

II. In a city which is an eligible municipality, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city may vote to place the question on the official ballot for any regular municipal election.

III. The vote shall specify the percentage of new assessed value to be exempted, the number of years duration of the exemption following new construction, and a reference to zoning use category definitions, if applicable. The exemption shall take effect in the tax year beginning April 1 following its adoption.

IV. A vote adopting RSA 72:74 shall remain in effect for a maximum of 2 tax years; provided, however, that for any application which has already been granted prior to expiration of such 2 tax-year period, the exemption shall continue to apply at the rate and for the duration in effect at the time it was granted.

72:76 Application for Exemption.

I. On or before March 1 following the date of notice of tax under RSA 72:1-d for any year for which the exemption is claimed, a person qualified for an exemption under RSA 72:74 shall file an application with the selectmen or assessors, on an application form prepared by them, signed by the applicant under penalty of perjury, which contains adequate information to demonstrate that the applicant is qualified for the exemption.

II. The selectmen or assessors shall notify the applicant of their decision on or before July 1 following the date of notice of tax under RSA 72:1-d. The decision shall specify the amount of the exemption, that it is effective beginning the prior April 1, and the number of years for which the exemption applies to qualified construction. The decision of the selectmen or assessors may be appealed in the manner set forth in RSA 72:34-a.

III. An owner may apply for the exemption prior to construction, but in no case more than 12 months before the beginning of the tax year for which the exemption is sought. In such cases the selectmen or assessors may anticipatorily grant the exemption, subject to adjustment when the actual increase in assessed value becomes known. If construction is partially complete on April 1 of any year, the exemption for that year shall be based on the increased assessed value attributable to the partial construction, but the duration of the exemption shall be adjusted such that the cumulative amount of exemptions received, based on the construction as completed, is proportional to that received by other eligible properties.

IV. The selectmen or assessors may request such additional or updated information as is necessary to determine eligibility. If they are satisfied that the applicant has willfully made any false statement, or has refused to provide information after such a request, they may refuse to grant the exemption.

V. If the municipality completes a revaluation during the period for which an exemption has been granted, the amount of the exemption shall be adjusted by the difference in equalization ratios applicable in the municipality before and after the revaluation.

72:77 Filings. The director of the office of state planning shall file a report containing the data used in establishing the criteria contained in RSA 72:73, II with the president of the senate, speaker of the house and governor by January 1 in each year.

3 Repeal. RSA 72:73 – RSA 72:77, relative to a program allowing economically depressed municipalities to offer tax exemptions to foster commercial and industrial construction, are repealed.

4 Effective Date.

I. Section 3 of this act shall take effect April 1, 2005.

II. The remainder of this act shall take effect April 1, 2000.

1999-1040s

AMENDED ANALYSIS

This bill allows economically depressed municipalities to offer tax exemptions applicable to non-statewide property taxes to foster growth in new and existing commercial and industrial construction.

The provisions of the bill shall sunset five years after adoption.

SENATOR F. KING: I have a handout that I am having passed out to everyone. While this is being handed out, in the interest of time, I will continue. This is a bill that is being introduced to help the municipalities who are in need of development and in need of increasing their tax base...an opportunity if they so vote, either through town meeting in the case of a town or through the city council in the case of a city, offer tax exemptions for certain classes of property. In order to qualify, the town or community would have to meet two of three tests. The first one being that they would have to be within the lowest 30 percent of municipalities based on equalized tax evaluation, based on the previous three years. Secondly, they would have to be within the highest 30 percent of municipalities based on employment rate for the average of the three previous years. Three, within the 30 percent of the municipalities based on population growth for the most recent 5-year period. There were several other criteria's talked about...per capita income and so on, but the Office of State Planning feels that these three categories...they have good access to the information on an annual basis so that they can produce up-to-date statistics and they will do that every year. There were some minor amendments made. In essence, the bill is on page 26 of the calendar. There were some minor adjustments made in the bill during the committee work. There were two changes. One of the changes was that this exemption will not apply to property being taxed under RSA 76:3, which is the statewide property tax for education. The second change is this bill will sunset, totally, it will be repealed after five-years, on April 1, 2005. The communities that qualified under the most recent statistics are available or shown on the map and on the list that I passed out. Another important part of this bill is that if a town adopts this measure, it will only be able to have it in place for two years, and then if they want to readopt it, it would take another vote. There was a bill similar to this introduced in the House last year that would have made this available statewide. I think that it is easy to see why this is not a good statewide measure. In towns that have active growth, a lot of industrial based construction, it simply would not work to offer a new business coming into town, an opportunity to apply for some property tax exemption when an existing employer would not be able to take advantage of it. This clearly is something directed at a single town, probably dealing with a single new potential business, and this would be a tool in the bag of the town-fathers or mothers as they attempted to attract an industry. You can see from the map that the towns that are qualified are towns that historically represent regions in the state, which have experienced the need for more job expansion, particularly in the North Country. I will tell you that in the North Country, when one of the towns in the North Country attempts to attract an industry, they are being faced with competition from Maine, Vermont and New York because of the industry that they are focusing on, predominantly are existing Canadian companies

that want to get on to the American Market. These companies come from an area usually from Quebec and usually from the eastern townships. In Quebec they are usually able to make available of certain benefits and they expect them here, and they are able to get them in other states. Vermont has legislation like this and Maine has a heavy presence for industrial development in Quebec and in New Hampshire, communities in the North Country at least are at a disadvantage when they go out to try to attract an industry. This bill that was in the House last year was sent for an advisory opinion to the Supreme Court and they did rule that this measure was in fact constitutional. I would ask on behalf of the impoverished areas of the state, your support for this bill.

SENATOR SQUIRES: Senator King, is this list reflective of the towns that could undertake this action under the bill?

SENATOR F. KING: Yes.

SENATOR SQUIRES: I want to point out that the cartographer that did this did not ink in Greenville, but Greenville is on the list. I just want to make sure that Greenville is not shown here, but it is on there.. that is ok then.

SENATOR F. KING: I am guilty. On a later version of the map I will see that Greenville is on there.

SENATOR SQUIRES: Thank you.

SENATOR LARSEN: Senator King, when I look at our state capital, I see that it is not an option for the city of Concord. One of the reasons the city of Concord frequently doesn't show a high unemployment rate, it is not because we have a high tax base, but in fact because we have the stabilizing employment force of the state, yet, I do know as a fact that our high rate of taxation in the city of Concord results in it being difficult to attract commercial and industrial construction, and that we would in fact like to have all of the tools available to us. This puts, at least this city, I am afraid, in a disadvantaged situation relative to some of its neighboring towns. I am not sure if it is justified if you are using it as a basis, the unemployment rate, and perhaps the population growth in the city because people are also choosing to live just outside of the city and work here. So our population growth hasn't grown particularly quickly either. I am wondering that if you think about the city capital with all its high non-taxable property, how do you see this affecting the city of Concord's ability to attract commercial and industrial growth?

SENATOR F. KING: I am not familiar with the local Concord issues, but looking at the map, it would be my guess that towns like Canterbury and Hopkinton and Loudon, probably are not towns that are probably actively looking for industrial growth, at least driving through those towns I don't see them as fitting into those categories. So I would think that Concord would be at a type of disadvantage that the city of Berlin is, which is at the end of the highway **TAPE INAUDIBLE**, has predominantly high employment, a mill town its primary business is going out of existence. I will guarantee you that if you would like to trade the paper mill for the State Capital, we will make that dicker now and not be interested in this, because there is a stability that comes to your economy here which I am sure is represented by the state government. It is a different economic base, but I am sure that it is one that the city of Concord enjoys. My guess is that Concord is not interested in smoke stack types of industries, but you having done some calculating, you might know different.

SENATOR LARSEN: Would you believe that Concord is in fact interested in an industrial development and has pursued it and has in fact, had difficulty attracting that kind of job growth because of the nature of our high tax rate? I think that this is the kind of economic tool which is important for this state. We have had discussions in the past about being able to do this. I think that we need to watch this legislation carefully to see that it doesn't have those kinds of unintended consequences which some of us might not wish to seek. I just point that out as an experiment as we proceed with this kind of economic development tool to keep an eye on it. Thank you.

Amendment adopted.

Ordered to third reading.

SB 127-FN-A-L, establishing a local property tax education homestead allowance against school taxes on residential real estate, establishing a fund to reimburse municipalities for such exemptions, and making an appropriation therefor. Ways and Means Committee. Vote 7-0. Rereferred to Committee, Senator Brown for the committee.

SENATOR BROWN: I very much appreciate the Ways and Means Committee unanimously recommending that this bill be rereferred to the committee when I asked them to give me and the 28 other sponsors of this bill the opportunity to continue to work on the concept of a homestead allowance. Thank you very much.

Adopted.

SB 127-FN-A-L is rereferred to the Ways and Means Committee.

SB 153-FN-A, requiring that a percentage of gross revenues from liquor sales be placed into and continually appropriated to a special fund for an alcohol education and abuse prevention programs. Ways and Means Committee. Vote 6-1. Ought to pass with amendment, Senator Below for the committee.

1999-1167s

03/10

Amendment to SB 153-FN-A

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

AN ACT requiring that a percentage of profits derived by the liquor commission be placed into and continually appropriated to a special fund for alcohol education and abuse prevention and treatment programs.

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

1 New Subparagraph; State Treasurer and State Accounts; Application of Receipts; General Revenue Exceptions; Alcohol Abuse Prevention and Treatment Fund. Amend RSA 6:12, I by inserting after subparagraph (www) the following new subparagraph:

(xxx) Moneys deposited in the alcohol abuse prevention and treatment fund established in RSA 176-A:1.

2 Alcoholic Beverages; The Liquor Commission; Funds; Exception Added. Amend RSA 176:16 to read as follows:

176:16 Funds.

1. Except as provided in paragraph II, all gross revenue derived by the commission from the sale of liquor, or from license fees, shall be deposited into the general funds of the state. The expenses of adminis-

tration and all other expenditures provided for in this title shall be paid by the state treasurer on warrants of the governor with the advice and consent of council.

II. Fifty percent of the amount by which the current year gross profit exceed fiscal year 1999 actual gross profit, but not more than 5 percent of the current year gross profits derived by the commission from the sale of liquor and other revenues, shall be deposited into the alcohol abuse prevention and treatment fund established by RSA 176-A:1.

3 New Chapter; Alcohol Abuse Prevention and Treatment Fund. Amend RSA by inserting after chapter 176 the following new chapter:

CHAPTER 176-A

ALCOHOL ABUSE PREVENTION AND TREATMENT FUND

176-A:1 Alcohol Abuse Prevention and Treatment Fund.

I. There is hereby established an alcohol abuse prevention and treatment fund to fund alcohol education and abuse prevention and treatment programs.

II. The fund shall be nonlapsing and continually appropriated for the purposes of funding alcohol education and abuse prevention and treatment programs. The state treasurer shall invest the moneys deposited in the fund as provided by law. Interest earned on moneys deposited in the fund shall be deposited into the fund.

III. Moneys shall be disbursed from the fund upon the authorization of the alcohol and drug abuse prevention advisory commission established pursuant to RSA 172:2-b. At least ½ of the money disbursed from the fund shall be used primarily for alcohol education and abuse prevention activities.

4 Effective Date. This act shall take effect July 1, 1999.

1999-1167s

AMENDED ANALYSIS

This bill requires that a percentage of the profits derived by the liquor commission be placed into and continually appropriated to a special fund for alcohol education and abuse prevention and treatment programs.

SENATOR BELOW: There was significant testimony in support of this bill at the public hearing. The only opposition was from the New Hampshire Wholesale Beverage Association. Testimony offered by Dr. Gorman, director of Behavior Health at the Department of Health and Human Services testified to an adverse and serious trend of New Hampshire children becoming increasingly involved with alcohol abuse. He also indicated that there was plenty of opportunity to effectively utilize an increase in funding for such alcohol abuse prevention and treatment services. According to a recent report by the New Futures, an initiative sponsored by UNH and the New Hampshire Charitable Fund, in 1995 New Hampshire had the sixth lowest level of overall per capita expenditures for alcohol and other drug services in the United States. Also in 1995, New Hampshire spent less than half of the national average on alcohol and other drug treatment services. Not surprisingly, we ranked very high among the states in indicators of problems from alcohol and drug abuse, particularly among young people. The consequences of high rates of alcoholism and alcohol abuse include lives lost in DWI accidents and tremendous cost to employers, families and public health. The irony of this situation is that New Hampshire ranks among the highest if not the highest of the states in per capita alcohol sales and in the propor-

tion of its general fund revenue that comes from alcohol sales, while expending among the least to prevent and treat the problems that arise from some of those sales. Senate Bill 153 as amended, provides that 50 percent of the amount by which the future gross profits exceed fiscal year 1999 actual gross profit, but not more than 5 percent of total gross profits, derived by the commission from the sale of liquor and other revenues shall be deposited into the alcohol abuse prevention and treatment fund established by the bill. Expenditures from the fund shall be at the direction of the Alcohol and Drug Abuse Prevention Advisory Commission, which is already established an operating by statute. The amendment further requires that at least half of the money dispersed from the fund shall be used primarily for alcohol education and abuse prevention activities. This is as opposed to treatment services. The Liquor Commission is projecting growth in gross profit of a little less than \$2 million per year over the next two years. This bill would direct half of that growth, about \$1 million per year into alcohol abuse prevention and treatment fund up to a maximum of 5 percent gross profits which would be about \$4 million on gross profits of about \$80 million a year. With the current New Hampshire budget of about \$8 million for year for such programs, most of which is paid for by federal funds. An increase of \$4 million over the next four years or so would move New Hampshire towards the national average in its effort to prevent and treat alcohol abuse and alcoholism. Many other states dedicate a portion of their revenue from alcohol sales or taxes to such programs. I want to thank Senator Gordon for bringing this bill forward. I would like to note that if passed today, this bill would go to the Finance Committee for further consideration in the context of the overall budget. Thank you.

SENATOR GORDON: Just briefly. A young man brought this bill to my attention from Alexandria. He had written me a letter last spring and basically said that he thought that the conduct of the state was unconscionable in how could we be building liquor stores besides the highways and we weren't doing anything to prevent the alcohol abuse. When I looked into it at first, I didn't think that it was that much of a problem frankly. I found out that increases in the use of alcohol in this state are only increasing moderately. What I did find out and I think that David was correct, that abuse and use among children who are between the ages of 12 and 17 is growing dramatically. That is reflecting on our college campuses right now, as you have seen the college presidents have gotten together to try to deal with that particular problem. The New Hampshire State Liquor Commission in selling hard liquor, generates \$252 million a year and about \$56 million in profit for the general fund. This was an organization that was set up to control the distribution of alcohol and at this point in time, is actually a marketing organization attempting to maximize the amount of money that it can make, the amount of profit that it can make for the general fund of the state of New Hampshire. Here we are as young David said, building liquor stores besides the highway and we are not spending one single dime of state money on abuse prevention or education programs. Not one single dime of that money. In fact, we have this organization where this money will go...we are taking money from the federal government and distributing it out to our communities, but we are not spending one dime of state money to do it. That is unconscionable and that is clearly wrong. The fact is, as Senator Below said, alcohol costs in terms of domestic violence. So many of the domestic violence cases involved alcohol abuse. Divorce involving alcohol abuse. Thirty-percent

of all violent crimes involve alcohol abuse. Deaths on the highway, medical costs, law enforcement costs, not to mention loss of productivity. The state of Maine estimates that the cost per person is \$700 per person per year, it costs the state of Maine as a result of alcohol abuse and consumption in the state of Maine. I am hoping that this bill will go forward and pass through the Finance Committee and that the state will step up to its responsibilities and deal with this problem.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 184-FN-A, repealing the tax on nuclear station property. Ways and Means Committee. Vote 7-0. Inexpedient to Legislate, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, I won't take quite as long as Senator Below and Senator Gordon took. The Nuclear Station Property Tax was repealed in HB 117 and this bill is reported out as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senator Trombly offered the following resolution:

1999 SESSION

99-1045

04/01

SENATE RESOLUTION

7

A RESOLUTION declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget.

SPONSORS: Sen. Trombly, Dist. 7; Sen. Larsen, Dist. 15; Sen. McCarley, Dist 6; Sen. Wheeler, Dist 21; Sen. Hollingworth, Dist 23; Sen. Below, Dist 5; Sen. Cohen, Dist 24; Sen. Blaisdell, Dist 10; Sen. J. King, Dist 18; Sen. D'Allesandro, Dist 20; Sen. Disnard, Dist 8; Sen. Fernald, Dist 11; Sen. Pignatelli, Dist 13

COMMITTEE: [committee]

ANALYSIS

This senate resolution urges the identification and use of new revenue sources, instead of budget reductions, as a means of financing any deficit in the education trust fund.

99-1045

04/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

A RESOLUTION declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget.

Whereas, Governor Shaheen has prepared a responsible biennial operating budget which proposes wise and prudent investments in government programs and services essential to the prosperity and well-being of the state and its citizens; and

Whereas, we oppose budget reductions which would jeopardize the quality of life and services to the least fortunate and most vulnerable among us, particularly essential services to the low income, elderly and disabled, such would occur through reduced appropriations to the department of health and human services; and

Whereas, we oppose reducing proposed appropriations to the University system and the New Hampshire regional community-technical colleges which would add to already severe financial pressures they face, thereby requiring tuition increases that would place the opportunity for higher education beyond the reach of the children of New Hampshire's working families; and

Whereas, we oppose reductions in the state operating budget which would inevitably shift greater fiscal burdens on cities and towns that must be borne by property taxpayers; now, therefore, be it

Resolved by the Senate:

That the Senate intends to finance any deficit in the education trust fund established under 1999, 17 to provide every child an adequate education with new sources of revenue, not with reductions to the appropriations in the operating budget proposed by the governor; and

That copies of this resolution be forwarded to the speaker of the house of representatives and the governor.

SENATOR TROMBLY: It is quite clear that since we passed our resolution to the Claremont opportunity to fund education that the agenda of some people in the State House has been to pay for the difference between what we are going to raise and appropriate and what we promised to raise and appropriate by cutting the state budget. This causes me a great deal of alarm. It causes a great deal of alarm to the people who benefit from state programs and who work in state government. Ultimately, I think that it is causing a certain amount of alarm in the general public in New Hampshire. This resolution is an attempt to put us on record, and our dealings with the House, and to let the people of the state of New Hampshire know that we can separate, and do separate the funding of Claremont and the funding of essential services in New Hampshire. There are those currently working in the House to cut the state budget, to cut services for the elderly, the poor and children. Cuts that will ultimately fall back onto the property taxpayer in the state of New Hampshire. Cuts to the university system, which will prevent the children of the people of the state of New Hampshire from going to our own university system at reasonable and affordable costs. I think that is unacceptable. It is equally unacceptable to that proposition to allow the debate to go forward one more moment without us speaking as a Senate and saying that we will not stand for that. I think that the time has come for us to be very clear as a Senate to reassert our position that the state budget is a responsible budget that the governor has introduced. We should not cut the budget for the state of New Hampshire for the university or for the programs for the elderly or the working poor, or the disabled or anyone else who turns to us for help. It is our responsibility to let them know that we will stand by them when it comes to the budgeting process. I think that it is time for us to tell the House that the efforts that they may be putting forward to pay for the Claremont deficit out of the state budget is irresponsible, scrooge-like, misguided and just plain wrong. This resolution says that, Mr. President. I urge its adoption by the Senate.

SENATOR LARSEN: Mr. President, I rise to join in support of this resolution. Having sat on the Committee of Conference, it became clear that

we could not reach a resolution for new revenues within the Conference Committee, but there was never the intent, that I understood, of the Senate conferees to allow for a budget reductions of the draconian level that would be required through the gap that it was established in HB 117 as it passed into law. It would be wrong of us, and that is why you have this resolution, wrong of us to turn towards cutting essential services. It would be wrong of us to look towards cutting the university's meager budget from the state, to cutting community technical college's support. It would be wrong of us to look towards downshifting this to cities and towns. These are state responsibilities and we do not have an overpacked state budget. It is a lean budget and a responsible budget. We believe that this is an important statement of resolution by this Senate today, that we will not stand for dramatic cuts to the state budget. We will be supporting additional revenues and we hope that the rest of the Senate will join us in this motion. Thank you very much.

SENATOR F. KING: I would say that I appreciate the opportunity to having had an opportunity to sign onto this particular resolution, but there were three reasons why I felt that was not the appropriate thing for me to do. The first reason was since January, I have said in this chamber and throughout this State House that I am opposed to any attempt to take money from the general fund or our operating budget to supplement the Claremont settlement. So I don't need to send a resolution at this late hour to express that feeling because I have been saying that since I have got here. Matter of fact I started saying that last fall. Secondly, Senate Finance is just starting to look at the governor's budget and this presupposes that it is a great budget. I will tell you that I have major problems with the governor's budget. I think that there are areas where there is not enough money and I think that we found that out in the last three days. So I cannot sign a resolution endorsing a budget that I am just now in the process of trying to deal with it in the committee in which I sit. Lastly, had we passed a budget through this legislature that was subsequently signed by the governor, and it was balanced, we wouldn't have a hole to fill. We would not be faced with trying to find money that is getting more and more difficult to find, not only to solve our budget, but now to solve the deficit, which yesterday morning was \$186 million deficit in the education bill. So I think that this resolution...why it may make everybody feel good, is not responsive to the problem.

SENATOR KRUEGER: Senator Trombly, I was just wondering if you thought with the budget...and I agree with you that, I for one, would not want to cut services to the disabled, services to the university, services to any of the programs that you identified, but isn't it a little bit far fetched to think that in a budget that has increased 25 percent in the last two administrative cycles, that there wouldn't be any money at all that couldn't be cut? I am talking bureaucratic money. I am not saying that I don't agree...with Senator King, in fact, I would have probably said the same thing that Senator King said in preference to this, that it is a horror to me that we are passing a budget with a huge hole, but that is my basic question to you. No waste at all? I don't think that there is a corporation in America that couldn't find waste.

SENATOR TROMBLY: It is funny, because I just heard Senator King say that he was going to add to the budget. I don't know whether you and he agree on that, but I would say that what you are asking isn't what the resolution says. I will cut the waste in the budget. I am not going

to cut in favor of the Claremont. We are not going to take cuts out of those services to pay for Claremont. If we have a department that is wasting money, then we ought not to give them the money that they are wasting. But I will tell you, Senator Krueger, I was at a forum with the House Finance chair **TAPE CHANGE** where that money comes from. We made a commitment for \$825 million and he said, "Don't you worry about where that money comes"...well I do. I do worry about from where that money is going to come. In my position, and the reason why I am sponsoring this resolution is that ought not to come out of the hides of the disabled, the elderly. It ought not to shift the burden back down to the property taxpayers. That is all that this resolution says. It doesn't say that we have to pass the governor's budget unamended. It simply says that she has given us a responsible budget. A lot of the costs you cite have increased, and they are increases that we have had to pay for anyway, such as added expensiveness. We have to pay for the Berlin Prison. That is going to drive the budget up.

SENATOR KRUEGER: I was wondering, Senator Trombly, if you would agree with me that it would have probably in retrospect, more responsible to pass an education funding measure close to what Senator King had originally proposed, which in fact was balanced?

SENATOR TROMBLY: I think that it would have been more responsible to pass an education funding program with more money in it for the cities, towns and schools.

SENATOR RUSSMAN: I rise in opposition to this...what I consider to be partisan foolishness. This has got to be one of the worse resolutions that I have seen come down the pike as far as self-serving, partisan politics that is absolutely ridiculous. A few weeks ago, I received a statement saying that the Democrats had solved the educational funding crisis. They crafted a plan, which eventually was adopted, which is a disaster. It turns out that it is not a good plan. It is a lousy plan, and I don't see anyone rushing to the forefront to take credit for that. Now to stand here and try to say that we have a budget that is a responsible budget and that we ought to pass it...we have just had the hearings starting this week to try and figure out what the budget is really all about. I think that this is just what our constituents don't want us to be doing here...to have 13 Democrats sign onto resolution and have none on the Republicans sign on the resolution, and then try to paint the picture somehow that either the Republicans are in favor of cutting the budget in certain areas or that the Democrats are not in favor of doing that...trying to make political hay I think is the wrong way to go, and I think that it sends out a wrong message and it certainly isn't what our constituency wants us to do. I think that the public by and large is sick and tired of partisan politics and this is partisan politics at its worse.

SENATOR SQUIRES: When I heard about this I thought that it was a good idea because I agree with it, but I have been at the Finance Committee hearings every day this week. I have heard things that bother me and are in conflict with the first three lines of this bill, which says that this budget, which we have not yet heard, yet in fact we haven't even read the biggest part yet, and that is Health and Human Services, so I don't know whether Health and Human Services budget as proposed is responsible. What I do know is that in direct contradiction to the words "services essential to the prosperity and well-being of the state and its citizens" what is not properly done in this budget is the support of the court system. Now that budget, yesterday, at the hearing, was cut by \$6-7 mil-

lion per year. What that means is that we are going to ask the court system to operate on less money the next two years. Seventy something percent of the cost of the court system are employees. I am not talking about judges. I am talking about employees, and you cannot make a reduction of that magnitude and say that it is responsible and know what is going to happen, which is we will return for the backlog, we are going to have civil trials laid out two, three or four years or whatever. So I can't do this. I am not going to...I am going to do my best to not fund this thing out of the general fund. I think that is wrong. I agree with what Senator Trombly has said, but the first sentence...I am here to tell you in my opinion, is not exactly true. That we do not know yet whether the services essential to the prosperity and well being of the state is in fact contained in this budget.

SENATOR GORDON: I think that just about everything that I was going to say has been said. Frankly, I was kind of impressed today. We did a lot of business today. We dealt with a lot of substantive issues and I have to tell you that I was impressed by the fact that when we took our votes today that there weren't many partisan votes today. There was difference in ideology, but for the most part, we did business today. Good business for the state and now we come down to after having done what I thought was a good job for the state of New Hampshire, when we could all now be out doing something meaningful for our constituents, we come down to this partisan debate, over this stupid resolution. I don't understand why we have to do this. What is it? We have to fill our quota at some point in time? We have to show the people of New Hampshire that we are still partisan? That we can't act here in a nonpartisan manner? I don't understand. I just don't understand why after such a good day, we had to do this. I absolutely agree with Senator Squires. I don't believe that it is an entirely responsible budget. I think that the governor is acting in good faith. If you want to use language like, I am fine. But I have a problem, because for some reason the governor decided to short-suit the court system \$7 million. I don't think that is responsible. I would like to see the budget. I would like to have the hearings held before I make up my mind whether it is a responsible budget. I don't think that I have to make a decision on that whether it is a responsible budget right now. The one thing that I do know is that we took a vote two weeks ago that wasn't responsible. We voted for an education plan for \$825 million. That was not a responsible vote. I stood here then and said that we don't have a balanced budget. How can you vote for this \$825 million when you don't even know where the money is coming from? Now after you have done that you say that we need to pass a resolution because damn that House, they're going to cut the budget. I just don't understand it, how you can do that. Let's take care of business. This is just politics. I agree with Senator Russman, there is just no need for this. I wish that you would withdraw this and let's just move on and do business.

SENATOR HOLLINGWORTH: I agree with everything that everyone has said this afternoon. All of you. I think that we should withdraw it until we get through the budget. I had hoped when I was asked to sign onto this, I had hoped that we were going to have a bipartisan support of this. I think that we all want the same thing. What we don't want is the budget to pay for Claremont. I think that is the bottom line. So I would ask that we either table this or withdraw it for now, go through the budget. It is true, we have just started the budget process. All of us agree that we don't want to cause pain to our communities or to our people that we are here representing. I think that is what the intent was.

I think that unfortunately, because it is just Democrats who signed on and because there may be a disagreement in the language, perhaps there should have been a chance for people to make changes in it before it came to the floor. I would support either a tabling motion or a withdrawal. I would hope that someone would stand up and make a motion. Thank you.

SENATOR D'ALLESANDRO: I hate to hear the platitudes thrown around about the 'stupid', 'irresponsible' and so forth and so on. I think that we are irresponsible if we do that. The purpose of the resolution was to state that the budget is a critical item. It is a very critical item in the operation of the state of New Hampshire. Those of us who have been around this legislature for a long period of time know and know quite explicitly, that when it comes to the budget crunch, the cuts take place and the cuts are damaging. They're so damaging that at the end of the session, usually agencies and particularly the university system, come out short changed and have to do things as a result of that...increase tuitions which puts an extra burden on people and a variety of other items. So the responsible thing to do is to say that we have a budget, we believe that that budget is a significant move forward and that we want to support it. I thought that we did the right thing with Claremont. I am really, tragically disturbed by some of the comments that people are making. We were faced with the greatest challenge in the history of the state of New Hampshire. We were going to reform education. We were given that awesome responsibility. We did our very best at that time to make decisions that were going to have an impact on student's lives and an impact on this state, not only now but for the millennium. We did the best that we could. I know that Rick Trombly stood up and said that there were 825 million reasons why he supported the education reform package. I said that there were 200,000 reasons why I supported it. Those were the 200,000 students in the state of New Hampshire. So I think that it is important for the Senate to say that we don't want the budget gutted in order to take care of education. We know what we have to do and it appears to me that we should make a meaningful representation of that. Thank you very much.

SENATOR J. KING: I will tell you why I supported this resolution. I am glad to hear that everybody had the opportunity to sign on, but they didn't. They should have put input into it how they wanted it changed. The resolution declares that any deficit in the education trust fund be financed with new sources or revenue and not through reductions through the appropriations in the state's operating budget. I agree that is why I signed. I do not want money taken out of the operating budget to finance the Claremont plan, which we supposedly have a plan out there to do. If we do, we are going to be worse off than when we started. That is my reason for signing this and I hope that would be the reason...and that is the main reason if you look at the head explanation located at the top. Thank you.

Recess.

Senator Cohen in the Chair.

SENATOR BLAISDELL: Thank you very much, Senator Cohen for taking the chair. I want to get into this one just a little bit. After serving 14 terms, this is my 15 term in this Senate, and to have Senator Gordon stand up and talk about partisan speeches or this is a partisan issue...if I ever counted that many that I had in this Senate since I have

been here, you couldn't believe it. This is nothing compared to what we have gone through in 14 years being in the minority, Senator Gordon, and I want you to know that. My main reason for signing onto this resolution of Senator Trombly's was to tell that guy across the street, Eddie Cantor, I call him Eddie Cantor (Neal Kurk) because his eyes bulge out just like this when he can cut a budget. I have sat there with him for the past few years and I know, I know what he does. I know how he figures, what he is going to do. All that we were saying in that resolution, at least I read it that way, was to say that we wanted to separate the Claremont issue from the budget. We didn't say that you couldn't go on with the budget process. I know what the process is. But we wanted to be sure that this Senate sent a message to the people of this state that we would not stand for cutting the budget to make up for that \$100 and something million dollar shortfall that is in the Claremont bill today. That is all that we are doing. I don't think that is a bad thing to send from this Senate. To let the people at the university system know, to let the people... I had a woman last night for an hour and a half on the telephone with me from the Monadnock Developmental Services in Keene. She was just about crying her eyes out because of what she has heard. If you, any of you have read the report on the 2 percent reduction that Neal Kurk wants to do across the hall on Health and Human Services. Take a look at it and read it to see what it would do to children of this state and what it would do to the dental care of this state. Read the whole thing and then you will know. That is the only reason. This was not meant to be a partisan issue. We weren't trying to put any of you people down. Senator Fred King has said I don't know how many times to me that he would not support a budget cut to pay for Claremont. A responsible position, and I thought that was a responsible position. I didn't take any offense to it, and I don't think that the Republican leadership or the Republicans in this room should take any kind of offense to what we tried to do. It would put you on record as saying that you are going to separate the Claremont issue from the budget. That is all that it does. I take offense to think that we just tried to put you people on the spot. You are all good people and you all have good hearts. I know that you don't want to cut the budget, but yes, there is some room in the budget to be cut, but where? You are right, Senator Gordon, the court shouldn't be cut that much, absolutely. But there is a feeling in this whole legislature, not in this Senate, but this whole legislature, this Senate on the Fiscal Committee, just tried to get \$202,000 transferred for three solid months so that they could, for their out of state travel and pay because of the leadership in the House over there holding it up because there is \$475,000 owed to the Sheriffs in this state, we did it the last time, if you remember? That bill hasn't been paid yet. It is still laying out there. We know that the court system is a very important thing. I am not one of these people that feel that the black robes in this state put us in a tough position on Claremont, it should have been done 50 years ago. But again, it is not partisan, and it hasn't been, and it should be partisan. We should stand up as a Senate and say no, we are going to separate Claremont and then we will do the budget. Thank you very much.

SENATOR BROWN: Senator Blaisdell, there is one line here that hasn't been referred to and I am asking this in a nonpartisan spirit and I hope that you will take it that way. What are some of the new sources of revenue that we are considering, because you are talking about the anxiety being created when we cut the budget, and there is also anxiety created when we talk about new taxes?

SENATOR BLAISDELL: Well, Senator Brown, when we talk about sources of revenue, you know very well that in the next few days that there is going to be a move in the House to put out a capital gains tax, that is one. You know very well that we have people walking in and saying, "we'll have a 1 percent soda pop tax" how do you like that one? that is a good one too. We have people that walk in and say "well we will put a tax on gasoline" not gasoline, but other types of fuels. Then there is another source of revenue that wants to take 8 percent on new cars. That is it. Then there is some fella in the legislature talking about video gambling. I don't know who he is, but I mean somebody is talking about that, that would raise a couple hundred million dollars. So those are some of the sources of revenue that you can be looking at. I don't like any of them except one.

SENATOR BROWN: Thank you.

SENATOR GORDON: Mr. President, I recognize that things have been partisan for a long time and that things are going to change necessarily, in fact if you read the Union Leader you will find that they seem to think that I am more of a Democrat than I am a Republican.

SENATOR BLAISDELL: I don't read the Manchester paper, I am from Keene, but we welcome you anytime Senator Gordon.

SENATOR GORDON: My concern with this resolution is... and I understand what you are saying and what you want to accomplish. There is some language in this resolution when it starts off and it says that whereas governor Shaheen has prepared a responsible biennial operating budget. There could be a difference of opinion over that, and that might come down to be a very partisan difference of opinion, and that maybe it might be better if this were withdrawn for now to serve the purposes that you want to serve, and this could reappear at some point in time in the future in a way that might not be so partisan.

SENATOR BLAISDELL: I would agree with you Senator Gordon.

SENATOR GORDON: Thank you.

Senator Pignatelli moved to have **SR 7**, a resolution declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget, laid on the table.

Adopted.

LAIID ON THE TABLE

SR 7, a resolution declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget.

Recess.

Senator Blaisdell in the Chair.

SENATE RULES AMENDMENT

Every Senate Bill, Joint or Concurrent Resolution, **except any Senate Bills in the Finance Committee** must be acted on by the Senate no later than **May 20, 1999**.

Senator J. King moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled House Bills sent down from the Senate:

HB 240, prohibiting the introduction of wolf populations to the state of New Hampshire.

HB 442, relative to charitable gift annuities.

1999-1243-EBA

03/01

Enrolled Bill Amendment to HB 426

The Committee on Enrolled Bills to which was referred HB 426

AN ACT relative to clean indoor air in state buildings.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HB 426**

This enrolled bill amendment corrects the punctuation between certain subparagraphs.

Enrolled Bill Amendment to HB 426

Amend RSA 10-B:2, I as inserted by section 3 of the bill by replacing lines 7-11 with the following:
state; [and]

(b) After January 1, 1996, any building space leased by the state either in an original or renewal lease; *and*

(c) After January 1, 2000, any building addition or building renovation to a state building.

Senator Trombly moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 58, establishing a committee to study open adoption in New Hampshire.

HB 230, clarifying the waste reduction goals for the state of New Hampshire.

HB 302, relative to paint ball guns.

HB 435, relative to disclosure by sellers of consumer goods and services.

HB 556, relative to transporting hazardous waste.

HB 557, relative to hazardous waste permitting and container identification.

HB 592, creating a study committee regarding requirements for and usage of methyl t-butyl ether.

HB 620, relative to election of vested deferred retirement status for inactive members of the retirement system.

HB 634, eliminating the requirement that retirement system disability recipients notify the board of trustees of unreduced social security disability benefits.

HB 638, authorizing a limited license for certain travel agents.

HB 671, adding a member to the council on resources and development.

HB 686, defining the state heritage collections committee's responsibilities and the process for acquiring or disposing of items and collections.

SB 17, relative to funeral arrangements.

SB 41, clarifying references in provisions relating to hunting and fishing licenses for members of the United States army, navy, marines, air force, and coast guard.

Senator D'Allesandro moved adoption.

Adopted.

ANNOUNCEMENTS RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the purpose of House Messages, introduction of bills, Enrolled Bills Reports and amendments, and that when we adjourn, we adjourn until Tuesday, May 18, 1999 at 10:00 a.m.

Adopted.

Third Reading and Final Passage

SB 62-FN-A-L, relative to the acquisition of Umbagog Lake Campground in Cambridge, New Hampshire, and making an appropriation therefor.

SB 73, relative to eligibility for off-premise liquor licenses.

SB 76-L, allowing certain municipalities to offer tax exemptions to foster commercial and industrial construction.

SB 88-FN, relative to penalties for third driving while intoxicated offenses.

SB 131-FN-A, updating the name of the office of vacation travel to the office of travel and tourism in nonconforming RSA sections.

SB 162, providing for the licensure and regulatory oversight of voluntary small employer health insurance purchasing alliances.

SB 166, establishing a committee to study insurance coverage for certain physical, occupational, and speech therapies.

SB 167, relative to off-label prescription drugs.

SB 172, relative to representation by a citizen in a court proceeding.

SB 175-FN, requiring insurance coverage for prescription contraceptive drugs and devices and for contraceptive services.

SB 178-FN-A, relative to appropriations to the port authority for dredging projects.

SB 183-FN-A, establishing a New Hampshire health access corporation and continually appropriating a special fund and making an appropriation therefor, requiring the department of health and human services to

make a biennial report on the health status of New Hampshire residents, relative to certain transfers to the health care fund, and relative to rates for pharmaceutical services.

SB 189-FN, relative to the establishment of a civil rights act.

SB 191, relative to the New Hampshire higher educational and health facilities authority.

SB 195-FN-A, appropriating funds for sludge testing.

SB 198-FN, relative to certification of persons installing and servicing propane gas and heating oil equipment.

SB 205-FN, expanding medical coverage to pay dental assistance for adults on medicaid.

SB 212-FN, requiring the insurance department to develop a plan to address the needs of persons with chronic illnesses and disabilities.

HB 215, placing restrictions on name changes for certain felons.

SB 217-FN, relative to real estate brokers of other jurisdictions doing business in this state.

SB 227-FN, establishing a gambling business felony.

HB 245-FN, relative to fees and appropriations to the division of safety services.

