasse, Paul Sr
Rodeschin, Beverly

Cunningham, Steven
Laware, Thomas
Schmidt, Andrew

Gagnon, Raymond
Lefebvre, Benjamin
Smith, Steven

Howard, Thomas
Osgood, Joe

NAYS 47

BELKNAP

Comtois, Guy

Greemore, Robert

Worsman, Colette

CARROLL

Tregenza, Norman

CHESHIRE

None

COOS

Richardson, Herbert

GRAFTON

Gould, Franklin

Mirski, Paul

HILLSBOROUGH

Avard, Kevin
DeJong, Cameron
Maltz, Jonathan
Sullivan, Peter
Warden, Mark

Bergevin, Jerry
Fredette, Robert
Murphy, Keith
Swank, Matthew
Willette, Robert

Burt, John
Greazzo, Phil
Peterson, Lenette
Twombly, Timothy

Cusson-Cail, Kathleen
Hikel, John
Pratt, Calvin
Vaillancourt, Steve

MERRIMACK

Cohn, Seth
Soltani, Tony

Hoell, J.R.

Richardson, Jon

Seaworth, G. Brian

ROCKINGHAM

Brown, Paul
Katsakiores, Phyllis
Sapareto, Frank

Charron, Gene
Manuse, Andrew
Schroadter, Adam

Ferrante, Beverly
Okerman, Richard
Tremblay, Stella

Itse, Daniel
Ritter, Glenn
Webb, James

STRAFFORD

Groen, Warren

Hooper, Dorothea

Jones, Kyle

Jones, Laura

SULLIVAN

Bowers, Spec

and the amendment was adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Reps. Hoell, Manuse and Hunt spoke in favor.

Rep. Gary Richardson requested a roll call; sufficiently seconded.

YEAS 304 NAYS 18

YEAS 304

BELKNAP

Accornero, Harry	Comtois, Guy	Fields, Dennis	Flanders, Donald
Greemore, Robert	Malone, Robert	Millham, Alida	Pilliod, James
Russell, David	St. Cyr, Jeffrey	Swinford, Elaine	Tilton, Franklin
Tobin, William	Worsman, Colette		

CARROLL

Ahlgren, Christopher	Babson, David Jr	Chandler, Gene	Fleck, Joseph
McCarthy, Frank	McConkey, Mark	Morrow, Harry	Patten, Betsey
Pettengill, Laurie	Schmidt, Stephen	Umberger, Karen	

CHESHIRE

Butynski, William	Byrnes, John	Cartwright, Anne	Chase, Cynthia
Dwinell, Richard	Emerson, Susan	Hawkes, Samuel	Hunt, John
Johnsen, Gladys	Johnson, Jane	Lindsey, Steven	Meador, David
Moore, Charles	Moore, Robert Jr	Parkhurst, Henry	Roberts, Kris
Sad, Tara	Smith, Edwin	Sterling, Franklin Jr	Tatro, Bruce
Weber, Lucy			

COOS

Coulombe, Gary	Daugherty, Duffy	Hatch, William	Merrick, Evalyn
Rappaport, Laurence	Richardson, Herbert	Theberge, Robert	Toll, John Jr
Thomas, Yvonne	Tremblay, Marc		

GRAFTON

Almy, Susan	Benn, Bernard	Bradley, Lester	Brosseau, Charles
Bulis, Lyle	Cooney, Mary	Gionet, Edmond	Harding, Laurie
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Simard, Paul	Smith, Suzanne	Sorg, Gregory	Sova, Charles
Taylor, Kathleen	Townsend, Charles	White, Andrew	

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Ball, J. Michael	Baroody, Benjamin
Barry, J. Gail	Belanger, James	Belvin, William	Bergevin, Jerry
Boehm, Ralph	Brown, Kevin	Burt, John	Campbell, David
Cebrowski, John	Champagne, Norma	Christensen, D.L.	Christiansen, Lars
		Chris	
Coffey, James	Condra, William	Cote, David	Coughlin, Sean
Daler, Jennifer	Daniels, Gary	DeJong, Cameron	Donovan, Daniel
Drisko, Richard	Erickson, Duane	Flanagan, Jack	Fredette, Robert
Gagne, Larry	Gargas, Carolyn	Gidge, Kenneth	Goley, Jeffrey
Gonzalez, Carlos	Gorman, Mary	Graham, John	Greazzo, Phil

Haefner, Robert
Hikel, John
Hutchinson, Winfred
Krasucki, Joseph
Maltz, Jonathan
Mecheski, Holly
Notter, Jeanine
Palmer, Barry
Pepino, Leo
Pratt, Calvin
Rokas, Ted
Seidel, Carl
Soucy, Connie
Sullivan, Daniel
Ulery, Jordan

Hansen, Peter
Hinch, Richard
Infantine, William
Kurk, Neal
McCarthy, Michael
Messier, Irene
Ober, Lynne
Palmer, Stephen
Peterson, Lenette
Proulx, Mark
Rosenwald, Cindy
Shaw, Barbara
Souza, Kathleen
Sullivan, Peter
Villeneuve, Moe

Hardwick, Harry
Hogan, Edith
Jasper, Shawn
LeBrun, Donald
McClarren, Donald
Moran, Edward
Ober, Russell III
Parison, James
Pilotte, Maurice
Renzullo, Andrew
Rowe, Robert
Silva, Peter
Stepanek, Stephen
Swank, Matthew
Warden, Mark

Hawkins, Kenneth
Hopper, Gary
Katsiantonis, Thomas
Long, Patrick
McGuinness, Sean
Murphy, Keith
Ohm, Bill
Pellegrino, Tony
Porter, Marjorie
Robbins, David
Scontsas, Lisa
Simmons, Tammy
Stroud, Kathleen
Thomas, Joseph
Whitehead, Randall

MERRIMACK

Blankenbeker, Lynne
Foosse, Robert
Hess, David
Kreis, Kenneth Sr
MacKay, James
Owen, Derek
Richardson, Gary
Wallner, Mary Jane

Bouchard, Candace
Frazer, June
Hill, Gregory
Lauer-Rago, Kathleen
McDonnell, John
Palfrey, David
Sanborn, Laurie
Watrous, Rick

Cohn, Seth
Gile, Mary
Hoell, J.R.
Lindsley, Mark
McGuire, Carol
Potter, Frances
Shurtleff, Stephen
Williams, Robert

Deloge, Helen
Hamm, Christine
Keane, Thomas
Lockwood, Priscilla
McGuire, Dan
Rice, Chip
Smith, Molly
Winter, Steven

ROCKINGHAM

Abrami, Patrick
Baldasaro, Alfred
Birdsell, Regina
Comerford, Timothy
Dowling, Patricia
Garcia, Marilinda
Itse, Daniel
Lovejoy, Patricia
McKinney, Betsy
Nevins, Chris
Pantelakos, Laura
Reagan, John
Sanders, Elisabeth
Sedensky, John
Sullivan, James
Ward, Joanne
Weyler, Kenneth

Allen, Mary
Bates, David
Cali-Pitts, Jacqueline
Davenport, Joshua
Duarte, Joe
Griffin, Mary
Kappler, Lawrence
Lundgren, David
McMahon, Charles
Norelli, Terie
Perkins, Amy
Reichard, Kevin
Sapareto, Frank
Sheffert, Kenneth
Sytek, John
Waterhouse, Kevin

Antosz, Jason
Belanger, Ronald
Charron, Gene
Devine, James
Ferrante, Beverly
Hagan, Joseph
Katsakiores, Phyllis
Major, Norman
Moody, Marcia
Okerman, Richard
Perkins, Lawrence
Rice, Frederick
Schlachman, Donna
Shuler, Wyman III
Tasker, Kyle
Webb, James

Azarian, Gary
Bettencourt, David
Chirichiello, Brian
DiPentima, Rich
Fesh, Robert
Headd, James
Kolodziej, Walter
Manuse, Andrew
Murphy, Brian
Packard, Sherman
Quandt, Matt
Ritter, Glenn
Schroadter, Adam
Smith, William
Waddell, James
Welch, David

STRAFFORD

Berube, Roger
DeLemus, Susan
Horrigan, Timothy
Munck, Philip
Pitre, Joseph
Spang, Judith
Wall, Janet

Brown, Julie
Ginsburg, Philip
Jones, Kyle
Newton, Clifford
Roberts, Jenna
Sprague, Dale
Watters, David

Browne, Brendon
Groen, Warren
Jones, Laura
O'Connor, William
Schmidt, Peter
Vita, Carol

Cataldo, Sam
Hooper, Dorothea
Keans, Sandra
Pelletier, Marsha
Spainhower, Dale
Vita, Lucien

SULLIVAN

Cloutier, John
Laware, Thomas
Schmidt, Andrew

Cunningham, Steven
Lefebvre, Benjamin
Smith, Steven

Gagnon, Raymond
Osgood, Joe

Howard, Thomas
Rodeschin, Beverly

NAYS 18

BELKNAP

Kingsbury, Robert

CARROLL

Tregenza, Norman

CHESHIRE

None

COOS

Remick, William

GRAFTON

Gould, Franklin

Shackett, Jeffrey

HILLSBOROUGH

Cusson-Cail, Kathleen

Twombly, Timothy

Vaillancourt, Steve

Willette, Robert

MERRIMACK

Giuda, J. Brandon

Richardson, Jon

Seaworth, G. Brian

Soltani, Tony

ROCKINGHAM

Brown, Paul

Quandt, Marshall

Tremblay, Stella

STRAFFORD

None

SULLIVAN

Bowers, Spec

LaCasse, Paul Sr

and the committee report was adopted and referred to the Committee on Ways and Means.

REFERRAL DECLINED

With the approval of the Speaker, the Chairman of the Committee on Municipal and County Government, under the provisions of House Rule 46(e), declined the referral of ***SB 291***, relative to the use of currently allowed impact fees by municipalities.
The Speaker ordered the bill to third reading.

BILLS REMOVED FROM THE CONSENT CALENDAR (CONT'D)

SB 311-FN-A, establishing a director of the division of weights and measures and relative to the setting of weights and measures fees. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert H. Haefner for Environment and Agriculture: The bill originally sought to require that the commissioner of the department of agriculture, markets and food hire a director for the division of weights and measures. The bill further adds an advisory council for weights and measures and removed police powers from the investigators until the commissioner re-instated them. Finally the bill returned rule making authority to the commissioner, in part to allow fees to be re-instated, that were dropped via legislation two years ago. We amended the bill by removing a restriction that the director must have 5 years law enforcement experience at an administrative level (but no requirement for weights and measures experience or regulatory experience). Managerial experience remains in the bill. We changed the makeup of the advisory council to be more reflective of the regulated community. We also added that the division must publish a quarterly report of all investigations and complaints, in summary form, to the council, so that the council can look for trends requiring disciplinary action, rules or statute changes or policy or training concerns. Under the committee amendment law enforcement powers cannot be given or taken away by the commissioner of agriculture. That authority is given upon successful completion of the police standards and training council. We instead limited the number of investigators that can use those arrest powers and recognize that the weights and measures Investigators never arrest, but already, by policy, use police to arrest and prosecute. The prime sponsor brought an amendment to the public hearing that allowed flexibility by an oil dealer not to put per gallon cost on the delivery tickets. After much discussion the committee chose not to include oil tickets in our amendment. It is not in the bill as it came to us. Delivery tickets are currently in rules and we decided to leave it there and let the industry work with the department to make the rule change if justified. There was no support on the committee for adding oil delivery tickets. Vote 13-0.

Amendment (1703h)

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

1 New Sections; Division of Weights And Measures; Director. Amend RSA 438 by inserting after section 8 the following new sections:

438:8-a Division Director; Salary.

I. The commissioner shall nominate a director for the division of weights and measures for appointment by the governor, with the consent of the council, who shall serve thereafter at the pleasure of the commissioner.

II. The salary of the director shall be determined after assessment and review of the appropriate temporary letter grade allocation in RSA 94:1-a, I(b) for the position which shall be conducted pursuant to RSA 94:1-d and RSA 14:14-c.

438:8-b Division Director; Duties. The director shall operate under the duties prescribed to him or her by the commissioner, including but not limited to:

I. Subject to direction from the commissioner, the director of weights and measures shall direct and supervise the functions of the division of weights and measures including the work of the inspectors, the metrologist, and the clerical staff.

II. The director, in accordance with the policies of the department of administrative services shall keep records on the weights and measures inspectors which shall include by employee, the hours worked, approval of any overtime hours worked and the reason therefor, and accurate records of leave time accrued and used.

III. The director shall designate the procedure for prosecuting violations of this chapter and shall make judicious use of the civil penalty system in lieu of criminal prosecution when in his or her judgment it will be equally or more effective in enforcing the provisions of this chapter.

IV. The director shall, with approval of the commissioner, establish a code of conduct for the inspectors which shall be available upon request and shall establish rules, regulations, and standard operating procedures for the inspectors.

V. The director shall provide quarterly reports of complaints to the advisory board. Such reports shall include the date and nature of the complaint, the investigator of the complaint, and the resolution of the complaint.

438:8-c Weights and Measures Advisory Board.

I. There shall be a weights and measures advisory board consisting of 11 members. The members shall be appointed by commissioner of the department of agriculture, markets, and food, and shall include the following:

- (a) Two members nominated by the New Hampshire Grocers Association.
- (b) One member nominated by the Oil Heat Council of New Hampshire.
- (c) One member who is a scrap dealer.
- (d) Two members who are farmers, one of whom is engaged in retail of his or her products.
- (e) One legislator from the house environment and agriculture committee or the senate energy and natural resources committee.
- (f) One member nominated by the Propane Gas Association of New England.
- (g) One member nominated by the Independent Oil Marketers Association.
- (h) One member of the general public who is not involved commercially with weights and measures.
- (i) One member who is a weights and measures service technician registered under RSA 438:14-a.