HB 258, establishing Gold Star Mother's Day honoring mothers who lost sons or daughters while on duty in the armed forces.

HB 292, relative to ballot procedures for constitutional amendments.

HB 325, prohibiting "cramming" in telecommunications billing.

HB 340, establishing a committee to study mercury source reduction and recycling issues.

HB 357, establishing a committee to study and investigate issues related to investigations, trials, convictions, and sentencing of sex offenders.

HB 431, establishing a committee to study methods and processes necessary to retain the traditional uses of White Mountain National Forest land, the impact of any change in designation, and relative to promoting the continual multiple use management of such land.

HB 583, extending the reporting date for the committee studying the issue of updating New Hampshire laws related to fences.

HB 651, revising the speed limit law.

In recess.

Out of Recess.

SENATE RULES AMENDMENT

Every Senate Bill, Joint or Concurrent Resolution, **except any Senate Bills in the Finance Committee** must be acted on by the Senate no later than **May 20, 1999**.

LATE SESSION

Senator Cohen moved that the business of day being complete that the Senate now adjourn until Tuesday, May 18, 1999 at 10:00 a.m.

Adopted.

Adjournment.

May 18, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

There once was a rugged, stubborn and independent old man named Harry Truman, not the one who lived in the White House, but the one who lived most of his life in a rural corner of Washington state. Over a number of years, Harry refused the urgings of his family and friends and the so-called "experts" who told him he should move away from there because he was in a very dangerous place. He didn't budge, and because of his admirable self reliance and determination, old Harry lived a rich, full and safe life in that place which he loved so much - until nineteen years ago today. When Mount Saint Helens erupted. Harry was buried beneath a pile of hot ash hundreds of feet deep, because he wouldn't move. Today, some remember Harry as a stubborn old fool. Others view him as someone who knew what he valued, no matter the cost. You are all being asked to develop a budget for us, while living in the shadow of a financial Mt. Saint Helens. Your wisdom and your integrity will be revealed by when you choose to stay put - fixes firmly in things that ought not to change, and when you choose to move - changing things that we cannot afford to keep the same any longer. It is a hard choice, but it is what you are called to do. Let us pray:

Lord, remind us each today that as Your strength is greater even than that of a furious volcano, so You also have the power to whisper quiet words of guidance to these twenty-four servants of Yours if they will but listen. Show them when it is right to take their stand, unyielding, but also preserve them from any stubborn hardness that would freeze them in place when the time to move has come. Amen.

Senator D'Allesandro led the Pledge of Allegiance.

INTRODUCTION OF GUESTS NOTICE OF RECONSIDERATION

Senator Klemm served notice of reconsideration on **HB 245-FN**, relative to fees and appropriations to the division of safety services.

COMMITTEE REPORTS

HB 322, relative to funds provided by a mortgagee at real estate closings. Banks Committee. Vote 4-0. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: This bill ensures that money to secure a loan in a real estate closing will be in certain form. This protects customers, lenders and closing attorneys by requiring that the money be secured to cover the loan. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 373, making technical corrections to the securities laws. Banks Committee. Vote 4-0. Ought to Pass, Senator Fernald for the committee.

SENATOR FERNALD: This is a bill that was recommended and supported by the secretary of state's office. It makes technical corrections. The bill requires broker/dealers to include independent audited finan-

cial statements of balance sheets, income statements, statements of cash flow and reconciliation of surplus and appropriate notes. This provision is currently required in rules, but a significant number of broker/dealers are unaware of the rule; therefore, it is being placed into the statute. Additionally, the bill makes some technical changes when reporting dates fall on weekends or holidays and clarifies when an application for licensure is deemed to be abandoned. Please support the committee's recommendation of ought to pass.

Adopted.

Ordered to third reading.

SB 79, requiring vendors who operate electronic customer service terminals to disclose to customers if they place floor holds on or charge other fees to the bank accounts of customers using ATM cards at such terminals. Banks Committee. Vote 4-0. Rereferred to Committee, Senator Klemm for the committee.

SENATOR KLEMM: This bill would have required vendors to disclose to consumers, if they put a hold on the consumers account or charged a fee if the consumers charges a transaction with a debit card. This issue regarding the varying use of debit cards is complex. At times, the merchant could put a hold on an account while at other times, it could be the financial institution. The committee decided, because of the complexity and because it has not been shown to be a common occurrence, the committee recommends that this bill be rereferred to committee.

Adopted.

SB 79 is rereferred to the Banks Committee.

HB 56, establishing a procedure for reinstating corporate charters that have been expired for more than 3 years. Executive Departments and Administration Committee. Vote 4-0. Ought to pass with amendment, Senator D'Allesandro for the committee.

1999-1215s

08/09

Amendment to HB 56

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

AN ACT establishing a procedure for reinstating corporations that have been administratively dissolved for more than 3 years.

Amend the bill by replacing section 5 with the following:

5 New Section; Late Reinstatement Hearing; Notice; Requirements. Amend RSA 293-A by inserting after section 14.22 the following new section:

293-A:14.22-a Late Reinstatement Hearing; Notice; Requirements.

(a) A corporation administratively dissolved under RSA 293-A:14.21 may apply to the secretary of state for late reinstatement if more than 3 years have expired since the effective date of dissolution. The application shall:

(1) Recite the name of the corporation and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the corporation's name or proposed name satisfies the requirements of RSA 293-A:4.01;

(4) Contain a certificate from the New Hampshire department of revenue administration in accordance with RSA 77-A:18, III, and RSA 77-E:12, III;

(5) Contain a statement asserting that no lawsuits are pending against the corporation;

(6) Contain a statement explaining the reason that reinstatement is being requested;

(7) Include all of the annual report fees and annual maintenance fees, if any, for each year since the date of dissolution; and

(8) Contain a statement from the commissioner of the department of employment security showing that to the best of the commissioner's knowledge, as of the date of the statement, such corporation has paid all of its contributions or that it was not liable for any contributions, or that it has made adequate provisions, with such surety as shall be satisfactory to the future payment of any contributions.

(b) If the secretary of state determines that the application contains the information required by subsection (a), and that the corporation name is available for registration, and that it is accompanied by the fee required in RSA 293-A:1.22(a)(13), the secretary of state shall schedule a public hearing on the late reinstatement. The public hearing shall be held before the secretary of state, or designee and the attorney general, or designee. Any interested party shall have the right to testify at a late reinstatement hearing. Late reinstatement hearings shall be conducted twice a year, on April 1 and September 1. If any such date falls upon a Saturday, Sunday or legal holiday, the hearing shall be held on the first business day after each date. An application for late reinstatement must be received at least one month prior to a hearing date in order to be scheduled for that date.

(c) Notice of the late reinstatement hearing shall be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office, or, if none in this state, its registered office, is or was last located. The notice shall:

(1) Clearly state the reason for the hearing.

(2) State the date, time, location of the hearing.

(3) Indicate that all interested parties are encouraged to attend or submit written comments within one week of the hearing.

(4) Include the mailing address of the secretary of state.

(d) If, after the public hearing, the secretary of state, in conjunction with the attorney general, determines that the information submitted in the application for late reinstatement is correct and that the corporation should be reinstated, the secretary of state shall cancel the notice of dissolution and prepare a notice of reinstatement that recites the determination and the effective date of reinstatement and mail said notice to the corporation.

(e) If the application for reinstatement included a change of name of the corporation, the notice shall set forth the change of name of the corporation and the fee required pursuant to RSA 293-A:1.22(a)(2), and the notice shall constitute an amendment to the articles of incorporation. If the application for reinstatement included a change of the registered agent, the notice shall set forth the name of the new registered agent and the fee required pursuant to RSA 293-A:1.22(b)(5).

(f) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

1999-1215s

AMENDED ANALYSIS

This bill establishes a procedure for reinstating corporations that have been administratively dissolved for more than 3 years.

Senator D'Allesandro moved to have **HB 56**, establishing a procedure for reinstating corporate charters that have been expired for more than 3 years, laid on the table.

Adopted.

LAID ON THE TABLE

HB 56, establishing a procedure for reinstating corporate charters that have been expired for more than 3 years.

HB 75, changing the number required for a quorum on the commission for human rights. Executive Departments and Administration Committee. Vote 6-0. Ought to pass with amendment, Senator Trombly for the committee.

1999-1216s

05/09

Amendment to HB 75

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

AN ACT relative to changes in procedures effecting the state commission for human rights.

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

1 State Commission for Human Rights. Amend RSA 354-A:3, II to read as follows:

II. Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member who is to be succeeded. [~~Three~~ **Four** members of the commission shall constitute a quorum for the purpose of conducting the commission's business, *with the exception of hearings conducted pursuant to RSA 354-A:21, II(b)*. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission. Each member of the commission shall be entitled to [~~his~~] expenses actually and necessarily incurred by [~~him~~] *such member* in the performance of [~~his~~] *such member's* duties.

2 New Paragraph; Fees for Services and Programs. Amend RSA 354-A:5 by inserting after paragraph XIV the following new paragraph:

XV. To charge reasonable fees for educational services, programs, publications and other written materials.

3 Procedure on Complaints. Amend RSA 354-A:21, II(a) to read as follows:

(a) After the filing of any complaint, one of the commissioners designated by the chair shall make, with the assistance of the commission's staff, prompt investigation in connection therewith; during the course of the investigation, the commission shall encourage the parties to resolve their differences through settlement negotiations; and if such commissioner shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, the commissioner shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion. The members of the commission and its staff shall not disclose what has occurred in the course of such en-

deavors, provided that the commission may publish the facts in the case of any complaint which has been dismissed, and the terms of conciliation when the complaint has been so disposed of. ***When the investigating commissioner finds no probable cause to credit the allegations in the complaint, the complaint shall be dismissed, subject to a right of appeal to superior court. To prevail on appeal, the moving party shall establish that the commission decision is unlawful or unreasonable by a clear preponderance of the evidence. The findings of the investigating commissioner upon questions of fact shall be upheld as long as the record contains creditable evidence to support them.***

4 Procedure on Complaints. Amend RSA 354-A:21, II(c) to read as follows:

(c) The case in support of the complaint [~~shall~~ ***may***] be presented before the commission by [~~one of its attorneys or agents,~~] ***the complainant or complainant's representative*** and the commissioner who shall have previously made the investigation and caused the notice to be issued shall not participate in the hearing except as a witness, nor shall he participate in the subsequent deliberation of the commission in such case; and the aforesaid endeavors at conciliation shall not be received in evidence. The respondent shall file a written verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. [~~In the discretion of the commission, the complainant may be allowed to intervene and present testimony in person or by counsel.~~] The commission or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend his answer. The commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and transcribed at the request of any party. The cost of transcription shall be borne by the party requesting the transcript.

5 Procedure on Complaints. Amend RSA 354-A:21, IV to read as follows:

IV. In administering this section, the commission shall be exempt from the provisions of RSA 541-A:29, II, but shall close each case or commence adjudicative proceedings on such case under [~~RSA 354-A:22~~] ***RSA 354-A:21*** within 24 months after the filing date of the complaint.

6 Judicial Review and Enforcement. Amend RSA 354-A:22, I and II to read as follows:

I. Any complainant, respondent or other person aggrieved by such order of the commission may obtain judicial review of the order, and the commission ***or any interested person*** may obtain an order of court for its enforcement, in a proceeding as provided in this section. Such proceeding shall be brought in the superior court of the state within any county in which the unlawful practice which is the subject of the commission's order occurs or in which any person required in the order to cease and desist from an unlawful practice or to take other affirmative action resides or transacts business.

II. Such proceeding shall be initiated by the filing of a petition in such court, together with a written transcript of the record upon the hearing before the commission ***in the case of a petition for judicial review***, and issuance and service of an order of notice as in proceedings in equity. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript an order or decree enforcing, modifying, and enforcing as so modified, or setting aside

in whole or in part the order of the commission, with full power to issue injunctions against any respondent and to punish for contempt of court. No objection that has not been urged before the commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

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

1999-1216s

AMENDED ANALYSIS

This bill changes certain procedures involving complaints brought before the state commission of human rights, and requirements for a quorum vote by the commission.

Senator Cohen moved to recommit.

Adopted.

HB 75 is recommitted to the Executive Departments and Administration Committee.

SB 83, relative to the regulation of the practice of veterinary medicine. Executive Departments and Administration Committee. Vote 5-0. Ought to pass with amendment, Senator Roberge for the committee.

1999-1240s

10/09

Amendment to SB 83

Amend the bill by replacing section 3 with the following:

3 Definition; Veterinarian. Amend RSA 332-B:1, IV to read as follows:

IV. "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from an accredited *school of veterinary [school] medicine or other veterinary school approved by the board, or a person from a foreign veterinary school holding an ECFVG certificate.*

Amend RSA 332-B:2, V as inserted by section 8 of the bill by replacing it with the following:

V. The owner of an animal [~~and~~] *or* the owner's [~~full-time~~] regular employee caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred for purposes of circumventing this chapter.

Amend RSA 332-B:3-a as inserted by section 9 of the bill by replacing it with the following:

332-B:3-a Temporary Member. The [~~chairman~~] *president* or acting [~~chairman~~] *president* of the board is authorized to appoint an additional person *or persons* to sit on a temporary or emergency basis at any hearing at which one or more board members is absent, so long as [~~the~~] *each* person so chosen has in the past served as a board member.

Amend the bill by replacing section 12 with the following:

12 Rulemaking; License Renewal. Amend RSA 332-B:7-a, V to read as follows:

V. [~~How a license shall be renewed~~] *Dates and conditions for license renewal;*

Amend RSA 332-B:9 as inserted by section 16 of the bill by replacing it with the following:

332-B:9 Application for License; Qualifications. Any person desiring a license to practice veterinary medicine in this state shall make written

application to the board. The application shall show that the applicant is 18 years of age or more, a graduate of an accredited *school of veterinary [school] medicine or other veterinary school acceptable to the board*, or the holder of an ECFVG certificate, a person of good professional character, and such other information and proof as the board may require by rule. The application shall be accompanied by a fee in the amount established and published by the board.

Amend RSA 332-B:11, I(a) as inserted by section 17 of the bill by replacing it with the following:

(a) Is a graduate of an accredited school of veterinary medicine and holds a current license in good standing in another state, U.S. territory, or province of Canada; or is a graduate of an unapproved veterinary school outside the United States and Canada and possesses a certificate of board certification in a clinical specialty from an organization approved by the American Board of Veterinary Specialists and holds a current license in good standing in another state, U.S. territory, or province of Canada; Amend RSA 332-B:11, I(c) as inserted by section 17 of the bill by replacing it with the following:

(c) Has actively practiced clinical veterinary medicine for at least 1,000 hours during each of 3 of the previous 5 calendar years with a minimum of 3,000 practice hours; and

Amend the bill by replacing section 18 with the following:

18 Temporary Permit. Amend RSA 332-B:12 to read as follows:

332-B:12 Temporary Permit. The board may issue without examination a temporary permit to practice veterinary medicine in this state to any person who is a graduate of a veterinary college recognized as provided for in RSA 332-B:10 [~~may be granted a temporary license~~] for a period not to exceed [~~2 years~~] *one year*, providing that [~~he~~] *the person* write the next available set of examinations and also providing said person is employed by and practices [~~his~~] *the* profession under the supervision of a duly licensed veterinarian practicing in the state. A temporary permit may be summarily revoked by a majority vote of the board.

Amend RSA 332-B:16, IV as inserted by section 27 of the bill by replacing it with the following:

IV. In adjudicatory proceedings, the board may hold prehearing conferences which are closed to the public and exempt from the provisions of RSA 91-A until such time as a public evidentiary hearing is convened in the proceeding. In any event, settlement discussions engaged in by the parties at prehearing conferences may be conducted off the record.

Amend the bill by replacing section 28 with the following:

28 New Section; Immunity From Civil Action. Amend RSA 332-B by inserting after section 16 the following new section:

332-B:16-a Immunity From Civil Action. No civil action shall be maintained against the board or any member thereof, or any agent or employee of the board, with regard to any action or activity in the performance of any duty or authority established by this chapter. Nor shall any civil action be maintained against any other organization or individual for or by reason of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill would have made changes to the veterinary medicine practice act. The committee felt that the bill gives the board the ability to impose

penalties that could be detrimental to those people who work with animals in the capacity that could, under this bill, be considered the unlicensed practice of veterinary medicine, such as animal care providers. These animal care providers could be doubly penalized because they are not able to obtain a license for their profession because there is no regulation. The committee recommends rereferral of this bill so that a solution can be found that would better regulate veterinarians while at the same time, not penalizing animal care providers.

Amendment adopted.

Ordered to third reading.

SB 174, relative to the regulation of telemarketers. Executive Departments and Administration Committee. Vote 3-0. Ought to pass with amendment, Senator Cohen for the committee.

1999-1254s

03/09

Amendment to SB 174

Amend the bill by replacing section 1 with the following:

1 New Chapter; Telemarketing Fraud and Abuse Prevention Act. Amend RSA by inserting after chapter 358-Q the following new chapter:

CHAPTER 358-R

TELEMARKETING FRAUD AND ABUSE PREVENTION ACT

358-R:1 Definitions. In this chapter:

I. "Catalogue" means a brochure or other publication which is distributed or made available to consumers by mail or otherwise in the ordinary course of the seller's business, and which includes a written description or illustration and the sales price of each item of merchandise offered for sale, includes at least 24 full pages of written material or illustrations, is distributed in more than one state, and has an annual circulation of not less than 250,000 copies.

II. "Catalogue sale" means a sale of goods consummated during or after a telephone contact by a consumer to a seller in response to a solicitation contained in a catalogue.

III. "Consumer" means a person who is, or may be, required to pay for goods or services offered by a telemarketer through telemarketing.

IV. "Goods or services" means any real property or any tangible or intangible personal property or services of any kind. The term "services" shall include, without limitation, offers of employment or other income-earning opportunities.

V. "Investment opportunity" means anything tangible or intangible that is offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, or appreciation.

VI. "Material aspect" means any information which is reasonably likely to affect a consumer's decision to engage in any aspect of a telemarketing transaction.

VII. "Seller" means any person, who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to a consumer in exchange for consideration.

VIII. "Solicitation" means a written or oral communication or advertisement that is transmitted by or on behalf of a seller or telemarketer by any printed, audio, video, cinematic, telephonic, or electronic means, including facsimile transmission and electronic mail. A communication

or advertisement other than by telephone, shall be solicitation if the communication or advertisement is followed by a telephone contact from a telemarketer or seller; or the communication or advertisement invites a response by telephone, and through that response, a telemarketer or seller attempts to make a sale of goods or services.

IX. "Telemarketer" means any person who, in connection with telemarketing, initiates telephone contact with, or receives telephone contact from, a consumer in this state, or who initiates or receives telephone contacts within the state in connection with a telemarketing plan, program, or campaign. A telemarketer may include, but is not limited to, any employee, owner, operator, officer, director, or partner of a business which conducts telemarketing activities.

X. "Telemarketing" means the use of telephone contacts to induce the purchase of goods or services from, or the payment or contribution of money or any thing of value to, any person as a result of or in connection with the telephone contacts.

XI. "Telemarketing transaction" shall include any and all aspects of any telemarketing plan, program, or campaign, including solicitations.

XII. "Telephone contact" mean any communication by telephone, whether initiated by a telemarketer, seller, or consumer, and shall include, but not be limited to, facsimile transmission and electronic mail.

358-R:2 Acts and Practices Not Covered Under This Chapter. The following shall be exempt from the provisions of this chapter:

I. Any sale by telephone where the telephone contact is initiated by a consumer and is not in response to any solicitation by a seller or telemarketer.

II. Any sale by telephone where the telephone contact is initiated by a consumer in response to a solicitation, but where the sale is incidental to a non-telemarketing sales campaign, program, or promotion conducted by a seller which maintains one or more places of business which are reasonably accessible to consumers in New Hampshire, and at which sales to consumers are regularly made. For purposes of this section, "reasonably accessible" shall mean a store or other location at which sales are regularly made to consumers, which is located within 200 miles of the consumer's residence or place of business.

III. Any catalogue sale or solicitation for a catalogue sale.

IV. A person or affiliate of a person whose business is regulated by the public utilities commission or the Federal Communications Commission.

V. Any solicitation which is in compliance with RSA 7:28-c.

358-R:3 Prohibited Acts and Practices. It shall be unlawful for any person to engage in any fraudulent or abusive act or practice in the course of, or in connection with, telemarketing. Such fraudulent or abusive acts or practices shall include, but shall not be limited to, the following:

I. Requesting or receiving payment in advance from a consumer to remove derogatory information from or to improve the consumer's credit history or credit record.

II. Requesting or receiving payment in advance from a consumer to recover, or otherwise aid in the return of, money or any other thing of value lost by the consumer in a prior telemarketing transaction.

III. Requesting or receiving payment in advance from a consumer for investment or employment opportunity offers.

IV. Obtaining or submitting for payment a check, draft, or other form of negotiable instrument drawn on a consumer's checking, savings, bond, or other account without the consumer's verifiable authorization. Authorization shall be deemed verifiable if any one of the following means is employed:

(a) Express written authorization by the consumer, which may include the customer's signature on the negotiable instrument.

(b) Express oral authorization which is tape recorded and made available, upon request, to the consumer's bank and which evidences clearly both the consumer's authorization of payment for the goods or services that are the subject of the sales offer and the customer's receipt of all of the following information:

(1) The date of the draft.

(2) The amount of the draft.

(3) The consumer's name.

(4) The number of draft payments, if more than one.

(5) A telephone number for consumer inquiry that is answered during normal business hours.

(6) The date of the customer's oral authorization.

(c) Written confirmation of the transaction, sent to the consumer at least 7 days prior to submission for payment of the consumer's check, draft, or other form of negotiable paper. The written confirmation shall include all of the information required in subparagraphs (b)(1)-(b)(6) and the procedures by which the consumer can obtain a refund from the seller or telemarketer if the confirmation is inaccurate.

V. Using any professional delivery, courier, or other pick-up service, including the United States Postal Service, to obtain immediate receipt or possession of a consumer's payment unless any goods sold are delivered to the consumer in a manner which provides a reasonable opportunity to inspect them before any payment is collected.

VI. Repeatedly initiating telemarketing calls to a consumer who has informed the telemarketer or seller that he or she does not wish to receive solicitation calls from that telemarketer or seller in violation of 16 C.F.R. section 310.4(b).

VII. Engaging in telemarketing to a consumer's residence or business at any time other than between 8:00 a.m. and 9:00 p.m. local time, at the consumer's location.

VIII. Inducing consumers to respond to a solicitation by an 800 or other toll-free number, and then imposing a charge on consumers for information or other services unless the charge is clearly disclosed to the consumer and the consumer is given a reasonable opportunity to terminate the telephone contact prior to incurring any charge.

IX. Threatening, intimidating, or using profane or obscene language to any person in the course of a telephone contact.

X. Making any false or misleading statement to any person regarding any material aspect of a telemarketing transaction.

XI. Engaging in a telemarketing transaction which violates any provision of RSA 358-R:4 or RSA 358-R:5.

358-R:4 Required Disclosures.

I. A telemarketer shall disclose promptly to the consumer the following information:

(a) The identity of the telemarketer or seller, or the company on whose behalf the solicitation is requested;

(b) That the purpose of the call is to sell goods or services or to solicit a contribution or other payment; and

(c) The nature of the goods or services.

II. A telemarketer shall disclose the following facts and information when engaging in a telephone contact with a consumer and in any written material or information furnished to a consumer after or as a result of a telephone contact and before the consumer pays or authorizes payment:

(a) The total cost of any goods or services that are the subject of the telemarketing transaction;

(b) Any restrictions, limitations, or conditions on the purchase of the goods or services that are the subject of the telemarketing transaction;

(c) The terms of any refund, cancellation, exchange, or repurchase policies, including whether the goods or services that are the subject of a telemarketing transaction are not eligible for any refund, cancellation, exchange, or repurchase;

(d) Any material aspect of an investment opportunity being offered, including benefits, the price of the land or other investment, the location of the investment, and the reasonable likelihood of success of the investment opportunity; and

(e) Any material aspect of any employment opportunity, including all methods of compensation, a reasonable estimate of earnings potential, and any costs associated with the employment opportunity, such as required purchase of material, equipment, supplies, educational materials, licensing fees, transportation costs, and insurance.

358-R:5 Requirements for Telemarketing Sales Contracts.

I. Prior to accepting payment from a consumer in connection with a telemarketing transaction, a telemarketer or seller shall furnish the consumer with a written contract or bill of sale, which shall identify the goods or services for which payment is sought and shall specify the total cost of such goods and services, including any finance charge.

II. The contract or bill of sale shall conspicuously state the date of the telephone contact with respect to which payment is sought.

III. The contract or bill of sale shall contain, clearly printed in not less than 12 point boldface type, the following statement:

“You may cancel this transaction without any penalty or obligation at any time prior to midnight of the third business day after receipt of this notice. If you cancel, any payments made by you under the sale will be returned within 10 business days following receipt by the seller of your written notice of cancellation, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract of sale; or you may, if you wish, comply with the instruction of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, or does not agree to pay for their return, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, you may remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a written notice of cancellation or send a telegram to (name of seller) at the following address (address of seller).”

IV. In connection with any telemarketing contract or bill of sale, the telemarketer or seller, as applicable, shall provide the consumer, in writing, with the name, street address, and telephone number of the seller, and the name, street address, and telephone number of the person to whom any notice of cancellation is to be given if different from the seller.

V. A telemarketing sales transaction shall only be considered final after the consumer has received a contract or bill of sale as required by this section.

VI. No telemarketer or seller shall be deemed in violation of this section if, in connection with a telemarketing transaction, the telemarketer fully complies with an established policy of accepting return of undamaged and unused goods or cancellation of services by notice from the consumer within no less than 7 days after the receipt of goods or services by the consumer and provides a full refund to the consumer within no more than 30 days after receipt of returned merchandise or cancellation of services.

358-R:6 Record Keeping Requirements.

I. Any seller or telemarketer shall keep, for a period of 24 months from the date the record is produced, the following records relating to its telemarketing activities:

(a) All substantially different advertising, brochures, telemarketing scripts, and promotional materials;

(b) The name and last known address of each prize recipient and the prize awarded for prizes that are represented, directly or by implication, to have a value of \$25.00 or more;

(c) The name and last known address of each customer, the goods or services purchased, the date such goods or services were shipped or provided, and the amount paid by the customer for the goods or services;

(d) The name, any fictitious name used, the last known home address and telephone number, and the job title or titles for all current and former employees directly involved in telemarketing; provided, however, that if the seller or telemarketer permits fictitious names to be used by employees, each fictitious name must be traceable to only one specific employee; and

(e) All verifiable authorization required to be provided or received under this chapter.

II. In the event of any dissolution or termination of the telemarketer's business, the principal of that telemarketer shall maintain all records as required under this section. In the event of any sale, assignment, or other change in ownership of the seller's business, the successor shall maintain all records required under this section.

358-R:7 Remedies.

I. Any telemarketing transaction entered into in violation of RSA 358-R:4 or RSA 358-R:5 shall be voidable by the consumer.

II. Any violation of the provisions of this chapter is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right, remedy, or power set forth in RSA 358-A may be used to enforce the provisions of this chapter.

III. The rights, obligations, and remedies provided in this chapter shall be in addition to any other rights, obligations, or remedies provided for by law or in equity.

SENATOR COHEN: This bill would give law enforcement agencies in this state the tools to protect New Hampshire residents from telemarketing scams. Currently, it is difficult to prosecute or prevent telemarketing because there isn't a specific statute regarding the practice. The protection provided in this bill would greatly aid senior citizens that may be preyed upon by telemarketers. The bill addresses fax and email solicitation as well as phone solicitation. The amendment proposed by the committee has been worked on and agreed to by all parties. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 306, relative to discoverability of environmental audit reports. Judiciary Committee. Vote 5-0. Ought to Pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: I rise to recommend that the Senate vote ought to pass on HB 306. Those who testified in support of HB 306 stated that the original self-audit legislation, which we passed about five years ago...under current state law an environmental audit report, is not discoverable or admissible as evidence in any criminal or administrative proceeding. This legislation will remove that immunity for criminal proceedings, but continue to retain immunity for civil and administrative proceedings. The EPA has noted that New Hampshire is one of the last states to amend this law to comply with federal statutes. The EPA is requiring three basic changes to the current self-audit privilege statutes. First, the privilege of immunity cannot extend to a situation in which a court determines that an environmental audit was undertaken for a fraudulent purpose. Immunity cannot also extend to a regulated entity, which is the subject of an official investigation, grand jury proceeding, or other investigatory or enforcement proceeding for a commission of a criminal offense of an environmental law. Second, the circumstances where a regulated entity gains a significant economic benefit from a violation of environmental law, that entity may be subject to a penalty action for recovery of such economic benefit. Third, in circumstances where an environmental audit reveals a violation that results in serious harm or presents an imminent or substantial endangerment to human health or the environment, the regulated entity shall not be subject to a waiver of a penalty for that violation. A representative from DES testified that passage of this bill would secure certain funding from the federal EPA, which has been threatened because New Hampshire has not been in compliance with federal environmental laws. Passage of this bill will resolve that issue. DES also noted that this bill may encourage more companies to take advantage of the self-audit privilege, as there would be one consistent set of regulations to which they must adhere. The committee voted 5-0 that this bill ought to pass. There was no testimony in opposition to this bill. I urge the Senate to follow the Judiciary's lead and pass this bill. Thank you very much.

Adopted.

Ordered to third reading.

HB 420, relative to orders for spousal support in domestic relations cases. Judiciary Committee. Vote 4-1. Ought to Pass, Senator Gordon for the committee.

SENATOR GORDON: House Bill 420 is a gender equity bill. Current law provides that if a husband abandons a household, he may be held responsible for supporting his spouse. This legislation changes the law to make it...provide that either spouse, male or female, abandons the household, that they could be held responsible for supporting their spouse.

Adopted.

Ordered to third reading.

SB 209-FN-L, changing the jurisdiction over domestic relations matters from the superior courts to the district courts and establishing a study committee on certain matters concerning superior court justices. Judiciary Committee. Vote 7-0. Ought to pass with amendment, Senator Gordon for the committee.

1999-1249s

09/01

Amendment to SB 209-FN-LOCAL

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

AN ACT establishing a study committee on certain matters concerning superior court justices.

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

1 Committee Established. There is established a committee to study the need for the number of justices required to serve in the superior court and whether it is possible to assign superior court justices to hear supreme court appeals.

2 Membership and Compensation.

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

(a) Three members 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.

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 examine the need for the number of justices required to serve in the superior court. The committee shall also study whether it is possible to assign superior court justices to hear supreme court appeals..

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 senate 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 senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1999.

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

1999-1249s

AMENDED ANALYSIS

This bill establishes a committee to examine the need for the number of justices required to serve in the superior court and whether it is possible to assign superior court justices to hear supreme court appeals.

SENATOR GORDON: Senate Bill 209 addressed two issues. One is jurisdiction over domestic relation's matters by the court and the other was creating a study committee on certain matters concerning Superior Court judges. The issue of domestic relations matters and which court in which they would be handled, has been addressed in the House, and we will soon be receiving a bill, so that was deleted from SB 209. The bill does however, create a study committee concerning the use of Superior Court judges to hear intermediate appeals. Appeals to the Supreme Court. Currently we have five Supreme Court justices and they have a very busy schedule. The court dockets in all of our courts continue to get busier and busier and busier, but the number of cases that the five judges can handle hasn't been able to increase. As a result of

that, the number of appeals that are being able to be heard from the administrative proceedings, or from family matters, marital matters or from zoning or planning law, the number of appeals is very few, and as a result, the law doesn't continue to get flushed out as it should. What this study committee would look at is using Superior Court judges to handle intermediate appeals, or determining whether or not they can be used to handle intermediate appeals, so that we could have a greater opportunity for the citizens of New Hampshire to appeal their cases to a higher body. I would ask that you support the bill and the committee's recommendation of ought to pass with amendment. Thank you.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 736, ratifying the 1999 Allentown annual town meeting. Public Affairs Committee. Vote 4-0. Ought to Pass, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, because a mistake in posting the town warrant one day late, the town meeting can be ratified only by special legislation. House Bill 736 is needed to accomplish this. The Public Affairs Committee recommends HB 736 as ought to pass.

Adopted.

Ordered to third reading.

HB 456, establishing a committee to study issues relating to the deaf community in New Hampshire. Public Institutions, Health and Human Services Committee. Vote 6-0. Ought to pass with amendment, Senator Squires for the committee.

1999-1212s

04/09

Amendment to HB 456

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

VIII. Issues relating to closed captioning.

IX. Any other issues deemed relevant by the committee.

SENATOR SQUIRES: This bill is a bill for the deaf community in New Hampshire. Since we have a little bit of time, I would like to tell you a story. A few years ago I was at a wedding reception at a neighbor's house and they had an adult deaf child. About six weeks later, this man was admitted to the hospital. I could not talk to him. We had an interpreter, but it was difficult. But anyway, he became ill and I operated on him and found, to my distress, that a toothpick had perforated his intestine that he consumed at the wedding reception. I took that all out and did a colostomy. The difficulty of talking to someone, a fellow human being in which communication is a problem, is tremendous. I was thankful that we got him by this until his mother brought him back and said, "he doesn't like the colostomy." So he had to go all through it again. Another admission, another operation, another enormous set of problems to gauge pain into such an individual is extremely difficult. So I sponsored this bill or co-sponsored it, because of that experience and others. We don't have an adequate number of interpreters. There are no standards as to whether or not an interpreter is efficient. I would not have the slightest idea. There is no school for the deaf in

New Hampshire, and no one has been proposing one, but the fact of the matter is that this is a population with a special problem, which is a tremendous handicap, so I hope that you will pass this, which is a study committee, and allow concerned people to come together to see what could be done to assist this group with such a very special and difficult handicap. Thank you.

Amendment adopted.

Ordered to third reading.

SB 57, permitting challenges to judges. Judiciary Committee. Vote 5-2. Ought to Pass, Senator Fernald for the committee.

SENATOR FERNALD: This bill has a little bit of a tortured history. I will ask you to turn to page 287 in your Senate Journal. **TAPE CHANGE** this bill was originally amended by committee. The amendment is on page 287. When it was reported out to the floor, it was recommitted back to committee. The committee considered it again and approved it again, but I think that in our voting, we forgot to mention the amendment, and so the secretary of the committee did not mention the amendment, and therefore, we did not offer an amendment in the calendar. So what I have done today is to prepare a floor amendment which restores the amendment that was before the House and out of the committee a month ago. Let me speak to the bill and then I guess we have to vote on ought to pass, and then I will offer the floor amendment. Senator Roberge sponsored this bill which allows challenges of judges. The committee felt that there was a good idea here, but we felt that it needed some modification. The idea is that somebody going to court has the opportunity, not to choose their judge, but to choose one judge, if they wish, that they do not want to hear this case. What we are thinking of, are people who have been in court before, and for whatever reason, may feel that they didn't get a good deal the last time and they would feel better if somebody else heard the case. As is too often the case, a person has been in court once and ends up with the same judge again; and our feeling is that those people then end up with maybe a reinforced bad opinion of our judicial system and our system of government. We do not feel that this will cause big problems for the judiciary in terms of assignment because the election to challenge a judge is made at the beginning of the case, so the court has plenty of time to schedule it with another judge who will be in that court at a later time when it is scheduled for trial. So the committee recommendation is ought to pass. I ask you to follow the committee's recommendation.

Adopted.

Senator Fernald offered a floor amendment.

1999-1297s

03/09

Floor Amendment to SB 57

Amend RSA 491:3-b as inserted by section 1 of the bill by replacing it with the following:

491:3-b Challenges. Each party to any case before the superior court may request that one justice of the court, or one marital master in a case that may be heard by a marital master, not be assigned to the case. Such request shall be filed with the court, in writing, within 30 days after arraignment in any criminal case, and within 30 days of the return date in any other case. Upon timely filing of such a request, the clerk of the court shall not schedule the case in question with the justice or marital master named in the request.

Amend RSA 502-A:6-c as inserted by section 2 of the bill by replacing it with the following:

502-A:6-c Challenges. Each party to any case before the district court may request that one justice of the court not be assigned to the case. Such request shall be filed with the court, in writing, within 30 days after arraignment in any criminal case, and within 30 days of the return date in any other case. Upon timely filing of such a request, the clerk of the court shall not schedule the case in question with the justice named in the request.

SENATOR FERNALD: This is the floor amendment which reads exactly the same as what is on page 287 in your Senate Journal. I should in fairness state that I did hear an objection to this bill from Judge Nadeau, the Chief Justice of the Superior Court. He was concerned about assignment of cases and particularly in those counties where in the Superior Court there is only one judge at a time, so that if someone challenged that judge, how would he schedule it? The committee felt that there were ways to work around that. One judge does not sit in Superior Court for an entire year. Judges are there at different times, and so a case could be scheduled when the judge that has been challenged in a particular case will not be there. There is also the possibility, which happens quite frequently, for cases to be transferred from one county to another so that another judge can hear the case. I should also add that this is a problem that comes up all of the time with lawyers who have conflicts with judges who used to be in private practice with a particular lawyer, and at the beginning of the case, the attorney states that they have a conflict with so and so, don't schedule me that judge, and the clerk's office is able to adjust the scheduling. This is the same type of procedure that would be followed for individuals.

SENATOR PIGNATELLI: I, like Senator Fernald and the majority of the Judiciary Committee, support the passage of this bill. One of the arguments that we heard against the passage was that we have a judiciary conduct committee that ought to be dealing with judges who are performing poorly. A lot of times the Judicial Conduct Committee doesn't hear about these judges, and one way for them to hear about this is if 250 people single out a particular judge, and they don't want to have their case heard before this particular judge. It sends a message to the Judicial Conduct Committee that perhaps they ought to take a look at this judge and see how this judge is performing and whether there is some bias that needs to be addressed. Thank you very much.

Floor amendment adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 81, permitting the city of Manchester to issue bonds to finance unfunded liability of the city's employee pension system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 81, permitting the city of Manchester to issue bonds to finance unfunded liability of the city's employee pension system.

Senator Fraser moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 67, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Randy Lyman
Irene Pratt
David Bickford
Edward Moran

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 67, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses.

Senator Pignatelli moved to accede to the request for a Committee of Conference.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Pignatelli, Fernald, Squires

TAKEN OFF THE TABLE

Senator Francoeur moved to have **HB 272**, relative to the use of laser pointing devices.

Taken off the table.

Adopted.

HB 272, relative to the use of laser pointing devices.

SENATOR FRANCOEUR: Last week when we were in session reviewing HB 272, I asked Senator Fernald, who was referring it out, if we could table it because laser pointing devices got left out of the construction industry, which uses them considerably, and I had proposed an amendment which I will bring forth in a few minutes. Thank you.

Question is on the adoption of the committee amendment (1125s).

Amendment adopted.

Senator Francoeur offered a floor amendment.

1999-1258s

05/09

Amendment to HB 272-FN

1 New Section; Conduct Involving Laser Pointing Devices. Amend RSA 631 by inserting after section 3 the following new section:

631:3-a Conduct Involving Laser Pointing Devices.

I. Any person who knowingly shines the beam of a laser pointing device at an occupied motor vehicle, window, or person shall be guilty of a violation and the laser pointing device shall be forfeited upon conviction.

II. Notwithstanding the provisions of paragraph I, any person who knowingly shines the beam of a laser pointing device at a law enforcement officer or law enforcement vehicle shall be guilty of a class A misdemeanor and the laser pointing device shall be forfeited upon conviction.

III. It shall be an affirmative defense under this section if the laser pointing device was used in an organized meeting or training class by the instructor or speaker. Nothing in this section shall be construed so as to limit the use of medical lasers by qualified medical personnel, or construction lasers used by construction personnel, or laser devices utilized by law enforcement personnel in the performance of their official duties.

2 Effective Date. This act shall take effect January 1, 2000.

1999-1258s

AMENDED ANALYSIS

This bill criminalizes certain uses of laser pointing devices.

SENATOR FRANCOEUR: In the bill, the only thing that it said for a defense to be using a laser pointer...but the construction industry uses them all of the time. They use rotating ones for ceilings and stuff like that. We use pipe lasers...these could inadvertently be pointed at a car on purpose because they are laying a pipe in that direction, and this just puts it in exemption for them as it did for the medical agencies that use them also and the police in training, which can use them also, Mr. President. I would urge the Senate to support the amendment.

Recess.

Out of recess.

Floor amendment adopted.

Referred to the Finance Committee (Rule #24).

TAKEN OFF THE TABLE

Senator J. King moved to have **SB 82**, relative to the termination of employees, taken off the table.

Adopted.

SB 82, relative to the termination of employees.

SENATOR J. KING: Senate Bill 82 has to do with the termination of employees. The amendment makes it a little more specific. The employee has to have worked there for at least six months, and a request has to be within 30 days as far as the firing is concerned, for notification, or for the reason why that person was fired. That basically is the change.

SENATOR SQUIRES: Senator King, the original bill says "any employee who is informed by an employer" and then in the amendment, it says "any fired employee who was employed by a company." Now I am thinking of a farm or an agricultural enterprise or personal farm. Why was it changed from employer to company and does it make any difference?

SENATOR J. KING: I don't think that it makes any difference really. If they were employed by the company for six months or more, within 30 days after being fired. I really don't know, Senator Squires. I wouldn't think that it would make any difference. I would think that the person has to request it and if you were on a farm, basically they wouldn't request it.

Question is on the motion of ought to pass.

Adopted.

SENATOR KRUEGER: Senator King, my question to you is obviously if I were the organization or company, I would come out with some ge-

neric language as to why poor Mr. Jones was let go, I certainly wouldn't want to put in writing the fact that he fell asleep at his desk. So my question to you is, what is the purpose of this legislation?

SENATOR J. KING: The purpose of this legislation, to give you an example...a woman called me on the telephone and that is why this legislation is here. She worked for the company for a year and never got a notice why she was fired, and does not know to this day. She tried to get one and couldn't get one, and as a result she cannot get hired elsewhere because they think that she is hiding something. That is the basis of it. For that individual to know why they have been fired, I don't think that it is too much to ask of anybody, whether it is good, bad or indifferent.

SENATOR BROWN: Senator King, having worked with small companies in this area for 20 plus years, I know that there is a lot of anxiety sometimes when you let somebody go for a reason that you may not want to publicly state. Do you see any potential for this causing unseen problems for companies?

SENATOR J. KING: I think that before the person left they should make sure that they know the reason that they were let go, and then there wouldn't be any request. If somebody is being fired and the person doesn't know why, I think that it should be made known why they are being fired. Most of them won't request it, but there are some individuals who do want it.

SENATOR BROWN: Senator King, employers are very nervous about repercussions of being sued of previous employees who don't like something that they say to a perspective employer. How does this address liability for someone who may say for example, "you were let go because" as the previous person said, "you fell asleep" at your desk or some other negative reason?

SENATOR J. KING: Well if they did that, that is what they should give them for an answer. If they didn't, they shouldn't use that excuse. Whatever the excuse is, it should be spelled out quite clearly so both sides understand why.

SENATOR GORDON: Senator King, perhaps I am being too much of a lawyer here, in the original bill it talked about any employee who is informed by an employer of their termination, and then in the amendment, it talks about any 'fired' employee. I am not familiar with using "fired" as a word. I have a sense of what you mean here, but I am not familiar with that being defined, or it being a term of art in the law. I was just wondering if it would be better if we did an amendment that parallels the original bill, so that there would be a better understanding as to what was intended here.

SENATOR J. KING: That is no problem with me. I think that they did it down in Legislative Services, and I accepted it. If you want to change it and put it back on the table and change it we can do that.

Recess.

Out of recess.

Senator Gordon moved to have **SB 82**, relative to the termination of employees, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 82, relative to the termination of employees.

TAKEN OFF THE TABLE

Senator Cohen moved to have **SB 52**, requiring insurance coverage for infertility treatments, taken off the table.

Adopted.

SB 52, requiring insurance coverage for infertility treatments.

Senator Fernald offered a floor amendment.

1999-1275s

01/10

Floor Amendment to SB 52

Amend RSA 415:6-g, III(a) as inserted by section 1 of the bill by replacing it with the following:

III.(a) The benefits included in this section shall not be subject to any greater deductible than any other benefits provided by the insurer. The coinsurance required by the enrolled participant shall not exceed the amount allowed under the contract for the reasonable and customary charge for the services provided, except that if such services exceed \$30,000 then such coinsurance may be adjusted not to exceed 50 percent of the reasonable and customary charge for the services provided. Amend RSA 415:18-i, III(a) as inserted by section 2 of the bill by replacing it with the following:

III.(a) The benefits included in this section shall not be subject to any greater deductible than any other benefits provided by the insurer. The coinsurance required by the enrolled participant shall not exceed the amount allowed under the contract for the reasonable and customary charge for the services provided, except that if such services exceed \$30,000 then such coinsurance may be adjusted not to exceed 50 percent of the reasonable and customary charge for the services provided.

Amend RSA 420-A:17-c as inserted by section 3 of the bill by replacing it with the following:

III.(a) The benefits included in this section shall not be subject to any greater deductible than any other benefits provided by the insurer. The coinsurance required by the enrolled participant shall not exceed the amount allowed under the contract for the reasonable and customary charge for the services provided, except that if such services exceed \$30,000 then such coinsurance may be adjusted not to exceed 50 percent of the reasonable and customary charge for the services provided.

Amend RSA 420-B:8-gg, III(a) as inserted by section 4 of the bill by replacing it with the following:

III.(a) The benefits included in this section shall not be subject to any greater deductible than any other benefits provided by the insurer. The coinsurance required by the enrolled participant shall not exceed the amount allowed under the contract for the reasonable and customary charge for the services provided, except that if such services exceed \$30,000 then such coinsurance may be adjusted not to exceed 50 percent of the reasonable and customary charge for the services provided.

1999-1275s

AMENDED ANALYSIS

This bill requires insurance coverage for infertility diagnosis and treatment. Under this bill, insurance companies may charge a higher co-payment if the services exceed \$30,000.

SENATOR FERNALD: This is another bill with a somewhat tortured history. You have been given the original version of the bill. When we last considered this bill we approved an amendment, which is on page 428 of your Journal. At the time that the bill was brought before the Senate before, there was some concerns that mandating infertility treatment without any limitation on the amount of benefits that would be provided, was not the right thing to do. I have prepared an amendment, which is intended to do that. As I prepared the amendment, I realized that the bill as amended before, had another, what I considered to be a mistake in it, if you will. What it said as amended as it is currently on the table, is that we mandate that infertility benefits be provided as part of health insurance, but, the health insurance company is free to put any coinsurance requirement that they wish on the benefit, which means that they could require the patient to put up 90 percent, and the insurance company put up 10 percent. So what I have done with this amendment in the second sentence, you will see that it is the same paragraph four times, because we are amending four different health insurance. I think that it is the HMO law and the Health Insurance Law and then something else and something else. So it is the same thing four times. The second sentence states first of all that the co-insurance on this benefit must be the same as on other benefits, so if it is an 80/20 coinsurance, it has to be 80/20 for infertility. But then it goes on to say that if the benefits provided exceed \$30,000, then the health insurance company can increase the co-payment up to 50 percent if they wish. The \$30,000 is a lifetime benefit, it is not a per kid, per procedure, or per year, or whatever. This is intended to put some limit here and beyond that limit, the patient has to have a more substantial investment out of their own pocket to go forward and to make more attempts to cure their fertility.

SENATOR FRANCOEUR: Senator Fernald, I see that you put in here a cap of \$30,000. Fifty-eight people in Massachusetts spent \$478,000 to insure them for infertility. How many of them do you think went over \$30,000?

SENATOR FERNALD: I have no idea. I am not sure that I understand the question.

SENATOR FRANCOEUR: If this cap is to do something, which would cap the amount that the insurance carriers are going to spend on this...if in Massachusetts they spent \$478,000, I believe that was my testimony, on 58 people...is this really doing anything besides if we would have passed the original bill? I believe that there was only one at that time. I think that they spent \$80,000 for an infertility treatment. So would this deal with any of the others? Probably not?

SENATOR FERNALD: What this would do is allow the health insurance company to change the co-insurance once the benefits provided exceed \$30,000. So that people who are in this treatment have to make a decision beyond \$30,000, if they are going to be investing say 50/50 with the insurance company beyond that point, they may decide that they are not going to make any more efforts.

SENATOR FRANCOEUR: So what you are saying is that they are not going to pay in anything or just their co-insurance until they get up to \$30,000 in claims?

SENATOR FERNALD: They would pay their co-insurance. If it is a 20 percent co-insurance they would put in \$6,000 out of the first \$30,000, and then after that, the insurance company can require 50/50.

SENATOR GORDON: Senator Fernald, is there a particular reason why you picked \$30,000 as opposed to another number?

SENATOR FERNALD: Not particularly. It was meant to cover somewhere in the neighborhood of, let's say, three in vitro plus, whatever people might have done preliminary...people generally try to do other testing first, other procedures before they go to the in vitro and \$30,000 would cover probably those that I just stated.

Floor amendment adopted.

Question is on ordering it to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Fraser, Below, McCarley, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Roberge, Francoeur, Krueger, Brown, Russman.

Yeas: 15 - Nays: 8

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Wheeler moved to have **CACR 20**, relating to the election of governor and senators. Providing that beginning with the 2002 general election, and every 4 years thereafter, the governor and senators shall be elected, taken off the table.

Adopted.

CACR 20, relating to the election of governor and senators. Providing that beginning with the 2002 general election, and every 4 years thereafter, the governor and senators shall be elected.

Senator Wheeler moved to rerefer.

SENATOR WHEELER: Mr. President, I would like to make a motion of rerefer to the Public Affairs Committee for CACR 20, and I would like to speak very briefly to my motion. As I said earlier in this session when this first came up, I really believed that one of the central elements to campaign finance reform is to have a four-year term for governor. We spend far too much money every two-years with each candidate spending upwards of \$1 million...on a campaign I don't think that is money well spent, it doesn't benefit the people of New Hampshire. So the reason that I am asking your agreement to rerefer to the Public Affairs Committee is that that committee is going to be studying once again, campaign finance reform, and I would like them to have the opportunity to consider this. It doesn't guarantee that they will want to consider it, but if we kill it, they won't be able to. So I would like to let you allow that committee to consider this by supporting my rerefer motion. Thank you.

Recess.

Out of recess.

Question is on the motion to rerefer.

A roll call was requested by Senator F. King.

Seconded by Senator Francoeur.

The following Senators voted Yes: Below, McCarley, Disnard, Blaisdell, Fernald, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Squires, Francoeur, Krueger, Brown, Klemm.

Yeas: 13 - Nays: 10

A 3/5 vote necessary.

Motion failed.

Senator D'Allesandro moved to have **CACR 20**, relating to the election of governor and senators. Providing that beginning with the 2002 general election, and every 4 years thereafter, the governor and senators shall be elected, laid on the table.

Adopted.

LAI D ON THE TABLE

CACR 20, relating to the election of governor and senators. Providing that beginning with the 2002 general election, and every 4 years thereafter, the governor and senators shall be elected.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 60, establishing a committee to study the licensure of radiographers and radiologic technicians.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 60, establishing a committee to study the licensure of radiographers and radiologic technicians.

Senator Squires moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled House Bill sent down from the Senate:

HB 513, relative to approved permissible fireworks.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 35, establishing a study committee to investigate motor vehicle inspection requirements.

SB 121, requiring reports to the department of justice following certain DWI arrests and refusals to take alcohol concentration tests.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 18, relative to the rulemaking authority of the state board of education regarding certain educational personnel.

SB 38, relative to the optional term for election of a cooperative school district moderator.

SB 56, amending the law relative to who may adopt.

SB 109, deleting the witnessing requirement for notices of lease.

SB 138, relative to joint tenancy with rights of survivorship.

SB 139, relative to self-proved wills and making reference changes.

SB 180, establishing a committee to study the improvement of employment opportunities offered by the state of New Hampshire for persons with disabilities.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 75, relative to out-of-state boats.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 75, relative to out-of-state boats.

Senator Gordon moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 77, relative to authorized regional enrollment area schools.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 77, relative to authorized regional enrollment area schools.

Senator McCarley moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 117, relative to the duties of the board of trustees of the community-technical college system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 117, relative to the duties of the board of trustees of the community-technical college system.

Senator McCarley moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 161-L, relative to amending the contributory pension system for employees of the city of Manchester.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 161-L, relative to amending the contributory pension system for employees of the city of Manchester.

Senator Wheeler moved to concur.

Adopted.

ANNOUNCEMENTS**RESOLUTION**

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the purpose of House Messages, introduction of bills, Enrolled Bills Reports and amendments, and that when we adjourn, we adjourn until Thursday, May 20, 1999 at 10:00 a.m.

Adopted.

Third Reading and Final Passage

SB 52, requiring insurance coverage for infertility treatments.

SB 57, permitting challenges to judges.

SB 83, relative to the regulation of the practice of veterinary medicine.

SB 174, relative to the regulation of telemarketers.

HB 306, relative to discoverability of environmental audit reports.

HB 322, relative to funds provided by a mortgagee at real estate closings.

HB 373, making technical corrections to the securities laws.

HB 420, relative to orders for spousal support in domestic relations cases.

HB 456, establishing a committee to study issues relating to the deaf community in New Hampshire.

HB 736, ratifying the 1999 Allenstown annual town meeting.

In recess.

Out of Recess.

1999-1336-EBA

03/09

Enrolled Bill Amendment to HB 357

The Committee on Enrolled Bills to which was referred HB 357

AN ACT establishing a committee to study and investigate issues related to investigations, trials, convictions, and sentencing of sex offenders.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 357

This enrolled bill amendment corrects the name of a house committee and inserts language for consistency and to clarify the duties of the study committee established by this bill.

Enrolled Bill Amendment to HB 357

Amend section 2 of the bill by replacing line 4 with the following: criminal justice and public safety committee and one of whom shall be from the judiciary committee, appointed by the

Amend section 3 of the bill by replacing line 2 with the following: investigation, indictment, trial, conviction, and sentencing of sex offenders. The committee shall also study and

Senator Trombly moved adoption.

Adopted.

LATE SESSION

Senator Cohen moved that the business of the day being complete that the Senate now adjourn until Thursday, May 20, 1999 at 10:00 a.m.

Adopted.

Adjournment.

May 20, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

Today it is optometrist, ophthalmologist, chiropractors, the access road and odyssey of the mind. So may your vision be clear no matter how cloudy things get, may your spine stay straight, no matter the pressure, and may all of your pathways be direct, quiet, fair and economical, and may your minds ever be on that right and best journey. Remember, Senators and staffers and lobbyists, that it is your decisions that touch peoples lives and the people are the ones that matter. Let us pray:

Quiet Lord, give us calm wisdom today to hear rightly, to listen patiently, to decide bravely and to lead honestly, so that the people we serve may find their lives enriched in ways that really matter and not in ways that really don't.

Amen.

Senator Wheeler led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 240, prohibiting the introduction of wolf populations to the state of New Hampshire.

HB 258, establishing Gold Star Mother's Day honoring mothers who lost sons or daughters while on duty in the armed forces.

HB 672, relative to creating a master plan for Hampton Beach and Hampton Beach state park to deal with growth.

SB 18, relative to rulemaking authority of the state board of education regarding certain educational personnel.

SB 180, establishing a committee to study the improvement of employment opportunities offered by the state of New Hampshire for persons with disabilities.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 79, relative to reports to the bank commissioner and to safe deposit box openings.

HB 292, relative to ballot procedures for constitutional amendments.

HB 340, establishing a committee to study mercury source reduction and recycling issues.

HB 426, relative to clean indoor air in state buildings.

HB 442, relative to charitable gift annuities.

HB 513, relative to approved permissible fireworks.

HB 583, extending the reporting date for the committee studying the issue of updating New Hampshire laws related to fences.

HB 651, revising the speed limit law.

SB 56, amending the law relative to who may adopt.

SB 38, relative to the optional term for election of a cooperative school district moderator.

SB 109, deleting the witnessing requirement for notices of lease.

SB 138, relative to joint tenancy with rights of survivorship.

SB 160, establishing a committee to study and identify or establish the duties of the fish and game commission.

Senator D'Allesandro moved adoption.

Adopted.

COMMITTEE REPORTS

HJR 3, urging ISO-New England to adopt policies furthering the state's interest in electric utility restructuring. Energy and Economic Development Committee. Vote 7-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: ISO-New England refers to the Independent System Operator which operates the transmission portion of the regional electric power grid. Several policies of ISO-New England have delayed or hindered the restructuring of the electric power market. New suppliers require interconnection studies from ISO-New England. The resolution calls on ISO-New England to give preference to those suppliers relative to their progress in obtaining operation. The resolution calls on ISO-New England to ensure that resources qualifying as reserves are

actually available, and that less available reserves are not overvalued or double counted. The resolution calls on ISO-New England to apportion transmission charges to match costs in order to eliminate incentives to overuse underpriced parts of the system and transfer costs to customers served by the rest of the system. And the resolution also calls on ISO-New England to continue efforts to introduce wholesale markets for the exchange of electricity and reserves. The PUC supports this resolution. The committee unanimously recommends ought to pass.

Adopted.

Ordered to third reading.

HB 535, establishing a committee to study the department of resources and economic development. Energy and Economic Development Committee.

MINORITY REPORT: Inexpedient to Legislate, Senator Fraser for the committee. Vote 3-4

MAJORITY REPORT: Ought to Pass, Senator Johnson for the committee. Vote 4-3

SENATOR FRASER: Mr. President, the sponsors believed that DRED gives preference to economic development at the expense of resource conservation. Obviously there was no support for that bill, and it was amended to create a study committee that I opposed for the simple reason that we have a Joint Legislative Performance and Oversight Committee here in the state, in the legislature, whose specialty is doing the very things that are addressed in the bill. I oppose the bill and I would ask that we do not allow this bill to go forward. The same issues that are articulated in the bill to be referred to the Joint Legislative Performance Audit and Oversight Committee.

SENATOR JOHNSON: I was a co-sponsor of HB 535 and this bill as amended is only intended to assist DRED in fulfilling its role of both promoting economic development and protecting natural resources. I say that because, unfortunately, there was testimony before the committee, which rather muddied the waters. This is especially important since the pressures of development on our natural resources and recreational facilities are increasing. DRED must protect our natural resources, especially our forests and manage our recreational facilities, the state parks. While at the same time, promoting economic development. The study committee would help the department strike the right balance between its responsibilities. The department supports the bill and welcomes the study. This committee report was split, but I hope that you will join me in voting HB 535 as ought to pass.

Question is on the motion of ought to pass.

A roll call was requested by Senator Fraser.

Seconded by Senator Francoeur.

The following Senators voted Yes: Johnson, Below, McCarley, Trombly, Disnard, Roberge, Fernald, Pignatelli, Larsen, Brown, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Fraser, Squires, Francoeur, Krueger, Klemm.

Yeas: 16 - Nays: 7

Adopted.

Ordered to third reading.

SB 196-FN-L, relative to electric rate reduction financing. Energy and Economic Development Committee. Vote 7-0. Ought to pass with amendment, Senator F. King for the committee.

1999-1324s

05/10

Amendment to SB 196-FN-LOCAL

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

1 Statement of Purpose.

I. The state of New Hampshire and Public Service Company of New Hampshire (PSNH) are in the process of negotiating a settlement to resolve the outstanding issues concerning the implementation within PSNH's service territory of electric utility restructuring pursuant to RSA 374-F. Any settlement proposal that results from these negotiations will in all likelihood include a component for securitizing a portion of PSNH's stranded costs.

II. It is important that the general court, through the declaration of purpose and findings of RSA 369-A:1, express its understanding of securitization and the criteria that are essential to meet prior to authorizing the use of securitization.

2 New Chapter; Electric Rate Reduction Financing. Amend RSA by inserting after chapter 369 the following new chapter:

CHAPTER 369-A

ELECTRIC RATE REDUCTION FINANCING

369-A:1 Declaration of Purpose and Findings. The general court finds that:

I. Restructuring of electric utilities to provide greater competition and more efficient regulation has been found by the general court to be in the public good and New Hampshire is now aggressively pursuing restructuring and increased customer choice in order to provide electric service at lower and more competitive rates.

II. The transition to competitive markets for electricity is a complex endeavor and requires the development of creative and flexible mechanisms to facilitate the movement from monopoly to competition.

III. The establishment of structured financing options for public utilities will enhance and facilitate the expeditious transition to competition, choice for retail electric customers, and reductions in electric rates for all customer classes consistent with the near term rate relief principle of RSA 374-F:3, XI, without creating any debt or obligation of the state or other adverse impacts upon the state's finances or credit rating. Structured financing options may facilitate and help mitigate stranded cost recovery that the commission determines is appropriate, equitable, and balanced pursuant to authority granted in RSA 374-F:3, XII and 374-F:4.

IV. Structured finance options are best pursued in the context of settlement agreements between a utility and the commission concerning the implementation of competition.

V. Rate reduction bonds are instruments underwritten for recovery by a guaranteed promise of customer repayment as part of the stranded cost recovery charge on a customer's bill. These bonds' irrevocable guarantee of repayment creates a secure expectation of performance and thus allows for an attractive rate of refinancing of a utility's stranded costs.

VI. Stranded costs are at significant risk of not being recovered under traditional rate regulation and market pressures. Electricity

prices in New Hampshire are so high as to cause customers to aggressively consider fuel switching, conservation, or self generation. Technological innovation may soon allow small scale self generation units to be viable in the near future. Over time, technological innovation will increasingly threaten the recovery of stranded costs.

VII. Once stranded costs are securitized through rate reduction bonds, a utility immediately recovers through a lump sum payment that portion of its stranded costs underwritten by the bond. As such, the risk of not recovering that portion of a utility's stranded costs is completely removed. The utility may then favorably recapitalize its debt structure taking advantage of its improved risk profile.

VIII. A lump sum payment derived from a rate reduction bond provides a large infusion of cash with which a utility may repay its debt. This infusion of cash also gives a utility a tremendous opportunity to become a major participant in deregulated electric generation markets or deregulated telecommunication markets.

IX. The financial and security advantages that accrue to a utility in the form of improved debt structure, risk reduction, and new cash resources could make such a utility an attractive investment opportunity. It is likely that any such utility's publicly traded stock value would rise considerably, especially for a utility that had faced significant investor uncertainty.

X. The extraordinary benefits that utilities and their investors will receive through issuance of rate reduction bonds are appropriate and fair, but only to the extent that customers also receive equitable and extraordinary benefits. Unless these customer benefits can be achieved at the same time that utilities receive the extraordinary benefits of securitization, the use of revenue reduction bonds and the irrevocable obligation they create for customers is not in the public interest. The benefits to customers should be substantially consistent with the following principles:

(a) The opportunity to choose among a range of competitive suppliers in a manner that promotes public trust in the benefits of competitive options. Public trust is not achieved if a utility uses rate reduction bonds to maintain a commanding presence in all of the traditional utility functions of transmitting, distributing, and generating electricity.

(b) Electricity prices consistent with RSA 374-F:3, XI, the near term rate relief principles for all customer classes.

(c) Electricity prices that approach the regional average within 4 years.

(d) Electricity prices that do not create another rate gap for New Hampshire customers.

(e) Risk sharing by the utility of the non securitized portion of the utility's stranded cost should regional average prices not be approached in 4 years.

(f) The continued opportunity for end users to generate electricity for their own use without an exit fee.

(g) Further renegotiations between representatives of the 6 wood-to-energy facilities, Public Service Company of New Hampshire, the public utilities commission, and other interested parties in order to reduce customer cost of this source of electricity.

(h) The cessation of any dispute, litigation, or regulatory proceedings concerning any electric restructuring issue, in any forum where the utility's position is adverse to the state of New Hampshire, the commission, or the New Hampshire Electric Cooperative prior to use of structured financing options.

(i) Retention of commission jurisdiction over any proposed settlement.

(j) Filing of any proposed settlement at the public utilities commission prior to further legislative consideration of authorization to use structured financing options.

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

1999-1324s

AMENDED ANALYSIS

This bill expresses certain legislative purposes and findings relative to electric rate reduction financing.

Senator F. King moved to have **SB 196-FN-L**, relative to electric rate reduction financing, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 196-FN-L, relative to electric rate reduction financing.

SB 68, establishing minimum 400 foot buffer zones around sensitive areas from application of herbicides. Environment Committee.

SPLIT REPORT: Inexpedient to Legislate, Senator Krueger for the committee. Vote 4-4

SPLIT REPORT: Ought to pass with amendment, Senator Russman for the committee. Vote 4-4

1999-1298s

08/03

Amendment to SB 68

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

AN ACT establishing minimum 300 foot buffer zones around sensitive areas from application of herbicides, authorizing a study of environmental effects from residual herbicides and making an appropriation therefor.

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

1 Findings. The general court finds that scientific measurement and monitoring of residual herbicides in waters and aquatic resources of the state from aerial spraying of forest lands for timber management purposes should be conducted to provide a greater basis for adequate regulatory safeguards and controls on aerial herbicide spraying.

2 Study.

I. Beginning July 1, 1999, the department of environmental services is authorized to conduct an ongoing study of the environmental effects from residual herbicides due to aerial spraying of forest lands. The study shall be in addition to other monitoring of pesticide residuals which may be conducted by the department, and shall be focused on those north country watersheds which have received aerial herbicide application in the recent past. These watersheds shall include Lake Umbagog and the Third Connecticut Lake.

II. The department is instructed to seek funding for the study from federal and private sources.

3 New Subparagraph; Scientific Measurement and Monitoring of Residual Pesticides in the Waters and Aquatic Resources of the State Fund. Amend RSA 6:12, I by inserting after subparagraph (v) the following new subparagraph:

(www) Money received from state, federal, or private sources for monitoring of residual pesticides under 485-A:4, XI, which shall be credited to the scientific measurement and monitoring of residual pesticides in the waters and aquatic resources of the state fund.

4 Appropriation. The sum of \$20,000 is hereby appropriated to the scientific measurement and monitoring of residual pesticides in the waters and aquatic resources of the state fund for the biennium ending June 30, 2000 for the purposes of section 2 of this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

5 New Section; Buffer Zones for Aerial Application of Herbicides. Amend RSA 430 by inserting after section 41 the following new section:

430:41-a Buffer Zones for Aerial Application of Herbicides. A buffer zone or non-spray area of at least 300 feet shall be maintained between the targeted spray area of an aerial herbicide application and the following critical areas:

I. Private wells, springs, and other sources of water used for drinking or domestic purposes.

II. Surface waters, as defined in RSA 485-A:2, XIV.

III. Depressions or runoff areas where there is active water flow.

IV. Adjacent property lines, provided adjacent property has ownership other than that of applicant.

V. Houses, barns, and other structures.

VI. Animal feeding and watering tanks.

VII. Public roads.

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

1999-1298s

AMENDED ANALYSIS

This bill:

I. Establishes minimum 300 foot buffer zones around sensitive areas from application of herbicides.

II. Authorizes the department of environmental services to conduct a study of the environmental effects from residual herbicides due to aerial spraying of forest lands, and appropriates \$20,000 to the department for this purpose.

III. Creates a special fund for scientific measurement and monitoring of residual pesticides in the waters and aquatic resources of the state.

SENATOR KRUEGER: I rise in opposition to SB 68. When I see a bill such as this, that would have such detrimental affect to so many when it supposedly has been introduced to help so many, I get concerned. When I see a bill such as this and the bill is to establish these 400' buffer zones around sensitive areas for the application of herbicides, it sounds wonderful, except for the fact that if it were so wonderful, why in fact would the Society for the Protection of New Hampshire Forest oppose it? Why if it were so wonderful, would Professor Meritis of Forest Resources, University of Maine, Max McCormick be so against it? Why in fact would the New England Council for Plant Protection be against it? The obvious people who would oppose this bill would be, as you would expect, timberland owners, Mead Paper, Champion International Forest Resources, and I suspect that if the people in the north country could be all lined up here, they would be against it. But you need to know why. When I quote from the New England Council for Plant Protection's letter to us, they say that they "oppose this bill on the grounds that it is unnecessary. It is excessive and it is harmful to the economy" and if it

were passed it would cripple, if not completely eliminate, the aerial application of pesticides. A practice that is widely used to control a number of pests that harm trees. Farmers, growers, foresters all depend on this application of pesticide to protect their products and to maintain viable business. Does that mean that what they do has hurt? I have not seen evidence to that, Mr. President. The state of New Hampshire has had a very long-standing practice of permitting aerial applications on a case by case basis, and buffer zones have been established. The average buffer zone is 165'. You will hear arguments about this and you will hear stories about pieces of paper that were put out there and drift was established, but never once will you hear that that drift has been harmful. The New Hampshire Farm Bureau opposes this piece of legislation and the people who depend on water, soil and crops. I would like to read to you from the Society for the Protection of New Hampshire Forest. "We support strong and effective regulation of this (this being aerial spraying) practice." They feel that the Division of Pesticide Control with flexibility and determining buffer widths based on scientific site criteria is the policy that is now in place by the state of New Hampshire. They see, "no reason to commit a buffer with requirement to statute." And you have to understand why. If we are going to have wider and wider buffer zones, then it would appear to me, and I am certain it would appear to the society, that what you are going to end up with are narrow swaths that the timber industry...and it is an industry, is going to be able to reap their trees. What you will have in my mind is a desecration of the New Hampshire Forest. Certainly you are not going to have the very carefully managed reforestation that is going on now, so although the intent of the bill is obvious, the intent of the bill is to help protect waters and plant life. I have now demonstrated to you that organizations that we hold as conservation organizations oppose this legislation. I feel **TAPE CHANGE** in the North Country. I thank you very much, Mr. President, and I hope that this body will look at this, not in the manner that this is put forth as a scare tactic, but in a logical, scientific approach to buffer zones. Thank you.

SENATOR RUSSMAN: I would urge that you vote ought to pass with the amendment. The amendment brought the spray area buffer zone to a minimum of 300' around sensitive areas from applications of herbicides and authorized a further study of the environmental effects of residual herbicides and making appropriations therefore. Up until now, these tests really haven't been done, so we don't know specifically what the damage may have been, although I have some things on the malformations on frog update that the DES put out. It talks about the number of malformed frogs with missing legs and different parts, which we are starting to see in New Hampshire on a more regular basis. This came to light in part because originally, there was a 165' buffer zone that was required. The bill called for 400', but in deference to the testimony that was heard, it was put down to 300' in part, because last year the office of Health Management recommended increasing the buffer zone for the 1998 spray program. Now that is an office that is obviously interested in people's health, and I might add, that for those of you who have in your area that have the New Hampshire Water Works Association...they were in favor of the bill. The Audubon Society, the New Hampshire Lakes Association and the Northeast Organic Farming Association all supported passage of the legislation. When the office of Health Management, which deals with people's health, recommends a 300' buffer zone, we ought to think about that. Now what happened was the agency...the

Pesticide Control Board made a by rule, 300' and when the two forest industries came in, they issued a permit for 300', and they complained about that, so they put it back down to 165'. The application found that when they put these cards out to see if there was actually contamination in the spray zone, they found that there was, in fact, contamination in the buffer zone as they did not expect there to be. Matter of fact, one of the people that was one of the monitors for the program actually ended up getting sprayed by drift themselves, and they were something like 50' within the buffer zone. Matter of fact, the DPC pest control field inspector who observed Champion Corporation spray program, drafted an inspection report dated August 19, 1998 and it says, "While watching the application as the helicopter spraying inside the zone, it appeared that I was struck by drift while inside the buffer zone. I was approximately 50' inside the buffer zone." That was in 1998. So I think that certainly while these companies don't mean to do that, it happens. The effects are unknown, and certainly this bill and the two upcoming bills all are concerned with varying degrees of public health, and whether or not we are interested in trying to give our constituents an extra margin of safety. I think that in Vermont they banned it outright and, of course, the argument can be made that the paper company there sold the land, but nevertheless, in Vermont they did it by hand. This does not prohibit the cutting of any trees within that zone. The paper companies would still be able to go in there, although maybe they wouldn't make quite the profit they might make, they would still be able to go in and harvest those trees that they would like to harvest. No one here is attempting to say that they don't want any of these trees cut. I have some wood lots that I manage for commercial saw logs and certainly have no objection to the trees being cut. This has nothing to do with that, it is simply a matter of public health. When our own agency of public health suggests that we ought to have an increase, and we bow to industry pressure by saying, well it isn't going to make quite as much profit, then we will go in that direction...I think that is the wrong way to go. Certainly we owe it to our constituents to give them the extra margin of safety and certainly with what we see going on in the environment as a whole, while it is very incremental, it is certainly happening, and we ought to be concerned about that. I urge adoption of the committee amendment.

SENATOR KRUEGER: Senator Russman, would you believe that with advanced technology and materials that are used by these people are all registered with the Environmental Protection Agency and further? And would you believe that if the 300' buffer zone called for in this legislation, would actually reduce the area of the effected land that could actually be sprayed so that in the cases of the small field or areas of trees, virtually no part of the land is going to be allowed to be sprayed, and the buffer would literally take up all of the logger's property?

SENATOR RUSSMAN: I don't know if there are any areas that would be quite that small, Senator Krueger. We are talking about tens of thousands of acres here. We are not talking about very small portions. The other thing that I might point out to you...in correspondence to Champion Corporation in 1998, the Department of Pesticides Control noted that "the applicator imposed additional buffer zones of 450' in site 1 and in site 2 450', and in site 2 we did get positive results on a collection paper that was placed near a stream, and in this situation, the distance of the stream from the edge of the spray was actually 1500'. So there was actually that much of a spray overlapped of 1500'. Now 300' doesn't cover

that obviously, but that is just indicative of how far some of this stuff can drift, so certainly 300' is not an overreaching request as far as additional protection for the resources.

SENATOR BROWN: Senator Russman, you handed out this malformed frog update. I was wondering if you were aware, or if you had seen two weeks ago, a national program that said that we really now have found that these malformed frogs are due to parasites, and not from pollution and the other things that we formerly were attributing them to?

SENATOR RUSSMAN: I realize that there is dispute in the scientific community, but my understanding is that the various chemicals that are in the environment, and the actual addition, our continuation of them in the environment, as far as the combination of one on top of the other, have multiplied, and have caused some of that.

SENATOR F. KING: I rise to support the motion of inexpedient to legislate. The property that we are talking about and the only places that aerial spraying takes place in New Hampshire takes place in Coos County. You heard me say it before, and you will hear me say it again, as long as I sit in this seat, that the backbone of the economy in Coos County is the timber industry. The land that is being targeted here are the lands that belong to two large industrial landowners. Two large industrial landowners that not only support the timber industry, but it is their lands that support the tourism in the north country. Their lands are open to the public to romp and roam, snowmobile, hunt, hike or do what they want on. They need to cut these trees in order to get a return on their investment. Aerial spraying is being used primarily in spruce softwood growth. Not that they don't use them to kill the hardwood growth, they use it to give the spruce trees a chance to get a head start. They stunt the hardwood growth through spraying, and it gives the spruce a chance to grow, because the hardwoods grow faster than the spruce do under normal conditions and they choke out the growth of the spruce trees. They can grow a spruce tree commercial to timber in 30 years by using this technique. Somewhere around half the time it takes to grow the same tree using no herbicides. This is very carefully controlled by the state now. It is important that they be able to use this in the future for these spruce wood stands. Senator Russman very accurately stated that Champion Paper Company has just sold their land in Vermont. They sold it for two reasons. One is because they got a big price for it, and the second is that they can no longer economically utilize that woodland to grow timber because of the controls. One of the controls that they have in Vermont is the inability to use aerial spraying. This is a dollar and sense issue to the people that I represent in this state. You cannot substitute jobs in the woods for jobs in tourism. You can't make as much money flipping hamburgers or making beds in motels than you can make driving a skidder or running a chain saw. These young families depend on that revenue from those jobs. Our economy up there is absolutely tied to that, and until we find some way to substitute other jobs, other industrial types jobs for those jobs, we simply cannot have bills like this pass. This is another agenda. The agenda is stopping the commercial operation of timberlands. Convert those woodlands in the North Country to wilderness, and let the people move out. That is the agenda and this is part of it. This is another nail in the coffin of the economic base of the area that I represent. We talk a lot about the 300' issue. There is a more significant part of this bill that we haven't talked about. I call your attention to it on page seven, III under V. "Depressions or runoff areas." Well you have to have 300' around the depression. Now if you have ever been to the North Country, or if you have ever been out

behind your house in the spring of the year, there is a depression with water in it. This means that if you have a depression with standing water in it, you have to have a 300' buffer around it. You couldn't walk through the North Country without stepping in an area like that. So this bill needs to be put to rest. The studies need to continue. There is no scientific evidence that what is happening up there is harmful. The chemicals that are used in aerial spraying are very similar, if not the same, as the chemicals that we put in lakes to kill milfoil and algae growth. I would recommend inexpedient to legislate.

SENATOR RUSSMAN: Senator King, you are aware that that depression and those things set forth have been in existing law for a number of years and that is nothing new. That is what they have been working under?

SENATOR F. KING: It is new when you go from a 165' to 300'.

SENATOR RUSSMAN: Right, but the wording is not new in terms of what we have done. The other question I have for you, is I assume, in terms of your question about another agenda, you are aware that I supported the multiple use HJR that we signed onto in terms of keeping the White Mountain National Forest a forest, instead of making it into a park, as far as trying to turn that area into a wilderness area. You are aware of that, aren't you?

SENATOR F. KING: I am well aware of that and I was not commenting on you, but you are also aware, Senator Russman, that there are substantial numbers of people driven by high dollars in their environmental movement that do in fact want to lock the woods up and not cut any trees. You are aware of that aren't you?