II. The director of weights and measures shall serve as an ex-officio, non-voting member of the board.

III. Following an initial appointment for staggered terms, each board member shall serve for a term of 4 years. Board members shall not serve more than 2 consecutive terms. The board shall annually elect from among its members a chairman and a vice-chairman.

IV. Board members shall serve without compensation, except that they shall receive reimbursement for their reasonable and necessary expenses in the performance of their duties. This reimbursement shall be a charge against the appropriation for the department for weights and measures.

V. The board shall meet at least 2 times per year at a time and place to be fixed by the chairman. Additional meetings shall occur either upon his or her own motion or at the request of 3 or more board members.

VI. The weights and measures advisory board shall regularly advise the director of the division of weights and measures and the commissioner on all matters related to the enforcement of this chapter.

2 New Section; Authority of Inspectors. Amend RSA 438 by inserting after section 15-a the following new section:

438:15-b Authority of Inspectors. Effective no later than January 1, 2013, the commissioner, upon the recommendation of and consultation with the director of weights and measures, shall designate a sufficient number of inspectors to investigate and prosecute criminal complaints.

3 New Subparagraph; Commissioner of the Department of Agriculture, Markets and Food; Authority to Set Fees. Amend RSA 438:8, I(h) by inserting after subparagraph (4) the following new subparagraph:

(5) Notwithstanding fees set in RSA 438:10-a, with the approval of the fiscal committee of the general court:

- (A) Testing and certification.
- (B) Licenses, including application, initial issuance, replacement, and duplication.

4 Existing Director of Weights and Measures. The existing position of director of weights and measures shall lapse upon the effective date of this act and the appropriation for such position shall be available to compensate the new unclassified position of director of the division of weights and measures established by this act.

5 Vehicle Usage. The commissioner of the department of agriculture, markets, and food, upon recommendation of the director of weights and measures and upon determining that it would be less expensive to lease vehicles for the inspectors than to reimburse them for private vehicle mileage, is authorized to enter into vehicle leasing agreements for said purpose.

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

AMENDED ANALYSIS

This bill:

I. Establishes a director of the division of weights and measures.

II. Allows the commissioner of the department of agriculture, markets, and food to set fees for testing, certification, and licenses with the approval of the fiscal committee of the general court.

III. Allows the commissioner of the department of agriculture, markets, and food to enter into agreements to lease vehicles for inspectors.

On a division vote, 260 members having voted in the affirmative and 60 in the negative, the amendment was adopted.

Committee report adopted and referred to the Committee on Executive Departments and Administration.

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

SB 286, relative to a controlled drug prescription health and safety program. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lynne F. Blankenbeker for Health, Human Services and Elderly Affairs: This bill establishes a prescription drug monitoring program (PDMP) which will allow health care professionals to access necessary data to ensure prescriptions are needed, sought responsibly and will be effectively administered while curtailing the growing epidemic of “doctor shopping.” Great safeguards were put in place to protect patient privacy. This bill will allow providers, before writing a prescription, to learn whether their patient is receiving opioids or controlled substances from other clinicians thus providing a more informed basis on which to decide appropriate treatment options and will help providers identify patients with substance misuse or addiction and refer them to appropriate care. This bill will also assist in the detection of both patients and providers who may be diverting drugs for a profit. Vote 18-0.

Amendment (1666h)

Amend RSA 318-B:32, II as inserted by section 2 of the bill by replacing it with the following:

II. All costs incurred by the board for the implementation and operation of the program shall be supported through grants, gifts, or user contributions. The board may charge a fee to individuals who request their own prescription information. The amount charged for an individual’s request for his or her prescription information shall not exceed the actual cost of providing that information.

Amend RSA 318-B:33, IV(l)-(p) as inserted by section 2 of the bill by replacing them with the following:

- (l) Patient’s telephone number, if available.
- (m) Date prescription was written by prescriber.
- (n) Whether the prescription is new or a refill.
- (o) Source of payment for prescription.

Amend RSA 318-B:33 of section 2 of the bill by inserting after paragraph VI the following:

VII. The program may grant a reasonable extension to a dispenser that is unable, for good cause, to submit all the information required by paragraph IV within the established time limits.

VIII. Any dispenser who in good faith reports to the program as required by paragraphs III and IV shall be immune from any civil or criminal liability as the result of such good faith reporting.

Amend RSA 318-B:35, I(b)(4) as inserted by section 2 of the bill by replacing it with the following:

(4) A controlled drug prescription health and safety program from another state on a case-by-case basis, if an agreement is in place with the other state to ensure that the information is used and disseminated pursuant to the requirements of this state.

Amend RSA 318-B:36, I-III as inserted by section 2 of the bill by replacing them with the following:

I. Any person who fails to submit the information required in RSA 318-B:33 or knowingly submits incorrect information shall be subject to a warning letter and provided with an opportunity to correct the failure. Any person who subsequently fails to correct or fails to resubmit the information may be subject to discipline by the board.

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

III. Any person who engages in prescribing or dispensing of controlled substances in schedule II-IV without having registered with the program may be subject to discipline by the appropriate regulatory board.

Amend RSA 318-B:37, VI and VII as inserted by section 2 of the bill by replacing them with the following:

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

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment. Rep. Bowers spoke against.

Rep. Blankenbeker spoke in favor.

On a division vote, 221 members having voted in the affirmative and 74 in the negative, the committee report was adopted and referred to the Committee on Ways and Means.

SB 142-FN, relative to reorganizing the permitting process within the department of environmental services. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Christopher J. Ahlgren for Resources, Recreation and Development: This bill creates a process that allows a developer the voluntary option of combining up to four of the individual land use permits issued by the department of environmental services (DES) into one integrated permit. The process is intended to improve communication and co-ordination between multiple organizations and entities in the permitting process. It is underscored that this process is designed to service the larger projects, such as large subdivisions or shopping centers, which may require multiple permits and the involvement of many agencies. The process was created by DES with the active participation and support of the building community. There would be no increase in fees to the developer. In fact, the developer would benefit financially as the parallel approach of the integrated permit process would save time and work hours which translates into money. Some, but certainly not all, concepts in the program include a pre-application discussion with DES and other agencies, the allowing of DES to take a holistic approach in the evaluation of a development project which may be unable to comply with an individual permit but actually has a positive overall environmental impact, plus the developer may also, at his option, include the local governing bodies into the process to streamline obtaining the required local permits. The amendment constitutes a restructuring of the original bill by the committee. The amendment attempts to

improve the statutory structure and layout of the process. The amendment also removes any requests for additional personnel from the bill. Vote 15-0.

Amendment (1689h)

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

1 New Chapter; Integrated Land Development Permit. Amend RSA by inserting after chapter 488 the following new chapter:

CHAPTER 489

INTEGRATED LAND DEVELOPMENT PERMIT

489:1 Purpose. This chapter is intended to:

I. Establish an integrated land development permit option that may be sought, at the discretion of the applicant, as an alternative to seeking one or more individual land development permits or approvals issued by the department of environmental services.

II. Provide a coordinated approach and holistic perspective in regulating land development activities to protect the quality and functions of New Hampshire's natural environment.

III. Establish an alternative project review and permitting process to improve communication and coordination between multiple organizations and entities involved in the permitting of proposed projects.

IV. Establish a structured pre-application process to provide enhanced guidance earlier in the project design process to facilitate compliance and improved environmental performance.

V. Encourage and facilitate implementation of environmentally superior projects.

VI. Recognize that the degree of relatedness of the affected programs presents a unique opportunity to achieve efficiencies and savings that are not possible to achieve by similar means within the other programs administered by the department.

489:2 Definitions. In this chapter:

I. "Abutter" means any person who owns land immediately contiguous to the subject property or who owns flowage rights on such land. The term does not include the owner of any land that is separated by a public road or public waterway from the subject property or, in the absence of a public road or waterway, is more than ¼-mile from the limits of the proposed work. If any land that is immediately contiguous to the subject property is owned in whole or in part by the person who is proposing the work or is necessary to meet any frontage requirement, the term includes the person owning the next contiguous property.

II. "Affected programs" means the following programs implemented by the department:

(a) The terrain alteration program established under RSA 485-A:17 and rules adopted pursuant thereto;

(b) The subdivision and individual sewage disposal systems program established under RSA 485-A:29 through RSA 485-A:44 and rules adopted pursuant thereto;

(c) The wetlands program established under RSA 482-A and rules adopted pursuant thereto; and

(d) The shoreland water quality protection program established under RSA 483-B and rules adopted pursuant thereto.

III. "Applicant" means the person who initiates the application process for an integrated land development permit. If the applicant is not the owner of the property on which the project is proposed to occur, the applicant shall be authorized in writing by the property owner to undertake all actions and representations required under this chapter.

IV. "Department" means the department of environmental services.

V. "Integrated land development permit" means a single permit issued by the department in lieu of issuing separate permits or approvals under one or more of the affected programs.

VI. "Permittee" means a person who obtains an integrated land development permit under this chapter.

VII. "Subject property" means the property on which a project is proposed.

489:3 Authorization.

I. There is hereby established an integrated land development permit, for which application may be made as an alternative to applying for separate, individual permits or approvals under the affected programs.

II. Municipalities may review materials and provide written comment to the department. At the request of an applicant, municipalities may schedule site visits, attend meetings, or participate in discussions with or otherwise engage the department during any or all phases of the integrated land development permit process.

III. If administrative requirements or procedures contained in this chapter, or adopted by rule to execute this chapter, conflict with administrative requirements or procedures of any other statute or rule implemented by the department, the provisions under this chapter shall apply.

IV. The time limits prescribed in this chapter, or adopted by rule to execute this chapter, shall supersede any time limits provided in any other applicable provision of law.

V. Electronic communications and electronic document management may be employed to facilitate correspondence, application, notification, and coordination under this chapter.

VI. Submission of materials for the pre-application technical review under RSA 489:6, II or for final application under RSA 489:7 shall constitute the property owner's express authorization for the department, through its agents or employees and with at least one business day's notice or less, if agreed to by the owner, to enter upon the property that is the subject of the application for purposes of evaluating site conditions and the application made under this chapter.

489:4 Applicability.

I. Any person who wishes to conduct an activity requiring a permit or other approval from the department under 2 or more of the affected programs may choose to apply for an integrated land development permit from the department in lieu of all individual program permits or approvals otherwise required under the affected programs, subject to the following conditions and limitations:

(a) All permits or approvals otherwise required under the applicable affected programs shall be included in the integrated land development permit.

(b) No person shall be eligible under this chapter if the person is the subject of a state administrative, civil, or criminal enforcement action for violating this chapter or any of the affected programs at the time of initiating the application process.

(c) No person shall be eligible under this chapter if the person was the subject of a state administrative, civil, or criminal enforcement action for violating this chapter or any of the affected programs within the 5 years prior to initiating the application process, unless the action was withdrawn or overturned on appeal.

(d) No property shall be eligible under this chapter if the property is or has been the subject of an administrative enforcement action for violations of this chapter or any of the affected programs, unless the violations have been remediated or will be remediated as part of the proposed project and any outstanding fees, fines, and penalties assessed against the same person who owns the property at the time of the application have been paid in full.

(e) No property shall be eligible under this chapter without the prior consent of the attorney general if the property is, at the time of initiating the application process, or has been, within the 5 years prior to initiating the application process, the subject of a civil or criminal enforcement action for violations of this chapter or any of the affected programs. This subparagraph shall not apply to any action that was withdrawn or overturned on appeal.

(f) This chapter shall not apply if any of the work that is part of the project, other than preliminary site evaluation activities such as surveys or test pits not requiring a permit from the department, has been initiated or completed prior to the application process being initiated.

(g) This chapter shall not apply to permits for shoreline structures unless they are part of a larger project.

(h) This chapter shall not apply to emergency authorizations.

II. For projects that would otherwise require only a single permit or approval from the department under the affected programs, the applicant may request a waiver of the requirement for 2 or more permits provided the project incorporates low-impact or minimum-impact design practices and the applicant demonstrates that the proposed project will achieve a superior overall environmental outcome in accordance with the requirements and procedures specified in RSA 489:10.

489:5 Conceptual Preliminary Discussions. Any person interested in pursuing an integrated land development permit may consult with the department regarding the applicable procedures and requirements. Applicants may request and participate in conceptual pre-application discussions with the department prior to initiating the formal pre-application technical review process under RSA 489:6, II. Such conceptual pre-application discussions shall not replace the formal pre-application technical review process.

489:6 Pre-Application Technical Review.

I. An applicant shall initiate the integrated land development permit process by conducting certain activities, as specified by the department in rules adopted under this chapter, in preparation for pre-application technical review by the department. These activities shall include the following:

(a) Inquiry or consultation with the department of resources and economic development's natural heritage bureau and the department of fish and game;

(b) Notification of and provision of materials on the proposed project to the governing body, the planning department, the planning board, and conservation commission of the municipality or municipalities in which the proposed project is located;

(c) Notification of and provision of materials on the proposed project to the local river management advisory committee, when the project is in the corridor of a designated river or river segment under RSA 483;

(d) Notification of and consultation with federal regulatory entities, when applicable;

(e) Notification of, and, when requested, provision of materials on the proposed project to the New Hampshire division of historic resources;

(f) Assessment of site characteristics and location, as defined by the department in rules adopted under this chapter; and

(g) Other assessments, inquiries, notifications, and consultations as defined by the department in rules adopted under this chapter.

II. After conducting the activities required under paragraph I the applicant shall submit to the department such materials as the department requires under rules adopted pursuant to RSA 541-A, together with the pre-application technical review fee determined under RSA 489:8, II.