SENATOR RUSSMAN: There are probably a few.

SENATOR F. KING: Are you aware that the Sierra Club is one of them who has a public policy that there will be no trees cut on public lands. Are you aware of that?

SENATOR RUSSMAN: I am aware of that.

SENATOR F. KING: Thank you.

SENATOR PIGNATELLI: I rise to support SB 68. This legislation is an important first step in addressing the concerns regarding the aerial application of herbicides in New Hampshire. Aerial spraying of forestry herbicides began in New Hampshire in 1988. Since then the number of acres sprayed each year has increased from hundreds to thousands of acres. Far from bringing the strictly regulated program, aerial herbicide spraying in the state has been plagued by incidents of unintentional over-sprays. For example, a 40-acre area was sprayed by accident in 1991, and there are problems with off target drift as Senator Russman commented on and water contamination. Given the history of incidents over the past 11 years, one would hope that the program would be subject to strict monitoring and enforcement; unfortunately, monitoring of aerial application has been minimal. Last year only seven of forty-five spray sites were monitored to detect off target drift and water contamination. Water quality testing occurs only at the time of spraying and only at a few sites, and no follow up testing is done to determine whether water contamination occurs after rainfall or in run-off areas. Even with minimal testing, results have shown that significant incidents of drift, as in one instance in 1998, where drift was detected as far away as 1,584' from the target area on the edge of a human drinking water source. Aerial spraying of herbicides is a very real environmental and human health concern. I urge you to recognize the importance of all plant, ani-

mal and human life in the state of New Hampshire, and vote this bill ought to pass as amended. Thank you. This is going to be a very long day, and I just wanted to get my views out on the table, and I will not take any questions. Thank you.

SENATOR WHEELER: I rise in support of this bill and I want to assure all of those who are listening that the members of the Environmental Committee who voted for it don't have a hidden agenda, and I don't feel that we are tools of people with a hidden agenda. We certainly don't want to eliminate jobs in the North Country, that is not our intention at all. When someone talks about being driven by high dollars, the environmental movement, largely depended on by volunteers, is not the first group that comes to mind for me. In all of these bills that we will be talking about in the Environment Committee today, we are talking about balance. Balancing our economic development with protections for our health. We are not talking about balancing economic development with pretty scenery for tourists, we are talking about issues that affect public health. So bear that in mind. The evidence that you all have before you that Senator Russman referred to about buffer zones, indicate that 165' buffer zones is not protecting our health, and that is why we are encouraging this modest expansion. It is less than what we had originally intended of a 300' buffer zone. I honestly do not believe that it will disserve our economy. Thank you.

SENATOR BELOW: I understand the pending question is on the amendment that is being offered by the committee. I am in the four that voted against the amendment, and I would urge you to defeat the pending amendment. Whether it is adopted or defeated, I will offer an alternative amendment. I think that there is aspects that are reasonable, but I think that the amendment before us now is out of balance, is out of perspective, and goes too far. Particularly with regard to the point that Senator King was pointing to, the reference to depression or runoff areas. As that is not a phrase that is in statute currently, it is not a phrase that is in rules currently, it is not a term that is defined in rules or statute. It has such a broad term that it effectively would mean that we are in defect or prohibiting aerial spraying of herbicides, which may sound good, but the problem is, that it does take these landowner's ability to manage a portion of their land for intensive softwood growth. The primary herbicide that is used is something called glyphosate, which is something that is used by many homeowners in a product called "Round-up." You have seen the ads on television. It is used by municipalities sprayed alongside curb lines to kill growth along curb lines. It kills broadleaf growth, and it knocks off the foliage. In its forest application, it allows some of the land to be intensively used for bringing back the softwood growth. In that forest management, it allows them to less intensively manage other lands, so that they are available for other purposes. If we take away this ability for them to manage some of this land in this way, I think that we do endanger the environment, in that we create the risk of forcing that onto the market and for other uses... I don't think that is necessarily constructive for our environment to take away this important part of our economy and multiple use of land. The important thing though is the glyphosate is...there is talk that this will protect the public's health. There is no evidence that has come forth that the current practice is really endangering public health, or that we are getting more glyphosate in the water from this activity than we are getting from people spraying it on their lawns or alongside the curb line, where it washes right into our storm water systems and into our public

water supplies without any 300' setbacks. I support the language that says the 300' setback for all of these other things, including surface waters. That is a term that is defined by statute, it includes brooks, streams, creeks, wetlands, marshes. It covers a lot of area, and when you start taking all of those things into account, you are constraining the area where this activity can be done. Extending it to depressions or runoff areas, which is an undefined term, and it is not something that is mapped, you cannot look on the map and say where is the depression and runoff area with water flow? That makes it a de facto ban. So I would urge your defeat of this amendment, and I would offer an alternative amendment which is virtually identical to this, except it strikes that one phrase, and also does include another watershed to use as a control, and a study of this issue, so that we can be better informed about it for the future. The depressions and runoff areas is something that was referenced in permits that were issued. The Pesticide Control Board would still have the ability to set setbacks from depressions in runoff areas as part of their broad ability to control setbacks to sensitive areas. So it doesn't constrain the Pesticide Control Board, which gets input from other agencies to do this on a case by case basis.

SENATOR FERNALD: Senator Below, if we pass the ought to pass with amendment, then would your amendment lay over this amendment?

SENATOR BELOW: Yes.

SENATOR FERNALD: Because you had suggested that we vote against this amendment out of committee, but I am sort of under the impression that...although I haven't seen your amendment, that it could lay over this one?

SENATOR BELOW: Either way, yes.

SENATOR RUSSMAN: Senator Below, you realize that you can still make hand applications of this? In other words, if you want to do it by hand, certainly you could do that if you choose to. You certainly wouldn't want to put that roundup on your weeds from standing 100' or flying over your house at 100' in the air or 75' in the air, I don't think, would you?

SENATOR BELOW: No, certainly not, and that is why I support the language to have a 300' setback from boundary lines, buildings and all of these other things.

Question is on the adoption of the amendment.

A roll call was requested by Senator F. King.

Seconded by Senator Pignatelli.

The following Senators voted Yes: McCarley, Trombly, Disnard, Fernald, Pignatelli, Larsen, Russman, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Below, Roberge, Squires, Francoeur, Krueger, Brown, J. King, D'Allesandro, Klemm.

Yeas: 10 - Nays: 13

Amendment failed.

Senator Below offered a floor amendment.

Sen. Below, Dist. 5

Sen. D'Allesandro, Dist. 20

1999-1361s

08/03

Floor Amendment to SB 68

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

AN ACT establishing minimum 300 foot buffer zones around sensitive areas from application of herbicides, authorizing a study of environmental effects from residual herbicides and making an appropriation therefor.

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

1 Findings. The general court finds that scientific measurement and monitoring of residual herbicides in waters and aquatic resources of the state from aerial spraying of forest lands for timber management purposes should be conducted to provide a greater basis for adequate regulatory safeguards and controls on aerial herbicide spraying.

2 Study.

I. Beginning July 1, 1999, the department of environmental services is authorized to conduct an ongoing study of the environmental effects from residual herbicides due to aerial spraying of forest lands. The study shall be in addition to other monitoring of pesticide residuals which may be conducted by the department, and shall be focused on those north country watersheds which have received aerial herbicide application in the recent past. These watersheds shall include Lake Umbagog and the Third Connecticut Lake. The Piscataquog River shall also be monitored, to serve as a control.

II. The department is instructed to seek funding for the study from federal and private sources.

3 New Subparagraph; Scientific Measurement and Monitoring of Residual Pesticides in the Waters and Aquatic Resources of the State Fund. Amend RSA 6:12, I by inserting after subparagraph (vvv) the following new subparagraph:

(www) Money received from state, federal, or private sources for monitoring of residual pesticides under 485-A:4, XI, which shall be credited to the scientific measurement and monitoring of residual pesticides in the waters and aquatic resources of the state fund.

4 Appropriation. The sum of \$20,000 is hereby appropriated to the scientific measurement and monitoring of residual pesticides in the waters and aquatic resources of the state fund for the biennium ending June 30, 2000 for the purposes of section 2 of this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

5 New Section; Buffer Zones for Aerial Application of Herbicides. Amend RSA 430 by inserting after section 41 the following new section:

430:41-a Buffer Zones for Aerial Application of Herbicides. A buffer zone or non-spray area of at least 300 feet shall be maintained between the targeted spray area of an aerial herbicide application and the following critical areas:

I. Private wells, springs, and other sources of water used for drinking or domestic purposes.

II. Adjacent property lines, provided adjacent property has ownership other than that of applicant.

III. Houses, barns, and other structures.

IV. Animal feeding and watering tanks.

V. Public roads.

VI. Surface waters, as defined in RSA 485-A:2, XIV.

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

1999-1361s

AMENDED ANALYSIS

This bill:

I. Establishes minimum 300 foot buffer zones around sensitive areas from application of herbicides.

II. Authorizes the department of environmental services to conduct a study of the environmental effects from residual herbicides due to aerial spraying of forest lands, and appropriates \$20,000 to the department for this purpose.

III. Creates a special fund for scientific measurement and monitoring of residual pesticides in the waters and aquatic resources of the state.

SENATOR BELOW: The only two differences between this and the amendment that you just voted on are on page one, line 19. "The Piscataguog River shall also be monitored to serve as a control." It is a river that does not have any aerial herbicide application in its watershed. So that is part of the study that is in the bill. The other version is on page two. Essentially on line ten, the former depressions and runoff areas are eliminated and all of the other factors are in there. This is, I think, a version that the timberland owners have indicated that they could live with. I don't think that they necessarily like it, but they can live with it as opposed to the previous version.

SENATOR FERNALD: I am going to vote for this amendment, of course I just voted for the last amendment, and then I was going to vote for this one. I wanted to speak to a few points here. There was some discussion before about pesticides, and I just think that it should be clear to everybody that we are talking about herbicides and not pesticides. There was some talk about what is this going to do to the farmers? I don't know if we have farmers doing aerial spraying, but I would guess that we don't. That we just don't have that big of farm fields around here. I would like to say that there isn't just one person in this room that has experience in the North Woods, my family has had a camp in the woods of North central Maine since 1917, and I have spent a lot of time up there. I have seen the areas up there where the lumber companies have sprayed these herbicides. I will say that it is rather shocking to see this area of luxuriant spruce and balsam fir, and then dead maple and birch in between. I know that there are people who think that is terrible, and that we should ban all herbicides. I am not one of those people. Forestland, particularly the industrial Forestland that Senator King refers to, is a cropland. These people are farmers. It is really no different than the farmers who spread herbicides down the rows of their cornfields. I don't think that we should be banning herbicides whether they are in woods or they are in farm fields. If you have ever used a herbicide and you can buy the stuff at your local Agway or garden supply store, it says right on it, "very toxic to fish, do not use near water" and this is what we are talking about. This stuff is poison when it gets into the water, not to mention if it gets near people. I think the buffer zones are important, and I think that the buffer zone that we have is not big enough. I think that the change that Senator Below proposes about depressions and runoff areas is a good one, because I found it very vague when I read it, though I didn't think enough to make an amendment. I am glad that he did, particularly where, if you keep depressions in there, all you need is one little depres-

sion in the woods. and pretty soon the entire woods are a buffer zone and there are no woods left for spray. We leave it to surface waters that are the real buffers that we are talking about here now. The real protected areas, because in the North Woods, there aren't a whole lot of houses and wells that are being used for water supplies and so forth. I think that this amendment is a good one, and I ask you to vote for it. Thank you.

SENATOR KRUEGER: Senator Fernald, have you been made aware of any poisoning of fish or water due to herbicide spraying?

SENATOR FERNALD: Fish don't talk when they die.

SENATOR KRUEGER: Well I know that, and I didn't think that the fish would tell you. I thought that maybe somebody else would.

SENATOR FERNALD: The North Woods is a large area, and we have spraying, and some fish die, unless someone is 'right Johnny on the spot' to see the dead fish floating by, we may never know.

SENATOR KRUEGER: Am I to interpret your answer, that in fact, you sir, you have no personal knowledge?

SENATOR FERNALD: I have no personal knowledge. What I do know from personal knowledge is that the stuff is extremely poisonous to fish and that the buffer zones that we have now occur to be inadequate.

SENATOR BELOW: Senator Fernald, would you believe that the glyosate, which is the primary thing used in this, studies have shown that where it has been deliberately over sprayed on streams, that it has shown no impact on fish or aquatic organisms? Other herbicides might, but this one doesn't.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Fraser.

The following Senators voted Yes: Gordon, Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Roberge, Francoeur, Krueger, Brown, J. King, Klemm.

Yeas: 15 - Nays: 9

Floor Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 71, establishing a ban on MTBE in gasoline as of January 1, 2000. Environment Committee. Vote 6-2. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1265s

08/09

Amendment to SB 71

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

AN ACT prohibiting the use of MTBE as an additive in gasoline.

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

1 New Section; Prohibition on Sale of Gasoline Containing MTBE. Amend RSA 339 by inserting after section 30-a the following new section:

339:30-b Sale of Gasoline Containing MTBE Prohibited.

I. A person shall not sell or offer for sale at wholesale in this state any gasoline, as defined in RSA 259:37-b, that has been treated with the fuel oxygenate methyl tertiary butyl ether (MTBE).

II. The commissioner of environmental services, in consultation with the commissioner of health and human services and the air pollution advisory committee, shall implement the provisions of this section. The provisions of this section shall be exempt from the requirements of RSA 541-A.

III. The commissioner of environmental services shall develop a timetable by April 1, 2000 for the removal of MTBE from gasoline at the earliest possible date, but not later than January 1, 2003. The timetable shall ensure the adequate supply and availability of gasoline for New Hampshire consumers at a reasonable price.

2 Clean Air Act Requirements. The commissioner of environmental services shall make a formal request to the administrator of the Environmental Protection Agency for an immediate waiver for New Hampshire gasoline from the federal Clean Air Act requirement for oxygen content in reformulated gasoline.

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

1999-1265s

AMENDED ANALYSIS

This bill:

I. Prohibits gasoline containing the fuel additive MTBE from being sold or offered for sale at wholesale in this state.

II. Requires the commissioner of environmental services to implement the provisions of this act. Such provisions shall be exempt from the requirements of the administrative procedure act.

III. Requires the commissioner of environmental services to develop a timetable by April 1, 2000 for the removal of MTBE from gasoline.

IV. Requires the commissioner of environmental services to make a formal request to the Environmental Protection Agency for a waiver from the Clean Air Act requirement for reformulated gasoline oxygen content.

SENATOR WHEELER: A few weeks ago when the Senate voted to adopt SB 70, you were exposed to more MTBE than you may care to remember, so I will keep this short. SB 71 is the companion piece of legislation, because if we don't use this bill to get MTBE out of our gasoline, we won't be able to achieve our safe drinking water standards. MTBE is a poison, it is a probable carcinogen. You have the bright green sheet that even has footnotes on it to tell you where all of the facts came from. It is not only polluting our water, it is not helping our air, according to the National Academy of Sciences, as well as other research organizations. In fact, it is probably hurting our air quality, as it is linked to increased cases of asthma, as well as other respiratory problems. The amendment is in response to those who did not want us to move in too precipitous a manner. The timetable is taken from California Governor Davis' executive order. The three and a half years, too long in my estimation, but I bowed to superior forces, will allow us to take advantage of the information produced by all of the studies going on at the state, regional, and national level. We will be helped in our efforts by a two pronged attack. Senators Barbara Boxer and Olympia Snowe are working to repeal the reformulated gas requirements under the Clean Air Act, while at the state level, we are requesting a waiver for New Hampshire. This new timetable gives us more than enough time to explain to the EPA why we

should be given this waiver. Senate Bill 71 is a prudent, but decisive response to an environmental crisis. One that is contaminating our water, polluting our air, and jeopardizing our health. I urge you to take action now by voting in favor of SB 71 as amended by the committee. Thank you.

SENATOR KRUEGER: I rise in opposition of SB 71 for various reasons. I want to bring up a few items, and then I will tie it together. We certainly have heard during the testimony on this bill that the oil companies told the state of Maine for example, that they could provide MTBE free fuel. I have before me the actual transcript of the trial, and I will read to you from the gentleman from Irving Oil Company a direct quote, "Ah, the final issue that I wanted to address is the issue of MTBE. We would just like to state that whatever proposal we go with should not have a total ban on MTBE included in it. There is always going to be some MTBE in the systems, somewhere even if we are not generating it." I also wanted to say that there are obviously opposing sides. We have to understand that this additive came to be and was promulgated by the Environmental Protection Agency, basically through the Clean Air Act. It has been used since the 70's, and I won't go back through that discussion, but you need to know that the public health establishment, including the International Agency for Research on Cancer, an expert panel of the U.S. National Technology Program, looked at the California Proposition 65 Committee, and the conjunction with the Connecticut Academy of Science and Engineering have squarely rejected the proposition that MTBE threatens public health. You would think that would end the mania. However, the Environmental Protection Agency...so I think that it is important to look at the politics here, has not come forward 'for or against.' Basically they are looking at which way public opinion goes. We also have to understand that if you ban, and I certainly for one, would like to contain the use of MTBE. If you do however, you need to know that unless the federal mandate, requiring 2 percent oxygen in federal reformulated gasoline is repealed, New Hampshire is going to have to use ethanol. The use of ethanol has its own problems including the emission of formaldehyde. A substance far, far more serious and provable as to be a carcinogen. California is going to be looking at ethanol as part of its study. If we were to waive the oxygen mandate, then MTBE could be considered as being banned, because then New Hampshire could reduce the levels of MTBE in gasoline, while still maintaining the positive clean air benefits provided by the RFG program. There are some who believe that the Environmental Protection Agency's blue ribbon panel and the study now underway by the Northeast states for correlated air use management, has released the first phase of its work, which does a very thorough job of discussing the multifaceted issue. I hope those who have been working on the issue here in New Hampshire, on both sides, take advantage of the opportunity provided by this report. I feel that we need to look at the problem as a whole. If we become reactionary, and in fact, put a total ban on MTBE in the state of New Hampshire, effective the year 2000, my fear as someone who is committed to clean air, would be that the substitute would be far greater. Thank you very much, Mr. President.

SENATOR PIGNATELLI: I rise to support SB 71 as amended. There was a recent article published in the Boston Globe, which Allison is passing out to all of you. According to the National Research Council Study, MTBE does little to reduce summer time smog as it was intended to do. As you all know, MTBE has been added to gasoline in recent years as

part of the effort aimed at reducing air pollution in vehicle exhaust. However, as the article states, almost immediately, MTBE began seeping into the drinking water supplies, including at least three in Massachusetts, and 100 each in New Hampshire and Maine. As quoted in the *Globe* article, "We want to avoid this being a water verses air issue, and make this what is best for the environment issue." The state of Maine has ordered MTBE levels sharply reduced in its gas this summer, and the governor of California plans to eliminate MTBE by 2002. Along with the *Boston Globe* article is another article published in last Friday's *Fosters Daily Democrat*. It states that "A panel of scientists recently released an EPA sanctioned report that reveals that MTBE is likely to have little air quality impact on ozone reduction. The editorial notes that the longer the legislature delays action, the more time MTBE is allowed to course through our aquifers and taint more of our water. I believe that SB 71 allows the legislature to take a cautious approach to the MTBE issue. I support this bill as amended, and urge all of you in the Senate to do the same. Thank you very much.

SENATOR D'ALLESANDRO: I rise in support of SB 71 as amended. I think that a couple of things are quite clear. MTBE has a negative effect. I think there is ample evidence to support that. Drinking water supplies have been contaminated, and it takes a very small amount of MTBE to do a tremendous amount of damage. I think the sponsor has been very cooperative in extending the date. The date is the same as the date in California, and I think that is very reasonable. It takes the pressure off of the local distributors that we heard from testimony from in the hearing. It is a good piece of legislation. It is a piece of legislation that we must pass now. It has an enormous impact on the future of our state, and any delay would be detrimental. Thank you so much.

SENATAR COHEN: I have heard from constituents, specifically in Stratham, who have had MTBE in their water supply, and it was very frustrating. I like to be able to help constituents and there was nothing that I could do at this particular point. We need to be able to protect people as soon as we possibly can. There doesn't need to be a delay. I would prefer that this happened quickly, and it can happen quickly. The state of Maine, if I could ask for your attention here, the state of Maine. "Mainers say goodbye to MTBE" It can be done quickly. This is a generous piece of legislation allowing significant time to allow for the change. We need to do it quickly. This is not a useful chemical additive coming down from the federal government, we need to take the initiative here in New Hampshire. Thank you.

SENATOR BROWN: Senator D'Allesandro, I am curious. Are there wholesalers who can sell merchants in New Hampshire gasoline free of MTBE at this time, or by the year 2002? Will it be available?

SENATOR D'ALLESANDRO: I guess that I can't answer that directly, Senator Brown, but I am sure that gasoline can be made available, it does not have the additive in it. They make it available for other parts of New England.

SENATOR BROWN: They do? Currently? There are other states that currently do use gasoline free of MTBE?

SENATOR D'ALLESANDRO: Yes, without the additive.

Amendment adopted.

Recess.

Out of Recess.

Question is on the motion of ordering to third reading.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Trombly.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Francoeur, Krueger, Brown, Klemm.

Yeas: 15 - Nays: 9

Adopted.

Ordered to third reading.

SB 218-FN-L, regulating the land application of sewage sludge. Environment Committee.

SPLIT REPORT: Inexpedient to Legislate, Senator Krueger for the committee. Vote 4-4

SPLIT REPORT: Ought to pass with amendment, Senator Wheeler for the committee. Vote 4-4

1999-1299s

08/03

Amendment to SB 218-FN-A-LOCAL

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

1 Land Application of Sludge. Amend RSA 485-A:5-d to read as follows: 485-A:5-d Land Application of Sludge

I. Sludge or biosolids which are to be land applied in New Hampshire shall not exceed the maximum concentrations for specific chemical contaminants contained in the rules of the department, or the rules or regulations of the state in which the sludge was generated, whichever are more stringent.

II. Class B sludge that is applied to land used for grazing ruminants or land upon which one or more forage crops are grown intended for ruminants shall be immediately incorporated into the soil. Such sludge shall not contain more than 10 ppm of molybdenum.

III. Class B sludge shall not be land applied to forestland, as defined in RSA 227-G:2, VIII, or in newly clearcut areas.

IV. Class B sewage sludge and industrial paper mill sludge shall not be used to reclaim spent gravel pits above aquifers.

V. A soil pH reading of between 6.5 and 7.0 shall be maintained for such soil during land application activities and for 5 years after the last application to such land.

VI. A minimum buffer distance shall be maintained between land applied class B sludge and surface waters of the state, as defined in RSA 485-A:2, XIV. The minimum buffer distance shall be 250 feet from the high water mark.

VII. A minimum distance of 3 feet shall be maintained between the seasonable high water table and the lowest point of land application of sludge.

VIII. Class A and class B sludge shall not be stockpiled or land applied on 100 year flood plains. Stockpiles may be placed on application sites that are not flood plains up to and including 30 days before any planting or seeding. Sludge shall not be stockpiled where there is less than 3 feet of unsaturated soil between the lowest point of such storage and the maximum high groundwater table.

IX. Class B sludge shall not be applied to agricultural land which has a slope greater than 8 percent.

X. Deliveries of class A sludge exceeding 20 tons per site per year shall be reported to the department.

2 New Sections; Sludge Quality Certification Requirements. Amend RSA 485-A by inserting after section 5-d the following new sections:
485-A:5-e Sludge Quality Certification Requirements.

I. All publicly owned treatment works (POTWs) who land apply sludge shall list all industrial waste water contributors and chemical constituents of their waste water.

II. As of January 1, 2001, the following maximum metal concentrations shall be required by any wastewater treatment facility if such facility shall be issued a sludge quality certification by the department:

- (a) For arsenic, 10 mg/kg.
- (b) For cadmium, 10 mg/kg.
- (c) For chromium, 160 mg/kg.
- (d) For copper, 1000 mg/kg.
- (e) For lead, 270 mg/kg.
- (f) For mercury, 7 mg/kg.
- (g) For molybdenum, 18 mg/kg.
- (h) For nickel, 98 mg/kg.
- (i) For selenium, 18 mg/kg.
- (j) For zinc, 1780 mg/kg.

III. Sludge quality certifications shall expire 2 years from the date of issuance.

IV. University of New Hampshire cooperative extension services best management practices with regard to agronomic application rates of sludge shall be adhered to by any person who land applies sludge.

485-A:5-f Sludge Containing Dioxins. In addition to all other rules and laws applying to the land application of sewage sludge, no pasturing of livestock whose products are consumed by humans shall occur on fields that receive sludge or residuals containing dioxins TEQ above 1 ppt.

485-A:5-g Required Record Keeping for Land Application of Sludge.

I. Each sludge hauler permit holder shall record the following information, on a form provided by the department, for each load of sludge:

(a) The date the sludge is transported from the generator's site or facility.

(b) The generator's name, address, and telephone number.

(c) The quantity of sludge, in wet tons.

(d) The type of sludge, such as domestic or industrial.

(e) The name, address, and telephone number of the hauler permit holder and driver of the motorized vehicle.

(f) The name, address, and telephone number of the sites, facilities, solid waste facilities, or wastewater treatment facilities to which the sludge is to be delivered.

(g) The date delivered to the sites or facilities.

II. The information required in paragraph I shall be maintained in the motorized unit used to transport the sludge when the sludge is being transported.

III. Records required under this section shall be maintained on a permanent basis.

485-A:5-h Exclusion of Use by Towns that Regulate Prohibited. No wastewater treatment plant shall exclude a town from using its facility solely for the reason that the town exercises its rights under applicable state laws to regulate sludge disposal within its borders.

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

1999-1299s

AMENDED ANALYSIS

This bill establishes:

I. Record keeping requirements for haulers of sludge.

II. A prohibition on wastewater treatment plants from excluding towns that regulate sludge disposal within their borders.

III. Limitations to land application of sludge including sludge containing dioxins.

IV. Specific requirements and limitations for the land application of class A and class B sludge.

V. Requirements for persons or facilities acquiring sludge quality certification.

SENATOR KRUEGER: At the risk of sounding awfully negative today, which I don't particularly like, I have to rise in opposition to this bill for many reasons. I would first like to start by telling you that the Department of Environmental Science testified in opposition to this bill. Among their concerns is this particular bill's lack of specifications. The 30-day holding time and the proposed 250' setback. Several farmers also testified that this bill is a serious threat to their industry, as sludge is commonly used as fertilizer. Farmers believe that the economic impact of the legislation could hurt the remaining New Hampshire farms. In addition, and I think that this is profound, the New Hampshire Water Pollution Control Association testified that as written, this bill will in effect, be a ban on...and I say this twice, the beneficial, the beneficial use programs that have been underway for the past 25 years in the state of New Hampshire. Among other concerns, the association agrees with DES that the language in the bill is ambiguous, and it provides no discernable scientific basis, here we go again, for added restrictions that the New Hampshire DES already regulates in the existing technical sludge management program. One area that exemplifies the problems with this particular bill, is the issue of stockpiling. It limits stockpiling up to and including 30-days before any planting or seeding. Think about that. This single provision will eliminate stockpiling for the other 11 months of the year. So farmers who stockpile for 4-6 months, and any of you who have farmed anything know that you need to do that in order to get enough biosolids to meet the crop needs won't be able to do it. Farmers will not be able to use biosolids to fertilize their crops. Also, what will be done with the biosolids for the other 11 months? I personally have confidence in the Department of Environmental Sciences and their newly revised sludge management rules, to regulate the beneficial use of biosolids. I want to add just a couple other things, Mr. President. I would like to let you know that their concerns, that have been put out in a statement to us on March 25, 1999 which I will not go through, pretty much tell me that the department has control over what is going on in this area. Unless the state of New Hampshire is willing to invest huge sums of money to convert class B sludge to class sludge, it seems to me, that we are doing what is appro-

priate. I also wanted to let you know what will happen if the Senate opts to pursue these restrictions, the outcome will be greatly reduced increased cost to all kinds of municipalities; therefore, the municipal association took a very strong stand against this particular bill. Maybe the bill should be amended, and we should raise all of the money for all of these arbitrary new regulations. Think about it. Homeowners will be faced with unreasonable and unnecessary land use restrictions, because, if when you fertilize your lawns and gardens with biosolids derived products that are brought from Home Depot and Agway such as Moo Organic, homeowners who use Moo Organic or compost will have to soil test their lawns and gardens. They are going to have to consult with the UNH cooperative extension service about management practices. In fact, we heard testimony to this effect whereby a homeowner will have to maintain soil pH of 6.5 to 7.0 for five years and make sure that they are only using these fertilizers when there is less than three feet to seasonal high water table. Who is going to enforce this? Wastewater treatment facilities that recycle their biosolids such as Concord, Plymouth, Woodsville, Suncook, my town of Hooksett, and others, will be forced to accept septage from other towns that have bans on biosolid recycling. The outcome will likely be a complete moratorium on accepting any septage from any towns at these wastewater treatment facilities. Where is all of this going to go? Class B biosolid generators will be severely impacted due to loss of utilization sites such as gravel pits, pastures and farm fields. The real potential is that these generators will be forced to dispose of their biosolids in a landfill or in an incinerator, and who is going to pay for this? The New Hampshire Department of Environmental Science passed new rules, the new rules are highly technical, extremely thorough, and include the most stringent biosolid testing requirements, by the way, of anywhere in the entire United States. New Hampshire is now stricter, as it stands than anywhere in the United States. I hope that the people in this room today understand the implications of again, passing legislation that is so stringent that it goes so far past what is scientifically been proven at this point, that we are now periodically and systematically destroying incomes of another group of people in the state, farmers. We are again...I asked you the question, and if anyone in this room has the answer, I would love to hear it, what in God's name are you going to do with this stuff? Thank you.

SENATOR WHEELER: I rise in support of the ought to pass as amended in your calendar on page eight of SB 218. I want to tell you about that first section on testing with the Home Depot and Moo Organic and all of that stuff is gone. If you want to put Milwaukee sludge on your ground, you go right ahead. We are just talking about the land application of sludge here. So look at page eight, and you will know what we are talking about. Sludge, toxic waste or fertilizer? Banned from our oceans, but desirable for our agricultural land? Where does the truth lie? Despite what you will hear from industries who make a profit from it, and from the farmers who have been mislead into thinking that it is a beneficial substance without harm, it is the same stuff that our federal government regulated as toxic hazardous waste, and decided it was too poisonous to dump in our ocean anymore. Ocean dumping of sludge was eliminated in 1988. Overnight, presto. Sludge went from being a hazardous waste to being a fertilizer. It didn't change, it still has heavy metals, including mercury and lead, and it still has arsenic and dioxin, although perhaps in higher quantities than it had then. It still has some

soil nutrients in it. Does the plant nutrition outweigh the lasting damage to the land? I think not, after all, heavy metals don't go away. We just get them in increasingly greater concentrations. People living on or near sludge amended land have come down with serious ailments. This isn't just an emotional reaction. The facts about sludge are backed up with scientific evidence. I wish that I had a photographic memory, and I could point to every article that I have ever read, and tell you where it came from. I wish that I had footnotes of my testimony, but I didn't have time to do that. But I could find all of the evidence for your concerns in a very short period of time, so don't tell me that we are talking about emotions. We are talking about science here. I am not a soil scientist, I don't pretend to be one, and I don't play one on television, and I am not a chemist, but I have spent the last 11 years working on public policy to benefit public health. This modest first step regulation of sludge as proposed in the amendment in your calendar is to protect public health. I do not believe that this will slow economic development, or put an undue burden on municipalities. Sometimes we have to step back and ask ourselves if we are truly working for long-term public goals, or are we just giving in to old fears and dogmas. With specific reference to the amendment in your calendar, the new rules proposed by DES have been heavily influenced by industry, and will keep our sludge management laws the least protective in the northeast. These new rules are designed to encourage the use of sewage sludge rather than to protect the environment, and ultimately the public's health. By contrast, the provisions contained in the SB 218 amendment are based on sound and recent science and common sense. Among other things, they say when dangers are not completely known, that it is best to err on the side of caution. The bill as amended, distinguishes between Class A and Class B sludge. It affects Class A sludge in four ways only. It can't be used on a hundred-year flood plain, heavy metal in sludge can leach into groundwater. I think that we all understand that. It can't be stockpiled for more than 30 days, why? Because when large amounts of contaminated materials...they are all contaminated, they all have heavy metals and toxins and etceteras. When large amounts of contaminated materials are placed on a small land area for long periods of time, heavy rains can leach the contaminants into the surface and groundwater, and during dry and windy periods, contaminated sludge dust can blow off the site. That is why we ask that it be dug in rather than stockpiled. More than 20 tons delivered per site. Twenty tons, which is a lot...must be reported to the department. This isn't going to Home Depot and getting a bag of something, this gives you some oversight for disposal of Class A sludge, and helps keep communities from being targeted by out-of-state industry. The metal concentration standards are stricter than those in the new rules, and also the new rules make these standards voluntary. Who the heck is going to pay attention to them? That was industry's request. The levels in our bill are those recommended by the Bureau of Risk Assessment, as you will hear later. The provisions for Class B sludge in the amendment include protections to keep the contaminants and sludge from getting into our food and water supply. It can be used on agricultural land. We are not banning the land spreading of sludge. It can be used on agricultural land, if it doesn't have a slope greater than 8 percent, but if it is applied to land use by ruminant, those characters that chew their cud like cows and stuff, it must be immediately incorporated into the soil. So you have to dig it in instead of stockpiling it. That doesn't sound so impossible, and that is only on land used by ruminants. It can't be land spread on forestland because our forests are already stressed by acid rain. We know

that we get acid rain here. The nitrogen from sludge could further acidify forest soils, which then could release more toxins into our food chain and water supplies, that is why we want to protect our forestland. It can't be used to reclaim gravel pits above aquifers. I mean, I say to that, duh...not only nitrates, but also industrial pollutants from paper mill sludge solid fills have leached into our groundwater. That is what aquifers are. Although stockpiles of Class A and Class B sludge cannot be kept for more than 30 days on application sites, municipal wastewater treatment plants are not affected by this bill. They are not mentioned at all. Another important feature of the bill is the regulation of dioxin. First time that we are going to do this. One of the most toxic substances in our ecosystem. The proposed state rules allow dioxin at levels, which ignore the research showing, that it is the most potent animal carcinogen ever tested. Think about love canal, think about that town in Missouri whose name I forget, but the people who used to live there don't forget it. Human exposure to dioxin from land application of municipal or paper mill sludge can occur through the consumption of animal products from animals grazed on sludge amended lands. The final provision of the bill...and this is on page ten at the top. It says "Wastewater treatment plants can't blackmail towns into taking their sludge if the towns have enacted provisions to regulate the disposal of sludge." There is a difference between septage and sludge. If a small town sends its septage to another municipality's wastewater treatment plant, it should not be required to take back huge amounts of sludge, industrial waste, which was not generated, by the town. Under state law, towns have a right to regulate sludge under local ordinances. This provision assures that these towns are not excluded from sending their septage to treatment plants just because they have adopted sludge ordinances. Nothing in this bill would prevent a municipality from charging an additional fee for disposing of the septage as well as treating it. So municipalities could certainly do that, that would be fair. I don't think that it is fair to require towns to take back a whole lot more than they gave, and who knows from where it came? However, I know that there are people who disagree with this provision in the amendment. If the majority does not support this, I will present a floor amendment to remove this clause. However, if you do support this clause, I urge you to vote for the amendment as it is presented in the calendar. In conclusion, this bill consists of modest provisions, which reflect conclusions from scientific studies. I urge you to vote the bill as amended in the calendar. I thank you for your attention.

SENATOR F. KING: Senator Wheeler, I am now referring to my own town that has a lagoon type sewage treatment plant or system. Periodically those lagoons have to be drained, and the sludge that has accumulated has to be taken out, and historically it has been spread on corn land. Will they still be able to do that?

SENATOR WHEELER: I believe so. I don't think that it affects corn land.

SENATOR F. KING: Well corn land, and the corn is eaten by the cows that chew the cud.

SENATOR WHEELER: Well if the cows are grazing on that land, if it is not just used for the crop, but if the cows are also grazing on the land, then it would affect them. They could dig it in, but they couldn't stockpile it.

SENATOR F. KING: But they couldn't land spread it on pasture land or...what I see here is ...and my question is, if there are going to be restrictions based on communities to dispose of their own waste, and I

think that you said that these restrictions are greater than the federal law at the present time, I think that we have a 28-a issue. I think that we have an unfunded mandate issue if we are going to be imposing costs onto communities because of the action of the legislature that is over and above the existing federal law, so I am concerned about that fiscal impact on my community and other communities in the state if in fact we are creating a 28-a issue?

SENATOR WHEELER: Senator King, if your community wanted to put the sludge on corn land that was also used for grazing animals, according to this legislation, you would have to incorporate it into the soil. You could still dispose of it that way, but for the reasons that I listed above, we don't feel that it is in the public's health interest to leave it in a stockpile.

SENATOR GORDON: TAPE CHANGE I know that there are concerns in regard to the municipalities that operate septic treatment plants. They are concerned about this piece of legislation and what they are going to do with the products that they produce. I am concerned about the issue, but I don't think that this is the right approach. I think that the approach that we should be taking is trying to focus in on what are we going to do with the sludge that we produce if we are going to do legislation. I don't think that we should take an MBTE approach to this. If we are, what approach is it going to be? We all have to stop going to the bathroom by the year 2002? I don't think that works. I think that the focus of the legislation ought to be on what are we going to do with the by-products that we are producing here in New Hampshire, and not on trying to make the regulation of sludge as restrictive as this bill does.

SENATOR BROWN: Senator Wheeler, two-years ago in the House Finance Committee, this issue came to my division and I understand that there is an awful lot of motion on both sides of it, but we instituted at that time, a testing process with fees paid by the folks that bring in this sludge to find out if those problems...if those contaminates were present. Do you know if there was any evidence of a problem with this stuff?

SENATOR WHEELER: Actually, Senator Fernald is all prepared to address the testing at probably exhaustive length. So we do have research, and I would say that the municipalities that we have the data for indicate that they come in below the levels proposed in this legislation, so it would not effect them, so I thank you for that question.

SENATOR PIGNATLELLI: I rise to support SB 218 and before I start, I would just like to tell Senator Gordon that when you go to the bathroom, that is called septage, that is not sludge. We are not dealing with that in here, we are regulating sludge. I feel that I am the septage, sludge and compost queen sometimes. As I said, I rise to support SB 218 as amended. This bill has been introduced as a response to the new sludge rules recently adopted by the Department of Environmental Services and these rules ignore many environmental concerns. The purpose of this legislation is to legislatively provide the management testing sludge quality standards and land application standards that will protect New Hampshire's agricultural resources, water resources, wildlife and the health of its citizens. As amended, SB 218 focuses on the regulation of Class B sewage sludge, which is a lower quality than Class A sludge. There are still numerous scientific questions pertaining to the environmental and public health effects of land applying sludge. One concern is that there is a potential for organic compounds and excessive nitrates to contaminate surface waters and groundwater. There

are also uncertainties regarding the behavior of metals in ecosystems which warrant further research. Recent evidence suggests that certain organic compounds, which may be contained in sludge, may possess estrogen-mimicking properties, which could be harmful to humans and animals as well. In addition, more research and testing is needed to resolve uncertainties regarding the potential for pathogenic viruses to migrate into groundwater. There is also a need for greater sampling and testing of forages and animals to determine the long-term impacts of sludge as little is known about the impact on wild-life grazing on sludge applied land, and the potential health effects for humans consuming such wildlife. With all of these questions, concerns and uncertainties, I advocate a cautious approach to the use of sludge for land application purposes. I support this legislation and I urge my colleagues to vote for SB 218 as amended. Thank you.

SENATOR FRASER: Senator Pignatelli, would you believe that in my town of Pittsfield that there is a bicentennial farm?

SENATOR PIGNATELLI: Yes.

SENATOR FRASER: It has been in existence for over 200 years. Would you further believe that my daughter is married to a dairy farmer, that for the last 200 years that they have been milking somewhere around 60 heads?

SENATOR PIGNATELLI: Your daughter's husband has been married for 200 years?

SENATOR FRASER: No. Let me restate that. Would you believe that my daughter married into this family that milks 60 heads a day. Would you believe that?

SENATOR PIGNATELLI: Yes.

SENATOR FRASER: Would you further believe that I think they have been spreading sludge long before the word sludge ever came into being, would you believe that?

SENATOR PIGNATELLI: If you say so, I would believe it.

SENATOR FRASER: Thank you. My question, Senator Pignatelli, is do you have any evidence at all that people have had health problems as a direct result of the spread of sludge?

SENATOR PIGNATELLI: I think probably Senator Wheeler does, and she said so in her statement. Also Senator Fernald believes so, as do I, believe it. I also believe that the nature of sludge has probably changed over the past 200 years, and now it is probably a lot more toxic, and that is one of the reasons why we no longer can dump it into our oceans.

SENATOR FRASER: But you, yourself, have no knowledge of someone who has become ill due to the spreading of sludge?

SENATOR PIGNATELLI: Well I might have known it when we had the hearing, and I might have heard evidence, my file is very thick, but I know of no one in my family that has been affected by it, but who knows.

SENATOR BELOW: I rise in opposition to the proposed amendment and motion of ought to pass. I think that this is an emotional issue, because I think that we have a natural gut reaction of gut, a version to our own waste, and that is something that exists amongst mammals in general, and it is a good biological reaction. We want to void our waste because it does have pathogens and problems. The reality is biosolids or sludge

primarily consists of the fiber from the food that we eat. It is a natural byproduct, and except for those people who are still using outhouses or have self composting toilets, it ends up as sludge in our sewage treatment plants. This problem is not going away, we need a good rigorous control and regulation of this, but we also need a sustainable policy that allows us to manage this over the long-term. So in some ways, I am saying yes, let's take a rigorous stand, and say that we are against the problems of pollution that could come from this, and the human health problems, but on the other hand, there are real problems with this amendment. The tendency of this amendment is going to be to put somewhere in the order half of the sludge generated in the state from our sewage plants, it is going to force it to go into landfills. That is not a sustainable solution for the long term. It is important to note that there was this comment that this is a modest first step. It should be noted that we have a very aggressive second-third tier step already in place, which is the DES regulations, which they spent over two-years developing and they were adopted in early March. They are fairly rigorous regulations, and they called for the most rigorous testing in the nation. The EPA in other states are looking forward to our test results, because it is going to tell people about things that have never been tested before in sludge on a systematic basis. In the new rules, if you haven't read them, they are pretty interesting. There are over 170 substances that will be tested four times at the cost of \$2,500 for each test, by each generator of sludge in this state. That will provide a good base line. There is a comment that the standards in here are based on sound and recent science. I am not sure that is a defensible argument. The standards that are in here are based on an early draft of the rules from last June, I think, that somebody just passed them out, and the person who developed these at DES, acknowledges that they are based on flawed technical analysis. That is why he withdrew them, that is why DES amended them. They were based on an attempt to look at what is the technically feasible minimum levels that we can get to in New Hampshire, and it was based on incomplete data that was flawed, and when they took another look at it, they said well maybe most of the treatment plants, or half of the treatment plants in the state can't get to this standard. They would be precluded from land application sludge. Instead, they said well instead of saying what is technically the limit of what we can achieve, let's go back and look at good science, risk assessment, and review that. The Office of Health Management, the Bureau of Health Risk Assessment, reviewed the EPA standards, and they recommended more rigorous standards and lower limits than the federal law in three areas, arsenic, cadmium and mercury. Those recommendations were in fact incorporated into the DES rules. This goes beyond those recommendations. Just to point to a couple of practical problems that come from this, there is the reference that Class B sludge not be used in newly clear cut areas. Well that means if you have some land that is open and it has been overgrown and you cut that overgrowth, and you want to restore a grassland, and open space to that field, you can't use Class B sludge, and that is a very economical appropriate application for that. There is the provision that the soil pH be maintained for five-years after application. This, contrary to what I think that I have heard today, I think the way that this reads, that refers to any land application of sludge, any standard...it doesn't say just Class B, so that the products that you buy at Agway or K-Mart, which have been used in the past, they have been used since 1920 throughout the country. It has been selling in stores and you can buy it as a composted

product. Essentially, my understanding is that they pasteurize it. Perhaps it is both composted and heat processed. That is produce that this rule applies to. Homeowners will have to test their soils and maintain that soil level, and they don't have to do that for others, much more toxic fertilizers that they can buy at the same store. You have the setback requirements. Again, that becomes a real problem for a lot of farmers who are looking at this. There was a comment on the stockpiling. The best time to spread sludge, and this applies to both Class A and B, is in the early spring, around this time of the year, maybe a little earlier. Early May. Well if you are a farmer who lives at the end of the road that gets posted during mud season, you have to get that product in there in late February or early March before the postings go up. Then you have to wait over 30 days, 45 days, before you can spread that. So you are saying to some farmers, including for instance, the Townsend family in Lebanon who has operated a dairy farm from many years, that they can no longer use Class A or B, because they can't get it into their farm before the signs get posted, so that they can spread it before the times that the postings come off. Again, the UNH agronomic application rates, it says for any person who land applies sludge, that includes the products that you can buy in the bag at Agway. We do not have required homeowners to go to, to consult on the rates of application, and to adhere to those on any of the other fertilizer products that they buy. On the dioxin point, yes, dioxin is a nasty thing, let's do everything that we can to get rid of it, but think about the standard, one part per trillion. How many people are there in the world? Perhaps five billion and one part per trillion is something like half a pound or one pound of flesh out of all of the people in the entire world. It is in many ways, below detection limits. The point is that the manure coming out of cows often has levels of dioxin well above one part per trillion. Our stomachs have higher than that, wood ash has higher than that, and wood sawdust has higher than that. Certainly many of the commercial fertilizers have more than that. You end up with a situation where we are constraining it beyond what the alternatives might be. Then there is the sludge hauler permit requirements. This is in the rules, this is in contents, this does not tie off to the rules, it stands alone. Does this mean that when you pick up a bag of process compost product, you have to have a sludge hauler permit. It is not at all clear. I think that the implication is anyone who hauls sludge has to have a permit. The question is, are we going to substitute our judgement based on sort of an incomplete and quick review of this for the judgement of DES? If we think that DES is not doing the proper job on this, then we need to look at that problem, but I think that this is going beyond our proper role and moving into micromanaging. I appreciate the proponents and the sponsors of this bill for bringing this to the forefront, it certainly is an issue that we need to stay on top of and to continue to keep ourselves informed on so that we can create good public policy on this and a sustainable one.

SENATOR WHEELER: Senator Below, would you believe that there is nothing in this bill that is affecting homeowners going and buying bags of whatever they want to buy bags of and putting it on their lawns, unless they happened to have a gravel pit in their backyard over an aquifer and they want to fill it with little bags?

SENATOR BELOW: No, I do not believe that. I don't see where that exclusion occurs. I know where it occurs in the rules that DES adopted, but I don't see it at all in this amendment.

SENATOR WHEELER: May I help you look at the amendment?

SENATOR BELOW: Sure.

SENATOR WHEELER: We are talking about Class B sludge applied to land use for grazing ruminants. Now I suppose if you had...the amendment starts on page eight. I am looking at my copy. Roman number II, that if you have that you need to incorporate it. So if you have a lot of bags of Milorganite and you have Llamas, you need to dig it in, you can't top dress your soil. On III, if you happen to have a whole lot of forest land or newly clear cut areas, you can't dump a whole lot of bags of Milorganite on it if you wanted to. Maybe you could, Milorganite is probably Class A, I don't know.

SENATOR BELOW: It is.

SENATOR WHEELER: Well then you could do it. It is not affecting homeowners.

SENATOR BELOW: The answer to your question is no. I don't see in V, VIII, VI on the agronomic rates or the sludge hauling. I don't see where that excludes these other situations. That seems to broader include sludge on all points.

SENATOR WHEELER: Well would you believe that I think that you are misinterpreting the bill?

SENATOR WHEELER: Senator Fraser, this is also a would you believe just to get a few more facts. As far as documented cases of health problems with sludge, that there is a suit going on in Augusta, Georgia, from dairy farmers because of what has happened to their cattle and their milk because of all of the sludge that was dumped onto their land. But closer to home, there is a sad case, and I can't remember what town it took place in. I just remember the fact that there was a little boy named Shane Connor who died and his parents are now suing Wheelabrator for the death of their son, because they feel that this was caused by the health consequences of top dressed fields, and the whole neighborhood nearby feels that they are also suffering health consequences, so we do have pending court cases about this in New Hampshire. That is a would you believe?

SENATOR FRASER: Thank you. If you say so, Senator, I would believe it.

SENATOR FERNALD: I want to speak on this issue, and I am not on the Environment Committee, but you may recall that sludge was something of an issue in my campaign. I first want to talk about, what is sludge? Sludge, the solid or semi-solid material that is produced by water and wastewater treatment processes excluding domestic septage. We are talking about the stuff that comes out of a sewer system, and a waste treatment plant or a sewage lagoon. I say that because I don't think that we have had sludge for 200 years. I am not sure that we had wastewater treatment plants 200 years ago. We are not talking about manure from cows, unless someone has cows that use flushing toilets or any other kind of farm waste or manure. There is a lot of talk about Class A and Class B sludge. I didn't know what it was until I went and looked it up. It is actually in the regulations, which is a good place to find the precise definition. But basically, Class B sludge is sludge that has pathogens in it, meaning that it has bacteria and disease, organisms and what have you that is naturally occurring in human waste, whether it is E-coli or salmonella, or what have you that gets flushed down your drain at home or flushed down a hospital drain and ends up in the sewage plant. Class A sludge does not have the pathogens in it. There are several ways that you can get it out. One is to compost it, which basically in a composting pro-

cess, I think that the pile gets heated up and it kills the bad organisms. The second way is simply to heat it up, to pasteurize it, and the heat kills the organisms. The third way is to lime it heavily, and the lime kills the pathogens. Otherwise A and B are the same. If they have metals or not, and we have dioxin or not, or whatever, A has got the pathogens and B doesn't. So A and B doesn't have anything to do with the level of metals or the levels of dioxin. The real issues here are those pathogens and those metals. Heavy metals are poisonous in high enough concentrations. We know the effects of lead. We know the effects of mercury from ordinary press, and I don't know the effects of all of these other metals, I just know that these are other metals that we have to look out for. The problem with land application of sludge, particularly if we are talking about farm fields, which is primarily what we are talking about, is that it is applied year after year, and the metals will build up because the heavy metals don't migrate all that much unless they are drawn up into the crops or eaten by the animals, and then they get into our food supply. So we want to be careful about heavy metals, because it doesn't leach out particularly quickly, and once it is in there, it is very hard to get out. You may have heard about a recent program with the federal government to go into Roxbury and scrape the soil away because the buildings were painted with lead paint, and the lead paint has flaked off into the soil, and the soil is all contaminated, and the kids are all running around and stirring up the dust and get lead poisoning. Once you get this stuff into the soil, the only way to get rid of it is to take away the soil. So we want to be careful about what we do with heavy metals in our soils. So then the question becomes, what is the appropriate limit? The limits that are in this bill are lower than what is in the regulations. Now, what I understand is that these limits were set with the idea that they should be 99 percentile. Now that sounds like, ooh, that is really hard. What that meant was that 99 percent of the sludge in New Hampshire can satisfy these limits. I have some test results here from cities and towns in New Hampshire that were done by the Department of Environmental Services. I have Gilmanton, Hill, Concord, Boscawen and Claremont. Claremont may have been done by somebody other than the state. In each of these reports, the sludge passes all ten heavy metal concentration limits that are in this bill. So the suggestion that this is going to ban all land application of sludge is not true, because most of the sludge, if not the vast majority of the sludge, as I understand it, meets these limits. The reason that we need the limits is because there is some sludge that does not meet it and it is primarily industrial polluters who are putting heavy metals into their waste stream that gets into our sludge, and then it is getting onto our land, and it is unsuspecting farmers who are being given a clean bill of health, the good housekeeping seal of approval by the state, that this is sludge, and it is good to use, and heavy metals are in there that are going to build up in their soil. I should add that the Claremont results that I have, are actually a six-year quarterly history testing of their sludge, and not once did they go over the limit on any of the ten heavy metal limits that are listed in this bill. One problem that we have is out-of-state sludge that is coming into New Hampshire because our limits are more lax than other states. That is why that I passed around that hand out that you all should now have because the right hand column shows the lowest limit of remaining New England states. If you look at the last column and the next to the last column on the right, the limits that are in this bill are similar to the most restrictive of other states, and in a couple of cases, I think it is higher, and in a couple of cases it is lower, but we are in the same ball park as the most restrictive other

states. There are special limits put onto Class B sludge in this bill and there is good reason for that. It has the pathogens in it and we don't want those pathogens to go off and get into our surface water or our groundwater, so we have setback requirements. We have water table requirements, we have requirements that if it is put onto fields that cows graze, that it is turned into the soil so that it is not sitting on the top, and somehow the pathogens are going up into the cow, and then off into our milk. There was discussion about homeowners and that they will be required to maintain a pH balance in the soil. There is no intent for this to apply to homeowners. If it is unclear...the language that was originally in the bill that would have applied to homeowners is gone. If it is still unclear, we will fix this in the House, and we will make it clear that this does not apply to homeowners. We are talking about people who are taking truckloads of sludge and spreading it on their land. There has also been a lot of mention of testing. That we have more restrictive testing in New Hampshire than ever before. Well testing is great, but if your limits for heavy metals are too high, then we test it, and if there is a lot of mercury, but it is below our limit, and so you can go ahead and spread it. The limits here are important, not just the testing. I think that there are a very many good reasons to pass this bill, and I would urge you to support it.

SENATOR BELOW: Senator Fernald, would you believe that it is my understanding that in fact the standards proposed in this amendment are not at the 99 percentile? In fact a representative from DES told me this morning that perhaps only half of the sludge would meet this standard.

SENATOR FERNALD: I would welcome DES providing that they have something in writing explaining what they are claiming. Again, I have all of these tests from seven or eight towns where they did not have a problem with any of the limits. I would like to further say in response, is that anytime that we propose a toughening of environmental regulations, the natural response of the people who are going to be subject to it is that they can't do this, it is going to cost money, and they don't want it. Then what we find is that people respond to the new limit, there are new technologies, new procedures. These will change people's behavior, if in fact they're a system that has a problem. For example, I am told that Concord has a chromium problem. Not in every batch, but occasionally they go over the chromium limit. If we put in tough limits on chromium, they are going to go and talk to their industrial people and find out who is putting in the chromium, because if we get anymore of this stuff, we have to start landfilling or incinerating our sludge. We put in these limits and we will get the results that we want, which is cleaner sludge that we can give to our farmers.

SENATOR BELOW: Senator Fernald, would you believe that some of these like copper and lead may be primarily things that may be leaching out of plumbing systems, and it is not as simple as saying let's go find who is putting it in to take it out?

SENATOR FERNALD: I have heard that argument about lead and I really suspect that there are very few lead pipes in New Hampshire...

SENATOR BELOW: It is the solder. There is a lot of lead solder out there, would you believe?

SENATOR FERNALD: I know that there is a lot of lead solder out there, but I don't think that it is contributing that much to the lead problem.

SENATOR BELOW: Would you believe that the new DES rules do in fact set lifetime cumulative loading rates, so that the cumulative impact of the metals is in fact regulated under the new rules, it is not just whatever level it gets to?

SENATOR FERNALD: I do know that there is a loading requirement. On the lead, I would mention that if a town felt that it was having lead build-up because it was coming out of solder in the pipes, there has been efforts in the past, where that is an issue, to have the towns make sure that their water is not too acidic by buffering it a little so that the acid in the water does not cause the lead to leach out. So that if it is indeed a water system problem, the town can cure it in the water that they produce.

SENATOR LARSEN: Concord has a Class B biosolids recycling program. From having sat on city council for many years, and having sat through the discussions on land application on biosolids in the city of Concord, we took a pretty close look at the sludge that Concord produces. There is good sludge and there is bad sludge, and Concord has pretty good sludge. Once in a while we do have a little bit of chromium problem, but in general we have pretty good sludge. In fact, the cities in Europe for years have applied biosolids on their lands and have used that kind of fertilizer to enhance the soils and provide low cost fertilizer. The amendment that we are looking at says that sludge Class B could not be land applied to forest lands. It is my recollection that at one time Concord attempted a forest land application, and I remember them saying that the trees grew very well. The city of Concord, like most municipalities, has to stockpile its sludge through the winter months because you only make a land application primarily in the spring for the growing season. The amendment that I am looking at says that "it shall not be stockpiled or land applied on a 100 year flood plains." Seeing Concord is in the Merrimack River flood way and flood plain area, it has for years been an agricultural plain, a rich growing area. The amendment that I am looking at states that you cannot apply Class B sludge on agricultural lands which have a slope of greater than 8 percent. We have rules, DES rules that say 15 percent. We're making those rules tighter. I do not have knowledge of the exact slopeage of the agricultural lands down to the Merrimack River. I know that we have setbacks, and I know that we require testing of our sludge. I know that we do our best, and our farmers in the Merrimack Valley do their best to protect the river that they farm along and that they value. A couple of years ago I recall us debating sludge before, and at that point, we asked the department to strengthen their rules. We have departmental rules now that are an attempt to be the kind of restraints on land application of sludge in the state of New Hampshire that will protect our groundwater's, protect our rivers, protect those who consume products off of the land where it is grown. I think that we do need to let those rules work. I am willing to look at those rules to see if they are strong enough, but I think that we cannot at this point, well at least I cannot, support further constraints on municipalities that are **TAPE CHANGE**

SENATOR COHEN: There has been a lot of misinformation around here about this bill. We are not talking about a sludge ban. There are different kinds of sludge. What we are talking about here is keeping the toxic stuff out of the food chain. That is all that we are talking about here. That is what this bill does. It doesn't ban the spreading of all sludge. We

are talking about costs...I think that it is irresponsible of us not to factor in the long-term cost of what we are doing. I would urge my colleagues to support the committee amendment.

SENATOR FRASER: Mr. President and members of the Senate, first of all I would like to address the comment that was made by Senator Fernald, that we are from the legislature, and we know what is best for you. I don't think that is necessarily true. I am going to go back about eight years ago when the federal government was willing to pay dairy farmers to close up their shops and get into some other business beside producing milk. At the time, my daughters in-laws, they opted to stay in the business of milking, and they are still doing it here, and, as I suggested earlier, they are now considered the only bicentennial farm in the town of Pittsfield. But they don't make a lot of money at this, Mr. President. They are still milking 60 head, but if they didn't own the school bus system in the town, clearly they wouldn't be able to sustain themselves. Every time that we impose more regulations on these folks, the harder it is for them to survive, and more importantly, it is almost impossible for them to continue to do what they have been doing for the last 200 years. One more comment. Senator Wheeler spoke about the fact that she had information relative to the health of some folks in some part of the state. My understanding is that those health problems preceded the implementation of rules by the administrative rules, so I don't think that is an appropriate answer. Like I said, I don't know the difference between A sludge and B sludge. I am a simple guy. All that I know is that every time that we impose more regulations on these folks, we are making it a lot more difficult for them to survive, and that is wrong. That is just not right. I hope that you will vote against this bill. Thank you.

Question is on the adoption of the amendment.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Fraser.

The following Senators voted Yes: Disnard, Fernald, Pignatelli, Russman, Wheeler, Klemm, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Below, McCarley, Trombly, Roberge, Squires, Francoeur, Larsen, Krueger, Brown, D'Allesandro, Hollingworth.

Yeas: 7 - Nays: 15

Senator J. King (Rule #42).

Amendment failed.

Senator Wheeler offered a floor amendment.

1999-1363s

08/03

Floor Amendment to SB 218-FN-A-LOCAL

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

1 Land Application of Sludge. Amend RSA 485-A:5-d to read as follows:
485-A:5-d Land Application of Sludge

I. Sludge or biosolids which are to be land applied in New Hampshire shall not exceed the maximum concentrations for specific chemical contaminants contained in the rules of the department, or the rules or regulations of the state in which the sludge was generated, whichever are more stringent.

II. Class B sludge that is applied to land used for grazing ruminants or land upon which one or more forage crops are grown intended for ruminants shall be immediately incorporated into the soil. Such sludge shall not contain more than 10 ppm of molybdenum.

III. Class B sludge shall not be land applied to forestland, as defined in RSA 227-G:2, VIII, or in newly clearcut areas.

IV. Class B sewage sludge and industrial paper mill sludge shall not be used to reclaim spent gravel pits above aquifers.

V. A soil pH reading of between 6.5 and 7.0 shall be maintained for such soil during land application activities and for 5 years after the last application to such land.

VI. A minimum buffer distance shall be maintained between land applied class B sludge and surface waters of the state, as defined in RSA 485-A:2, XIV. The minimum buffer distance shall be 250 feet from the high water mark.

VII. A minimum distance of 3 feet shall be maintained between the seasonable high water table and the lowest point of land application of sludge.

VIII. Class A and class B sludge shall not be stockpiled or land applied on 100 year flood plains. Stockpiles may be placed on application sites that are not flood plains up to and including 30 days before any planting or seeding. Sludge shall not be stockpiled where there is less than 3 feet of unsaturated soil between the lowest point of such storage and the maximum high groundwater table.

IX. Class B sludge shall not be applied to agricultural land which has a slope greater than 8 percent.

X. Deliveries of class A sludge exceeding 20 tons per site per year shall be reported to the department.

2 New Sections; Sludge Quality Certification Requirements. Amend RSA 485-A by inserting after section 5-d the following new sections:

485-A:5-e Sludge Quality Certification Requirements.

I. All publicly owned treatment works (POTWs) who land apply sludge shall list all industrial waste water contributors and chemical constituents of their waste water.

II. As of January 1, 2001, the following maximum metal concentrations shall be required by any wastewater treatment facility if such facility shall be issued a sludge quality certification by the department:

- (a) For arsenic, 10 mg/kg.
- (b) For cadmium, 10 mg/kg.
- (c) For chromium, 160 mg/kg.
- (d) For copper, 1000 mg/kg.
- (e) For lead, 270 mg/kg.
- (f) For mercury, 7 mg/kg.
- (g) For molybdenum, 18 mg/kg.
- (h) For nickel, 98 mg/kg.
- (i) For selenium, 18 mg/kg.
- (j) For zinc, 1780 mg/kg.

III. Sludge quality certifications shall expire 2 years from the date of issuance.

IV. University of New Hampshire cooperative extension services best management practices with regard to agronomic application rates of sludge shall be adhered to by any person who land applies sludge.

485-A:5-f Sludge Containing Dioxins. In addition to all other rules and laws applying to the land application of sewage sludge, no pasturing of livestock whose products are consumed by humans shall occur on fields that receive sludge or residuals containing dioxins TEQ above 1 ppt.

485-A:5-g Required Record Keeping for Land Application of Sludge.

I. Each sludge hauler permit holder shall record the following information, on a form provided by the department, for each load of sludge:

(a) The date the sludge is transported from the generator's site or facility.

(b) The generator's name, address, and telephone number.

(c) The quantity of sludge, in wet tons.

(d) The type of sludge, such as domestic or industrial.

(e) The name, address, and telephone number of the hauler permit holder and driver of the motorized vehicle.

(f) The name, address, and telephone number of the sites, facilities, solid waste facilities, or wastewater treatment facilities to which the sludge is to be delivered.

(g) The date delivered to the sites or facilities.

II. The information required in paragraph I shall be maintained in the motorized unit used to transport the sludge when the sludge is being transported.

III. Records required under this section shall be maintained on a permanent basis.

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

1999-1363s

AMENDED ANALYSIS

This bill establishes:

I. Record keeping requirements for haulers of sludge.

II. Limitations to land application of sludge including sludge containing dioxins.

III. Specific requirements and limitations for the land application of class A and class B sludge.

IV. Requirements for persons or facilities acquiring sludge quality certification.

SENATOR WHEELER: What this floor amendment does is it removes the part that the municipal association has found objectionable, which is on page ten of your yellow calendar. It is the exclusion of use by towns that regulate and prohibit, and no waste water treatment plant shall exclude a town from using its facility solely for the reason that the town exercises its rights under applicable state laws to regulate sludge disposal within its borders. The amendment eliminates that part and that exclusion. If that is the reason that you voted against the committee amendment, now you have an opportunity to vote for it. Thanks.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Fraser.

The following Senators voted Yes: Disnard, Fernald, Pignatelli, Russman, D'Allesandro, Wheeler, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Below, McCarley, Trombly, Roberge, Squires, Francoeur, Larsen, Krueger, Brown, Klemm, Hollingworth.

Yeas: 7 - Nays: 15

Senator J. King (Rule #42).

Floor amendment failed.

Senator Wheeler moved to rerefer.

Question is on the motion to rerefer.

Recess.

Out of Recess.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Francoeur.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King Gordon, Johnson, Fraser, Roberge, Squires, Francoeur, Krueger, Brown, Klemm.

Yeas: 14 - Nays: 10

Adopted.

SB 218 is rereferred to the Environment Committee.

TAKEN OFF THE TABLE

Senator F. King moved to have SB 196-FN-L, relative to electric rate reduction financing, taken off the table.

Adopted.

SB 196-FN-L, relative to electric rate reduction financing.

SENATOR F. KING: The calendar on page four has the amendment on SB 196. Mr. President, if we hadn't had the issue of Claremont before the legislature this session, I would guess that the issue of SB 196 would be the most in-depth study this year. This bill began as legislation to deal with securitization for a portion of Public Service of New Hampshire's stranded cost. The bill has been amended, and there is a bookend bill in the House that will set a policy, and make a policy statement for the legislature as it deals with the issue of how we are going to go forward with the settlement of the lawsuit, and reach a compromise between the state and Public Service over the issue of how we are going to reduce our electrical rates in the state. The issue through this whole controversy has been the issue of stranded costs. Stranded costs as you know, are those costs that a utility and a deregulated environment may choose not to make, but in a regulated environment they did make. The question is whether they're now entitled to recover those stranded costs, a portion of them, or none of them, or whatever. One of the ways that we would be able to presumably resolve the issue of stranded costs is through a mechanism called securitization. This bill does not speak to how that will be accomplished. This bill does not intend to intrude in the negotiation process that is ongoing. Senator Johnson, myself, Senator Below when he was a Representative, and Representative Jeb Bradley, spent a summer down here a couple of years ago, as part of a large team that tried to find a solution to the problem. We were unable to do that, but we can report today that there is progress being made between the state and the utility in reaching a settlement. That is an ongoing process. This bill as amended, should not pass. We would recommend that this bill be sent to Senate Finance, and then in Senate Finance, we will be able to hold onto

the bill until such time that we need to do something with it. Unfortunately, the bill, because of the rules that we have, has to be dealt with today. We can't keep this, it has been held in the committee as long as we could hold it. We can no longer hold the bill. What we are recommending is that the bill be passed and sent to Finance, and in Finance we will keep the bill. We believe that the bill like it is, is going to be dealt with in the House today. There are at least two provisions in this amendment, and I will point them out to you, that certainly are going to be something that in the future are going to have to be dealt with. If we are going to get a solution to the problem, these two items are going to have to be modified to some degree. On page six, item E, which talks about the utility stranded costs in getting to average prices in four years, is probably going to be a period of time that is not going to be possible if we are going to get a reduction rate and do everything else that we need to do. So item E is certainly something that will have to be dealt with. Item H is another item. It is a very, very important item in the state. It has to deal with the co-op. It represents about 10 percent of the power producers in this state. Not producers, but the sellers of power in this state. They are now presently negotiating and trying to reach some compromise with Public Service of New Hampshire, those negotiations are ongoing, and we don't want to do anything today to jeopardize those negotiations, but we need to recognize that there has to be a resolution that is acceptable that will deal with the necessity to bring rate reductions throughout the state. We have reasons to believe that that process is going along, and we have reason to believe that there is going to be a success settlement to that. This process that has been going on for years, may be very close to some sort of a satisfactory resolution; however, the legislature needs to be in a position to have stated what they consider to be the issues, or the important issues are when it comes to the process of securitization, because only the legislature will be able to grant through legislation, the securitization issue that is very important to this process. We will have a chance to deal with this again in the future, probably more than once. It may not be totally resolved this year, we do not know, but it is important to keep this in the hands of the Senate in the Finance Committee, so if and when we need to resolve or amend this...and there may be others that we may want to deal with, but certainly we have to be in a position to do that. It has to pass today, or it is gone.

SENATOR FRASER: I wholeheartedly support the motion on the floor that was proposed by Senator King. I, too, have been involved with the process for many years, but I truly believe, and I have some confidence that someday in the near future we may find a solution. I just want to be on the record as saying that when the bill goes to Finance at some point in time, we will have to make some changes to the amendment on the bill. The only reason that we are bringing it forward today is because of the time constraint. Thank you.

SENATOR BELOW: Briefly, as a cosponsor of this bill and a member of the committee reporting it, I just want the record to be clear that I don't think, that from my point of view, that this should be considered a final policy statement of the Senate, that we do need to keep this bill alive, and we do need to further consider the amendment that we are putting on it today. We just had this yesterday afternoon, but we need to move it ahead and keep it in our possession as something to work with. Thank you.

Question is on the committee amendment (1324).

Amendment adopted.

Referred to the Finance Committee (Rule #24).

1999-1350-EBA

03/01

Enrolled Bill Amendment to SB 139

The Committee on Enrolled Bills to which was referred SB 139

AN ACT relative to self-proved wills and making reference changes.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 139

This enrolled bill amendment deletes a section of the bill which corrected a reference in an RSA section that has been repealed by 1999, 17.

Enrolled Bill Amendment to SB 139

Amend the bill by deleting section 2 and renumbering the original sections 3-9 to read as 2-8, respectively.

Senator Trombly moved adoption.

Adopted.

SB 199, establishing certain standards of accountability for health maintenance organizations and other entities providing health insurance through a managed care system. Insurance Committee. Vote 5-3. Ought to pass with amendment, Senator McCarley for the committee.

1999-1325s

05/10

Amendment to SB 199

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

1 Statement of Purpose. The purpose and intent of this act is to strengthen protections for New Hampshire families who receive their medical care from managed care organizations by providing consumers with the information and tools consumers need to hold managed care organizations accountable for the health care treatment decisions they make.

2 Practice of Medicine; Medical Directors. Amend RSA 329:1 to read as follows:

329:1 Practice. Any person shall be regarded as practicing medicine under the meaning of this chapter who shall diagnose, treat, perform surgery, or prescribe any treatment of medicine for any disease or human ailment. "Surgery" means any procedure, including but not limited to laser, in which human tissue is cut, shaped, burned, vaporized, or otherwise structurally altered, except that this section shall not apply to any person to whom authority is given by any other statute to perform acts which might otherwise be deemed the practice of medicine. "Laser" means light amplification by stimulated emission of radiation. *A medical director, as defined in RSA 420-J:3, XXV-a, shall be regarded as practicing medicine under the meaning of this chapter whenever:*

I. A medical necessity determination is made for which he or she is responsible under RSA 420-J:6, V or RSA 420-E:2-a;

II. The medical necessity determination denies authorization or payment for a covered health care service, supply or drug that the treating health care provider has prescribed; and

III. Such denial causes the covered person not to receive the health care service, supply or drug that the treating health care provider has prescribed.

3 New Section; Medical Directors Required. Amend RSA 420-E by inserting after section 2 the following new section:

420-E:2-a Medical Director. Every medical utilization review entity licensed by the department under this chapter shall employ a medical director licensed under RSA 329, who shall have final responsibility for the utilization system and its administration and implementation, including utilization review decisions affecting health care services provided to beneficiaries.

4 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXV the following new paragraph:

XXV-a. "Medical director" means a physician licensed under RSA 329 and employed by a health carrier or medical utilization review entity who is responsible for the utilization review techniques and methods of the health carrier or medical utilization review entity and their administration and implementation, including utilization review decisions affecting health care services provided to covered persons under a health benefit plan.

5 New Paragraph; Medical Director Required. Amend RSA 420-J:6 by inserting after paragraph IV the following new paragraph:

V. Each health carrier that conducts utilization review shall employ a medical director who shall have final responsibility for all utilization review techniques and methods and their administration and implementation, including utilization review decisions affecting health care services provided to covered persons under a health benefit plan.

6 Information Provided to Covered Persons. Amend RSA 420-J:5, II to read as follows:

II. A health carrier shall provide to consumers:

(a) A description of the *internal* grievance procedure *required under RSA 420-J:5* for adverse determinations and other matters ~~[which]~~ *and a description of the process for obtaining external review under RSA 420-J:5-a. These descriptions* shall be set forth in or attached to the policy, certificate, membership booklet, or other evidence of coverage provided to covered persons.

(b) A statement of a covered person's right to contact the commissioner's office for assistance at any time. The statement shall include the toll-free telephone number and address of the commissioner.

(c) Upon written denial of a requested medical service or claim by the health carrier, a statement of the covered person's right to access the internal grievance process. *This statement shall also include a written explanation of any adverse determination, with the name and credentials of the health carrier medical director; including board status and the state or states where the person is currently licensed, and the relevant clinical rationale used to make the adverse determination. If the person making the adverse determination is not the medical director but a designee, then the name, credentials, board status, and state or states of current license shall also be provided for that person. Nothing in this section shall be construed to require a health carrier to provide proprietary information protected by third party contracts.*

(d) Staff assistance in filing a grievance.

(e) [If requested by the consumer or health care provider acting on behalf of the consumer, a written explanation of any adverse determination, with the name and credentials of the health carrier medical director or designee, including board status and the state or states where the person is currently licensed, and the relevant clinical rationale used to make the adverse determination. Nothing in this section shall be construed to require a health carrier to provide proprietary information protected by third party contracts] *Upon exhausting the second level grievance review process, a statement of the covered person's right to obtain an independent external review of the health carrier's determination. This shall include a description of the process for obtaining external review, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.*

7 First Level Grievance; Names Required. Amend RSA 420-J:5, III(b)(1) to read as follows:

(1) The **names**, titles and qualifying credentials of the persons participating in the first level grievance review process.

8 Second Level Grievance; Names Required. Amend RSA 420-J:5, V(a)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. Upon concurrence of the covered person, a copy of the decision shall be forwarded to the insurance department. The decision shall include the **names and** titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance, including issues raised by the covered person, and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA [~~420-J:5, VIII~~] **420-J:5-a. The statement of appeal rights shall include a description of the process for obtaining external review of a determination, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.**

9 Review Panel; Names Required. Amend RSA 420-J:5, V(b)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. The decision shall include the **names and** titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA [420-J:5, VIII] **420-J:5-a. The statement of appeal rights shall include a description of the process for obtaining external review of a determination, a copy of the written**

procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.

10 Expedited Internal Grievance Review. Amend RSA 420-J:5, VI(e) to read as follows:

(e) In any case where the expedited review process does not resolve a difference of opinion between the health carrier and the covered person or the provider acting on behalf of the covered person, the covered person or the provider acting on behalf of the covered person may submit a written grievance, unless the provider is prohibited from filing a grievance by federal or other state law. A health carrier shall review it as a second level grievance. In conducting the review, the health carrier shall ~~adhere to time frames that are reasonable under the circumstances~~ ***make a decision and notify the covered person as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the grievance is submitted.***

11 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph III the following new paragraph:

III-a. "Authorized representative" means any person who has obtained express written consent to represent the covered person in an external review from:

(a) The covered person;

(b) A person authorized by law to provide substituted consent for a covered person; or

(c) A family member of the covered person when adherence to the requirement of express written consent is impracticable or would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

12 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXIII the following new paragraph:

XXIII-a. "Independent review organization" means an entity that employs or contracts with clinical peers to conduct independent external reviews of health carrier determinations.

13 New Section; External Review. Amend RSA 420-J by inserting after section 5 the following new section:

420-J:5-a External Review Process. The insurance department shall arrange for independent external review of certain health carrier determinations as follows:

I. A covered person shall have the right to independent external review of a health carrier determination when the following conditions apply:

(a) The subject of the request for external review is:

(1) An adverse determination; or

(2) A determination by the health carrier that a service, supply or drug is not a covered benefit, when the covered person is asserting that the service, supply or drug should be considered covered for medical reasons. This shall include, but not be limited to, the following circumstances:

(A) a service, supply or drug is denied, reduced or terminated by the carrier because the health benefit plan does not cover experimental or investigational treatment, but the covered person asserts that the treatment in question should not be considered experimental or investigational.

(B) a service is denied, reduced or terminated by the carrier because the health benefit plan does not cover procedures that are performed for cosmetic reasons or for reasons of convenience, but the covered person asserts that the service is required for medical reasons rather than cosmetics or convenience.

(C) a referral is denied by the carrier because treatment by out-of-network providers is not covered unless the service in question cannot be provided within the carrier's network, and the covered person asserts that the network does not have providers with the appropriate clinical expertise for the service in question.

(D) a drug is denied by the carrier because it is not on the formulary list, but the covered person asserts that the drug is covered under the medical exception criteria.

(E) a service, supply or drug is denied because of a medically-based decision that a condition is preexisting, and the covered person disputes this.

(b) The covered person has completed the internal review procedures provided by the health carrier pursuant to RSA 420-J:5, III through VI, or the health carrier has agreed to submit the determination to independent external review prior to completion of internal review, or the covered person has requested first or second level, standard or expedited review and has not received a decision from the health carrier within the required time frames.