III. The applicant shall participate in a pre-application technical review with the department.

IV. As part of the pre-application technical review, the department shall review preliminary design plans, supporting information, and advisory input from state or federal entities notified or consulted pursuant to paragraph I and comments received from other persons notified pursuant to paragraph I to identify critical issues regarding site development and design, any requested waivers, and any mitigation that may be needed, and review the final permit application requirements with the applicant.

V. The department may request that any state or federal entities notified under paragraph I, participate in pre-application technical review discussions. Other persons or entities may be included at the request of the applicant.

VI. The pre-application technical review process shall not establish any presumption as to whether the department will approve the final application.

489:7 Submission and Review of Final Application.

I. Following the pre-application technical review, the applicant shall submit a complete application, as defined by the department in rules, together with the application fee specified in RSA 489:8, I, to the department. The proposed activities shall not be undertaken unless and until the applicant receives a permit from the department.

II. Within 14 days of receipt of the application, the department shall notify the applicant whether the application is complete or not. Incomplete applications shall not be accepted and shall be returned, along with the fee, to the applicant to be made complete and resubmitted to the department.

III. Concurrent with the submission of the final application to the department, the applicant shall:

(a) Provide a complete copy of the final application and all supporting materials, by certified mail or other delivery method that provides proof of receipt, to the municipality, or if applicable, municipalities in which the project is located and, when applicable, the local river management advisory committee or committees.

(b) Notify all abutters by certified mail or other delivery method that provides proof of receipt regarding the application. If any question arises as to whether all abutters were notified, the burden shall be on the applicant to show that notification was made.

IV. The department shall apply the technical criteria established in the affected programs.

V. The department may waive, in accordance with RSA 489:10, any technical criteria established by statute or rule under the affected programs, if such waiver is necessary to achieve a superior overall environmental outcome, or achieve an equivalent overall environmental outcome at reduced cost.

VI. Within 45 days of receiving a complete application, the department shall:

(a) Approve the application and issue a permit, which shall include such conditions as the department deems necessary to comply with this chapter or rules adopted under this chapter;

(b) Deny the application and issue written findings in support of the denial;

(c) Identify the need for and schedule a public hearing on the proposed project, and within 30 days of the public hearing approve or deny the application in accordance with subparagraph (a) or (b); or

(d) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

VII. If the department fails to act within the applicable time frame established in this section, the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.

(a) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:

(1) Approve the application, in whole or in part, and issue a permit; or

(2) Deny the application and issue written findings in support of the denial.

(b) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to

the project, including but not limited to requirements established in or under this chapter and any chapter relating to the applicable affected programs.

(c) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph (b), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and any chapter relating to the applicable affected programs.

VIII. The department shall adopt rules, under RSA 541-A regarding terms and conditions for any permit issued under this chapter to ensure compliance with this chapter and the affected programs.

489:8 Fees. Fees for the integrated land development permit shall be as follows:

I. The integrated land development permit application fee for a project shall be equal to the total of the permit fees specified in statute and in rules for each of the individual permits or approvals being replaced by the integrated land development permit. The permit application fee, minus funds previously paid for the technical pre-application review, shall be submitted to the department with the permit application.

II. The pre-application technical review fee shall be a portion of the expected permit application fee, as determined by the commissioner. The pre-application technical review fee shall be applied toward the final permit application fee for the project. If the applicant does not submit a final permit application, the pre-application technical review fee shall not be refunded or transferred to another project.

III. The applicant shall submit an additional fee determined by the commissioner to cover the additional costs incurred by the department for any project requiring a public hearing.

IV. The applicant shall submit an additional fee determined by the commissioner to cover the additional costs incurred by the department for any project requiring an amendment to a permit issued under this chapter.

V. The fees collected pursuant to this chapter shall be deposited into the accounts associated with the affected programs on a pro rata basis.

489:9 Rulemaking. The commissioner of the department shall adopt rules under RSA 541-A relative to:

I. Requirements and procedures for the pre-application process and technical review, including requirements for notification of and coordination with municipalities, other state and federal agencies, local river management advisory committees, and other entities.

II. Application requirements and procedures for processing a final application for an integrated land development permit, including requirements for notification of and coordination with municipalities, other state and federal agencies, local river management advisory committees, and other entities.

III. Applicability of technical criteria of the affected program.

IV. Procedures and requirements for amending a permit issued pursuant to this chapter, including time extensions and duration of a permit.

V. Procedures and requirements for projects requiring a public hearing.

VI. Terms and conditions for permits issued under this chapter to ensure compliance with this chapter and affected programs.

VII. Fees for pre-application technical review, covering costs to the department for permits requiring a public hearing and amendment of the application.

489:10 Waivers.

I. No waiver from any affected program's requirement in rule or statute shall be granted unless the applicant requesting the waiver demonstrates that there will be:

(a) No substantial loss of wetland functions and values;

(b) No additional degradation of water quality of impaired surface waters or outstanding resource waters; and

(c) A superior overall environmental outcome or an equivalent overall environmental outcome at reduced cost.

II. The demonstration required by paragraph I shall be made based on project design, mitigation, submission of modeling results, engineering calculations, relevant scientific studies, or such other documentation the applicant believes supports the requested waiver.

III. No waiver shall be granted if doing so results in a violation of any federal requirement or any state statute outside those governing the affected programs, unless the state statute expressly provides that the provisions may be waived.

IV. Municipalities may grant a variance of zoning under RSA 674:33, I(b), or waive land use regulations under RSA 674:44, III(e) or RSA 674:36, II(n), or adopt an innovative land use control ordinance pursuant to RSA 674:21, to allow a project to proceed as approved by the department under this chapter.

489:11 Appeals.

I. Any person aggrieved by a decision made under RSA 489:7, V, VI(a) or (b), or VII, and any person subject to an order of the department under RSA 489:12 who wishes to appeal shall, within 30 days of the decision, file a notice of appeal with the appeals clerk for a hearing before a joint water-wetland council described in paragraph II. At the time the notice of the appeal is filed, the person shall send a copy of the appeal to the commissioner. If the appeal is of a decision to issue a permit, the person shall also send a copy of the appeal to the permittee. The notice of appeal shall clearly state that it is being filed pursuant to this paragraph.

II. Upon receipt of a notice of appeal filed pursuant to paragraph I, the appeals clerk shall notify the chairman of the water council established under RSA 21-O:7 and the chairman of the wetlands council established under RSA 21-O:5-a. The chairmen shall each designate 4 members of their respective councils to sit with a hearing officer appointed under RSA 21-M:3, VIII as a joint council for purposes of the appeal. The council members appointed shall represent a diversity of environmental, business, and public health interests.

III. The appeal shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the appeal shall be considered by the joint council.

IV. The joint council shall conduct an adjudicative proceedings as provided in RSA 21-M:3, IX and X, RSA 21-O:14, RSA 541-A, and rules to be adopted by both of the councils for appeals to be heard by the joint council. Until both of the councils have adopted the same rules, the rules of the wetlands council shall apply to any appeal. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

V. If the appeal is of a decision to issue a permit, the permittee may appear and become a party to the appeal as a matter of right. Requests by any other person to intervene in any appeal shall be made and decided upon as provided in RSA 541-A:32.

VI. On appeal, the joint council may affirm the decision of the department or may remand to the department with a determination that the decision complained of is unlawful or unreasonable. In either case, the council shall specify the factual and legal basis for its determination and shall identify evidence in the record created before the council that supports its decision.

VII. Any party aggrieved by a decision of the joint council may apply to the joint council for reconsideration as specified in RSA 541.

VIII. Any party aggrieved by a decision of the joint council after reconsideration may appeal to the supreme court as specified in RSA 541.

IX. In the case of a remand to the department by the joint council, the department shall consider the council's determination and may either reissue the subject decision or order or appeal as provided in paragraphs VII and VIII.

489:12 Compliance.

I. The following shall constitute noncompliance with this chapter:

(a) Failure to comply with this chapter or any rule adopted or permit issued under this chapter.

(b) Failure to comply with an order of the commissioner issued relative to this chapter or any rule adopted or permit issued under this chapter.

(c) Misrepresentation by any person of a material fact made in connection with any application filed under this chapter or any permit issued under this chapter.

II. The permittee shall be responsible for ensuring that all work done under the permit complies with the permit and all other applicable requirements. Any person who performs work under an integrated land development permit shall comply with the permit and all other applicable requirements.

III. The department may issue a written order to any person in noncompliance with this chapter as specified in paragraph I to cease any continuing noncompliance and to remediate or restore any land or water areas affected by the noncompliance.

IV. Any noncompliance with this chapter as specified in paragraph I may be enjoined by the superior court upon application of the attorney general.

V. Any person who knowingly fails to comply with this chapter as specified in paragraph I shall be subject to all remedies available under law in the applicable affected programs. For purposes of this paragraph, a permit issued under this chapter shall constitute a permit issued under each of the applicable affected programs.

2 Planning Board Procedures. Amend RSA 676:4, I(b) to read as follows:

(b) The planning board shall specify by regulation what constitutes a completed application sufficient to invoke jurisdiction to obtain approval. A completed application means that sufficient information is included or submitted to allow the board to proceed with consideration and to make an informed decision. A completed application sufficient to invoke jurisdiction of the board shall be submitted to and accepted by the board only at a public meeting of the board, with notice as provided in subparagraph (d). An application shall not be considered incomplete solely because it is dependent upon ***submission of an application to or*** the issuance of permits or approvals from other governmental bodies; however, the planning board may condition approval upon the receipt of such permits or approvals in accordance with subparagraph (i). The applicant shall file the application with the board or its agent at least 15 days prior to the meeting at which the application will be accepted. The application shall include the names and addresses of the applicant, all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 477:45, and all abutters as indicated in the town records for incorporated towns or county records for unincorporated towns or unorganized places not more than 5 days before the day of filing. Abutters shall also be identified on any plat submitted to the board. The application shall also include the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board.

3 New Paragraph; Powers of the Zoning Board of Adjustment. Amend RSA 674:33 by inserting after paragraph V the following new paragraph:

VI. The zoning board of adjustment shall not require submission of an application for or receipt of a permit or permits from other governmental bodies prior to accepting a submission for its review or rendering its decision.

4 Conservation Commission; Powers. Amend RSA 36-A:4 to read as follows:

36-A:4 Powers.

I. Said commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, subject to the approval of the local governing body, such gifts to be managed and controlled by the commission for the purposes of this section. Said commission may acquire in the name of the city or town, subject to the approval of the local governing

body, by purchase, the fee in such land or water rights within the boundaries of the municipality, or any lesser interest, development right, easement, covenant, or other contractual right including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within their city or town, and shall manage and control the same, but the city or town or commission shall not have the right to condemn property for these purposes.

II. The conservation commission, in reviewing an application to provide input to any other municipal board, shall not require submission of an application for or receipt of a permit or permits from other governmental bodies prior to accepting a submission for its review or providing such input.

5 New Subparagraph; Innovative Land Use Controls. Amend RSA 674:21, I by inserting after subparagraph (n) the following new subparagraph:

(o) Integrated land development permit option.

6 New Paragraph; Innovative Land Use Controls. Amend RSA 674:21 by inserting after paragraph VI the following new paragraph:

VII. In this section, “integrated land development permit option” means an optional land use control to allow a project to proceed, in whole or in part, as permitted by the department of environmental services under RSA 489.

7 Appeals Clerk. Amend RSA 21-O:3, the introductory paragraph of VIII and the introductory paragraph of RSA 21-O:3, VIII(a) to read as follows:

VIII. Provide all necessary clerical and technical support to any council established by this chapter ***or the joint council established in RSA 489***. At a minimum, the commissioner shall:

(a) For any appeal from a department decision before any such council provide all necessary clerical and support personnel and services, ***including an appeals clerk***, in order to:

8 Effective Date.

I. Sections 1, 5, and 6 of this act shall take effect January 1, 2015.

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

AMENDED ANALYSIS

This bill establishes an integrated land development permit option that may be sought at the discretion of the applicant as an alternative to applying for multiple land development permits from the department of environmental services.

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment. Rep. Renzullo offered floor amendment (1833h).

Floor Amendment (1833h)

Amend RSA 489:4, II as inserted by section 1 of the bill by replacing it with the following:

II. For projects that would otherwise require only a single permit from the department under the affected programs, the applicant may request a waiver of the requirement for 2 or more permits provided the project incorporates low-impact or minimum-impact design practices and the applicant demonstrates that the proposed project will achieve a superior overall environmental outcome in accordance with the requirements and procedures specified in RSA 489:9.

Amend RSA 489:6, II as inserted by section 1 of the bill by replacing it with the following:

II. After conducting the activities required under paragraph I the applicant shall submit to the department such materials as the department requires under rules adopted pursuant to RSA 541-A, together with the pre-application technical review fee.

Amend RSA 489:6, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The department may request that persons from the department of resources and economic development's natural heritage bureau, the department of fish and game, and applicable federal regulatory entities, participate in the pre-application technical review. Other persons may be included at the request of the applicant. All persons providing comments or otherwise participating in the pre-application technical review may provide advisory input to the department relative to the site conditions, the application of or compliance with technical requirements of the affected programs, or any waiver request under RSA 489:9.

Amend RSA 489:7, I as inserted by section 1 of the bill by replacing it with the following:

I. Following the pre-application technical review, the applicant shall submit a complete application, as defined by the department in rules, together with the application fee, which shall be equal to the total of the permit fees specified in statute and in rules for each of the individual permits or approvals being replaced by the integrated land development permit, to the department. The proposed activities shall not be undertaken unless and until the applicant receives a permit from the department.

Amend RSA 489:7, V as inserted by section 1 of the bill by replacing it with the following:

V. The department may waive, in accordance with RSA 489:9, any technical criteria established by statute or rule under the affected programs, if such waiver is necessary to achieve a superior overall environmental outcome, or achieve an equivalent overall environmental outcome at reduced cost.