(c) The covered person or the covered person's authorized representative has submitted the request for external review in writing to the commissioner within 12 months of the date of the health carrier's second level denial decision provided pursuant to RSA 420-J:5, V or VI, or if the health carrier has failed to make a first or second level, standard or expedited review decision that is past due, within 12 months of the date the decision was due.

(d) Except in the case of a request for expedited review, the covered person or the covered person's authorized representative has paid to the commissioner a filing fee of \$25 at the time of submitting the request for external review. However, the commissioner may waive the filing fee upon a showing of financial hardship.

(e) The health carrier determination does not relate to any category of health care services that is excluded from the external review provisions of this section pursuant to paragraph II.

(f) The request for external review is not based on a claim or allegation of provider malpractice, professional negligence, or other professional fault excluded from the external review provisions of this section pursuant to paragraph III.

II. Determinations relating to the following health care services shall not be reviewed under this section, but shall be reviewed pursuant to the review processes provided by applicable federal or state law:

(a) Health care services provided through medicaid, the state Children's Health Insurance Program (Title XXI of the Social Security Act), medicare or services provided under these programs but through a contracted health carrier.

(b) Health care services provided to inmates by the department of corrections.

(c) Health care services provided pursuant to a health plan not regulated by the state, such as self-funded plans administered by an administrative services organization or third-party administrator or federal employee benefit programs.

III. The external review procedures set forth in this section shall not be utilized to adjudicate claims or allegations of health care provider malpractice, professional negligence, or other professional fault against participating providers.

IV. Standard external review shall be conducted as follows:

(a) Within 7 days after the date of receipt of a request for external review, the commissioner shall complete a preliminary review of the request in order to determine whether:

(1) The individual is or was a covered person under the health benefit plan;

(2) The determination that is the subject of the request for external review meets the conditions of eligibility for external review stated in paragraph I; and

(3) The covered person has provided all the information and forms required by the commissioner that are necessary to process an external review.

(b) Upon completion of the preliminary review pursuant to subparagraph IV(a), the commissioner shall immediately notify the covered person or the covered person's authorized representative in writing:

(1) Whether the request is complete; and

(2) Whether the request has been accepted for external review.

(c) If the request for external review is accepted, the commissioner shall:

(1) Include in the notice provided to the covered person pursuant to subparagraph IV(b) a statement that if the covered person wishes to submit new or additional information or to present oral testimony via teleconference, such information shall be submitted, and the oral testimony must be scheduled and presented, within 20 days of the date of issuance of the notice.

(2) Immediately notify the health carrier in writing of the request for external review and its acceptance.

(d) If the request is not complete, the commissioner shall inform the covered person or the covered person's authorized representative what information or documents are needed to make the request complete.

(e) If the request for external review is not accepted, the commissioner shall inform the covered person or the covered person's authorized representative and the health carrier in writing of the reason for its non-acceptance.

(f) At the time a request for external review is accepted, the commissioner may select an independent review organization that is certified pursuant to paragraph VI to conduct the external review. If an independent review organization is not selected to conduct the review, then the policies and procedures established by the commissioner for selecting clinical peer reviewers and conducting the review shall meet the minimum qualifications established under paragraph VII for certification of independent review organizations.

(g) Within 10 days after the date of issuance of the notice provided pursuant to subparagraph IV(c)(2), the health carrier or its designated utilization review organization shall provide to the commissioner or the selected independent review organization and to the covered person all information in its possession that is relevant to the adjudication of the matter in dispute, including but not limited to:

(1) The terms of agreement of the health benefit plan, including the evidence of coverage, benefit summary or other similar document;

(2) All relevant medical records, including records submitted to the carrier by the covered person, the covered person's authorized representative, or the covered person's treating provider;

(3) A summary description of the applicable issues, including a statement of the health carrier's final determination;

(4) The clinical review criteria used and the clinical reasons for the determination;

(5) The relevant portions of the carrier's utilization management plan;

(6) Any communications between the covered person and the health carrier regarding the internal or external review; and

(7) All other documents, information, or criteria relied upon by the carrier in making its determination.

(h) In providing the information required in subparagraph IV(g), the health carrier may not present different reasons than those the health carrier or its designated utilization review organization communicated to the covered person upon internal review, unless the reasons relate to new information presented by the covered person or the covered person's authorized representative or treating provider subsequent to the internal review.

(i) Failure by the health carrier to provide the documents and information required in subparagraph IV(g) within the specified time frame shall not delay the conduct of the external review.

(j) The commissioner or the selected independent review organization shall review all of the information and documents received from the carrier pursuant to subparagraph IV(g) and any other information submitted by the covered person or the covered person's authorized representative or treating provider pursuant to subparagraph IV(c)(1) and any testimony provided. The commissioner or the independent review organization shall consider anew all previously determined facts, allow the introduction of new information, and make a decision that is not bound by decisions or conclusions made by the health carrier during internal review. In addition to the information provided by the health carrier and the covered person or the covered person's authorized representative or treating provider, the commissioner or the independent review organization may consider the following in reaching a decision:

(1) The covered person's pertinent medical records;

(2) The treating health care professional's recommendation;

(3) Consulting reports from appropriate health care professionals and other similar documents submitted by the health carrier, covered person, or the covered person's authorized representative or treating provider;

(4) Any applicable, generally accepted clinical practice guidelines, including those developed by the federal government, national or professional medical societies, boards and associations;

(5) Any applicable clinical review criteria developed and used by the health carrier or its designated utilization review organization;

(6) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts;

(7) Peer-reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institute of Health's Library of Medicine for indexing or that are recognized by the Secretary of Health and Human Services under section 1861(t)(2) of the Social Security Act;

(8) Standard reference compendia; and

(9) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes.

(k) The commissioner or the selected independent review organization shall render a decision upholding or reversing the determina-

tion of the health carrier and notify the covered person or the covered person's authorized representative and the health carrier in writing within 20 days of the date that any new or additional information from the covered person is due pursuant to subparagraph IV(c)(1). This notice shall include a written review decision that contains a statement of the nature of the grievance, references to evidence or documentation considered in making the decision, findings of fact, and the clinical and legal rationale for the decision, including, as applicable, clinical review criteria and rulings of law. The decision shall have the same force and effect as a final order of the commissioner and shall be enforceable pursuant to the penalty provisions of RSA 420-J:14.

V. Expedited external review shall be conducted as follows:

(a) Expedited external review shall be available when the covered person's treating health care provider certifies to the commissioner that adherence to the time frames specified in paragraph IV would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

(b) Except to the extent that it is inconsistent with the provisions of this subsection, all requirements for the conduct of standard external review specified in paragraph IV shall apply to expedited external review.

(c) At the time the commissioner receives a request for an expedited external review, the commissioner shall immediately make a determination whether the request meets the standard set forth in subparagraph V(a) for expedited external review, as well as the reviewability requirements set forth in subparagraph IV(a). If these conditions are met, the commissioner shall immediately notify the health carrier. If the request is not complete, the commissioner shall immediately contact the covered person or the covered person's authorized representative and attempt to obtain the information or documents that are needed to make the request complete.

(d) The commissioner may select an independent review organization that is certified pursuant to paragraph VI to conduct the expedited external review. If an independent review organization is not selected to conduct the review, then the policies and procedures established by the commissioner for selecting clinical peer reviewers and conducting the review shall meet the minimum qualifications established under paragraph VII for certification of independent review organizations.

(e) The health carrier or its designated utilization review organization shall provide or transmit the documents and information specified in subparagraph IV(g) to the commissioner or the selected independent review organization by telephone, facsimile or any other available expeditious method within one day of receiving the commissioner's notice of the request for expedited external review pursuant to subparagraph V(c).

(f) When handling a review on an expedited basis, the commissioner or the selected independent review organization shall make a decision and notify the carrier and the covered person as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the expedited external review is requested. The decision shall have the same force and effect as a final order of the commissioner and shall be enforceable pursuant to the penalty provisions of RSA 420-J:14.

(g) If the notice provided pursuant to subparagraph V(f) was not in writing, within 2 days after the date of providing that notice, the commissioner or the selected independent review organization shall:

(1) Provide written confirmation of the decision to the covered person or the covered person's authorized representative and the health carrier; and

(2) Include the information set forth in subparagraph IV(k).

(h) Reviews that the health carrier handled on an expedited basis in its internal review process shall be handled on an expedited basis in the external review process.

(i) An expedited external review shall not be provided for determinations made by the health carrier on a retrospective basis.

(j) Continuation of benefits pending expedited external review shall be provided when appropriate and as determined by the commissioner.

VI. The certification of independent review organizations shall be conducted as follows:

(a) The commissioner shall certify independent review organizations eligible to be selected to conduct external reviews under this section to ensure that an independent review organization satisfies the minimum qualifications established under paragraph VII.

(b) The commissioner shall develop an application form for initially certifying and recertifying independent review organizations to conduct external reviews.

(c) Independent review organizations wishing to be certified shall submit the application form and include all documentation and information necessary for the commissioner to determine whether the independent review organization satisfies the minimum qualifications established under paragraph VII.

(d) The commissioner may determine that accreditation by a nationally recognized private accrediting entity with established and maintained standards for independent review organizations that meet or exceed the minimum qualifications established under paragraph VII is sufficient for certification under this paragraph.

(e) The commissioner shall maintain and periodically update a list of certified independent review organizations.

VII. To be certified under paragraph VI to conduct external reviews, an independent review organization shall meet the following minimum qualifications:

(a) It shall develop and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process.

(b) It shall establish and maintain a quality assurance program that:

(1) Ensures that external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(2) Ensures the selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the independent review organization with suitable matching of reviewers to specific cases;

(3) Ensures the confidentiality of medical and treatment records; and

(4) Ensures that any person employed by or under contract with the independent review organization adheres to the requirements of this section.

(c) It shall maintain a toll-free telephone service on a 24-hour, 7-day-a-week basis related to external reviews that is capable of accepting or recording information from, and providing appropriate instruction to callers.

(d) It shall agree to maintain and provide to the commissioner such information as may be required to fulfill the provisions and purposes of this section.

(e) It shall assign clinical peer reviewers to conduct external reviews who are physicians or other appropriate health care providers and who:

(1) Are experts in the treatment of the covered person's medical condition that is the subject of the external review;

(2) Are knowledgeable about the recommended health care service or treatment through actual clinical experience;

(3) Hold a non-restricted license in a state of the United States and, for physicians, a current certification by a specialty board recognized by the American Board of Medical Specialties in the area or areas appropriate to the subject of the external review;

(4) Have no history or disciplinary actions or sanctions that have been taken or are pending by any hospital, governmental agency, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental or professional competence or moral character; and

(5) Have agreed to disclose any potential conflict of interest.

(f) It shall be free of any conflict of interest. To meet this qualification, an independent review organization may not own or control or in any way be owned or controlled by a health carrier, a national, state or local trade association of health carriers, or a national state or local trade association of health care providers. In addition, in order to qualify to conduct an external review of a specific case, neither the independent review organization selected to conduct the external review nor any clinical peer reviewer assigned by the independent organization to conduct the external review may have a material professional, familial or financial interest in any of the following:

(1) The health carrier that is the subject of the external review;

(2) Any officer, director or management employee of the health carrier that is the subject of the external review;

(3) The health care provider or the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;

(4) The facility at which the recommended health care service or treatment would be provided;

(5) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review; or

(6) The covered person or the covered person's authorized representative.

(g) For the purpose of allowing in-state health care providers to act as clinical peer reviewers in the conduct of external reviews, the commissioner may determine, in specific cases, that an affiliation with a hospital, an institution, an academic medical center, or a health carrier provider network does not in and of itself constitute a conflict of interest which is sufficient to preclude that provider from acting as a clinical peer reviewer, so long as the affiliation is disclosed to the covered person and the covered person has given his or her prior written consent.

(h) The following organizations shall not be eligible for certification to conduct external reviews:

(1) Professional or trade associations of health care providers;

(2) Subsidiaries or affiliates of such provider associations;

(3) Health carrier or health plan associations; and

(4) Subsidiaries or affiliates of health plan or health carrier associations.

VIII. A covered person shall:

(a) Be provided with timely and adequate notice of his or her rights with respect to external review.

(b) Have the right to be represented by any person, including the covered person's treating provider, and to otherwise make use of outside assistance during the review process, to receive a copy of all documents, all information, and all clinical review criteria or other standards relied upon by the health carrier in making its determination, and to present to the commissioner or the selected independent review organization any information, including new information not previously considered by the health carrier, which the covered person believes to be relevant to the adjudication of the matter in dispute, provided that such information is simultaneously provided to the health carrier.

(c) Be provided the opportunity, under standard external review, to present oral testimony to the independent review organization via teleconference. At any such hearing, the health carrier shall also have the opportunity to present oral testimony and to respond to issues raised.

(d) Be protected from retaliation for exercising the right to an independent external review under this section.

IX. The health carrier against which a request for external review is filed shall pay the cost of the external review. The commissioner shall ensure that such costs assessed to the health carrier are at all times reasonable in relation to the services provided. If the covered person is the prevailing party in the external review, the health carrier shall pay to the covered person the amount of any filing fee paid by the covered person.

X. The confidentiality of any health care information acquired or provided to the commissioner or an independent review organization shall be maintained, and the records, and internal materials prepared for specific reviews by the commissioner or an independent review organization under this section shall be exempt from public disclosure under RSA 91-A.

XI. No independent review organization or clinical peer reviewer working on behalf of an independent review organization shall be liable for damages to any person for any opinions rendered during or upon completion of an external review conducted pursuant to this section, unless the opinion was rendered in bad faith or involved gross negligence.

XII. The right to external review under this section shall not be construed to change the terms of coverage under a health benefit plan.

XIII. When requested by the covered person, the commissioner shall provide consumer assistance in pursuing the internal grievance procedures and the external review process under RSA 420-J:5 and this section.

XIV. The commissioner shall report annually to the governor and the legislature on the number of grievances subjected to external review, the number of decisions resolved wholly or partially in favor of the covered person, the number of decisions resolved wholly or partially in favor of the health carrier, and any common themes or issues that may require legislative action.

XV. The commissioner shall report annually to the New Hampshire board of medicine the names of the medical directors responsible for determinations that resulted in external review and the outcomes of such external reviews.

14 New Paragraphs; Provider Contract Standards. Amend RSA 420-J:8 by inserting after paragraph VI the following new paragraphs:

VII. No contract between a health carrier and a participating provider shall contain any payment or reimbursement provision the terms of which create incentives for the provider to limit medically necessary care to covered persons. Nothing in this section shall be construed to prohibit the use of payment arrangements between a health carrier and a participating provider or provider group which involve capitation or withholds.

VIII. A health carrier shall provide to consumers, upon request, a description, in general terms, of the types of payment and reimbursement provisions contained in its contracts with participating providers. Such descriptions shall be set forth in clear, understandable language and shall, at a minimum, convey basic information about any financial incentives to providers that may directly or indirectly have the effect of reducing or limiting services to covered persons.

IX. Every contract between a health carrier and a participating provider shall provide that the health carrier may not remove a health care provider from its network or refuse to renew the health care provider with its network for advocating on behalf of a covered person for medically necessary care for the covered person.

15 Repeal. RSA 420-J:5, VIII and IX, relative to an external process and annual report, are hereby repealed.

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

1999-1325s

AMENDED ANALYSIS

This bill creates an independent external consumer appeal process to review certain determinations made by managed care entities. The bill requires health carriers that conduct utilization review and licensed utilization review entities to employ a medical director and amends the definition of the practice of medicine to include the making of certain medical necessity determinations. The bill prohibits contracts between health carriers and participating providers from including provisions that create financial incentives to deny medically necessary care. The bill also requires that health insurers disclose certain information necessary for consumers to hold managed care entities accountable for health care treatment decisions.

SENATOR MCCARLEY: The vast majority of people insured in New Hampshire have coverage through a managed care organization. The underlying philosophy of the HMO system is sound and managing care, they streamline the health care delivery system and keep costs down. For the majority of people, HMO's can be very effective in the delivery of very high quality health care. There are those for whom the HMO system does not work perfectly. These people need the opportunity for effective recourse when the HMO denies a service that the patient and the provider feel is both medically necessary, and a covered treatment or service. Health care has traditionally been a partnership between the patient and the physician. The HMO system has created a new partnership between the insurer and the physician. Senate Bill 199 as well as concurrent HMO reform across the country and nationally, seeks to accomplish two important goals. To reassert the partnership between patient and physician, and to provide accountability to those individuals within the HMOs who have the authority to affect a patient's treatment. The key provisions of SB 199 are as follows, requiring disclosure in general terms of the financial relationship between a provider and an HMO. Providing an external review process. While HMO's currently have an internal review, obviously this mechanism does

not necessarily satisfy some consumer concerns. The external review process under SB 199 incorporates the following provisions; the insurance department will have oversight of the process and the department can use either an independent review organization or contracts with peer reviewers. Those peer reviews can indeed be positions that reside in the state of New Hampshire, and there will be a very clear conflict of interest of statement that everyone will be in agreement with. Senate Bill 199 establishes what issues can and cannot be appealed. The external review starts after the internal appeals process has occurred, except in the case of an expedited review. Senate Bill 199 contains provisions which help the provider to act as an advocate for the patient without fearing recourse from the HMO. It sets forth time lines for appeals process and requires the Insurance Department to monitor the cost of any appeal. Finally, SB 199 has one other significant provision. There has been a growing sense that the medical director of an HMO, in exercising the authority to overturn a provider's treatment decision, and therefore, effectively denied treatment, is in fact practicing medicine and should be held accountable. People expect health insurance to meet their medical needs. If their provider makes a treatment decision it is based on close observation and examination of that patient. It is based on what the provider feels is medically appropriate. What do we say then when an HMO executive reverses a decision because of the cost in the bottom line, denying coverage for a treatment that the provider has directed? We believe that that person should be deemed to be practicing medicine. In fact, we believe that person is practicing medicine. It is not our intention to scare qualified individuals away from the medical director position at an HMO, we simply ask that that person be held accountable for making what is in any reasonable construction, a medical decision; therefore, SB 199 holds that a medical director will be deemed to be practicing medicine only when he or she denies coverage for a service that the treating provider has prescribed. The denial is based on a medical determination about the medical necessity of the care, and the denial actually causes the covered person not to receive the service. In conclusion, clearly it is time for HMO reform. Other legislatures are looking at similar measures, and federal guidelines are being enacted which require some form of external review. New Hampshire would be remiss in not addressing the obvious needs of our citizens who feel that the current health care system is not responsive to them. These measures will not cripple the HMO's, and will provide some relief and comfort to our citizens. We can continue to work out the details of this legislation in the House, but I ask that you send this bill over to the House today so that it can be worked on. In conclusion, I would like to say that we took two bills on this subject. One of which I guess we will take up after this. I assumed that it would be before, so I feel a sort of need to make this statement, and Senator Squires probably will too, but...we had two bills dealing with the same issue, and the committee chose to put those bills together and take in as many pieces as we could that could be agreed upon, so I would ask that you vote in favor of this bill. Thank you.

SENATOR FRASER: Mr. President, I am one of the dissenting votes in the committee. I want everyone in the room to realize that I support external review, which is a new role for me, as I have always opposed it. I think that the day for external review has arrived. My problem with the bill, Mr. President, and with all due respect to you as a prime sponsor, the problem that I have with the bill is the exposure to medical malpractice on the part of the medical director. The way that I read

the bill and the amendment, it appears to me, that it doesn't make any difference whether the patient had a good or a poor result, the fact is that if in fact a peer review should make a determination, that the medical director had made an erroneous decision so far as medical necessity is concerned, and that medical doctor obviously, and the HMO, would be subject to a lawsuit. I think the bill in that area goes too far. I don't have any problem, Mr. President, if the bill limited it to the declination of coverage. As a matter of fact, the patient, because of the lack of that being provided with the proper care had a poor physical result...but to allow for a malpractice suit to be implemented just because of the fact that the medical director had made an adverse determination so far as medical necessity is concerned, and the patient, for all intents and purposes turn out to be just as healthy as if they had provided the procedure. I think that goes too far, so I am going to vote against the bill.

SENATOR SQUIRES: I rise to certainly acknowledge the fact that my bill, which is 190, dealt with the grievance procedure, was in fact, and parts of it, folded into this bill and I appreciate that. I do not disagree with 90 percent of SB 199 as you have it. But I do disagree with the language that appears in your calendar on page 11. It is the issue that Senator McCarley referred to relating to the practice of medicine. The theory is, I think, that medical directors in New Hampshire are behaving irresponsibly or inappropriately, and we are going to fix that problem by placing over their heads the hammer of malpractice, which is in fact a fairly common way to try and correct behavior. I rise to say that is a mistake, and here is why. It will work, don't make any mistake about that. It certainly will work. Medical directors will change their behavior, but that doesn't mean that we are going to get a better result. There isn't a single physician in America, when they are practicing, that is not aware of malpractice. An incredible number of decisions are made on that basis. There is ample scientific evidence that says that an acute back strain, back x-rays are useless. If a patient comes in and wants an x-ray, what do you think happens? You order it. Why not? Why am I going to expose myself to the grief of the one patient in 10,000 that has a bone tumor in their vertebra and that is the cause of the back pain. I am not going to do that. Now that may be trivial, but what is not trivial is the following situation. This legislature, a few years ago, mandated bone marrow transplants for breast cancer without a lot of evidence. Now we have about two weeks ago, about five studies that have attempted to examine this problem, four of which indicate that is not necessarily beneficial. It may make no difference to give a bone marrow transplant verses inter-chemotherapy. One study said that it might. So here we have a patient with a stage four breast cancer, and the physician says that they need a bone marrow transplant. The medical director says 'no you don't', here is a body of evidence that says that the other form of treatment is just effective. What are they going to do? They are going to order the bone marrow transplant, because in all likelihood, the patient is going to die, either way, so you are going to end up proving a negative. You will end up with a dead patient in terrible circumstances and you have to say that the fact that I didn't order this bone marrow transplant didn't make any difference. You can't prove it. You are proving a negative. That is going to play out over and over again. It will increase over time, the cost of health care. There is no question about that that malpractice costs and insurance costs play a significant role in the cost of medical care. Not the dominant role that people describe, But it is there. What I TAPE

CHANGE make the physician, the medical director accountable to the Board of Registration in Medicine. The only thing that you fear more than a malpractice suit is trouble with your license. That really is something to think about, because then you are out of business. I think that what the amendment does is to design or present a system with some criteria for being a medical director, some background. Then it says that if I am taking care of a patient and I get an adverse decision, I file a report with the Board of Registration in Medicine and I keep that. They present it to the insurance department on an annual basis and we'll see. The lack of data in this problem makes the sludge problem look great. There are about 600,000 patients in New Hampshire enrolled in HMO's, and the average patient encounter per year is 2.8 or thereabouts. So we have somewhere around 1-1/2 million encounters a year. Some proportion of which falls into this category. Now last year, Senator's Fraser and Hollingworth and I had a study committee on this issue and we couldn't get a handle on the number. Not only on the number of decisions that go to the medical director, but the number of adverse decisions. So what we are doing is taking a few high profile cases, and even then, some of them may be provider mistake rather than authorization mistake, and we are changing the fundamental relationship that exists in the current HMO system. So, I would like to offer my floor amendment after we deal with the committee amendment.

SENATOR RUSSMAN: I guess I would take issue with the previous speaker in terms of holding the medical director accountable even if malpractice insurance rates are a concern. I am sure that in the sense that it was said, I don't think that the idea of a tumor on the spine could be considered a trivial example, because to me it sounds pretty serious. Certainly we know that the breast cancer issue is very, very serious without a doubt. I have to say that as one of the people that helped to pass that legislation concerning bone marrow transplants, if it were my spouse or your spouse or your daughter or somebody else's and that was the issue, I guess that you would want to have that bone marrow transplant done. I don't think that there is any question about that. At the same time, if the medical director wants to rely on the basis of evidence, of scientific evidence that says that it doesn't matter, they are going to die anyway, well fine, that can go before a jury and you have to prove, as you know, by preponderance of the evidence, under a reasonable care standard, whether or not that was an appropriate decision or not. If it was, then you are not going to get any award. If it wasn't, then you probably should. But obviously, somebody needs to put some real pressure on some of these medical directors that have said no because it is not managed care, it is managed cost is what it really is in this state, and across this country. So I don't think that it is outlandish to think that for whatever reason, we ought to make sure that these medical directors are held accountable. They are getting paid adequately, and my guess is that they will not have difficulty finding medical directors to make the decisions, even though, perhaps, they are sometimes tough decisions that have to be made. I think that if that is the issue of whether or not...in that particular case, you are going to get the bone marrow transplant, then I want to see that this bill gets passed. Thank you.

Amendment adopted.

Senator Squires offered a floor amendment.

1999-1341s

01/09

Floor Amendment to SB 199

Amend the bill by replacing sections 3 and 4 with the following:

3 New Section; Medical Directors Required. Amend RSA 420-E by inserting after section 2 the following new section:

420-E:2-a Medical Director. Every medical utilization review entity licensed by the department under this chapter shall employ a medical director, as defined in RSA 420-J:3, XXV-a, licensed under RSA 329, who shall have final responsibility for the utilization system and its administration and implementation, including utilization review decisions affecting health care services provided to beneficiaries.

4 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXV the following new paragraph:

XXV-a. "Medical director" means a physician licensed under RSA 329 and employed by a health carrier or medical utilization review entity who is responsible for the utilization review techniques and methods of the health carrier or medical utilization review entity and their administration and implementation, including utilization review decisions affecting health care services provided to covered persons under a health benefit plan. The qualifications the medical director shall possess shall include, but not be limited to the following:

(a) Be licensed under RSA 329.

(b) Meet credentialing requirements equivalent to those met by plan providers.

(c) Be familiar with local medical practices and standards in the plan's service area.

(d) Be knowledgeable concerning the applicable accreditation or "program approval" standards for preferred provider organizations and health maintenance organizations.

(e) Demonstrate knowledge of risk management standards.

(f) Be able to review, advise, and take action on questionable hospital admissions, medically unnecessary days, and all other medical care cost issues.

Amend the bill by inserting after section 14 the following and renumbering the original sections 15-16 to read as 17-18, respectively:

15 New Section; Notification of Denial of Claims. Amend RSA 329 by inserting after section 9-e the following new section:

329:9-f Notification of Denial of Claims.

I. A covered person's treating physician may notify the board of any claim which has been denied by a medical director, as defined in RSA 420-J:3, XXV-a, which denial is contrary to the advice of the covered person's treating physician. The notice shall be in a form adopted pursuant to rules under RSA 541-A and shall include, but not be limited, to the following information:

(a) A patient identifier.

(b) Diagnosis.

(c) Recommendation of the treating physician.

(d) Recommendation of the medical director.

(e) Any second opinions.

II. The board shall, on an annual basis beginning on or before November 2000, submit a list of such notifications to the insurance commissioner. The list shall contain the doctors' names, the health benefit plan, the number of denials per medical director, and the medical directors' names. The list compiled pursuant to this paragraph shall not include any patient identifiers.

16 New Paragraph; Rulemaking Added. Amend RSA 329:9 by inserting after paragraph XV the following new paragraph:

XV-a. Format of the form required under RSA 329:9-f.

SENATOR SQUIRES: I don't know what I would do in this bone marrow transplant business. But I do know that the phrase 'managed costs' has now produced a situation where every HMO is losing money and a lot of it, and we are about to see and are already in fact, are seeing premium hikes of five, ten and fifteen percent, just the way that it was back in the early 1990's. So the suggestion, simply on the basis of the financial statements, that the motivation here for these decisions is to save dollars. If that is true, it is a miserable policy because they are losing dollars. What this is going to do is simply lose some more, which may in fact be all right if...as long as we are willing to pay for it. We are entering an era of which this is a part, but for many other reasons, we are back to double-digit inflation for health care costs and premiums, and as we do that, we make it more and more difficult for the uninsured and for the small number in groups. Thank you.

SENATOR F. KING: I rise because I am concerned about the issue of where health costs are going in this country. We have the greatest health care in the country or anywhere in the world, there is no doubt about that. I can personally speak to that. I had a son who received the greatest care when he had a serious illness. My concern is that HMOs came into existence to help control costs, and they have done that, and it probably hasn't worked perfectly, but if we legislate how they do their business and continue to force them to drive up costs, what is going to happen is that we are going to have more and more people without insurance, because companies, and we all know of companies who moved to HMO's as the type of insurance that they were going to provide for their employees, because that is what they had to do to be able to provide insurance. So I think that as we vote on bills like this, and I really don't know how I will vote for this bill myself...I think that we need to be aware as we continue to pass legislation that forces costs up, we probably are denying people health care coverage, and I think that is a real risk for here and all over the country.

SENATOR TROMBLY: Senator King, would you tell me what sense it makes to pay a health insurance premium if it doesn't cover your illness or your treatment?

SENATOR F. KING: Well I think that is...I am in an HMO now and it is a little inconvenient for me. They covered my treatment, and I believe that there has always been differences between what we believe that we should get for the money that pay and what we actually receive. I guess what we are looking for is guaranteed results. In your profession you can't guarantee results when you charge for your services, and I suspect that physicians can't guarantee results when they charge for their services, so there is a certain risk in living and there is a certain risk in being sick, and I don't think that legislatively that we can deal with that.

SENATOR GORDON: Senator Squires, I am just trying to get a sense in making a decision on your amendment. What is the actual cost of providing the insurance to medical directors, and I was wondering in the course of hearing testimony, were you given any numbers as to what the cost would be to insure medical directors for malpractice, and if other states engaged in this practice, how it may have affected their insurance premiums?

SENATOR SQUIRES: The cost of the malpractice insurance is trivial. It is not going to make a difference in an industry this size. What is going to make a difference is the response here, which is going to open the door to a flood of new services. The question is not just do you get what you pay for, the way that it is framed is, is there one way to do it and only one way, and can people disagree...and the practice of medicine is replete with choices. What will happen is, by and large, the patients, since they are immune from these costs, will more often than not choose the most expensive choice, and that is why the costs will go up, not because the costs of malpractice insurance that will get absorbed in...if it is the cost, it may be a cent per member...you can ignore it.

SENATOR GORDON: I guess what I hear you saying is that the reason that you are asking me to support this amendment is that the fact that the medical director may be subjected to liability is going to force that medical director to make irresponsible decisions.

SENATOR SQUIRES: Well I never ask anybody to vote for anything. I am simply stating my case and hope that you will listen. In response to the question, the medical director may make a decision that is different from what the primary physician says and that decision is not irresponsible.

SENATOR BROWN: Senator Squires, I am trying to sort this out. This amendment replaces or adds to the previous one. I am reading this and it says that basically the board is going to make a report. What is the incentive, as opposed to the fact that in the other amendment people may sue for malpractice? Is that correct? How does this amendment work better? What are the repercussions for the doctor if the person is not happy?

SENATOR SQUIRES: What I want to find out is how big a problem is this. Is this a high profile, bad result outcome, or is this something endemic in the industry, and if there is a general sense in the patient community and by the patient's primary care physician, that their decisions are being overridden by the medical director, here is a chance to let us know, to find out how often that occurs in this 1.5 million visits. Is it one? Is it two? To me, the numbers are important. Not only that, it's important, is one medical director, as in Plan A, denying five times as many requests as the medical director in Plan B. Now I have something to work with. I can figure out in some rational way, yes there is a problem, and it is not endemic, it is in a particular plan. I don't know any of that information, so before I change the system, and we will have this debate some more, I want to know the extent and the magnitude and severity of the problem.

SENATOR LARSEN: I rise to support the original amendment as it appears in the calendar, and against this amendment. I think...I live in a community that is a regional medical center. Concord is fortunate to have developed itself as a regional medical center. The quality of care and the quality of physicians in this community, probably similar to many of yours, is very high. One of the greatest senses of frustration that I hear from the physician community is the high sense of frustration that the physicians have felt that they are, in fact, limited in their care by the oversight of costs, and that costs through the HMO procedure, too often, supercedes the interest of care of the patient. I believe that the amendment before you provides an immunity from decisions by the medical director, from the medical decisions that the primary care or treating physician is subject to. The kind of review that the

treating physician has includes liability for their decisions. The amendment would make the medical director, who has oversight over the decisions of the treating physician, immune from that kind of responsibility. That makes very little sense. I think that the bill that you have before you, SB 199 as recommended by the committee, and presented to you in the calendar as ought to pass as amended, is an important bill. I want to just put forth an anecdotal circumstance that happened as I was going door-to-door last year. I spoke with a fellow who called me over. He was standing outside by his truck and his truck had a no smoking sign on his pickup truck. I asked him why he had that and what his interest were? He asked me to come and talk with him and he said that his HMO...and he was married to a state employee...and his HMO used to help him. He has had three surgeries because of tobacco smoking, part of his lung removed and organs with cancerous nodes in them, major surgeries. He just had a colostomy, and under his previous HMO, the service covered the bags that I needed for the colostomy on a daily basis, when we switched our HMO coverage, I kept some for supplies, but my supplies have now run out, and my current HMO is denying me colostomy bags, saying that they are cosmetic. He said that he has to go back to his primary care physician and get an appointment and convince that physician to beg for his bags so that he can continue to live the kind of life that most of us expect to live. To me, that was the strongest example that I heard, and I know that those of you who sat through the hearings on this probably heard much worse examples, but when you have to go and beg for the kind of supplies that you need, and you have no recourse but to go back to the very company who denied you, there is something wrong with the system. HMO's have done a good job of controlling costs. They are not all bad. There are many benefits to the HMOs that have been created, but we do need to balance this system. We need to balance it in terms of care as well as costs. I urge you to not adopt this amendment, but to consider recommending it as the committee recommended it, ought to pass with the committee amendment that is in the calendar. Thank you.

SENATOR RUSSMAN: I rise in opposition to the proposed amendment. I say that in that my dad was a doctor, my oldest brother happens to be a lawyer and a doctor, my uncle is a doctor, his son is a doctor, his daughter married a doctor and my former brother in-law is a doctor. So we have some great discussions...as a matter of fact, I had hoped to go onto medical school after law school, but I was able to buy a practice where I was working part time and that is what I ended up doing and I don't regret that, but at the same time, I can remember as a young kid, seeing my dad, and he was kind enough to let me very often go to some of his cases and stand in behind him when he assisted in appendix operations and things of that nature and deliveries and so on. I can remember one time, asking him why he worked so hard in terms of trying to save people, or why would people when they were as old as they were, why did they try to do what they did? He said that to me that "life is dear at any age." I think that by reporting this to the Medical Society or the board or what have you, is an adequate safeguard, I don't think that is the case. I think that our fellow citizens and our families and our constituents deserve the opportunity to see this medical director is held accountable, and that the HMO is held accountable at the same time. I recognize that the health care costs have gone up, and they probably will continue to go up like everything else will, some years more than oth-

ers, but certainly an area such as this, it is the only way that we are going to make these people realize that they have an obligation to the people that we serve.

SENATOR FRASER: Senator Russman, I was going to ask you this question before but I thought it better left unsaid, but would you agree with me that if the bill, as it has already been adopted, including the amendment as passed by the House, that it is going to initiate a great deal litigation than is currently invoked so far as HMOs are concerned?

SENATOR RUSSMAN: I don't think that there will be any more litigation one way or the other. I think that certainly there are a number of HMOs as we speak that are sued and deservedly sued, for failing to provide adequate protection. I mean there is horror story after horror story, so I don't see that increasing, I think that it will continue until they realize their mistakes.

SENATOR FRASER: So if that is true, then could you describe to me the difference between the amendment that we just adopted, which I think by the way, will initiate a great deal of litigation, but that is another issue. What is the difference between what we have already passed and what Senator Squires is proposing now?

SENATOR RUSSMAN: The way that I see it, is that somebody, some individual is going to be held accountable and somewhere, somehow, you are going to be able to go after that particular person. Let me tell you... I don't happen to do med./mal cases, but I have been involved preliminarily with a few over the years. When somebody makes a careless mistake, I mean careless mistake, you want to go after that person who made the careless mistake. If you believe that the medical director made a careless mistake, in other words, acted negligently, you ought to be able to go after them.

Question is on the floor amendment.

A roll call was requested by Senator Fraser.

Seconded by Senator Pignatelli.

The following Senators voted Yes: F. King, Fraser, Squires, Francoeur, Krueger, Klemm.

The following Senators voted No: Gordon, Johnson, Below, McCarley, Trombly, Disnard, Roberge, Blaisdell, Fernald, Pignatelli, Larsen, Brown, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

Yeas: 6 - Nays: 18

Floor amendment failed.

Question is on the motion of ordering to third reading.

A roll call was requested by Senator Trombly.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Below, McCarley, Trombly, Disnard, Roberge, Blaisdell, Fernald, Pignatelli, Larsen, Brown, J. King, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No: Fraser, Squires, Francoeur, Krueger.

Yeas: 20 - Nays: 4

Adopted.

Ordered to third reading.

SB 54-FN, relative to partial birth abortion. Public Institutions, Health and Human Services Committee.

MINORITY REPORT: Ought to pass with amendment, Senator Krueger for the committee. Vote 1-5

MAJORITY REPORT: Inexpedient to Legislate, Senator Wheeler for the committee. Vote 5-1

1999-1315s

01/03

Amendment to SB 54-FN

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

1 New Subparagraph; Discipline of Physicians; Grounds Added. Amend RSA 329:17, VI by inserting after subparagraph (k) the following new subparagraph:

(l) Has violated RSA 329:32, relative to performing certain abortions.

2 New Section; Certain Abortions Prohibited. Amend RSA 329 by inserting after section 31 the following new section:

329:32 Certain Abortions Prohibited.

I. In this section:

(a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy.

(b) "Partial-birth abortion" means an abortion in which the physician or individual acting under the delegatory authority of the physician performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

(c) The terms "fetus" and "infant" are interchangeable.

II. Any person who knowingly performs a partial-birth abortion and thereby kills a human fetus or infant shall be guilty of a class B felony. Notwithstanding the provisions of RSA 651:2, a person found guilty under this paragraph may be fined up to \$100,000 or be imprisoned for not more than 2 years, or both.

III. Paragraph II shall not apply to a partial-birth abortion that is necessary to save the life of a mother because her life is endangered by a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, if no other medical procedure would suffice for that purpose.

IV. A woman upon whom a partial-birth abortion is performed shall not be prosecuted under this section for a conspiracy to violate this section.

3 Effective Date. This act shall take effect January 1, 2000.

1999-1315s

AMENDED ANALYSIS

The bill prohibits certain abortions.

SENATOR WHEELER: I rise in opposition to SB 54. This is another insidious attempt to ban all abortions. If you oppose abortion, the method of abortion is not an issue. If you don't trust women to make their own decisions, you don't support any form of abortion...During the testimony when people were questioned if they would support another form of abortion...let me remind you that abortion is legal in this country, the people questioned said no, they didn't want any kind of abortion. Once again, we find ourselves in the untenable of legislators being asked to make decisions, which we have no right to make. We license doctors to

make medical decisions as we just talked about. Legislators have no business discussing which medical procedure a doctor should use, nor do we have any business interfering with the doctor/patient relationship. The abortions that we are talking about today, are not only extraordinarily rare, nationally, less than one-half of one percent, but they are needed because of terrible family tragedies. These are catastrophic pregnancies. When the fetus has a horrible abnormality or the pregnancy seriously threatens the mother's life or the ability ever to deliver a healthy baby. I urge you to think about the women who would be irretrievably harmed were we to pass a punitive measure such as this. I urge you to have a certain amount of confidence in doctor's integrity, that they are not going to take a woman who is eight months pregnant, even should that woman ask for a termination of her pregnancy at that point, and if there is no problem with the mother and no problem with the fetus, do an abortion...doctors are not going to do that, and it is insulting to both women and doctors to think that that would happen. Doctors who are experts on how to provide safe abortions use this procedure when they believe that it is the safest way to end a pregnancy and leave the woman with the best chance to have a healthy baby in the future. The president of the New Hampshire Medical Association testified that physicians are against the criminalization of this or any scientifically recognized procedure. The New Hampshire Medical Association also believes that this bill unlawfully limits physician's options to provide the best medical treatment for their patients. I believe that doctors, and not politicians, should make decisions about what medical treatments are the best for their patients. Opponents of abortions have claimed that women have this procedure for convenience. I can assure you that there is nothing convenient about making this tough, tragic decision, to have an abortion when a child is desperately wanted. This is the hardest decision a woman will probably ever have to make. A decision that must continue to arise from her own best judgement and that of her doctor's, and not from a legal system, and from a legal system that continues to respect that they, the women and her doctor, and not the government, us, are the most qualified to make this decision. I urge you to vote this bill inexpedient to legislate.

SENATOR KRUEGER: I will direct my remarks based on the fact that there is an amendment being offered that is in the calendar on page 21 that aligns this bill with what was passed in Congress, both in the House and in the Senate, and vetoed by President Clinton. So when I speak, I want you to keep that in mind. This bill does not go against Roe versus Wade. This bill, what I am asking for today, has no relevance to what is already in law. This bill only seeks to make New Hampshire on par with at least 26 other states in this country that have in fact uncovered from the very doctor that put forth this bill...in fact this is done sometime for convenience. I must tell you that just a few weeks ago in the state of Michigan, because if you know this procedure you know it is not just one individual incident. It is a process whereby a woman has gotten ready for the procedure and trust me, I will not go into any graphic detail, but it takes days to get ready for this procedure. So this woman who was in the process of getting ready for a partial birth abortion, actually delivered at 22 weeks, a baby. The baby was delivered, and that baby was held in the intensive care nursery of this hospital in a nurse's arms for three days, and finally because the tiny little thing's lungs were not developed, it died. This is not a procedure that actually in my mind, even should have the word abortion attached to it. This is a procedure, as we

all know because we have all sat through testimony here and on television at the national level that literally, partially **TAPE CHANGE** to sit through any of the video or films, or have sat through the procedure itself or have sat through any spontaneous or non-spontaneous abortion. As a former OB nurse, let me tell you that birth itself as all the women and men in this room probably know, is a profound moment. To interrupt the process of birth is horrific. We have now heard in the last few weeks that we have a deterioration of the respect of life in this country. "That is why kids take guns, they have no value for life. The reason why we have self mutilation, which is another whole disorder which is emerging in young people now is that they don't respect their own lives." "The incident of suicide is high because they don't respect their own lives." "The problem with murder is that people pull guns because they don't respect the other person's life." Now I stand here and I say to you, you are going to kill a baby because within two minutes, probably less and probably two inches or probably less, that is a baby. These procedures are done at the end of a pregnancy. These procedures are done passed by ability. These procedures are done and though you would love to think that this is not true, the basis early proponents of this procedure have come out publicly and they have said in the few cases, and thank God that it is few cases, it has happened for issues of convenience. By the way, the story that I just told you, it was a girl and the baby was perfect. It was admitted later that it was a partial birth abortion for convenience, so it does happen. Why? It is beyond me. But it does happen. If you were able, and I don't think knowing the people in this room as well or even as little as I know some of you, I don't think that anyone could sit there and watch this happen. In the amendment as I have offered it, I need to tell you that the life of the mother is excluded; so therefore, what would be the reason? Why would you ever want this to happen? Certainly if this poor child is so maimed by nature or by God, that there is something wrong with this child that it would die, but to purposely insert tools into a child's brain and suck it out and then kill it, after you have turned this baby around...and believe me to turn a breech baby is very difficult, and have its little tiny legs and little pink bottom and little arms out there flailing for life, how in God's name could anyone allow it. Thank you.

SENATOR BROWN: About four or five years ago I was elected to the New Hampshire House of Representatives. I had never in my life spoken on the subject of abortion to anybody. I wasn't a member of any group. I wasn't doing anything on this subject. I sat in the House and I heard the debate on a bill that had to do with the disposal of dead fetuses. It brought back to me personal experiences that were overwhelming. For that reason, Senator Wheeler, and for that reason alone, I speak out now on abortion. It is not a conspiracy. I am not trying to deny women their rights, it is because I know something personally, that some of you may not know. I know that a lot of my colleagues in the House did not know it. Our daughter Jessica was born at 24 weeks, 25 years ago. The doctor told us that her chances were zero. She would not survive. When she was born, I want to tell you, that the doctor held her in his hand, literally, as she flailed her arms, and as she cried at the top of her lungs. I didn't know that a fetus in the second trimester could do those things. I am sorry if I get emotional. Jessica cried because she felt pain, and she was in distress, and she was 24 weeks old. Senator Russman said earlier "life is dear at any age." It certainly is dear at any age. Just because we haven't seen this person, they are too tiny, they are still alive

inside of the womb, and does it make them less of a person? There are some other things that I learned about Jessica that I did not know. I had no clue. A lady in the House said 24 weeks, 22 weeks, it is just a blob of tissue. I want you to know that it is not true. In addition to feeling pain and crying, Jessica fought for her life. Every breath that she took was a struggle, and she fought. The nurse came over to me as I stood over her, totally helpless, not knowing what to do, and she said, "Mary, Jessica is going to make it because she is a fighter, she wants to live." I never knew that a baby that young had a will to live, but she did as sure as I am standing here. She did something else that surprised me. She responded to the interaction with the nurses and with myself. Her pediatrician, who is a saint in my mind, gave me some advice. She said, "Mary, scrub up and reach inside that isolate and hold her hand and talk to her, and interact with her, because premature babies respond, and they live with a higher percentage of survival when they interact with people. So I want to stand here before you today...as a society today we need to value human life. We need to value our most vulnerable citizens. The youngest people that cannot defend themselves. How can we say as a society, collectively, through our laws, that it is ok to destroy these young people...just because we haven't looked them in the eye and heard their voice? Well I have done that. In conclusion, let me just tell you that a friend of mine said to me one day, "I have a friend who is 4-1/2 months pregnant and wants to get an abortion and I feel really bad for her, what do I say to her?" Because she knew how I felt, I told her to tell her that for goodness sakes, before you do this, go to the hospital and go to a preemie-ward and look at what we are talking about. We are talking about a unique individual human being. Thank you very much.

SENATOR WHEELER: Senator Brown, would you believe that I have witnessed the birth of three grandchildren, and the death of one, and that I understand the value of new life as much as anyone in this room and that this bill really isn't about that?

SENATOR BROWN: I disagree with you Senator Wheeler and I want you to know that my daughter beat the odds. Not only did she grow up to be a normal young woman, she is 25 years old today, and she is an officer, and she graduated from the United States Coast Guard Academy and she is serving her country in the armed forces, and I just disagree with you.

SENATOR FRANCOEUR: I urge the Senate this afternoon to support SB 54 as amended by Senator Krueger. This bill as Senator Brown mentioned, has passed throughout numerous states in our country. I was very happy yesterday to see that the state of Massachusetts is picking it up in that they have one representative down there that is bringing forth similar legislation this year. The partial birth abortion act of 1977, which is HR 1122, was approved by the House of Representatives in Washington on March 20, 1997 by a vote of 295-136. I am glad also that it passed the Senate down there in the same year, only sadly to be vetoed by the President. I mentioned earlier about the AMA. It is interesting that during the 104th congress that the 12th physician council under legislation on the American Medical Association voted unanimously to recommend that the AMA board of trustees, that they endorse the partial birth abortion bill. This amendment is modeled after the bill that was in Washington. There are two sections in it that are mandatory two-year jail sentence with a \$100,000 fine or both from that bill. This bill is almost identical to that. It is

written with New Hampshire statutes in it and that is about the basic difference in it. I would ask that this Senate today would support this as we see those even with a bipartisan fashion in Washington have supported this and we would like to see it become law in the state of New Hampshire. Thank you.

Question is on the adoption of the amendment.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: F. King, Johnson, Disnard, Roberge, Francoeur, Krueger, Brown, J. King.

The following Senators voted No: Gordon, Fraser, Below, McCarley, Trombly, Blaisdell, Fernald, Squires, Pignatelli, Larsen, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

Yeas: 8 - Nays: 16

Amendment failed.

Senator Wheeler moved indefinite postponement.

SENATOR BROWN: I rise to speak about this motion of indefinite postponement. This motion was proposed on a bill in the House and it was sad enough that we had voted against the issue, but I felt extremely hurt that we felt compelled, or at least some people did, to drive a stake through the heart of this issue. There may be another bill or there may be some other portion of this that we want to look at next year. It may come over from the House, who knows? I would really appreciate your not killing this for two years. Thank you.

SENATOR GORDON: I am going to support that because I think that indefinite postponement is wrong. Mr. President, the prime example is the issue of gambling for example. To me it is comparable to taking a pledge. The fact that there may be something important that comes before this legislature, somebody might want to raise an idea or a concern and the fact is that we precluded that from happening because we don't want to hear about it. I think that is wrong. I do think that this is a serious issue. I couldn't vote for this amendment today because I don't agree with the way that that amendment is structured, but I do think that it is a serious issue, and I do think that it is something that we ought to discuss. If somebody wants to come in with an amendment next year I think that they ought to be able to do that, or with a bill next year, I think that they should be able to do that. So I am going to vote against the motion of indefinite postponement and I would encourage the other people who want to be fair to do that to.

Motion is on the adoption indefinite postponement.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: Fraser, Below, McCarley, Trombly, Blaisdell, Fernald, Squires, Pignatelli, Larsen, Russman, D'Allesandro, Wheeler, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Disnard, Roberge, Francoeur, Krueger, Brown, J. King, Klemm, Hollingworth.

Yeas: 13 - Nays: 11

Adopted.

SB 54 is indefinitely postponed.

Recess.

Senator Hollingworth in the Chair.

SB 214-FN, establishing new procedures under the certificate of need law for certain ambulatory surgical facilities. Public Institutions, Health and Human Services Committee.

SPLIT REPORT: Ought to pass with amendment, Senator Squires for the committee. Vote 3-3

SPLIT REPORT: Ought to pass with amendment, Senator Wheeler for the committee. Vote 3-3

1999-1322s

01/10

Amendment to SB 214-FN

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

AN ACT establishing a committee to study the health services planning and review board and relative to the certificate of need process.

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

1 Legislative Findings; Public Interest; Review and Assessment of New Health Services. RSA 151-C:1, III is repealed and reenacted to read as follows:

III. The general court recognizes the fact that many New Hampshire citizens receive surgical care in facilities not directly related to, or connected with, the traditional hospital setting. The past few years have witnessed a steady increase in the development of ambulatory surgery centers that, as a result of technical and scientific advances, offer patients surgical care that only a short time ago required overnight stays. The general court further recognizes that, as a result of prior legislation, the construction of ambulatory surgery centers has been subject to review by the health services planning and review board through the certificate of need process. While it is acknowledged that a competitive environment for the provision of surgical services may be in the public's interest, there is ample evidence to support the belief that New Hampshire citizens have been well served by the institution of the community hospital. Community hospitals of a small size are particularly vulnerable to economic pressures that may ensue following construction of ambulatory surgical centers. Finally, public testimony has been presented suggesting that the certificate of need process, as applied to ambulatory surgery centers, requires examination and review to ensure that all parties are treated in a fair and impartial manner. These concerns and issues have, on occasion, resulted in a difficult and adversarial environment in which physicians and hospitals find themselves at odds with one another whereas the general court feels that, collaboration and cooperation should be encouraged and fostered.

2 Members of the Board. Amend RSA 151-C:3, I(a)(2)(B) and (C) to read as follows:

(B) [~~Three~~ **Four** consumers, each from a different region of the state. For the purposes of this subparagraph "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in their immediate family to anyone who is involved in the delivery of health care services or health insurance.

(C) [~~Two~~] **Three** providers whose occupation is in the delivery of health care services regulated by the board. One of these providers shall be nominated by the New Hampshire Hospital Association. The [~~other~~] **second** provider shall be nominated by the New Hampshire Health Care Association. **The third provider shall be nominated by the New Hampshire Ambulatory Surgery Association.**

3 Terms. Amend RSA 151-C:3, I(b) to read as follows:

(b) The commissioner of the department of health and human services or designee shall serve as the only permanent member of the board. All other members of the board shall serve only for one 3-year term, provided that of the initial members, the representative of health care insurers and one consumer shall serve for one year, one consumer and one provider shall serve for 2 years and one consumer and one provider shall serve for 3 years. **Members of the board are not eligible for reappointment upon expiration of their terms.**

4 Staff; Meetings. Amend RSA 151-C:3, VII to read as follows:

VII.(a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. **The staff director shall also testify at public hearings to defend staff analyses and recommendations to the board.** The commissioner shall also provide space for the board and staff and other assistance and materials as necessary; **provided, that all meetings of the board shall take place on government property owned or leased by the state of New Hampshire.**

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter, for the conduct of the staff, and shall timely and appropriately execute his **or her** duties.

5 Committee Established. There is established a committee to study RSA 151-C and the structure and duties of the health services planning and review board.

6 Membership and Compensation.

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

(a) Three members 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.

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

7 Duties. The committee's study shall include, but not be limited to;

I. A review of RSA 151-C and a review of the structure and duties of the health services planning and review board.

II. The role of ambulatory surgical centers and other advancements in medical technology which are currently changing the environment of health care.

8 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 senate 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.

9 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1999.

10 Applicability. If the court remands the case of *Appeal of Central NH Ambulatory Surgical Center* to the health services planning and review board for further review, such case shall be reviewed by the board as it was constituted before the effective date of this act and considered under the threshold amounts in effect before the effective date of this act.

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

1999-1322s

AMENDED ANALYSIS

This bill requires the health services planning and review board to meet on government property owned by the state of New Hampshire.

This bill establishes a committee to study the structure and duties of the health planning services planning and review board.

SENATOR SQUIRES: Senate Bill 214 deals with what has become an intractable issue, a dispute where the legislature is in fact being asked to perform the role of judge and jury. It has all the trappings of a civil litigation with prominent advocates on both sides. As I have tried to work through this, I have concluded that there are three issues in the state of New Hampshire that have created the problem that we are addressing. They are as follows: Some of the 26 hospitals in New Hampshire state or claim that the development of ambulatory surgery centers is in their economic disadvantage. It places them in financial peril, that these institutions and the conventional word is "cherry pick" remove patients that are currently receiving ambulatory surgery in hospitals and do them all, be it at less costs, in a separate facility. For months, this has been an issue, and I am going to express to you some of my disappointment. I did not insist on information because we have not had one single financial statement in public about any hospital in New Hampshire. So I don't know if this is true or not. I do know that none have gone out of business in the last few years. I do recognize... I am from a small town, New London, and this is an issue there. New London incidentally is affiliated with a larger hospital, which may be why they are surviving. But in any event, we have this statement and we don't have any information. Secondly, there is a claim that Ambulatorial Surgical Facility Group, ASC's are sprouting all over the state of New Hampshire and some out of control fashion. The correct answer seems to be that there are 17, and many of them are in hospitals themselves, and some of them are in free-standing arenas run in effect by physicians, but again, we do not know much beyond that. We do know that sometime in the last month or so, one new application has been received and that is it, despite the fact that this legislation has been on the legislative agenda since day one of the session. There has not been a rush to get in the applications. Finally, we have heard many claims that the sale and review board is dysfunctional, is the term that has been used. Yet we have had 17 centers and have not had any problem, it would appear, except for Laconia, which is now in court. So from all of this, I conclude that I don't understand it. I do not understand what is it that is going on here? I understand the issue, I understand ambulatory surgery, I understand the technology and mainly anesthesia is advancing and that there are new ways to do things. I also understand that there is a role of government here, although on occasion, we do not give evidence of financial concern, we just do things. So after months of hearings, statements and letters on all sides, here is where we stand. Everybody agrees, it seems to me, that a certificate of need process, which are the procedures by which both hospitals and ambulatory surgery centers make their applications. That process is flawed. Now you say, well that is perception, I

suppose it is. But the fact is that the perception, and perhaps the reality is there, that says that the certificate of need process is not working right; therefore, it needs to be studied. That is in this bill and it is in both amendments. Secondly, the bill deals with the issue of the composition of this certificate of need board, which is also, controversial. It adds to it, a representative of the Ambulatorial Surgical Facility Group, ASC's. Finally, there is a general agreement that whatever happens in Laconia, and whatever comes out of the Supreme Court, operates by the old rules and not by any new rules, which leaves us with the question, what do we do between now and the passage of the study committee and whenever it makes its recommendation? That is what we are talking about. Here is the range of possibilities, the House as you know, has approved at the committee level, a bill to increase the threshold. Threshold is another buzzword here. It is the financial targets that were established several years ago when this process was created. If you are below a threshold you are exempt from the seal end process, if you are above it, you are subject to it. So the House thinks that the thresholds ought to be elevated for ambulatory surgery centers. The second alternative is to change the threshold. Now my example is Senator Wheeler's benefit, because I know that she likes music, as do I. There is a great scene in Amadeus where Mozart writes this piece and the king hears it and after the performance he says to Mozart, well Mozart says to the King, "What did you think" and the king said, "Well it is okay, but there are too many notes" and I feel that way sometimes, it is because I don't understand it. My impression here when we start fooling with thresholds with too many dollars, so we will take a few out. Well what kind of dollars? Do you take out operating room dollars? Do we take out life support dollars? Anesthesia dollars? Waiting room dollars? I have no idea. An informal alternative is a moratorium. Say look it, a plague on all your houses. We can't figure this out, so nobody is going to do anything, which is frankly, somewhat attractive, but, it is not right. The truth is that the hospital community in New Hampshire is significantly divided. We have large hospitals, and we have small hospitals. The economic argument advance is that this will harm small hospitals when an amendment came along to protect small hospitals, the supporters of that position said that they did not like that. Now a moratorium or a substantial reduction in the threshold, at this time, in this sense of chaos, creates a problem for the larger hospitals. It does harm. You probably have had, I have had letters from Concord, the Elliot, we have had testimony from Saint Joe's in Nashua that if we do this, we will make it difficult in the future, and it will hurt them, and we should not be in that business. So this amendment acknowledges, at least in my ignorance and my inability at this point to understand this problem, and it says that we will study it, we will change the composition of the board slightly, that we will take Laconia out of the picture, and we will keep the system as it is. I simply do not understand the logic of approaching a problem, first of all by admitting that I don't understand it, and then go and change it, because it could be that as a result of the study committee, there will be recommendations to change the threshold. If that is true, that is fine. I am all for it. But until I know that and until I have some information instead of rhetoric and pressure from advocates, until I have some numbers and an analysis, I am not about to support a change, particularly when I have evidence to think that change may do some damage, particularly to the hospitals. Thank you.

SENATOR COHEN: Senator Squires, I don't think that there can be any question that there needs to be further studies. I don't think that there can be any question that the membership on the CON board needs to be changed. The question that I have for you, Senator Squires, is a question that I have heard from a number of different people, is the concept of 'cherry picking'. I wonder how you could respond to that? What I mean by that of course is that the ASC, the Ambulatory Surgical Centers might just take certain cases and cherry pick and not perform the charitable cases that hospitals are now required to do.

SENATOR SQUIRES: There is not much data on that. There is some information that one of the current surgical centers in New Hampshire does offer charity care. How much? I don't know. We are trying how much hospitals in fact, offer charity care, which is subject to another bill. Over time, you will discover that patient care is going to move out of hospitals. There is nothing that this legislature can or should do to stop that. Now the response to it, in the free market, has been the hospitals to get into the doctor business. That is a factor that you may not know and about 30 percent of the physicians in New Hampshire are employed by hospitals. Maybe that is a good thing, I don't know. It is the market playing out. But in response to the question, there certainly will be a movement of patients, no question about it, and there has been. There will certainly be a response by the hospital to change in some manner that I hope that we could learn more about. The key to this question, however, is volume. You can't make a big investment in an ambulatory surgery center unless you have the volume to support it. In my opinion, what this issue is really about is in three geographic areas in New Hampshire. The seacoast, Manchester and Nashua and that is it. No one is going to go to Colebrook and invest one million dollars in a surgery center and do two cases a day. It just isn't going to happen. I know that there is a thesis that a surgery center 50 miles away from Colebrook may somehow go there. I will bet that there is not enough surgery to be done in Coos County to justify a surgery center. **TAPE CHANGE** changing it and then we can make some intelligent decisions. Thank you.

SENATOR D'ALLESANDRO: I have been around this process probably longer than anybody in the room. I remember the 1122 review process when we had a healthcare agency that reviewed certificates of needs. The evolution of the certificate of need process, and now really the need for something different. Madame President, I rise in support of the Squires amendment to SB 214. As an advocate for consumers I believe that one of our top public policy goals in this legislature should be pursuing high quality and affordable health care for all citizens. Ambulatory surgical centers offer patients a cost-effective choice in healthcare. By bringing down the cost of care, ambulatory surgical centers increase access for everyone including the 113,000 uninsured citizens of New Hampshire. As a healthcare consumer, I believe that freestanding ambulatory surgical centers are an intricate part of our healthcare delivery system. ASC's advance our ability to provide affordable, efficient and high quality care to patients. Two years ago Portsmouth Regional Hospital and Concord Hospital applied to the CON board for a program to offer open-heart surgery services in direct competition with my hospital system in Manchester. The Portsmouth and Concord hospitals argued that competition in a fair market would foster innovative care and bring down the cost of providing open heart surgery to New Hampshire residents. Ac-

ording to the applicants, the competition in cardiac surgery in Boston had pushed down prices among the Boston providers while prices were increasing in New Hampshire. They argued that competition was a vital element in reducing healthcare cost and assuring quality. I support ambulatory surgical centers. I believe that the development of ASC's fosters innovation in healthcare and reflects an increasing trend nationwide and in New Hampshire, to strengthen affordable outpatient care and increase patient choice. These concepts should be advanced in New Hampshire not impeded. Too many people in our healthcare system are uninsured or underinsured. Too many hard working, small business owners are struggling to provide affordable health insurance coverage for themselves and their employees. Many small businesses self-insure and must continually strive to keep their healthcare costs down. These ambulatory surgical centers are extremely cost effective and have a proven record of working with uninsured and self-insured to provide their services at affordable prices. About 9 percent of the charity care in the Manchester area are delivered by the surgical center in Bedford. That is a higher percentage than is given by the hospitals in our community. I believe that this issue comes down to choice for both patients and physicians. I urge you to support the committee report and vote ought to pass with amendment on the Squires amendment to SB 214. Ambulatory surgical centers are a key component in making healthcare affordable and accessible to all New Hampshire consumers. Thank you.

Question is on the committee amendment (#1322).

A roll call was requested by Senator Fernald.

Seconded by Senator Fraser.

The following Senators voted Yes: Johnson, Below, Roberge, Squires, Francoeur, Larsen, Krueger, Brown, J. King, Russman, D'Allesandro.

The following Senators voted No: F. King, Gordon, Fraser, McCarley, Trombly, Disnard, Blaisdell, Fernald, Wheeler, Klemm, Cohen.

Yeas: 11 - Nays: 11

Senator Pignatelli (Rule #42)

Amendment failed.

1999-1321s

01/10

Amendment to SB 214-FN

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

AN ACT relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

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

1 Members of the Board. Amend RSA 151-C:3, I(a)(2)(B) and (C) to read as follows:

(B) [~~Three~~] **Four** consumers, each from a different region of the state. For the purposes of this subparagraph "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care

facility or health care insurer licensed or regulated by this state, and who is not related in their immediate family to anyone who is involved in the delivery of health care services or health insurance.

(C) ~~Two~~ **Three** providers whose occupation is in the delivery of health care services regulated by the board. One of these providers shall be nominated by the New Hampshire Hospital Association. The ~~other~~ **second** provider shall be nominated by the New Hampshire Health Care Association. ***The third provider shall be nominated by the New Hampshire Ambulatory Surgery Association.***

2 Terms. Amend RSA 151-C:3, I(b) to read as follows:

(b) The commissioner of the department of health and human services or designee shall serve as the only permanent member of the board. All other members of the board shall serve ~~only for one~~ 3-year ~~term~~ **terms**, provided that of the initial members, the representative of health care insurers and one consumer shall serve for one year, one consumer and one provider shall serve for 2 years and one consumer and one provider shall serve for 3 years. ***Members of the board shall not serve more than 2 full consecutive terms.***

3 Staff; Meetings. Amend RSA 151-C:3, VII to read as follows:

VII.(a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. ***The staff director shall also testify at public hearings to defend staff analyses and recommendations to the board.*** The commissioner shall also provide space for the board and staff and other assistance and materials as necessary; ***provided, that all meetings of the board shall take place on government property owned or leased by the state of New Hampshire. Notwithstanding this paragraph or any other provision of law to the contrary, the staff members shall report to the board.***

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter, for the conduct of the staff, and shall timely and appropriately execute his *or her* duties.

4 Ambulatory Surgical Facilities. Amend RSA 151-C:5, II(f) to read as follows:

(f) ***Except as provided in subparagraph (g),*** the construction, development, expansion, renovation, or alteration of any nursing home, ambulatory surgical facility, rehabilitation hospital, psychiatric hospital, specialty hospital, or other health care facility requiring a capital expenditure of more than \$1,000,000. The board shall, by rule, adjust the capital expenditure threshold annually using an appropriate inflation index;

(g) The construction, development, expansion, renovation, or alteration of any ambulatory surgical facility which results in the addition of an operating room and having a capital cost of \$250,000 or more; provided, that such conduct shall not require the application of such standards if it has been the subject of a public hearing and no health care facility whose service area includes any area to be served by such facility has objected in writing within 15 days following such hearing.

5 New Paragraph; Definition Added. Amend RSA 151-C:2 by inserting after paragraph XXVI the following new paragraph:

XXVI-a. For the purposes of RSA 151-C:5, II(g), "operating room" means any room in a licensed hospital or ambulatory surgical facility equipped and used to perform outpatient surgical cases.

6 Ambulatory Surgical Facility; Definition. Amend RSA 151-C:2, I to read as follows:

I. "Ambulatory surgical facility" means a *health care* facility [~~which is not physically attached to a health care facility and~~] *or a portion of a health care facility* which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.

7 References Changed. Amend RSA 151-C:13, I(f) to read as follows:

(f) Facilities and services which are intended to serve only outpatients and which do not require construction of greater than the appropriate threshold level, as determined under RSA 151-C:5, II(a) [~~or RSA 151-C:5, H~~], (f) *or (g)* or new equipment costing more than \$400,000;

8 Applicability. The provisions of sections 4-7 and 9 of this act shall not apply to applications or requests filed before January 1, 1999, or to applications or requests filed after January 1, 1999 and finally acted upon by the board in public hearing prior to the effective date of this act.

9 Reference Addition. Amend RSA 151-C:2, XII to read as follows:

XII. "Construction" includes actual commencement of any construction or fabrication of any new building, or addition to any existing facility, or any expenditure of more than the appropriate threshold level, as determined under RSA 151-C:5, II(a) [~~or RSA 151-C:5, H~~], (f) *and (g)*, relating to the alteration, remodeling, renovation, modernization, improvement, relocation, repair, or replacement of a health care facility or health maintenance organization, including expenditures necessary for compliance with life and health safety codes.

10 Committee Established. There is established a committee to study the structure and duties of the health services planning and review board.

11 Membership and Compensation.

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

(a) Three members 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.

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

12 Duties. The committee's study shall include, but not be limited to, a review of the structure and duties of the health services planning and review board, a review of RSA 151-C, and methods for expedited review.

13 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 senate 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.

14 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 1999.

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

1999-1321s

AMENDED ANALYSIS

This bill requires the health services planning and review board to meet on government property owned by the state of New Hampshire. The bill establishes new procedures for developing standards under the

certificate of need law for ambulatory surgical facilities. The bill also establishes a committee to study the structure and duties of the health services planning and review board.

SENATOR WHEELER: I rise in support of the amendment that is on page 23 of the Senate Calendar. I will say what Senator Squires said that many elements in the two amendments are the same. The composition of the Certificate of Need Board is altered as Senator Squires described in this amendment and also, a study committee is also established. Both amendments exempt the Laconia issue. My amendment even exempts the Concord issue saying that there needs to be no review if no objections are raised to a proposal for building an ASC. The debate, as Senator Squires stated, centers around what to do while the committee study is studying. Some say "do nothing because you will just have to change it later." In truth, to preserve the status quo, you need to support this amendment. I take exception to the notion that public review does harm. This amendment sets a threshold for review for all operating rooms for ambulatory surgery, whether they are part of a hospital or a free-standing entity. This not only brings public scrutiny into an arena where none has existed so far, it also levels the playing field for hospitals and ASC's. The part of the statute which keeps ASC's at the same level as nursing homes and etceteras, remains in place until after the study. Incidentally, that \$1 billion threshold has been adjusted for inflation by the CON Board, so we have been given false information about that. But the issue of burgeoning growth of out-of-patient operating rooms cannot be ignored and it is burgeoning. We are dealing with the total cost of health care here, not the partial cost of health. We are not just talking about day surgery on knees, but about strokes, severe allergic reactions to bee stings, asthma attacks, all of the unanticipated situations which require emergency care. There is no free market in health care. When you have a heart attack, you are not thumbing through the yellow pages looking for the cheapest doctor. There is no competition for the sickest patient, the poorest patient, the least well-insured patient, the patient with multiple problems. We require hospitals to treat everybody. We need everyday access to the emergency rooms within 30 minutes. For every dollar spent on emergency care, hospitals receive forty cents in reimbursement. I am not a fan of cost shifting, but it is a necessity in the situation in which we have today. You can't pull all of the profitable procedures into private profit centers. That is cherry picking, Senator Cohen. Something in which we don't allow in our health insurance laws. Don't be fooled into thinking that there is great altruism here, and a burning desire to serve vulnerable populations. There are megabucks involved here. I don't know about the rest of you, but I understand what is going on. The money that has been poured into lobbyist alone should convince you of that. There really is a huge penned up desire to build more of these money makers. In fact, as Senator Squires said, a proposal for one has been filed since we have begun this debate. When I asked one of my doctor friends what he thought of ASC's, and this was when I was still in the exploring phase and I had not yet formed my own opinion, he said that it was all about greed. In my more charitable moments, I realized that it might more truly be a reaction to the restriction to the constrictions of managed care, but it is not about some Mother Teresa like calling to help the poor. In some of the articles that you have been given, there are quotes from doctors who are unabashed about saying that they want to open up ASCs to stabilize their incomes. In other states, the ASC doctors state freely that they are pushing the

envelope to have 72-hour recovery centers so that they can do total knee replacements and perhaps total hip work. We are just seeing the beginning here. So far, we have allowed 17 ASC's to be built without public review as to need. Do we want to keep evading our public responsibility? Do we want to continue to allow unregulated, untrammled growth in little profit centers where doctors are diverting a revenue stream from community needs to themselves? It is clear that I have some real concern about the true worth of these surgery centers to the communities, but I am not asking for a moratorium. I am just saying that it is our duty to require some public review to see if there really is some community benefit in having an ambulatory surgery center in a given area, to see if it is truly responding to a community need. If you want to be on the side of the white hats, vote for this amendment and show your constituents that you are truly looking out for all of their serious health care needs and not just the needs of the poor or the needs of the rich, but the needs of all of the people. The hospitals are looking out for themselves, the ambulatory surgical centers are looking out for themselves, the doctors are looking out for themselves. Someone needs to be on the side of the public. Remember, we are talking public review here, not a moratorium. If we don't look out for the public, who will? Thank you.

SENATOR FERNALD: I rise in favor of the Wheeler/Fernald amendment. Senator Squires stated that he doesn't know and therefore we should wait and see what the study committee says. I think that I do know things that are wrong with this statute, that we should change now, which is why I am in support of this amendment. I need to talk a little bit about the statute that we are amending. Dates from 1985. What we heard in our committee hearings is that at that time, payment from medical services and hospitals and also in nursing homes was a cost-based reimbursement, particularly if you were looking at Medicare or Medicaid. The government regulators realized that if it was a cost-based reimbursement, a hospital that expanded could simply say that their costs have increased, and so our reimbursement increases and the government didn't want to keep picking up the tab for more and more hospital construction, so the certificate of need process was meant to put some controls on the natural tendency of hospitals to build and build in a cost-based environment. What we have today is no longer a cost-based environment. Medicare sets a rate of reimbursement and it has nothing to do with costs. So the original reason for this statute has gone away. What we have with this statute, what we have here are questions of competition and a monopoly. What we have under the statute is effectively little monopolies for each hospital in the state. They have their own little service area and basically one hospital does not poach on the preserve of another hospital. Then the ASC's came along, and to understand why they came along we need to talk about hospital economics. We heard testimony from hospital after hospital and what we heard is that they make money on outpatient surgery, and it is their growth industry. We also heard that they lose money on inpatient surgery and care. The people who actually stay overnight at the hospital. They lose money. They lose money on emergency rooms, so they use the money that they make on outpatient to cover their losses on inpatient and emergency rooms. ASC's come into this picture now. Doctors can now build an ASC, and because they are not paying for inpatient, they are not paying for emergency rooms, they can do the service for less so they can build what is essentially, a hospital operating room somewhere else and do outpatient surgery. They can charge less than the hospital and

they can make more money than they are at the hospital, doing the same procedure, and in particular, they can have a return on their investment, if you will, in what they invest to build the ASC. Under these circumstances, there is a big financial incentive for doctors to build ASC's and to take business out of the hospital. What we have to look at as legislators, is what is this going to do to our hospitals if we allow the lucrative business to be drawn off and leaving the hospitals with a greater and greater percentage of the business that they are losing money on? Which brings me back again to this question of, we are talking about competitive markets, and yes, we are talking about monopoly. We do not have a competitive market in operating rooms, if you will, in ASC's at this time, because they are subject to the certificate of need statute. If we believe in competition, we could say well let's allow ASC's anywhere and forget the thresholds, and let's just do away with the certificate of needs altogether and everyone will get cheaper outpatient care and everyone will be happy. But I think that if we do a free market in ASC's, we are going to hurt our hospitals. It is not just the little ones. If you build enough ASC's in Manchester, Nashua and Portsmouth, and you are going to hurt the big hospitals too, because they need this outpatient revenue as much as the little hospitals do. It is just a difference of proportion in absolute dollars. The problem is the same for all hospitals. If we are not going to do free competition... I want to tell you that I like free markets, but if we say all right, we have a free market in operating rooms, anything goes, we are going to affect these other two markets, which are our emergency rooms and inpatient. In the end, we are not going to be happy with what happens. So this is one time where I err on the side of government regulation, even though I don't think that it works very well, I think that it is better than the alternative of a free market. Now let's look at what we are doing now. I think that we should have regulation, and we have kind of a crazy quilt right now. If you are a bunch of doctors and you want to build an operating room, otherwise known as an ambulatory surgical center, if you are going to spend more than a million dollars, you have to get permission from the CON board. But if you are a hospital and you want to do basically the same thing, you want to build an operating room that is going to be used for outpatient surgery, you can spend up to \$1.5 million before you have to go through any review. Since the hospitals already have a building, they can renovate existing space in their building from one use into an operating use for perhaps \$.5 million and build new outpatient capacity, whereas doctors cannot. So the doctors find themselves by-in-large, boxed out by this \$1 million limit. There are a few doctors who are able to put together an ASC for less than a million. The doctors in Laconia thought that they were under \$1 million and ended up in litigation because the hospital said, "no, no, no, you are spending more than a \$1 million and you have to go through the board." There is a group of doctors that have applied in Newmarket, and I don't know if any hospital will challenge them. They think that they are under \$1 million obviously, but what could well be happening... I said Newmarket and it is Newington, what is happening is that the hospitals want to add on to their operating room capacity. They want to build another operating room, and they will be able to do it without any review under our current statute, because they have a \$1.5 million threshold. So what this amendment does is it levels the playing field. I think that I know enough about the situation to see that it is not right the way that it is now. We have a regulated monopoly, if you will, now. We have a regulation of competi-

tion, and yet the playing field is tilted in favor of the hospitals. The reason why we are lowering the threshold to \$250,000 on operating rooms is because a hospital, probably for \$.5 million can take existing space and build an operating room for outpatient whereas the doctor in the same community could not do it under the current law. Now this doesn't make everybody happy, but what it means is that we will follow the model for operating rooms that we have followed for nursing homes. If someone wants to build a new facility, they go to the board and ask for determination of need. The board decides whether or not we need a new operating room or by analogy, a new nursing home, in a particular market. They determine need first, and if they determine there is need, they put it out to bid, and do a request for proposals, and anyone who wants to add on this new type of medical facility in this market area, can submit a proposal. So the hospital can come in with a proposal and any group of doctors that cares to build an operating room can come in too, if the need is established. Then it is competition between the applicants. I happen to think in spite of what has been said, that this amendment is good for the doctors, because if what they say is true, and I think that it is, that they can provide good or better quality care that is more convenient to customers/patients, for less money, they will win the competition every time with the hospitals. But it means that with this framework, under this amendment, everybody is on the same playing field. No one can build without going through review, and the review will allow everybody to compete for the new operating rooms that we need when the board determines that we need them. I think that this is something that we should do now. It is consistent with the policy behind the statute, and it is consistent with the idea that we need to protect the hospitals that are providing inpatient care and emergency room care at a loss. Thank you.

SENATOR COHEN: Senator Fernald, you raised some points, which raised questions to me. By having the \$250,000 limit, how will we not be perpetuating a monopoly, and how is that not a de facto moratorium on ASC's? Wouldn't that effectively close the door on the development of ASC's and competition, and the ASC's that have already started up and perpetuate the monopolies that already exist?

SENATOR FERNALD: It doesn't mean that you can't build ASC's. It just means that you can only build them when there is a determination of need. I have heard from some doctors who have said, "look, I can't get all of the operating room time that I need, and my patients have to wait two months and so on and so forth." That, to me, is an indication that there is need in that community, and they should be able to go to the board and say look, there is need here for more operating rooms because we can't get the time that we need to service the patients that we have. So ASC's will be buildable, they just have to go through the review process. You talked about monopolies. What effectively this does is it says that for the hospitals that have their operating rooms now and the ASC's that have their operating rooms now, they can run those things at full capacity, if you will, and no one is allowed to come in, but when we get to the point where they can't handle all of the patients that there are, then we have a free market on the growth in the out patient market, and then anybody can come in and compete for the new business, if you will. My understanding of the economics is, that the doctors will compete very, very well against the hospitals because they can do it at lower costs, and it is more convenient for them and their patients.