Amend section 1 of the bill by delete RSA 489:8 and renumbering RSA 489:9 – RSA 489:12 to read as RSA 489:8 – RSA 489:11, respectively.

AMENDED ANALYSIS

This bill establishes an integrated land development permit option that may be sought at the discretion of the applicant as an alternative to applying for multiple land development permits from the department of environmental services.

Rep. Renzullo spoke in favor.

Floor amendment (1833h) adopted.

Committee report adopted and referred to the Committee on Ways and Means.

SB 217-FN, relative to management of Cannon mountain by the department of resources and economic development. **OUGHT TO PASS.**

Rep. D. L. Chris Christensen for Resources, Recreation and Development: This bill requires the commissioner of the department of resources and economic development (DRED) to develop a master plan for Franconia Notch State Park and the ski operation at Cannon Mountain. There are provisions regarding financial self-sufficiency and working with veterans groups to develop improved memorial facilities which would be funded by private funding. The fiscal note suggests that an extra sum of money is required to hire consultants to develop the master plan. We have assurances from DRED that the plan can be developed in house within the normal budget process. A final provision authorizes development of a hiking corridor from the base of Mittersill Mountain to the Kinsman Ridge Trail at the summit of Cannon Mountain. Vote 15-0.

Rep. Taylor spoke against.

Rep. Chris Christensen spoke in favor and yielded to questions.

On a division vote, 221 members having voted in the affirmative and 88 in the negative, the committee report was adopted and referred to the Committee on State-Federal Relations and Veterans Affairs.

SPECIAL ORDER

SB 272-FN, relative to truancy. **OUGHT TO PASS.**

Rep. Philip L. Munck for Municipal and County Government: When the budget for the current biennium was adopted, the Children In Need for Supervision (CHINS) program was discontinued. Under the CHINS laws, police and school resource officers were able to take

truant children into various alternative programs to get them back into school. That tool is no longer available. This bill allows a municipality to adopt a truancy ordinance which would allow police and school resource officers in that community to take control of truant children and oblige them to participate in programs that are less extreme than introduction to the criminal justice system. The bill is awkward in AREA and Cooperative School districts that span more than one municipality. It will work very well where the school district and the municipality are co-terminus which is the case in most of the state's cities and larger towns. The committee believes given that this is an early bill, the need to enact it now overrode the desirability of making the bill more compatible with Cooperative and AREA school districts. A floor amendment by the committee provides for the destruction of any truancy records arising from this bill when the child reaches the age of 18 years-old. The committee unanimously agreed that the floor amendment makes it a much better bill. Vote 12-4.

Rep. Lynne Ober offered floor amendment (1778h).

Floor Amendment (1778h)

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

3 New Subparagraph; Truant Officers; Appointment of Truant Officers. Amend RSA 189:34, II by inserting after subparagraph (b) the following new subparagraph:

(c) A requirement that once a truant child reaches 18 years of age, all court and police records relating to his or her truancy shall be destroyed, and a process for considering exceptions to this requirement.

4 New Section; Truant Officers; Costs of Truancy Proceedings. Amend RSA 189 by inserting after section 37 the following new section:

189:37-a Costs of Truancy Proceedings. Regardless of whether a municipality has adopted an ordinance prohibiting truancy, all costs associated with truancy proceedings against a child who has been deemed truant shall be borne by the municipality in which the child resides.

AMENDED ANALYSIS

This bill authorizes a municipality to adopt an ordinance prohibiting truancy and specifies procedures for the hearing of truancy cases. The bill also requires that all costs associated with truancy proceedings shall be paid by the municipality in which the truant child resides.

Rep. Lynne Ober spoke in favor.

Floor amendment (1778h) adopted.

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

Rep. Daniels offered floor amendment (1844h).

Floor Amendment (1844h)

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

AN ACT relative to truancy and relative to negotiations for contracts for county employees.

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

5 New Section; Counties; Commissioners Negotiations; Convention Representative. Amend RSA 28 by inserting after section 10-b the following new section:

28:10-c Collective Bargaining with Employee Bargaining Units. The county executive committee or the county convention may designate a member of the convention to observe collective bargaining negotiating sessions for the purpose of advising the convention regarding the cost items contained in any proposed contract to be approved by the county convention. Such advice shall only occur after a proposed contract is approved by the parties

and sent to the convention for approval. The convention designee shall be a silent observer only and shall not participate in the negotiations in any way. The convention designee shall be subject to the same legal requirements as the employer negotiating team, including, but not limited to, confidentiality requirements.

AMENDED ANALYSIS

This bill:

I. Authorizes a municipality to adopt an ordinance prohibiting truancy and specifies procedures for the hearing of truancy cases.

II. Requires that all costs associated with truancy proceedings shall be paid by the municipality in which the truant child resides.

III. Allows for a member of the county convention to be an observer in the negotiations for a county employee contract in order to provide advice on the cost items in any contract to be approved by the convention.

Rep. Daniels spoke in favor.

Rep. Goley spoke against.

On a division vote, 216 members having voted in the affirmative and 83 in the negative, floor amendment (1844h) was adopted.

Motion of Ought to Pass with Amendment adopted and referred to the Committee on Education.

SPECIAL ORDER

SB 155-FN-A, relative to section 179 expense deductions under the business profits tax.

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

Rep. Bill Ohm for the Majority of Ways and Means: New Hampshire follows the IRS code in permitting certain business assets to be written off in the year they are purchased, rather than depreciated over several years. This is known as the IRS Section 179 deduction. In 2000, the New Hampshire limit was set at \$20,000. The sponsors feel that an increase is overdue, is revenue neutral, and would stimulate the New Hampshire economy. The committee concurs and proposes an amendment to raise the limit to \$25,000 and set the effective date to January 1, 2012. While the IRS limit may change at unknown intervals and with little notice, the committee wants to make clear its intention to raise the New Hampshire limit to \$25,000. Vote 18-3.

Rep. William A. Hatch for the Minority of Ways and Means: This bill is relative to section 179 and increases expense deductions a business can take under the business profits tax. Under 179, when a company purchases equipment they allow deductions of additional monies in the depreciation allowances the first year. In current New Hampshire law the amount is \$20,000 and this bill increases the amount to \$25,000. The fiscal note stated the impact to state revenues can not be calculated but based on current activity the minority believes it certainly would be at least in the range of \$5 million and has the potential of more. The minority objects because again we are introducing a law that will reduce our revenues by an unknown amount which takes away the state's ability to do what it is responsible for. The minority would like to point out that businesses locate and stay for many reasons other than the tax credits. In fact infrastructure, educated work force availability, utility access and cost and more that surpass tax credits importance. With that the minority believes we should not continue to erode our limited resources for items that may or may not benefit the states economic strength and believes this bill does so.

Majority Amendment (1722h)

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

1 New Section; Business Profits Tax; Gross Business Profits; Expense Deductions.

Amend RSA 77-A by inserting after section 3 the following new section:

77-A:3-a Expense Deductions. Notwithstanding the definition of Internal Revenue Code in RSA 77-A:1, XX(l), in determining gross business profits before net operating loss and special deductions, a business organization shall calculate expense deductions not to exceed \$25,000 as permitted under Internal Revenue Code section 179 using the version of the United States Internal Revenue Code in effect as of January 1, 2012.

2 Application. Section 1 of this act shall apply to any qualifying section 179 property as that term is defined in the United State Internal Revenue Code with respect to property placed into service on or after January 1, 2012.

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

AMENDED ANALYSIS

This bill allows a business organization to calculate expense deductions not to exceed \$25,000 according to the federal Internal Revenue Code section 179 in effect as of January 1, 2012 in the calculation of gross business profits under the business profits tax.

Majority committee amendment adopted.

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

Rep. Greazzo offered floor amendment (1845h).

Floor Amendment (1845h)

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

AN ACT relative to section 179 expense deductions under the business profits tax, and relative to refugee resettlement.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 New Subdivision; Refugee Resettlement in Municipalities. Amend RSA 161 by inserting after section 11 the following new subdivision:

Refugee Resettlement in Municipalities

161:12 Definitions. In this subdivision:

I. "Absorptive capacity" means a determination made by a local governing body evaluating, for a host community within that jurisdiction:

(a) The capacity of the community's social service and healthcare agencies to meet the existing needs of the community's current residents;

(b) The availability of affordable housing, low-cost housing, or both, and existing waiting lists for such housing in the community;

(c) The capacity of the local school district to meet the needs of the existing or anticipated refugee student population; and

(d) The ability of the local economy to absorb new workers without causing competition with local residents for job opportunities, displacing existing local workers, or adversely affecting the wages or working conditions of the local workforce;

II. "New Hampshire refugee program" means the program in the office of energy and planning which administers the refugee program for New Hampshire.

III. "New Hampshire refugee coordinator" means the official designated by the New Hampshire refugee program.

161:13 Duties of New Hampshire Refugee Program. The New Hampshire refugee program shall:

I. Meet at least quarterly with representatives of local governing bodies to plan and coordinate the appropriate placement of refugees in advance of the refugees' arrival;

II. Ensure that representatives of local resettlement agencies, local community service agencies, and other publicly-funded or tax-exempt agencies that serve refugees in New Hampshire shall meet at least quarterly with representatives of local governing bodies to plan and coordinate the appropriate placement of refugees in the host community in advance of the refugees' arrival;

III. Execute a letter of agreement with each agency providing refugee resettlement services in this state. The letter of agreement shall require the parties to mutually consult and prepare a plan for the initial placement of refugees in a host community and set forth the continuing process of consultation between the parties. The provisions of the letter of agreement shall be consistent with federal law regulating the resettlement of refugees; and

IV. At least quarterly transmit copies of the letters of agreement and any initial refugee placement plans prepared thereunder to the chairpersons of the house and senate committees addressing state and local government issues, and to the chairperson of the budget committee of local governing body regulating the host community.

161:14 Moratorium.

I. The New Hampshire refugee program shall accept an application from a local governing body for a moratorium on new refugee resettlement activities in a host community where the local governing body has determined that the community lacks sufficient absorptive capacity.

II. A host community lacks sufficient absorptive capacity where the local government, after consultation with the state refugee coordinator, holds a public hearing and issues findings based on the factors demonstrating that further resettlement of refugees in the host community would result in an adverse impact to existing residents.

III. Upon notice of a determination made pursuant to paragraph II, the New Hampshire refugee program shall thereafter suspend additional resettlement of refugees in that community, until the state refugee coordinator and the local governing body have jointly determined that sufficient absorptive capacity for refugee resettlement exists to implement the initial refugee placement plan prepared for the host community.

IV. No moratorium granted under paragraph III or any extension thereof, shall exceed a total of one year.

AMENDED ANALYSIS

This bill allows a business organization to calculate expense deductions not to exceed \$25,000 according to the federal Internal Revenue Code section 179 in effect as of January 1, 2012 in the calculation of gross business profits under the business profits tax.

This bill also allows local governing bodies to establish moratoriums on refugee resettlement in New Hampshire communities.

Rep. Kris Roberts spoke against.

Rep. Greazzo spoke in favor.

Floor amendment (1845h) adopted.

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

Rep. Hatch spoke against and yielded to questions.

Rep. Ohm spoke in favor.

Rep. Rosenwald requested a roll call; sufficiently seconded.

YEAS 230 NAYS 76

YEAS 230

BELKNAP

Accornero, Harry
Greemore, Robert
Pilliod, James
Tilton, Franklin

Comtois, Guy
Kingsbury, Robert
Russell, David
Tobin, William

Fields, Dennis
Malone, Robert
St. Cyr, Jeffrey
Worsman, Colette

Flanders, Donald
Millham, Alida
Swinford, Elaine

CARROLL

Ahlgren, Christopher

Babson, David Jr

Chandler, Gene

Fleck, Joseph

McCarthy, Frank
Pettengill, Laurie

McConkey, Mark
Schmidt, Stephen

Morrow, Harry
Tregenza, Norman

Patten, Betsey
Umberger, Karen

CHESHIRE

Byrnes, John
Hunt, John

Cartwright, Anne
Johnson, Jane

Dwinell, Richard
Moore, Robert Jr

Emerson, Susan
Smith, Edwin

COOS

Daugherty, Duffy
Tremblay, Marc

Rappaport, Laurence

Richardson, Herbert

Tholl, John Jr

GRAFTON

Bradley, Lester
Ingbretson, Paul
Simard, Paul

Brosseau, Charles
Ladd, Rick Jr
Sorg, Gregory

Bulis, Lyle
Mirski, Paul
Sova, Charles

Gionet, Edmond
Reilly, Harold Sr

HILLSBOROUGH

Avard, Kevin
Barry, J. Gail
Boehm, Ralph
Champagne, Norma

Balboni, Michael
Belanger, James
Brown, Kevin
Christensen, D.L.
Chris

Ball, J. Michael
Belvin, William
Burt, John
Coffey, James

Baroody, Benjamin
Bergevin, Jerry
Cebrowski, John
Condra, William

Coughlin, Sean
Donovan, Daniel
Gagne, Larry
Haefner, Robert
Hikel, John
Hutchinson, Winfred
Kurk, Neal
Maltz, Jonathan
Mecheski, Holly
Ober, Russell III
Pellegrino, Tony
Proulx, Mark
Scontsas, Lisa
Soucy, Connie
Thomas, Joseph
Villeneuve, Moe

Cusson-Cail, Kathleen
Drisko, Richard
Gonzalez, Carlos
Hansen, Peter
Hinch, Richard
Infantine, William
Lambert, George
McCarthy, Michael
Moran, Edward
Ohm, Bill
Pepino, Leo
Renzullo, Andrew
Seidel, Carl
Souza, Kathleen
Twombly, Timothy
Warden, Mark

Daniels, Gary
Erickson, Duane
Graham, John
Hardwick, Harry
Hogan, Edith
Jasper, Shawn
LeBrun, Donald
McClarren, Donald
Murphy, Keith
Palmer, Stephen
Peterson, Lenette
Robbins, David
Silva, Peter
Stepanek, Stephen
Ulery, Jordan
Whitehead, Randall

DeJong, Cameron
Fredette, Robert
Greazzo, Phil
Hawkins, Kenneth
Hopper, Gary
Krasucki, Joseph
Long, Patrick
McGuinness, Sean
Notter, Jeanine
Parison, James
Pratt, Calvin
Rowe, Robert
Simmons, Tammy
Swank, Matthew
Vaillancourt, Steve
Willette, Robert

MERRIMACK

Blankenbeker, Lynne
Hess, David
Kreis, Kenneth Sr
McGuire, Carol
Richardson, Jon
Soltani, Tony

Cohn, Seth
Hill, Gregory
Lauer-Rago, Kathleen
McGuire, Dan
Sanborn, Laurie
Winter, Steven

Giuda, J. Brandon
Hoell, J.R.
Lindsley, Mark
Palfrey, David
Seaworth, G. Brian

Hamm, Christine
Keane, Thomas
McDonnell, John
Richardson, Gary
Smith, Molly

ROCKINGHAM

Abrami, Patrick
Bates, David
Brown, Paul
Davenport, Joshua

Allen, Mary
Belanger, Ronald
Charron, Gene
Devine, James

Azarian, Gary
Bettencourt, David
Chirichiello, Brian
DiPentima, Rich

Baldasaro, Alfred
Birdsell, Regina
Comerford, Timothy
Duarte, Joe

Ferrante, Beverly
Hagan, Joseph
Katsakiores, Phyllis
McKinney, Betsy
Packard, Sherman
Rice, Frederick
Schroadter, Adam
Smith, William
Waddell, James
Welch, David

Fesh, Robert
Headd, James
Kolodziej, Walter
McMahon, Charles
Quandt, Matt
Ritter, Glenn
Sedensky, John
Sullivan, James
Ward, Joanne
Weyler, Kenneth

Garcia, Marilinda
Itse, Daniel
Major, Norman
Nevins, Chris
Reagan, John
Sanders, Elisabeth
Sheffert, Kenneth
Sytek, John
Waterhouse, Kevin

Griffin, Mary
Kappler, Lawrence
Manuse, Andrew
Okerman, Richard
Reichard, Kevin
Sapareto, Frank
Shuler, Wyman III
Tremblay, Stella
Webb, James

STRAFFORD

Berube, Roger
Domingo, Baldwin
Munck, Philip
Pitre, Joseph

Brown, Julie
Groen, Warren
Newton, Clifford
Vita, Carol

Cataldo, Sam
Jones, Kyle
O'Connor, William
Vita, Lucien

DeLemus, Susan
Jones, Laura
Parsons, Robbie

SULLIVAN

Bowers, Spec
Laware, Thomas

Cunningham, Steven
Osgood, Joe

Howard, Thomas
Rodeschin, Beverly

LaCasse, Paul Sr
Smith, Steven

NAYS 76

BELKNAP

None

CARROLL

None

CHESHIRE

Butynski, William
Meador, David
Tatro, Bruce

Chase, Cynthia
Parkhurst, Henry
Weber, Lucy

Hawkes, Samuel
Roberts, Kris

Lindsey, Steven
Sad, Tara

COOS

Coulombe, Gary
Theberge, Robert

Hatch, William

Merrick, Evalyn

Remick, William

GRAFTON

Almy, Susan
Harding, Laurie
White, Andrew

Benn, Bernard
Smith, Suzanne

Cooney, Mary
Taylor, Kathleen

Gould, Franklin
Townsend, Charles

HILLSBOROUGH

Campbell, David
Gidge, Kenneth
Pilotte, Maurice
Shaw, Barbara

Cote, David
Goley, Jeffrey
Porter, Marjorie
Sullivan, Daniel

Daler, Jennifer
Gorman, Mary
Rokas, Ted
Sullivan, Peter

Gargas, Carolyn
Messier, Irene
Rosenwald, Cindy

MERRIMACK

Bouchard, Candace
Gile, Mary
Potter, Frances
Williams, Robert

Deloge, Helen
Lockwood, Priscilla
Rice, Chip

Foose, Robert
MacKay, James
Shurtleff, Stephen

Frazer, June
Owen, Derek
Wallner, Mary Jane

ROCKINGHAM

Cali-Pitts, Jacqueline
Pantelakos, Laura

Dowling, Patricia
Quandt, Marshall

Lovejoy, Patricia
Read, Robin Jr

Norelli, Terie
Schlachman, Donna

STRAFFORD

Browne, Brendon
Pelletier, Marsha
Spang, Judith

Ginsburg, Philip
Roberts, Jenna
Sprague, Dale

Horriggan, Timothy
Schmidt, Peter
Wall, Janet

Keans, Sandra
Spainhower, Dale
Watters, David

SULLIVAN

Cloutier, John

Gagnon, Raymond

Lefebvre, Benjamin

Schmidt, Andrew

and the majority committee report was adopted and referred to the Committee on Finance.

SPECIAL ORDER

SB 295-FN-A, increasing the research and development tax credit against the business profits tax. **MAJORITY: OUGHT TO PASS. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Gary S. Azarian for the Majority of Ways and Means: Increasing the research and development tax credit from \$1 million to \$2 million will allow New Hampshire to be more competitive in attracting and retaining jobs within the state. Research and development tax credits are instrumental to start-ups in the early stages of product development to insure that product will reach commercial application and development. Vote 15-6.

Rep. Susan W. Almy for the Minority of Ways and Means: Five years ago the research and development tax credit was passed at the \$1 million level with both a five-year sunset and a mechanism to require the department of resources and economic development to collect and report on the effect of the program. A research and development tax credit provides a check-off that lets New Hampshire into the game when out-of-state businesses are considering setting up in a new state. The size of that tax credit, unless we go for hundreds of millions, is irrelevant to that goal. The firm-specific analysis we expected to receive would have helped us to decide whether a larger tax credit would help individual firms to grow enough to justify the use of extremely limited state resources. This information was not collected, due to a change in the agency administering the credit. Now we are being asked to expand the credit with no data. The major trade associations have not collected any, but believe it works based on theory and anecdotal information. One firm came forward to say it worked for them. The minority believes that an increase should not be granted until there is some evidence that will have an effect commensurate with the loss of state resources. Part of the minority also believes that preferential tax credits should not exist. The minority wishes to amend the bill to simply repeal the sunset.

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

Rep. Almy offered minority committee amendment (1754h).

Minority Amendment (1754h)

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

AN ACT relative to the research and development tax credit against the business profits tax.

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

1 Prospective Repeal of Research and Development Tax Credit Repealed. 2007, 271:6, relative to the repeal of the research and development tax credit authorized by RSA 77-A:5, XIII, RSA 77-E:3-b, and RSA 162-P:1, is repealed.

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

AMENDED ANALYSIS

This bill repeals the prospective repeal of the research and development tax credit.

Rep. Almy spoke in favor.

Rep. Hess spoke against.

Rep. Sapareto requested a roll call; sufficiently seconded.

YEAS 72 NAYS 232

YEAS 72

BELKNAP

None

CARROLL

None

CHESHIRE

Butynski, William
Roberts, Kris

Chase, Cynthia
Sad, Tara

Lindsey, Steven
Tatro, Bruce

Parkhurst, Henry
Weber, Lucy

COOS

Coulombe, Gary

Hatch, William

Merrick, Evalyn

Theberge, Robert

GRAFTON

Almy, Susan
Smith, Suzanne
White, Andrew

Benn, Bernard
Sorg, Gregory

Cooney, Mary
Taylor, Kathleen

Harding, Laurie
Townsend, Charles

HILLSBOROUGH

Baroody, Benjamin
Goley, Jeffrey
Long, Patrick
Robbins, David
Vaillancourt, Steve

Cote, David
Gorman, Mary
Ober, Russell III
Rokas, Ted

Daler, Jennifer
Hawkins, Kenneth
Pilotte, Maurice
Shaw, Barbara

Gidge, Kenneth
Kurk, Neal
Porter, Marjorie
Sullivan, Daniel

MERRIMACK

Deloge, Helen
Hamm, Christine
Rice, Chip
Williams, Robert

Foose, Robert
MacKay, James
Richardson, Gary

Frazer, June
Owen, Derek
Shurtleff, Stephen

Gile, Mary
Potter, Frances
Wallner, Mary Jane

ROCKINGHAM

Cali-Pitts, Jacqueline
Pantelakos, Laura

Davenport, Joshua
Read, Robin Jr

DiPentima, Rich
Schlachman, Donna

Norelli, Terie
Smith, William

STRAFFORD

Browne, Brendon
Roberts, Jenna
Wall, Janet

Horrigan, Timothy
Schmidt, Peter
Watters, David

Keans, Sandra
Spainhower, Dale

Pelletier, Marsha
Spang, Judith

SULLIVAN

Cloutier, John

Gagnon, Raymond

Schmidt, Andrew

NAYS 232

BELKNAP

Accornero, Harry
Greemore, Robert
Pilliod, James
Tilton, Franklin

Comtois, Guy
Kingsbury, Robert
Russell, David
Tobin, William

Fields, Dennis
Malone, Robert
St. Cyr, Jeffrey
Worsman, Colette

Flanders, Donald
Millham, Alida
Swinford, Elaine

CARROLL

Ahlgren, Christopher
McCarthy, Frank
Pettengill, Laurie

Babson, David Jr
McConkey, Mark
Schmidt, Stephen

Chandler, Gene
Morrow, Harry
Tregenza, Norman

Fleck, Joseph
Patten, Betsey
Umberger, Karen

CHESHIRE

Byrnes, John
Hawkes, Samuel
Moore, Robert Jr

Cartwright, Anne
Hunt, John
Smith, Edwin

Dwinell, Richard
Johnson, Jane
Sterling, Franklin Jr

Emerson, Susan
Meador, David

COOS

Daugherty, Duffy
Tholl, John Jr

Rappaport, Laurence
Tremblay, Marc

Remick, William

Richardson, Herbert

GRAFTON

Bradley, Lester
Gould, Franklin
Reilly, Harold Sr

Brosseau, Charles
Ingbretson, Paul
Simard, Paul

Bulis, Lyle
Ladd, Rick Jr
Sova, Charles

Gionet, Edmond
Mirski, Paul

HILLSBOROUGH

Avard, Kevin
Belanger, James
Brown, Kevin
Champagne, Norma

Balboni, Michael
Belvin, William
Burt, John
Christensen, D.L.
Chris

Ball, J. Michael
Bergevin, Jerry
Campbell, David
Coffey, James

Barry, J. Gail
Boehm, Ralph
Cebrowski, John
Condra, William

Coughlin, Sean
Donovan, Daniel
Gagne, Larry
Greazzo, Phil
Hikel, John
Hutchinson, Winfred
Lambert, George
McClarren, Donald
Moran, Edward
Palmer, Stephen
Peterson, Lenette

Cusson-Cail, Kathleen
Drisko, Richard
Gargas, Carolyn
Haefner, Robert
Hinch, Richard
Infantine, William
LeBrun, Donald
McGuinness, Sean
Murphy, Keith
Parison, James
Pratt, Calvin

Daniels, Gary
Erickson, Duane
Gonzalez, Carlos
Hansen, Peter
Hogan, Edith
Jasper, Shawn
Maltz, Jonathan
Mecheski, Holly
Notter, Jeanine
Pellegrino, Tony
Proulx, Mark

DeJong, Cameron
Fredette, Robert
Graham, John
Hardwick, Harry
Hopper, Gary
Krasucki, Joseph
McCarthy, Michael
Messier, Irene
Ohm, Bill
Pepino, Leo
Renzullo, Andrew

Rosenwald, Cindy
Silva, Peter
Stepanek, Stephen
Twombly, Timothy
Whitehead, Randall

Rowe, Robert
Simmons, Tammy
Sullivan, Peter
Ulery, Jordan
Willette, Robert

Scotsas, Lisa
Soucy, Connie
Swank, Matthew
Villeneuve, Moe

Seidel, Carl
Souza, Kathleen
Thomas, Joseph
Warden, Mark

MERRIMACK

Blankenbeker, Lynne
Hess, David
Kreis, Kenneth Sr
McDonnell, John
Richardson, Jon
Winter, Steven

Bouchard, Candace
Hill, Gregory
Lauer-Rago, Kathleen
McGuire, Carol
Sanborn, Laurie

Cohn, Seth
Hoell, J.R.
Lindsley, Mark
McGuire, Dan
Seaworth, G. Brian

Giuda, J. Brandon
Keane, Thomas
Lockwood, Priscilla
Palfrey, David
Smith, Molly

ROCKINGHAM

Abrami, Patrick
Belanger, Ronald
Charron, Gene
Dowling, Patricia
Garcia, Marilinda
Itse, Daniel
Lovejoy, Patricia
Murphy, Brian
Quandt, Marshall
Rice, Frederick
Schroadter, Adam
Sullivan, James
Ward, Joanne
Weyler, Kenneth

Allen, Mary
Bettencourt, David
Chirichiello, Brian
Duarte, Joe
Griffin, Mary
Kappler, Lawrence
Major, Norman
Nevins, Chris
Quandt, Matt
Ritter, Glenn
Sedensky, John
Sytek, John
Waterhouse, Kevin

Azarian, Gary
Birdsell, Regina
Comerford, Timothy
Ferrante, Beverly
Hagan, Joseph
Katsakiores, Phyllis
Manuse, Andrew
Okerman, Richard
Reagan, John
Sanders, Elisabeth
Sheffert, Kenneth
Tremblay, Stella
Webb, James

Bates, David
Brown, Paul
Comerford, Timothy
Devine, James
Fesh, Robert
Headd, James
Kolodziej, Walter
McMahon, Charles
Packard, Sherman
Reichard, Kevin
Sapareto, Frank
Shuler, Wyman III
Waddell, James
Welch, David

STRAFFORD

Berube, Roger
Ginsburg, Philip
Munck, Philip
Pitre, Joseph

Brown, Julie
Groen, Warren
Newton, Clifford
Sprague, Dale

Cataldo, Sam
Jones, Kyle
O'Connor, William
Vita, Carol

DeLemus, Susan
Jones, Laura
Parsons, Robbie
Vita, Lucien

SULLIVAN

Bowers, Spec
Laware, Thomas
Smith, Steven

Cunningham, Steven
Lefebvre, Benjamin
Howard, Thomas
Osgood, Joe

LaCasse, Paul Sr
Rodeschin, Beverly

and the minority committee amendment failed.

The question now being adoption of the majority committee report of Ought to Pass.
Rep. Silva offered floor amendment (1849h).

Floor Amendment (1849h)

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

AN ACT increasing the research and development tax credit against the business profits tax and relative to the women's right to know act regarding abortion information.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 New Chapter; Women's Right to Know Act. Amend RSA by inserting after chapter 132-A the following new chapter:

CHAPTER 132-B
WOMEN'S RIGHT TO KNOW ACT

132-B:1 Title. This act shall be known as the "Women's Right to Know Act."

132-B:2 Definitions. In this chapter:

I. "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

- (a) Save the life or preserve the health of an unborn child;
- (b) Remove a dead unborn child caused by spontaneous abortion; or
- (c) Remove an ectopic pregnancy.

II. "Facility" or "medical facility" means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location wherein medical care is provided to any person.

III. "Gestational age" means the time that has elapsed since the first day of the woman's last menstrual period.

IV. "Hospital" means a facility licensed under RSA 151.

V. "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate termination of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

VI. "Physician" means any person licensed under RSA 329. The term includes medical doctors and doctors of osteopathy.

VII. "Pregnant" or "pregnancy" means that female reproductive condition of having an unborn child in the woman's uterus.

VIII. "Qualified person" means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.

IX. "Unborn child" means the offspring of human beings from conception until birth.

132-B:3 Informed Consent Requirement. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

I. At least 24 hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of the following:

- (a) The name of the physician who will perform the abortion;
- (b) Medically-accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including (1) a description of the proposed abortion method; (2) the immediate and long-term medical risks associated with the proposed abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine perforation, danger to subsequent pregnancies; and (3) alternatives to the abortion;

(c) The probable gestational age of the unborn child at the time the abortion is to be performed;

(d) The medical risks associated with carrying her child to term; and

(e) Any need for anti-Rh immune globulin therapy if she is Rh negative, the likely consequences of refusing such therapy, and the cost of the therapy.

II. At least 24 hours before the abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman, orally and in person, that she is free to withhold or withdraw her consent to the abortion at any time

without affecting her right to future care or treatment and without the loss of any state or federally-funded benefits to which she might otherwise be entitled.

III. In the event of a medical emergency requiring an immediate termination of pregnancy, the physician who performed the abortion shall clearly certify in writing the nature of the medical emergency and the circumstances which necessitated the waiving of the informed consent requirements of this chapter. This certification shall be signed by the physician who performed the emergency abortion, and shall be permanently filed in both the records of the physician performing the abortion and the records of the facility where the abortion takes place.

IV. A physician shall not require or obtain payment for a service provided in relation to abortion to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the 24-hour reflection period required in this section.

132-B:4 Medical Emergencies. When a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an immediate abortion is necessary to avert her death or that a 24-hour delay will cause substantial and irreversible impairment of a major bodily function.

132-B:5 Civil Penalties.

I. In addition to any and all remedies available under the common or statutory law of this state, failure to comply with the requirements of this chapter shall:

- (a) Provide a basis for a civil malpractice action for actual and punitive damages.
- (b) Provide a basis for a professional disciplinary action under RSA 329.

II. No civil liability may be assessed against the female upon whom the abortion is performed.

III. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

IV. If judgment is rendered in favor of the plaintiff, the court shall also render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant.

V. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for reasonable attorney's fees in favor of the defendant against the plaintiff.

132-B:6 Construction. Nothing in this chapter shall be construed as creating or recognizing a right to abortion. It is not the intention of this law to make lawful an abortion that is currently unlawful.

132-B:7 Right of Intervention. The general court, by joint resolution, may appoint one or more of its members, who sponsored or cosponsored this chapter in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this chapter is challenged.

132-B:8 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

AMENDED ANALYSIS

This bill increases the research and development tax credit against the business profits tax. The bill repeals the prospective repeal of the research and development tax credit.

This bill establishes the women's right to know act.

Rep. Kris Roberts spoke against.

Rep. Simmons spoke in favor.

Rep. Bouchard requested a roll call; sufficiently seconded.

YEAS 190 NAYS 109

YEAS 190

BELKNAP

Accornero, Harry	Comtois, Guy	Fields, Dennis	Greemore, Robert
Kingsbury, Robert	Malone, Robert	Pilliod, James	St. Cyr, Jeffrey
Swinford, Elaine	Tilton, Franklin	Worsman, Colette	

CARROLL

Ahlgren, Christopher	Fleck, Joseph	McCarthy, Frank	Merrow, Harry
Pettengill, Laurie	Schmidt, Stephen	Tregenza, Norman	

CHESHIRE

Byrnes, John	Cartwright, Anne	Johnson, Jane
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COOS

Daugherty, Duffy	Rappaport, Laurence	Remick, William	Richardson, Herbert
Tholl, John Jr	Tremblay, Marc		

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Mirski, Paul	Reilly, Harold Sr	Sorg, Gregory
Sova, Charles			

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Ball, J. Michael	Belanger, James
Bergevin, Jerry	Boehm, Ralph	Brown, Kevin	Burt, John
Cebrowski, John	Champagne, Norma	Christiansen, Lars	Coffey, James
Condra, William	Cusson-Cail, Kathleen	Daniels, Gary	DeJong, Cameron
Donovan, Daniel	Gagne, Larry	Gonzalez, Carlos	Greazzo, Phil
Haefner, Robert	Hansen, Peter	Hardwick, Harry	Hawkins, Kenneth
Hikel, John	Hinch, Richard	Hogan, Edith	Hopper, Gary
Hutchinson, Winfred	Infantine, William	Jasper, Shawn	Krasucki, Joseph
Lambert, George	LeBrun, Donald	Maltz, Jonathan	McCarthy, Michael
McClarren, Donald	McGuinness, Sean	Mecheski, Holly	Moran, Edward
Murphy, Keith	Notter, Jeanine	Ober, Lynne	Ohm, Bill
Palmer, Stephen	Parison, James	Pellegrino, Tony	Pepino, Leo
Peterson, Lenette	Pilotte, Maurice	Pratt, Calvin	Proulx, Mark
Renzullo, Andrew	Rowe, Robert	Seidel, Carl	Silva, Peter
Simmons, Tammy	Soucy, Connie	Souza, Kathleen	Stepanek, Stephen
Swank, Matthew	Thomas, Joseph	Twombly, Timothy	Ulery, Jordan
Villeneuve, Moe	Whitehead, Randall	Willette, Robert	

MERRIMACK

Blankenbeker, Lynne	Giuda, J. Brandon	Hess, David	Hill, Gregory
Hoell, J.R.	Kreis, Kenneth Sr	Lauer-Rago, Kathleen	Lindsley, Mark
McDonnell, John	McGuire, Carol	McGuire, Dan	Palfrey, David
Richardson, Jon	Sanborn, Laurie	Seaworth, G. Brian	Smith, Molly
Soltani, Tony			

ROCKINGHAM

Abrami, Patrick	Azarian, Gary	Baldasaro, Alfred	Bates, David
-----------------	---------------	-------------------	--------------

Belanger, Ronald
Chirichiello, Brian
Dowling, Patricia
Garcia, Marilinda
Itse, Daniel
Major, Norman
Nevins, Chris
Reichard, Kevin
Sapareto, Frank
Shuler, Wyman III
Tremblay, Stella
Weyler, Kenneth

Bettencourt, David
Comerford, Timothy
Duarte, Joe
Griffin, Mary
Kappler, Lawrence
Manuse, Andrew
Okerman, Richard
Rice, Frederick
Schroadter, Adam
Smith, William
Ward, Joanne

Birdsell, Regina
Davenport, Joshua
Ferrante, Beverly
Hagan, Joseph
Katsakiores, Phyllis
McMahon, Charles
Quandt, Marshall
Ritter, Glenn
Sedensky, John
Sullivan, James
Webb, James

Charron, Gene
Devine, James
Fesh, Robert
Headd, James
Kolodziej, Walter
Murphy, Brian
Quandt, Matt
Sanders, Elisabeth
Sheffert, Kenneth
Sytek, John
Welch, David

STRAFFORD

Berube, Roger
Jones, Kyle
O'Connor, William
Vita, Lucien

Cataldo, Sam
Jones, Laura
Parsons, Robbie

DeLemus, Susan
Munck, Philip
Pitre, Joseph

Groen, Warren
Newton, Clifford
Vita, Carol

SULLIVAN

Bowers, Spec
Laware, Thomas

Cunningham, Steven
Osgood, Joe

Howard, Thomas
Rodeschin, Beverly

LaCasse, Paul Sr
Smith, Steven

NAYS 109

BELKNAP

Millham, Alida

Russell, David

Tobin, William

CARROLL

Babson, David Jr

McConkey, Mark

Patten, Betsey

Umberger, Karen

CHESHIRE

Butynski, William
Hawkes, Samuel
Moore, Robert Jr
Sterling, Franklin Jr

Chase, Cynthia
Hunt, John
Parkhurst, Henry
Tatro, Bruce

Dwinell, Richard
Lindsey, Steven
Roberts, Kris
Weber, Lucy

Emerson, Susan
Meador, David
Sad, Tara

COOS

Coulombe, Gary

Hatch, William

Merrick, Evalyn

Theberge, Robert

GRAFTON

Almy, Susan
Harding, Laurie
Taylor, Kathleen

Benn, Bernard
Ladd, Rick Jr
Townsend, Charles

Cooney, Mary
Simard, Paul
White, Andrew

Gould, Franklin
Smith, Suzanne

HILLSBOROUGH

Barry, J. Gail

Belvin, William

Campbell, David

Christensen, D.L.
Chris

Cote, David
Fredette, Robert
Graham, John

Daler, Jennifer
Gargas, Carolyn
Kurk, Neal

Drisko, Richard
Gidge, Kenneth
Long, Patrick

Erickson, Duane
Gorman, Mary
Messier, Irene

Ober, Russell III
Rosenwald, Cindy
Sullivan, Peter

Porter, Marjorie
Scontsas, Lisa
Vaillancourt, Steve

Robbins, David
Shaw, Barbara

Rokas, Ted
Sullivan, Daniel

MERRIMACK

Bouchard, Candace
Frazer, June
MacKay, James
Richardson, Gary
Winter, Steven

Cohn, Seth
Gile, Mary
Owen, Derek
Shurtleff, Stephen

Deloge, Helen
Hamm, Christine
Potter, Frances
Wallner, Mary Jane

Foose, Robert
Lockwood, Priscilla
Rice, Chip
Williams, Robert

ROCKINGHAM

Allen, Mary
Lovejoy, Patricia
Read, Robin Jr

Brown, Paul
Norelli, Terie
Reagan, John

Cali-Pitts, Jacqueline
Packard, Sherman
Schlachman, Donna

DiPentima, Rich
Pantelakos, Laura
Waddell, James

STRAFFORD

Brown, Julie
Keans, Sandra
Spainhower, Dale
Watters, David

Browne, Brendon
Pelletier, Marsha
Spang, Judith

Ginsburg, Philip
Roberts, Jenna
Sprague, Dale

Horrigan, Timothy
Schmidt, Peter
Wall, Janet

SULLIVAN

Cloutier, John

Gagnon, Raymond

Lefebvre, Benjamin

Schmidt, Andrew

and floor amendment (1849h) was adopted.

On a division vote, 207 members having voted in the affirmative and 93 in the negative, the motion of Ought to Pass with Amendment was adopted and referred to the Committee on Finance.

MOTION TO LAY ON THE TABLE

Rep. Lambert moved that ***SB 323***, authorizing accounting transfers by the department of corrections, ***SB 369-FN-L***, relative to aid to assisted persons, ***SB 379***, relative to insurance fraud, ***SB 389-L***, relative to sewer commission costs, ***SB 315***, requiring motorists to give wide berth to highway maintenance vehicles, and ***SB 317***, relative to towable devices permitted to be towed by a motorboat, be laid on the table.

MOTION TO DIVIDE

Rep. Weber moved to divide the motion to lay on the table for each individual bill.

Rep. Vaillancourt spoke in favor and yielded to questions.

Rep. Greazzo spoke against.

Rep. Weber spoke in favor and requested a roll call; sufficiently seconded.

YEAS 82 NAYS 204

YEAS 82

BELKNAP

None

CARROLL

Umberger, Karen

CHESHIRE

Butynski, William
Lindsey, Steven
Sad, Tara

Chase, Cynthia
Meador, David
Tatro, Bruce

Emerson, Susan
Parkhurst, Henry
Weber, Lucy

Hawkes, Samuel
Roberts, Kris

COOS

Coulombe, Gary

Hatch, William

Merrick, Evalyn

Theberge, Robert

GRAFTON

Almy, Susan
Ladd, Rick Jr
White, Andrew

Benn, Bernard
Smith, Suzanne

Cooney, Mary
Taylor, Kathleen

Harding, Laurie
Townsend, Charles

HILLSBOROUGH

Baroody, Benjamin
Gidge, Kenneth
Messier, Irene
Rokas, Ted
Sullivan, Daniel

Campbell, David
Gorman, Mary
Moran, Edward
Rosenwald, Cindy
Sullivan, Peter

Cote, David
Long, Patrick
Pilotte, Maurice
Scontsas, Lisa
Vaillancourt, Steve

Daler, Jennifer
McCarthy, Michael
Porter, Marjorie
Shaw, Barbara

MERRIMACK

Bouchard, Candace
Gile, Mary
Owen, Derek
Shurtleff, Stephen

Deloge, Helen
Hamm, Christine
Potter, Frances
Soltani, Tony

Foose, Robert
Lockwood, Priscilla
Rice, Chip
Wallner, Mary Jane

Frazer, June
MacKay, James
Richardson, Gary
Williams, Robert

ROCKINGHAM

Bates, David
Norelli, Terie
Read, Robin Jr

Cali-Pitts, Jacqueline
Packard, Sherman
Schlachman, Donna

DiPentima, Rich
Pantelakos, Laura

Lovejoy, Patricia
Quandt, Matt

STRAFFORD

Browne, Brendon
Pelletier, Marsha
Sprague, Dale

Ginsburg, Philip
Schmidt, Peter
Wall, Janet

Horrigan, Timothy
Spainhower, Dale

Keans, Sandra
Spang, Judith

SULLIVAN

Cloutier, John

Lefebvre, Benjamin

NAYS 204

BELKNAP

Accornero, Harry
Greemore, Robert
Pilliod, James
Tilton, Franklin

Comtois, Guy
Kingsbury, Robert
Russell, David
Tobin, William

Fields, Dennis
Malone, Robert
St. Cyr, Jeffrey
Worsman, Colette

Flanders, Donald
Millham, Alida
Swinford, Elaine

CARROLL

Ahlgren, Christopher
McCarthy, Frank
Pettengill, Laurie

Babson, David Jr
McConkey, Mark
Schmidt, Stephen

Chandler, Gene
Morrow, Harry
Tregenza, Norman

Fleck, Joseph
Patten, Betsey

CHESHIRE

Byrnes, John
Johnson, Jane

Cartwright, Anne
Sterling, Franklin Jr

Dwinell, Richard

Hunt, John

COOS

Daugherty, Duffy
Tholl, John Jr

Rappaport, Laurence
Tremblay, Marc

Remick, William

Richardson, Herbert

GRAFTON

Brosseau, Charles
Ingbretson, Paul
Sorg, Gregory

Bulis, Lyle
Mirski, Paul
Sova, Charles

Gionet, Edmond
Reilly, Harold Sr

Gould, Franklin
Simard, Paul

HILLSBOROUGH

Avard, Kevin
Belanger, James
Burt, John

Balboni, Michael
Belvin, William
Cebrowski, John

Ball, J. Michael
Bergevin, Jerry
Christensen, D.L.
Chris

Barry, J. Gail
Boehm, Ralph
Christiansen, Lars

Coffey, James

Condra, William

Cusson-Cail,
Kathleen

Daniels, Gary

DeJong, Cameron
Flanagan, Jack
Gonzalez, Carlos
Hardwick, Harry
Hogan, Edith
Jasper, Shawn
LeBrun, Donald
Mecheski, Holly
Ohm, Bill
Pepino, Leo
Renzullo, Andrew
Silva, Peter
Swank, Matthew
Villeneuve, Moe

Donovan, Daniel
Fredette, Robert
Greazzo, Phil
Hawkins, Kenneth
Hopper, Gary
Krasucki, Joseph
Maltz, Jonathan
Notter, Jeanine
Palmer, Stephen
Peterson, Lenette
Robbins, David
Simmons, Tammy
Thomas, Joseph
Whitehead, Randall

Drisko, Richard
Gagne, Larry
Haefner, Robert
Hikel, John
Hutchinson, Winfred
Kurk, Neal
McClarren, Donald
Ober, Lynne
Parison, James
Pratt, Calvin
Rowe, Robert
Soucy, Connie
Twombly, Timothy
Willette, Robert

Erickson, Duane
Gargas, Carolyn
Hansen, Peter
Hinch, Richard
Infantine, William
Lambert, George
McGuinness, Sean
Ober, Russell III
Pellegrino, Tony
Proulx, Mark
Seidel, Carl
Souza, Kathleen
Ulery, Jordan

MERRIMACK

Blankenbeker, Lynne
Hoell, J.R.
Lindsley, Mark
Palfrey, David
Smith, Molly

Cohn, Seth
Keane, Thomas
McDonnell, John
Richardson, Jon
Winter, Steven

Giuda, J. Brandon
Kreis, Kenneth Sr
McGuire, Carol
Sanborn, Laurie

Hill, Gregory
Lauer-Rago, Kathleen
McGuire, Dan
Seaworth, G. Brian

ROCKINGHAM

Abrami, Patrick
Belanger, Ronald
Charron, Gene
Devine, James
Fesh, Robert

Allen, Mary
Bettencourt, David
Chirichiello, Brian
Dowling, Patricia
Griffin, Mary

Azarian, Gary
Birdsell, Regina
Comerford, Timothy
Duarte, Joe
Hagan, Joseph

Baldasaro, Alfred
Brown, Paul
Davenport, Joshua
Ferrante, Beverly
Headd, James

Itse, Daniel
Major, Norman
Okerman, Richard
Ritter, Glenn
Shuler, Wyman III
Tremblay, Stella
Welch, David

Kappler, Lawrence
Manuse, Andrew
Quandt, Marshall
Schroadter, Adam
Smith, William
Waddell, James
Weyler, Kenneth

Katsakiores, Phyllis
McMahon, Charles
Reichard, Kevin
Sedensky, John
Sullivan, James
Ward, Joanne

Kolodziej, Walter
Nevins, Chris
Rice, Frederick
Sheffert, Kenneth
Sytek, John
Webb, James

STRAFFORD

Brown, Julie
Jones, Kyle
O'Connor, William
Vita, Lucien

Cataldo, Sam
Jones, Laura
Parsons, Robbie

DeLemus, Susan
Munck, Philip
Pitre, Joseph

Groen, Warren
Newton, Clifford
Vita, Carol

SULLIVAN

Bowers, Spec
Laware, Thomas
and the motion failed.

Cunningham, Steven
Osgood, Joe

Howard, Thomas
Rodeschin, Beverly

LaCasse, Paul Sr
Smith, Steven

The question now being adoption of the motion to lay on the table.

On a division vote, 195 members having voted in the affirmative and 93 in the negative, the motion was adopted.

MOTION TO REMOVE FROM THE TABLE

Rep. Vaillancourt moved that **SB 323**, authorizing accounting transfers by the department of corrections, be removed from the table.

On a division vote, 93 members having voted in the affirmative and 184 in the negative, the motion failed.

RESOLUTION

Rep. Bettencourt offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, May 2, 2012 at 1:00 p.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 214, relative to the applicability of the right-to-know law to public libraries.

SB 216, relative to notification of revocation of conditional discharge by the department of health and human services.

SB 306, relative to the commercial and industrial construction property tax exemption.

SB 302-FN, relative to the Honor and Remember Flag as an official symbol to recognize and honor fallen members of the armed forces.

SB 287, relative to confidential prescription data.

SB 374, naming marine patrol headquarters in honor of David Barrett.

SB 291, relative to the use of currently allowed impact fees by municipalities.

UNANIMOUS CONSENT

Reps. Baldasaro and Gile addressed the House.

MOMENT OF SILENCE

A moment of silence was observed in honor and memory of former Representative, Miriam Dunn.

MOTION TO PRINT REMARKS

Rep. Bettencourt moved that the remarks made by Rep. Gile be printed in the Permanent Journal.

Adopted.

REMARKS

Rep. Gile: Thank you, Mister Speaker. I do rise on a more serious note to pay tribute to the former Honorable Miriam Dunn, Representative-at-large from Concord, Merrimack County, from 1988 through 1998, who died very suddenly and unrepentantly on Thursday, April 12, 2012. Miriam, who everyone called Mim was a friend for over 30 years and was one of my mentors when I was first elected and appointed to the House Executive Departments and Administration, (ED&A) Committee. Representative Dunn was an accomplished participant in NH's political, professional and civic circles. She served 5 terms in the NH House and was known as a champion of just causes, often advocating positions on behalf of those who might not have a voice in the political process. She was a delegate to the Democratic Conventions of 1972 and 1992. Although formally educated as a social worker, Mim was also founder and President of Capital Eye Inc., a legislative reporting service that was used throughout New England by law firms needing complete and current legislative histories. In this capacity, she was invited to the 1986 White House Conference on Small Businesses. Mim was on the Advisory Board to the NH Small Business Development Center and a member of the Concord Chamber of Commerce Government Affairs Committee. She was very active on the NH League of Women Voters and volunteered with many organizations in the greater Concord Community. Mim also dedicated time, energy and resources without restraint to Habitat for Humanity, making repeated trips to help build homes for the displaced and the dispossessed. Miriam Dunn was a graduate of Pinkerton Academy, Antioch College, the University of New Hampshire and the Smith School of Social Work. She had three sons, two of whom are still living. Mim endured what every parent dreads, the loss of her son, John, in a hunting accident in Montana. She moved on from this tragedy because, she said, "You have to, but it leaves a great hole in your heart." As a member of the House ED&A Committee, Mim and former Representative Howard "Crow" Dickinson, whom I'm sure some of you remember from Conway, were a two person social committee who not only planned great luncheons but also initiated the various awards that are given at the ED&A end-of-session luncheon, which is coming up soon. Mim attended the luncheons after she left the House and I'm sure was planning to attend this year's event on May 8th. Rep. Dunn's legacy in legislative debate was one of grace, style and panache. Legend has it that in debates, she struck a unique balance between committed advocacy and respect for contrary positions, but was especially talented at delivering informed opinions with a deft sense of humor. It was my special privilege to have Mim Dunn as my legislative mentor and friend. I thank you, Mr. Speaker and my colleagues, for allowing me this opportunity to share a snapshot of her time in this House and to honor her memory.

RECESS MOTION

Rep. Sterling moved that the House stand in recess for the purposes of the introduction of bills, the reading-in of petitions, receiving Senate messages, enrolled bill amendments and enrolled bill reports.

Adopted.

The House recessed at 4:50 p.m.

RECESS

(Speaker O'Brien in the Chair)

COMMITTEE FOR REDRESS OF GRIEVANCES REPORT

The following reports are the result of committee hearings and deliberations on the petitions presented to it. They are printed here for informational purposes.

Petition #18: Grievance of Jeffrey Frost.

MAJORITY:

Grievance Founded with Committee Recommendation.

Rep. Gregory M. Sorg for the Majority of the Committee.

Committee Majority Findings: The committee finds, following several public hearings and review of extensive documentation, including three court decisions: (1) that the New Hampshire Banking Department pursued criminal and civil complaints against the Petitioner despite having had ample notice from his attorneys that its assertion of authority over him was wrongful, illegal, and contrary to public policy, and that in any event he had acted pursuant to advice of competent legal counsel and thus lacked the requisite intent; (2) that as asserted by the Petitioner and confirmed by Merrimack District Court Judge Clifford Kinghorn, an investigator for the New Hampshire Banking Department recklessly or intentionally made a materially false representation in an affidavit supporting search warrants for the Petitioner's business records, leading to unlawful searches of the Petitioner's home and his attorneys' files; (3) that as asserted by the Petitioner, confirmed by Merrimack County Superior Court Judge Richard B. McNamara, and affirmed by the New Hampshire Supreme Court, the Banking Department had and should have known it had no authority over the Petitioner or over Chrétien/Tillinghast LLC or Frost Family LLC (limited liability companies of which the Petitioner was a member) under RSA 397-A in that none was engaged in the business of making or brokering mortgage loans secured by real estate, each of the two mortgage financing transactions in question clearly having been an isolated private one outside the normal scope of the business of the limited liability company concerned; (4) that the Banking Department knew or should have known that its attempted imposition of \$525,000 in civil penalties against the Petitioner by applying 2009 amendments to RSA 397-A:4 retrospectively violated NH Const., Pt 1, Art 23; and (5) that the Office of the Attorney General (a) knew or should have known that the Banking Department's affidavit supporting issuance of its search warrant contained a materially false assertion of fact; (b) knew or should have known that the Banking Department's assertion of authority over the Petitioner and his limited liability companies was wrongful and illegal; (c) should have exercised its authority to bring about immediate termination of the Banking Department's proceedings against the Petitioner; and (d) should have exercised its prosecutorial discretion to decline to defend in the Supreme Court the Banking Department's cross-appeal from Judge McNamara's decision.

The Committee recommends that a bill be introduced and passed providing (1) that full restitution be made to the Petitioner, Chrétien/Tillinghast LLC and/or Frost Family LLC of the expenses, including reasonable attorney's fees, incurred in their defense against the wrongful application of RSA 397-A against them; (2) that such restitution be made in the form of a line item reduction in the appropriations for each of the Banking Department and Department of Justice in such proportion as deemed appropriate by the Finance Committee; and (3) that a performance audit review be made of the Banking Department and the Department of Justice by the Legislative Budget Office for the purposes of (a) recommending such structural and organizational reforms within and between the two Departments

determined to be necessary to ensure a chain of supervision and authority able to recognize, impede and prevent future such unlawful and oppressive enforcement actions; and (b) determining whether cause may exist for disciplinary action, including impeachment as one possible such action, against any one or more individuals within either department. Vote 7-3.

MINORITY:

Grievance Unfounded.

Rep. Timothy Horrigan for the Minority of the Committee.

Committee Minority Findings: The minority agrees with the Supreme Court's March 16, 2012 decision, which concluded that the Banking Department acted in good faith. The minority also saw no grounds for awarding Mr. Frost his attorney's fees.

**JUDICIARY COMMITTEE
REPORT PURSUANT TO HR 7, 2011**

MAJORITY:

Rep. Robert H. Rowe for the Majority of the Committee.

House Resolution 7 was passed by the House in 2011. The resolution directed the Judiciary Committee, acting as a whole or any subcommittee thereof appointed by the chairman to investigate whether grounds exist to impeach marital master Phillip Cross and/or any justice or the New Hampshire superior court. Following the passage, a subcommittee was formed consisting of Representatives Robert Rowe, chair, Brandon Giuda, Joseph Hagan and Lucy Weber. The subcommittee met on numerous occasions and reviewed the authority for impeachment as contained in Part II, article 38 of the New Hampshire Constitution. This article allows for the impeachment of a **public officer for bribery, corruption, malpractice or maladministration in office**. Research was conducted by the subcommittee as to impeachment practices in New Hampshire and the other 49 states. No guidance was found in other state governments. In New Hampshire, there have been two impeachments authorized by the legislature. The first occurred in 1780 when impeachment was started against Judge Woodbury Langdon for neglecting his duties. He refused to try cases. He was impeached but resigned before the Senate rendered a verdict. The second occurred in 2000. Chief Justice David Brock was impeached by the House on four counts of maladministration or malpractice, and knowingly lying under oath. He was later acquitted by the Senate. Our Constitution requires two elements for impeachment: First is the individual must be an **officer**, and two, has the offence must be that of **bribery, corruption, malpractice or maladministration in office**.

I. The first charge in HR 7 related to grounds for the impeachment of Marital Master Philip Cross. The subcommittee agrees that all state employees are public servants and the public has a right to view their job performance. Poor job performance deserves termination. From impeachment research, it is clear that impeachment does not apply to employees who can be terminated at will, only **officers**. Under our statutory authority, RSA 490-D, marital masters are appointed by Governor and Council for a term of 3 years; following the 3 year appointment the master may receive a renewable contract term of 5 years. This contract is at the pleasure of the judicial branch. Master Cross was appointed as a commissioned officer on September 8, 2004 for a 3 year term ending on September 8, 2007. Subsequently he received a contract appointment to serve as a marital master of the Judicial Branch for a term of 5 years. The appointment reads: *The term of this appointment will commence on September 9, 2007. The Master shall serve at the pleasure of the Administrative Judge of the Judicial Branch Family Division.* The appointment was signed by Edwin Kelly, Administrative Judge. While the majority of the committee was deeply concerned as to the multitude of complaints against Phillip Cross and firmly believed that an investigation was in order, and should have taken place by the Administrative Judge of the Judicial Branch, it concluded that after the end of the initial three year commission by Governor and Council, Phillip Cross was an at-will employee under the supervision of the Judicial Branch and not

subject to impeachment as an **officer**.

II. The second charge established under HR 7 was to investigate the actions of any justice of the superior court. Since Philip Cross received his three year appointment by the Governor and Council there have been at least 20 superior court sitting judges. The resolution names no specific judge. Further the superior court has not been involved with Philip Cross or marital masters since the formation of the Family Court. The committee felt that the vagueness of the charge and the lack of direction would result in a fruitless and costly investigation. While there may be fault in the management of marital masters within the Judicial Branch, it is not with superior court judges and the committee must follow the clear direction contained within HR 7, and not second guess the legislature. As a result of the above the committee recommends that no further action be taken under the authority of HR 7. Vote 14-1.

MINORITY:

Rep. Gary Hopper for the Minority of the Committee.

In 2010, an attempt was made to have Marital Master Philip Cross removed from his position with HA 3. The removal was tried again with HR 7 in 2011. In both cases people have come to the NH General Court in an attempt to remedy their grievances with Master Cross. In both cases, there have been technical issues that have prevented the House from hearing the extent of the problems or any defense by Master Cross of allegations. The current technical issues are that Master Cross is not an officer of the court and therefore can't be impeached and his supervising judges can't be held to task because in HR 7 a Superior Court Judge was specified in the resolution; however the supervising judge is a Circuit Court Judge. So, the majority of Judiciary Committee is correct, technically, but from the minority's view the right thing to do is what was intended by HR 7. We should pursue impeachment proceedings against the supervising judge on grounds of maladministration. This reminds us of the words of Alexander Solzhenitsyn, who said, "I have spent all my life under a communist regime and I will tell you that a society without any objective legal scale is a terrible one indeed. But a society with no other scale but the legal one is not quite worthy of man either. A society which is based on the letter of the law and never reaches any higher is taking very scarce advantage of the high level of human possibilities. The letter of the law is too cold and formal to have a beneficial influence on society. Whenever the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity, paralyzing man's noblest impulses."

CLERK'S NOTE

The House Session scheduled for May 2, 2012 at 1:00 p.m. was cancelled and rescheduled for Wednesday, May 9, 2012 at 10:00 a.m.

RECESS

(Rep. Moran in the Chair)

ENROLLED BILL AMENDMENTS

HB 247, relative to seller financing of mortgages and making changes to the laws regulating mortgage bankers and brokers and debt adjustment services.

Amendment (1770-EBA)

Amend section 8 of the bill by replacing line 1 with the following:

8 Mortgage Bankers and Brokers; Exemptions. Amend RSA 397-A:4, VI to read as follows:

Adopted.

HB 1133, relative to membership of the enhanced 911 commission.

Amendment (1734-EBA)

Amend RSA 106-H:3, I(a) as inserted by section 1 of the bill by replacing line 3 with the following:

services or designee, the chairman of the public utilities commission or designee, [~~a representative of~~

Adopted.

HB 1231, removing the prohibition on the sale, gift, or display of certain young birds.

Amendment (1685-EBA)

Amend RSA 437:15 as inserted by section 1 of the bill by replacing line 1 with the following:

437:15 Sale or Gift [~~of Small Quantities~~]. [~~Chicks, ducklings, goslings, and~~] Rabbits younger than

Adopted.

HB 1448, requiring public access to any document and Internet content which is incorporated by reference in administrative rules.

Amendment (1686-EBA)

Amend RSA 541-A:12, VII as inserted by section 2 of the bill by replacing line 1 with the following:

VII. Each agency shall include the information required in subparagraph IV(b) as an appendix

Adopted.

RECESS

(Rep. Chandler in the Chair)

SENATE MESSAGES

ACCEDES TO REQUEST FOR COMMITTEE OF CONFERENCE

HB 627-FN, relative to “essential benefits” under federal health care reform.

The President appointed Sens. White, Houde and Prescott.

CONCURRENCE

HB 127-FN, relative to the definition of oral communication.

HB 151, repealing the laws relative to marital masters.

HB 171, relative to restrictions on liquor licenses.

HB 602-FN-A, relative to funding the law requiring reporting of health care acquired infections.

HB 1195, relative to membership of the joint legislative historical committee.

HB 1204, relative to matching funds of highway projects, and relative to the administration of the meals and rooms tax.

HB 1208, relative to advertising of alcoholic beverages.

HB 1255, relative to the membership of the commission on primary care workforce issues.

HB 1256, establishing a New Hampshire state register of historic places.

HB 1270, requiring an employer to disclose non-compete and non-piracy agreements prior to making an offer of employment or an offer of change in job classification.

HB 1304, relative to the waiver of financial responsibility requirements for certain habitual offenders.

HB 1402, relative to the sale of homemade food and licensing of certain milk producer-distributors.

HB 1409, relative to definitions under the Uniform Securities Act.

HB 1579, authorizing the department of employment security to garnish the wages of individuals with delinquent unemployment compensation overpayments.

HB 1672, apportioning delegates to state party conventions.

HB 1680-FN, relative to the duties of the oversight committee on health and human services.

REFERRED FOR INTERIM STUDY

HB 1259-FN, relative to payment of medical expenses for individuals who surrender themselves to law enforcement or corrections officials.

HB 1371, relative to conflicts of interest of county government officials.

HB 1405, relative to refugee resettlement.

HB 1546, recodifying the laws relative to religious societies and adding a religious exemption to the insurance mandates relative to coverage for contraception.

HB 1645-FN, relative to decertification of a bargaining unit.

HB 1660-FN, relative to abortions after 20 weeks.

NONCONCURRENCE

HB 1174, relative to negotiations for contracts for county employees.

HB 1273, relative to the termination of parental rights in cases where the child is born of rape.

HB 1308, relative to the definition of "public body" under the right-to-know law.

HB 1574, relative to an employee's lunch or eating period.

HB 1659-FN, relative to the women's right to know act regarding abortion information.

LAI D ON THE TABLE

HB 228-FN, prohibiting the use of public funds for abortion services.

HB 655, establishing a committee to study issues regarding the New Hampshire Local Government Center.

HB 1671, apportioning congressional districts.

ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE

CACR 12, relating to public education. Providing that the general court shall have the authority to define standards for public education, establish standards of accountability, mitigate local disparities in educational opportunity and fiscal capacity, and have full discretion to determine the amount of state funding for education.

The President appointed Sens. Bradley, D'Allesandro and Stiles.

HB 102, establishing a committee to study certain issues relative to the insurance department, banking department, and bureau of securities regulation of the office of the secretary of state.

The President appointed Sens. White, Luther and Larsen.

HB 145, permitting the audio and video recording of a law enforcement officer while in the course of his or her official duties.

The President appointed Sens. Groen, Luther and Houde.

HB 146, relative to the right of a jury to judge the application of the law in relationship to the facts in controversy.

The President appointed Sens. Forsythe, Groen and Houde.

HB 158, relative to the misuse of social security numbers.

The President appointed Sens. Carson, Luther and Houde.

HB 193, relative to the Mount Washington commission.

The President appointed Sens. Carson, Groen and Larsen.

HB 597, revising the child support guidelines based on an income shares model of calculating child support.

The President appointed Sens. Groen, Forsythe and Houde.

RECESS

(Rep. Wallner in the Chair)

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 127, 151, 171, 247, 342, 1133, 1138, 1150, 1195, 1208, 1231, 1233, 1240, 1255, 1256, 1270, 1296, 1304, 1417, 1442, 1448, 1672 and 1680 and Senate Bills numbered 363 and 374.

Rep. Kidder, Sen. Prescott for the Committee

RECESS

(Rep. Sandra Keans in the Chair)

ENROLLED BILL AMENDMENTS

HB 344-FN, relative to judicial performance evaluations.

Amendment (1839-EBA)

Amend RSA 490:32, VI as inserted by section 1 of the bill by replacing line 7 with the following:

percentage of responses received, and~~[-without identifying individual judges,]~~ a summary of the

Adopted.

HB 1477, relative to the definition of spent materials.

Amendment (1836-EBA)

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

AN ACT relative to the definition of spent material.

Amend section 1 of the bill by replacing line 1 with the following:

1 Spent Material; Definitions. RSA 147-A:2, XII-a is repealed and reenacted to read as follows:

Adopted.

SENATE MESSAGES

CONCURRENCE

HB 242-FN-A, relative to the net operating loss carryover under the business profits tax.

HB 582, relative to communication between employers and employees during bargaining negotiations.

HB 1380, relative to the development of wetland mitigation banks.

HB 1521-FN, relative to retired state employees group insurance participation.

HB 1537-FN, relative to violations of privacy occurring outside a private place.

HB 1549, prohibiting the use of motor vehicle records for any federal identification database.

HB 1707-FN, relative to penalties for operation after revocation or suspension.

HB 1721, relative to permitting for the replacement of sewage disposal systems and relative to oil spillage prevention, control, and countermeasure plans.

HB 1723, making technical corrections regarding parental notification prior to abortion.

HCR 38, urging the United States Congress to extend equal benefits for the treatment of Agent Orange exposure to Vietnam veterans who served outside of Vietnam.

HCR 42, supporting the preservation of the electoral college.

NONCONCURRENCE

HB 652-FN, establishing a commission relative to Medicaid managed care.

HB 1251-FN, establishing a committee to study requiring that all sales of alcoholic beverages for off-premises consumption be made at state liquor stores.

HB 1306-FN-L, requiring a report on part-time employment of retired members of the retirement system.

HB 1328, relative to vehicle operation with a stuck throttle or runaway engine.

HB 1438, relative to confidentiality of police personnel files.

HB 1526-FN, relative to possession of less than one-half ounce of marijuana.

HB 1698-FN-A, establishing a committee to study implementing keno in the state of New Hampshire.

HB 1727-FN, to return certain insurance exchange moneys to the federal government.

REFERRED FOR INTERIM STUDY

HB 618-FN, requiring state agencies to develop performance measures and to develop budgets for each biennium.

HB 1202-FN, amending the definition of “sending district” as it applies to students attending regional vocational education programs.

HB 1329, relative to the default budget in certain towns.

HB 1611-FN, repealing certain provisions relative to the sale of pistols and revolvers.

HB 1615, relative to industrial hemp.

LAIID ON THE TABLE

HB 121, relative to eligibility for the property tax exemption for the disabled.

HB 536-FN, relative to the natural right to carry a firearm, openly or concealed, without a license.

HB 1260-FN, relative to certain contributions to pari-mutuel pools by race simulcasters in Cheshire county, compensation of charitable organizations by gaming operators, and unauthorized gambling machines and sweepstakes.

HB 1483-FN, repealing the retirement system special account.

HB 1617-FN, repealing the certificate of need law.

HB 1642-FN, relative to destination specialty hospitals.

CONCURRENCE WITH AMENDMENTS

SB 49, relative to tip pooling arrangements.

SB 152-FN, relative to participation in state employees' group insurance by members of the general court.

SB 153-FN, relative to the regulation of real estate appraisers by the New Hampshire real estate appraiser board.

SB 281, relative to exposure to infectious disease by emergency response and public safety workers and notification of public health authorities.

SB 319, changing the membership of and extending the commission to study the effects of service-connected post-traumatic stress disorder and traumatic brain injury suffered in the line of duty by members of the armed forces and veterans.

RECESS