SENATOR COHEN: Thank you.

SENATOR KRUEGER: I will be brief. I just wanted to say that I rise in strong support of the Squires amendment. I have a couple of introductory things to say and then I will just briefly sort of compare the Wheeler/Fernald and Squires amendment. First of all, I wanted to say that in all respect, Senator Fernald, you know, in the beginning it really was a debate between the ASC's and the hospitals. I am sure that Senator Squires said this, but I want to say it again. During the course of this enormously protracted informational debate or whatever, what I found out was that if you were to take half and half and then add the hospital group...and I suspect now that it may be even more than half of the hospitals...they actually can live with the Squires amendment. I have all kinds of letters here from those hospitals, especially places like Catholic Medical Center, The Elliot Hospital, Saint Joseph's Hospital that don't want to support the Wheeler amendment. So I am not sure that...although I appreciate your perspective, I am not sure that the hospitals would agree with you...at least not all of them...as to what you just shared with us. As for Mother Teresa, one of my favorite people, I just want to say to Senator Wheeler that if you were to look at some of the letters that I received, and I am sure that you did too, from people whose lives or children's lives or whatever...in one case the person didn't even live and yet they still wrote a letter of compliment. The ASC basically gave them access and saved them money. Now to come back to where we are right at this moment, we have a Squires amendment, which is going to add members to the CON board, we have a study committee to thoroughly study this whole statute, and we have the Wheeler amendment which is going to lower the construction renovation threshold for all hospitals and ASC operating rooms to \$250,000. I believe that if I remember correctly in the committee, and I think that I directed this question specifically to Senator Fernald, you might as well have that figure a \$1. You might as well make it \$1. I would suspect that it would be very, very difficult to make it through that process. If it weren't difficult to make it through that process, then no one would have any objection to the CON board. So physicians now and many hospitals, oppose lowering the thresholds. If we do in fact have this moratorium, and that is what I am going to call it, a moratorium on the building, then I have all kinds of hospital people that are calling me because they want to improve their operating rooms, and they are not going to be able to improve their operating rooms because they are going to go above the threshold, and we all know that it is very difficult, a very long involved process to get through that CON board; therefore, and I understand and appreciate the perspective that that amendment, the Wheeler/Fernald amendment came from. We are going to have unintended consequences. I am sure that you read it, but I will put it on the record to quote the hospital administrators and this happens to be from Catholic Medical Center, "If the thresholds were reduced, healthcare organizations could be paralyzed in their ability to replace equipment, modify facilities and move ahead in the routine course of business due to the enormous expense of routine hospital equipment. This could have a deleterious affect on our ability to provide high quality patient care." Isn't that what we all care about? Then if we have hospitals telling us that we have doctors telling us that...I have a stack of letters from patients telling me that, who exactly is this supposed to benefit? One last thing. Massachusetts, our competition state for healthcare, and we know that. I, myself have taken advantage of the excellent healthcare in Boston, has

a \$9 million threshold for hospitals. It exempts physician's practices. In the beginning of this September an ambulatory Surgical Center is going to open in Chelmsford, Mass. I happen to know that the Harvard Pilgrim Community Health Center in Nashua uses that area in a lot of cases, so we are going to have one opening with a \$9 million threshold so they are all set, which is going to attract New Hampshire patients. The Wheeler/Fernald amendment will really impede the ability of hospitals and physicians from offering similar services here in New Hampshire. I look at that southern tier, and I am proud of the hospitals in the southern tier of the state. They are going to suffer as well, so it is not just small hospitals. It is certainly not going to help patients if we do this. Why not study this? Why not come to the point where we do the right thing? Where we say, are we overreacting? If we just allow for an inclusion in the CON board. If we leave everything the way that it has been, and I have not seen the preponderance of the immersions, or the birth of all kinds of surgery centers, and it seems to me that we would be doing the right thing. Forget the doctors, forget the hospitals. It is for the patients. Thank you.

SENATOR FERNALD: Senator Krueger, are you aware that the Wheeler/Fernald amendment...the \$250,000 threshold applies to the addition of an operating room, and therefore it does not apply to renovation or re-equipping of an existing operating room?

SENATOR KRUEGER: Thank you very much, I did understand that, but in having conversations with some of the hospital administrators, they are quite concerned about the fact that if they were to reconfigure some of their operating suites, which is what they are about to do so that they can get more into 'day surgery', as I used to call it, then you will have problems. They will then in fact have to go through the CON board. I heard that directly from three hospital administrators. So the language in your amendment must leave in their minds, and I confess, not in mine, I had the tendency to agree with you, for your interest, in their minds, great consternation.

SENATOR FERNALD: Senator Krueger, don't you think that perhaps the reason why the hospitals favor the existing thresholds is because they get \$1.5 million threshold whereas the doctors only get \$1 million?

SENATOR KRUEGER: Senator Fernald, I am totally confused. It seems to me that I listened to you for quite a wonderful lengthy diatribe on what we are doing for the hospitals. Now you are telling me that...hit those hospital's hands, they have too much money. I am saying leave it alone, it has worked for most of the hospitals and it has worked for the centers and it has worked for the patients. For the small group of hospitals, yet to be uncovered, whether it is helping or not, we have a process in place with a study committee to figure that out. I don't think that this is going to be a very long process, but at least we would be able to come back to the table after endless hours of debate on this issue with real facts. Let's face it, you haven't seen that many problems thus far either, have you really? No hospital is going to go out of business.

SENATOR FERNALD: There is a problem with the existing law.

SENATOR WHEELER: Senator Krueger, I hesitate to ask this because I know how loud I am, but I wondered if perhaps you hadn't heard me when I said that this amendment really is not for the purpose of pleasing the hospitals or pleasing the ASC's or pleasing the doctors, but that I believe that our duty is to look out for the public. By that, I mean all of the healthcare needs of the public, and not just the needs of those who have day surgery? Did you hear me say that?

SENATOR KRUEGER: I heard you say that, but I read into that the fact that that would change the status quo, and although we saw some problems with some of the status quo, we didn't have evidence, in my mind, that there were such enormous far reaching problems with the status quo that we needed to do something this drastic. I am not going to answer anymore questions.

SENATOR GORDON: I have had several concerns. One of the concerns is particularly the ambulatory surgery center which has been proposed in Gilford, and which would affect the Laconia community. The concern that I have had in regard to the pending legislation, is that whatever we might do, it might change the ground rules under which that particular facility, or the application, or the petition, of that particular facility, to go forward might be decided. I don't think that we should be in a position where we are interfering with the legal proceedings that are currently in place. I have received assurances, I guess, from Senator Squires and from Senator Wheeler, and also from the hospital in Laconia, that either amendment, which would be passed, would not affect that. So the adoption of the new threshold levels, regardless of what they might be, would not have an impact on what is going on in Laconia. The second concern that I have is the CON board itself. I agree with the word that Senator Squires used and that is 'dysfunctional'. I believe that it is in fact, dysfunctional. It is antiquated. It is not applying the proper standard. Its members in fact, have special interest, and in fact, it needs to be changed and something needs to be done about it as soon as possible. I think that it needs to...as was indicated in the earlier testimony, it needs to be updated. It needs to go from where it first began, and for its original purpose, which is no longer there, and which was more or less a planning purpose to have its purpose changed, and that is to adopt to a more free market environment for the provision of healthcare services. In doing that, go from a planning role more into a judicial role, deciding what is in fact in the best interest of the communities and the people of the state. I think that the study committee is a step forward in doing that, and I certainly support that. The only real issue that I have is what do we do for the next year until that study committee does its work and comes back and proposes new legislation? That has been very problematic. At first I was very concerned because I had an impression that whatever we did might affect the problem in Laconia, which now I am no longer concerned about. I represent a number of small hospitals. I represent, as you know, 32 towns, and the majority of the people in those towns go to hospitals that are located in my district, and that is Cottage Hospital in Woodsville, Spear Hospital in Plymouth, and many of the people in my district go to the hospitals in New London, and Franklin. They certainly have expressed their concerns about how this might be impacted. The fact is that no one ambulatory surgery center probably is going to put them out of business, but the question is what is the impact going to be over time? That is the big concern to them. When at a period of time in the future when that hospital says to the community **TAPE CHANGE** and then I am afraid that they are going to ask the question of me "why didn't you do something about it?" The one thing that I would like to do in the next year is make sure that there is an even playing field. Unlike Senator Squires, I would like to see the moratorium. I think that is the preferred alternative, but I don't think that there is a critical mass of votes here to make that happen. I think that that frankly in my opinion, that would be the right thing to do. A moratorium on operating rooms for the year. I would like to see that hap-

pen. I happen to think that is the right thing to do, and that isn't going to happen. If that isn't going to happen, then I want to see everyone subjected to the same process, to the same procedure. Those people, who said that Senator Wheeler's amendment is effectively a moratorium, I think that they are right, to the extent that it basically subjects everybody to a process. That is true, but the fact is that if it does subject everybody to the process, it is, in fact, an even playing field, and it doesn't stop anybody from going forward. So as a default position, I am going to support Senator Wheeler's amendment, as much as it pains me to do that today as opposed to Senator Squire's amendment.

SENATOR COHEN: Senator Wheeler, you spoke about that we have to base our decision on what is best for the public, and I am sure that you mean that, I am sure that it is true for all of us. My question is if ASC's by being competitive can provide significantly lower cost to good quality healthcare, how is that not in the interest of our constituents?

SENATOR WHEELER: Senator Cohen, because when we are talking about protecting the health of the public and the needs of the public, we are talking about the entire health, all of the healthcare needs of the public, not just those needs for day surgeries. We need to make sure that our emergency rooms in our hospitals remain viable so that they can take you when you have a sudden need for an appendicitis, not something that has been scheduled in advance and something that won't make you stay in the hospital overnight.

SENATOR COHEN: So the outpatient cost is where the money... they are making money and the hospitals are losing money on their emergency rooms, and this is a way for them to save money?

SENATOR WHEELER: As I said, it is unfortunate that the situation in our healthcare today requires cost shifting, but the hospitals are only getting reimbursed 40 cents on the dollar that they spend in the emergency room. When we build ambulatory surgical centers without accessing the need, the amendment that Senator Fernald and I have just offered requires the assessment of the need. We want to make sure that we do not place our hospitals that are required to serve all of the people for all of their healthcare needs, we do not want to put them in a vulnerable situation.

Question is on the committee amendment (#1321)

A roll call was requested by Senator Gordon.

Seconded by Senator Blaisdell.

The following Senators voted Yes: F. King, Gordon, Fraser, McCarley, Trombly, Disnard, Blaisdell, Fernald, Larsen, Wheeler, Klemm, Cohen.

The following Senators voted No: Johnson, Below, Roberge, Squires, Francoeur, Krueger, Brown, J. King, Russman, D'Allesandro.

Yeas: 12 - Nays: 10

Senator Pignatelli (Rule #42).

Amendment adopted.

Ordered to third reading.

Recess.

Senator Blaisdell in the Chair.

SB 219-FN-L, establishing a procedure for providing educational improvement assistance to local school districts. Education Committee. Vote 5-2. Ought to pass with amendment, Senator McCarley for the committee.

1999-1339s

04/01

Amendment to SB 219-FN-LOCAL

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

2 Adequate Public Education; Delivery of an Adequate Public Education; Local Educational Improvement Plan. RSA 193-E:3 is repealed and reenacted to read as follows:

193-E:3 Delivery of an Adequate Education. In order to implement New Hampshire's policy of providing all students with the opportunity to acquire an adequate education, each school district shall put in place and evaluate the following quality standards:

I. By June 30, 2001, and every 3 years thereafter, each school district, through a process involving parents, teachers, employers, and other community members, shall prepare and implement a local education improvement and assessment plan and file such plan with the department of education. The department of education shall comment to the district on the plan in a timely fashion. Districts may reference the statewide education improvement and assessment plan established in RSA 193-E:4, VII, in preparing the district plan. At a minimum, the plan shall include:

(a) Curriculum and proficiency standards for all students.

(b) School and district performance goals based on reported data on educational indicators listed in paragraph II.

(c) Procedures for aligning curriculum, instructional practices, and student and programmatic assessments, including annual reporting of results.

(d) Local assessment measures which focus on individual student performance.

(e) Role of support services and programs.

(f) Role of instructional leadership.

(g) Strategies to promote family and community involvement; and

(h) Staff supervision and evaluation and performance-based professional development.

II.(a) By July 15, 2000, each school district shall report to the department of education its data for the previous school year on its school and district performance indicators. The requirements for data keeping and the form of the report shall be established in accordance with rules adopted by the state board of education. Performance indicators shall include the following areas:

(1) Attendance and dropout rates.

(2) School environment indicators, such as safe-school data.

(3) Proportion of graduating students going on to post-secondary education, military service, and the workplace; and

(4) Performance on state tests administered pursuant to RSA 193-C and other standardized tests administered at local option.

(b) In addition, local districts shall report on locally developed performance indicators and assessment measures.

III. Each public elementary, middle, junior high, and high school in the school district shall meet the standards for school approval adopted by the state board of education.

IV. Beginning December 1, 2001, and annually thereafter, the commissioner of education shall determine the extent to which each school district is meeting the quality standards established in paragraphs I, II, and III of this section. A school district that meets or exceeds the quality standards shall be recognized in accordance with RSA 193-E:4, II. A school district that does not meet the quality standards shall be designated by the commissioner of education as a school district in need of assistance. Each year, the commissioner of education shall provide a report of such determinations to the governor and council, state board of education, speaker of the house, president of the senate, and chairs of the house and senate committees responsible for education and finance.

V. Beginning no later than December 1, 2000, and annually thereafter, the department of education shall issue a report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall include demographic and student performance data including, but not limited to, school and district performance on state tests administered pursuant to RSA 193-C, other standardized tests administered at local option by at least 25 percent of school districts, data provided under paragraph I of this section, as well as other relevant statistics. Comparisons with state averages and with the condition of each district and school in comparison with previous years shall be provided, including, but not limited to, statewide rankings of each district and school on the state tests administered pursuant to RSA 193-C and on other standardized tests administered at local option by at least 25 percent of the school districts. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school board with the identification of trends, strengths, and weaknesses and the development of its local education improvement and assessment plan.

3 New Sections; Adequate Public Education; Education Improvement Assistance to Local School Districts. Amend RSA 193-E by inserting after section 3 the following new sections:

193-E:4 Educational Assistance to Local School Districts.

I. Within 60 days of the issuance of the annual report on the condition of education as provided in RSA 193-E:3, V each school board shall provide an opportunity for public discussion of the report at a meeting of the board called for the exclusive purpose of reviewing the report. At least 7 days advance public notice shall be given.

II. A school district that has been identified pursuant to RSA 193-E:3, IV as meeting or exceeding the quality standards shall receive formal recognition from the state board of education and the governor. Any school district, school, or teacher that demonstrates a best practice worthy of recognition shall also receive formal recognition from the state board of education and the governor. Such school districts, schools, or teachers shall be eligible to apply for grants from a special projects and improvement fund administered by the department of education pursuant to RSA 193-E:5, VII.

III.(a) A school board, in response to the annual report on the condition of education, may request from the department of education the assistance available under paragraph IV.

(1) If a school board requests assistance on behalf of a school district that has not been designated as a school district in need of assistance pursuant to RSA 193-E:3, IV, then the assistance requested under paragraph IV to be provided by the department of education shall be based on the availability of resources as determined by the commissioner of education.

(2) If a school board requests assistance on behalf of a school district that has been designated as a school district in need of assistance, then the school or district shall receive assistance from the department of education in accordance with subparagraph IV(a)(2).

(b) If a school board has received notice pursuant to paragraph VI, then the school district shall receive assistance from the department of education in accordance with subparagraph IV(a)(3).

IV. The department of education and the state board of education shall work cooperatively with school boards to provide assistance as follows:

(a)(1) Within 30 days of a school board's request for assistance pursuant to subparagraph III(a)(1), the commissioner of education may appoint a quality assurance team to review the educational programming and effectiveness of the school district. In cooperation with local officials, the team shall prepare and present a report at a regularly scheduled public meeting of the local school board and to the state board of education. This report shall be issued within 4 months of the team's appointment. Based on this report, the local school board and superintendent shall, within 6 months of the issuance of the report, prepare a corrective action plan and submit it to the state board of education for approval. If the plan is not approved, the local school board may revise the plan and resubmit it to the state board. The school board may decide to implement the corrective action plan on its own, through the use of a technical assistance advisor, or through the use of a peer review team. Any such decision shall be included in the corrective action plan.

(2) Within 30 days of a school board's request for assistance pursuant to subparagraph III(a)(2), the commissioner of education shall appoint a quality assurance team to review the educational programming and effectiveness of the school district. In cooperation with local officials, the team shall prepare and present a report at a regularly scheduled public meeting of the local school board and to the state board of education. This report shall be issued within 4 months of the team's appointment. Based on this report, the local school board and superintendent shall, within 6 months of the issuance of the report, prepare a corrective action plan and submit it to the state board of education for approval. The school board may decide to implement the corrective action plan on its own, through the use of a technical assistance advisor, or through the use of a peer review team. Any such decision shall be included in the corrective action plan.

(3) Within 30 days of the issuance of a notice to a school board pursuant to paragraph VI, the commissioner of education shall appoint a quality assurance team to review the educational programming and effectiveness of the school district. In cooperation with local officials, the team shall prepare and present a report at a regularly scheduled public meeting of the local school board and to the state board of education. This report shall be issued within 4 months of the team's appointment. Based on this report, the local school board and superintendent shall, within 6 months of the issuance of the report, prepare a corrective action plan and submit it to the state board of education for approval. The school board may decide to implement the corrective action plan on its own, through the use of a technical assistance advisor, or through the use of a peer review team. Any such decision shall be included in the corrective action plan.

(b) If the state board of education does not approve a corrective action plan submitted in accordance with subparagraphs IV(a)(2) or IV(a)(3), then the commissioner of education shall work with the local school board

and superintendent to revise the corrective action plan. If the local school board and superintendent do not revise the corrective action plan within 2 months or the state board of education does not approve the revised corrective action plan, then the commissioner of education shall submit in a timely manner a corrective action plan, including methods for implementing it, to the state board of education for approval without further action of the local school board.

(c) If an approved corrective action plan includes the use of a technical assistance advisor, then the commissioner of education shall appoint a technical assistance advisor who is authorized to access the state special projects and improvement fund to provide assistance to local school district staff in the implementation of the corrective action plan until the goals of the corrective action plan are met.

(d) If an approved corrective action plan includes the use of a peer review team, then the commissioner of education shall name a peer review team consisting of one person appointed by the chairperson of the local school board, one person appointed by the chairperson of the state board of education, and a third member chosen by the local school board and state board of education appointees to advise the school district's superintendent and the local school board relative to the implementation of the corrective action plan until the goals of the corrective action plan are met.

V. If, by the time of the annual school district meeting or by April 30 in a city with a dependent school department, the school board of a school district in which a school district has been designated as a school district in need of assistance pursuant to RSA 193-E:3, IV has not submitted a request for assistance under paragraph III, then the legislative body of the school district may vote to direct the school board to submit a request for assistance under paragraph III. If a majority of the legislative body votes in favor of requesting assistance, then that assistance shall be requested and provided in accordance with paragraphs III and IV.

VI. A school board shall have one year from the date that a school district has been designated as a school district in need of assistance pursuant to RSA 193-E:3, IV to remedy identified problems at the local level. If the school district is designated as a school district in need of assistance and the school board does not request assistance under paragraph III within one year of such designation, then on December 1 of the year following the designation, if the school district continues to be designated as a school district in need of assistance, the commissioner of education shall issue a notice to the school board and shall initiate a process for providing assistance pursuant to subparagraph IV(a)(3), without further action of the school board.

193-E:5 Assistance to Local School Districts.

I. By June 30, 2000, and every 3 years thereafter, the state board of education through a process that provides opportunities for public input from parents, employers, educators, and other citizens shall review and update the statewide education improvement plan developed in accordance with RSA 193-C that describes how the department of education will help schools and school districts improve student achievement. The plan shall include goals and strategies for the delivery of technical assistance and professional development, the sharing of best practices, the modification or expansion of existing programs, and the establishment of new programs.

II.(a) Notwithstanding any other provisions of law, no later than June 30, 2001, and every 5 years thereafter, the state board of education shall review and update school approval standards based on input from parents, employers, educators and other citizens.

(b) The state board of education shall work with a joint select committee of the house and senate education committees, whose members shall be appointed by the speaker of the house and the president of the senate, to identify amendments that should be made to the school approval standards to reflect the provisions of RSA 193-E. Further, any proposed amendments shall consider the recommendations of the adequate education and education financing commission established in RSA 198:49 and should be reviewed by the house and senate education committees, which may submit comments on the proposed amendments to the state board of education. The state board of education shall consider such recommendations and comments in adopting amendments to the school approval standards pursuant to RSA 541-A.

III. Beginning no later than January 1, 2000 the commissioner of education shall ensure that the state curriculum frameworks adopted under RSA 193-C shall be reviewed on a staggered, 5-year cycle such that no more than 2 frameworks are being reviewed at the same time. In order to provide reliable annual comparisons of data at the school and district levels, the statewide improvement and assessment program shall be expanded to include more than the 3 grades required under RSA 193-C:6.

IV. No later than January 1, 2000, the state board of education shall adopt rules, pursuant to RSA 541-A, establishing the requirements for data keeping and the form of the report as required in RSA 193-E:3, II.

V. No later than December 1, 2000, the state board of education shall adopt rules, pursuant to RSA 541-A, for the approval of corrective action plans as required by RSA 193-E:4, IV(a).

VI. The department of education shall implement credible procedures to review compliance with school approval standards.

VII. A special projects and improvement fund shall be established in the department of education and continually appropriated to the department. The department of education shall use moneys appropriated for this fund to provide grants to school districts pursuant to RSA 193-E:4, II. The department of education shall also use moneys appropriated for this fund to support the implementation of approved corrective action plans. The technical assistance advisor assigned to work in school districts pursuant to subparagraph IV(c) shall be authorized to access this fund in accordance with procedures established by the department of education.

193-E:6 Legislative Oversight Committee.

I. An oversight committee shall be established consisting of:

- (a) The chairperson of the house education committee, or a designee.
- (b) The chairperson of the senate education committee, or a designee.
- (c) One member of the house of representatives, appointed by the speaker of the house.
- (d) One member of the senate, appointed by the senate president.
- (e) One member of the house finance committee, appointed by the speaker of the house.
- (f) One member of the senate finance committee, appointed by the senate president.

II. The chair of the oversight committee shall rotate biennially between the chairperson of the house education committee and the chairperson of the senate education committee. The first chairperson shall be the chairperson of the house education committee. A member shall only serve while a member of the general court. The members shall not be compensated but shall receive mileage at the legislative rate when carrying out their duties.

III. The oversight committee shall examine the goals, purposes, organization, operation, and financing of the state's program to provide

a constitutionally adequate education, and it shall evaluate and make recommendations for the continued provisions and improvement of the program.

IV. The oversight committee shall review the development and implementation of the program to ensure that they are in accordance with legislative policy.

V. The oversight committee shall submit a report to the general court by June 30, of each even-numbered year. Copies of the report shall be submitted to the governor, the senate finance and education committees, the house finance and education committees, the department of education, the department of revenue administration and to any other individual or organization as the committee deems advisable.

193-E:7 Enforcement. The attorney general has authority to enforce the provisions of this act in accordance with New Hampshire law through appropriate civil and equitable relief, including but not limited to injunctive relief.

4 Repeal. RSA 194:23-d, relative to state financial aid to elementary schools and high schools which are approved by the state board of education, is repealed.

5 Effective Date. This act shall take effect July 1, 1999.

SENATOR MCCARLEY: In the Claremont decision, the Supreme Court handed the legislature a three-part mission. 1) To define a constitutionally adequate education. 2) To devise a fair way to fund it. 3) To ensure the provision of a constitutionally adequate education and its implementation. To make sure that we meet this last requirement, we need to devise a system of assessment improvement and accountability to ensure that our children are being given every opportunity for an adequate education and indeed, I think that we all believe an excellent education. To do that, we need to be able to evaluate how our schools are doing and be willing to provide assistance to those schools that aren't showing improvement. We must do that in a collaborate manner with the state Department of Education, local schools, parents, teachers and community members all working together. Senate Bill 219 provides a process for this assessment accountability and improvement of our public schools. Frankly, I think that has been kind of a relief to spend some time talking about education and improving our schools rather than the constant talk about how we are paying for all of it. This bill treats performance assessment and improvement as a shared responsibility between the schools and the state. Briefly, here are the highlights of what this bill is designed to accomplish. Each school district working with its local community will develop a local improvement and assessment plan, which it will review with the Department of Education. Performance indicators will be locally developed so that schools will be improving upon their own performance rather than competing against other schools in the state. The results from each year will be evaluated and over time, if the school is found to be in need of assistance, the school will develop its own improvement plan and may ask for assistance from the Department of Education. These improvement plans are designed locally, and the kinds of assistance provided by the department will be determined by the local school board, and the department for whatever will allow the school to improve as it sets its own goals. The state will be producing an annual report card for all our public schools in an easily understandable format showing how all of our school districts are performing. Again, this is an opportunity for all of us to be informed and involved in our local schools. The

state Board of Education, working with the education community and the public, shall review the state school improvement plan every three-years, and the state school standards every five-years rather than the seven that we currently review. The Department of Education will take into account the recommendations that will come from the Educational Adequacy Commission established by HB117. New Hampshire's curriculum framework will also be reviewed every five years, and state assessment testing will be conducted over consecutive years to generate results that more accurately measure student performance by testing the same group of kids two-years in a row. Senate Bill 219 provides a structure and a process to implement improvement in our schools. It lays out specific steps, but the process is flexible to accommodate our beliefs about local control and local management of our schools. Senate Bill 219 will not create state control of our schools, it will enable the state to provide assistance when it is most needed. Surely this is the most important element of all of the measures that we could enact to serve the needs of public education. This bill has merits, not only in meeting one of the requirements of the Claremont decision, but it also does what each one of us, I believe, has wanted to do, and that is to help New Hampshire public schools deliver a quality education to our kids. On behalf of the Education Committee, I ask you to vote this bill as ought to pass as amended.

SENATOR D'ALLESANDRO: I rise in support of SB 219. I think that it is the academic side, and it really gives local school boards an opportunity to participate in doing better things for their community. The report card, the educational plan, the fact that the statistics that are derived at the local level will be monitored by the Department of Education. We will have more uniformity. All of these things make for a better school system and better curriculum. Taking advantage of these things, and developing plans at the local level that can be looked at, and we can produce the kind of improvement to education that we want. As Senator McCarley said, we are looking at the academic side, we are looking at quality education, and we are looking at total participation by all of the entities, by the local community, by the state board, and parents, teachers, bring everybody together to make things better. That is the purpose of this piece of legislation and I support it strongly. Thank you very much.

SENATOR F. KING: I guess that I am surprised to see this bill before the Senate on this particular day. I thought that we were having enough trouble funding the most recent education bill that we passed, and now we are about to embark on another spending program, both for local and apparently state dollars. I thought that the bill that was passed and signed into law, provided for commissions that are going to forward and determine what an adequate education is, and how much it costs, and deal with the issues. I thought that we heard, in the debate, that took place a few weeks ago, that there was not going to be any new programs or new impositions on the local schools...those of us who believe in local control, which is most of us in this room. We were going to fund adequately education, and then we were going to let the school districts deal with it. When I picked up the newspaper one morning and saw, essentially, a representative of the department saying, now that you have the money, it is time for us to tell you how to spend it, I was taken back. I think that this bill has a lot of merit, and I think that it is a bill, and certainly an issue that needs to be looked at, but I would suggest that this is not the time. I think that we need to finish the work that we

started and haven't completed. We need to find a few more million dollars from some place to fund the program that we have already passed and let our school boards and administration in those school districts kind of settle that in their stomach before we start telling them anything else, and how they should run their business. I suspect that we have another unfunded mandate issue here. I believe when we are put through the test, or if somebody chooses to put to the test, the amount of money that we funded in the adequacy grant, a case will be made that that doesn't even fund an adequate education. Certainly if we raise the cost one more dollar than that we certainly are creating an unfunded mandate issue. I would be expecting towns to just simply refuse to do this and say go away and leave us alone. I would certainly recommend that they do that. So I think that this bill, as well intended as it is, and as important as it is, needs to be put aside until we have dealt with the real issue, how do we pay for the bill that we have already passed?

SENATOR GORDON: This bill was just heard a week ago in the Senate Education Committee, and I would like to refer to it as the "more bill." More plans, more reports and more regulations. I am opposed to passing this bill right now. I think that the idea of looking for education improvement is good, but I don't think that this is the bill that does that. First of all, I think that it is premature. We are looking for ways to improve the quality of education, and we are talking about putting forth new standards, new approval standards for schools, which the state is going to set and which the state is going to impose on our local school districts. We are going to do this in an environment where we haven't even figured out yet how we are going to fund an adequate education. We passed a bill here a few weeks ago that said that we are going to send out \$825 million. I guess I don't know if that is \$825 million or \$843 million, but we are going to send out a bunch of money, out to the local school districts so that they can operate their school districts. What we said is that we want to leave them alone, and we should let them decide how they want to spend the money. Let them exercise local control, it really is not important. Let them do it. That is up to them how they want to do provide education in their communities. Then we turn around and we offer this bill, basically to have the state exercise more control. I think that the bill is premature and it has only been here in the Senate for a week. I don't see how we can say, at this point in time, that we should be passing this bill. I just think that it is premature. The other thing is that I think that Senator King is right. There are unfunded mandates. Even the speakers in the Senate hearings spoke and said, yes, there are unfunded mandates in here and that should be addressed. We are in fact imposing requirements upon the local school districts for reporting requirements and putting together plans in the local school districts, and we are not providing them with any funding in order to do that. One of the biggest flaws that I see in this bill is that it is not connected to an adequate education. We are saying that we are going to impose new standards for approval on the school districts, and those standards, there is nothing in this bill that connects them to what is an adequate education. I think that before we pass the bill that we ought to do that, we ought to connect those standards to what is an adequate education. That should be the only state responsibility frankly, providing an adequate education. In fact, the court says that is what our responsibility is. I think that one of my biggest concerns is that for in order for my districts to carry this out, we are going to have more clipboards. The fact

is that the people that I represent are concerned with the school districts and the amount of administration that there is out there. What we are doing is imposing requirements that are going to cause more administration and take away from direct education of students, which is one of the greatest benefit(s) in instructional education of students. I don't want to see more clipboards out there. I would like to see fewer clipboards. I am going to be voting against this today for all of the reasons that I have just said. It is the "more" bill. It is more administration and more costs.

SENATOR J. KING: I rise in support of the bill. This section of the bill, which is similar to the ABC which we all thought was the greatest, and I still do. This is the accountability. It doesn't make any difference whether you have the money yet, this is what we are going to do once we do get the situation rolling, and after that commission...after two commissions, they will report back and give the information. This is what I said two years ago to the ABC Plan, this is the most valuable part of it. This is what the teachers need, the schools needs, the superintendent needs and everybody out there that has some accountability. This will give it to you. Pass it please.

SENATOR MCCARLEY: I know that there was a great deal of time put into the major part of this legislation last year. It was not done by this body, we can all acknowledge that, we chose to spend no time on this part of it last year. There was a great deal of time spent, a lot of questions about unfunded mandates that were indeed finally satisfied, regardless of any of the money issues, because we didn't know what we were going to be sending out last year. I would disagree in terms of the reporting requirements and what have you, and the requests that are in here. The vast amount of this stuff as we know already currently has to be reported to the Department of Education. There is a request in here to ask districts to guarantee that they have in place for themselves, an improvement plan. The idea that the state is going to sort of run out and create some new improvement plan isn't true. Folks, we passed a school improvement plan and program several years ago, and we put in state assessment testing. All that we are doing is saying that we are going to review that a little bit more regularly than we have been reviewing that at the state level. I think that is a mistake. The ideas in terms of this school standards issue, we have had school standards for school approval since 1919 in the state of New Hampshire. There is no change there, but we are saying, let's don't have those standards sit on a shelf for seven years. Let's have them sit for five years, but do the kind of review that you ought to be doing to look at standards, because things change. The ways that you can measure improvement change. We get better at it. One of the problems that we have in education right now is that people collect a lot of data, but we are not real good at analyzing it. We say that we think that we have a specific number of dropouts, but then we sort of let it go. This is an attempt to try and get all of us to say that we need to see how our kids are doing. We need to look every single year, and see if our kids are actually improving towards the kind of goals that we, locally, individually, as local school boards, and local citizens, have set for them. We are trying to set some guidelines and state assistance when schools say that they can't get there and that they are having trouble. It is hard for me to imagine why states don't deal with this and local communities don't deal with this every day regardless of the word "Claremont", and I don't think that it is "too early" to be doing this. It is in fact, probably "too late". But it has taken education in general, a

long time to start to say that we have to look at how our kids are doing and if we are giving our kids the kind of opportunities to succeed when they leave high school. Those are the kinds of things that we should have been asking ourselves, I think, a long time ago. I think that really is at the heart of this.

SENATOR KRUEGER: Senator McCarley, I have a quick question for you. Do you honestly feel that maybe this bill does give to the state Board of Education, too much power considering the fact that they're not elected, to almost mandate changes within the school system? Is that the way that I perceive it, because that is the trouble that I am having with it?

SENATOR MCCARLEY: I will be honest with you since you asked me to be, and usually it is the thing to do. I actually don't fear that, and I will tell you that it is because of an experience in the state of New Hampshire. The last time that we revisited minimum standards through the state's School Board process, it got a review like I had never seen before. Over 300 people showed up in Exeter in the middle of the summer to talk about minimum standards. I think that is good. I think that the state School Board responded. I think that is how it should work. So I don't have that fear at all relative to what is in this bill.

SENATOR DISNARD: Senator McCarley, as I read this, it isn't the state Department of Education that would be mandating programs, it would be the state Department of Education offering technical assistance at the request of the local school boards who will be developing a plan, the state will check with them to see if the plan is being developed, and if particular programs are not working the way a school district wants...this is the way that I read this...then the state Department of Education will offer technical assistance, meaning consultants, to work with the local school districts to help them improve. They will just keep on doing what they are doing now, reporting the dropout rate and reporting the attendance rate. In other words, this is the state Department of Education assisting school districts at their request?

SENATOR MCCARLEY: That is right.

Question is on the adoption of the amendment.

A roll call was requested by Senator Squires.

Seconded by Senator F. King.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Squires, Francoeur, Krueger, Brown, Russman, Klemm.

Yeas: 13 - Nays: 11

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 108, relative to the dispensing of medications by optometrists. Public Institutions, Health and Human Services Committee.

MINORITY REPORT: Ought to pass with amendment, Senator Gordon for the committee. Vote 3-3

MAJORITY REPORT: Ought to pass with amendment, Senator Squires for the committee. Vote 4-2

1999-1331s

10/09

Amendment to SB 108

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

AN ACT relative to the co-management of primary open-angle glaucoma.

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

1 Statement of Purpose. The general court finds that as the state's health care delivery system becomes more complex, there is a need to assure high quality eye care including the preservation of appropriate safe guards and the maintenance of consumer confidence. Purchasers of health insurance are demanding high quality eye care from health plans and providers. Eye care providers strive for high quality by incorporating evidence-based medical knowledge with the needs and desires of patients. The co-management of glaucoma patients by optometrists and ophthalmologists will serve to increase the likelihood of desired health outcomes, consistent with current professional standards, and may provide measurable data upon which a decision about future legislation can be based.

2 Definition Modified; Pharmaceutical Agent. Amend RSA 327:1, III(d) to read as follows:

(d) Antibiotics, sulfonamides, and combinations thereof, which are topically applied or orally administered to treat or alleviate the effects of disease or abnormal conditions of the human eye, adnexa, and eyelids, excluding treatment of [~~the lacrimal drainage system;~~] the lacrimal gland, or structures posterior to the iris, approved by the joint pharmaceutical formulary board and included in the formulary.

3 Definition Modified; Pharmaceutical Agent. Amend RSA 327:1, III(h) to read as follows:

(h) Orally administered analgesic agents used for the purpose of alleviating pain caused by a disease or abnormal condition of the human eye or eyelid, excluding treatment of [~~the lacrimal drainage system;~~] the lacrimal gland, or structures posterior to the iris. This may include class III and IV controlled substances approved by the joint pharmaceutical formulary board and included in the formulary.

4 New Subparagraphs; Pharmaceutical Agent. Amend RSA 327:1, III by inserting after subparagraph (j) the following new subparagraphs:

(k) Anti-glaucoma agents which are topically applied or orally administered, provided that the anti-glaucoma agents are administered in accordance with RSA 327:1-a and RSA 327:1-b.

(l) Antivirals which are topically applied or orally administered, and corticosteroids which are topically applied, subject to the condition that the pharmaceutically certified optometrist shall consult with a licensed ophthalmologist with whom he or she has a co-management relationship when proscribing antivirals or corticosteroids. The consultation shall be in a manner to be determined by the ophthalmologist.

5 New Sections; Co-Management of Primary Open-Angle Glaucoma; Quality Assurance Committee. Amend RSA 327 by inserting after section 1 the following new sections:

327:1-a Co-Management of Primary Open-Angle Glaucoma. A pharmaceutically certified optometrist may treat primary open-angle glaucoma upon diagnosis subject to the following conditions:

I. Prior to initiating treatment for primary open-angle glaucoma, a pharmaceutically certified optometrist shall establish a relationship with

a licensed ophthalmologist for the purpose of co-managing a glaucoma patient and shall provide such patient with written disclosure regarding such relationship.

II. A pharmaceutically certified optometrist shall exercise the current standard of care when diagnosing, treating, and co-managing glaucoma and shall consider all appropriate factors which shall include, but not be limited to:

- (a) Assessment of intraocular pressure.
- (b) Optic nerve head cupping and appearance.
- (c) Nerve fiber layer changes.
- (d) Automated threshold visual field analysis.
- (e) Evaluation of the anterior chamber angle.

III. A pharmaceutically certified optometrist shall consult with a co-managing licensed ophthalmologist or another ophthalmologist of the patient's choosing, in a manner to be determined by the ophthalmologist, prior to initiating pharmaceutical treatment of primary open-angle glaucoma.

IV. A pharmaceutically certified optometrist and a co-managing licensed ophthalmologist shall jointly agree to protocols and develop a written individualized treatment plan in accordance with currently accepted standards of care, which is agreed to by both the ophthalmologist and the optometrist and includes but is not limited to the following:

- (a) Results of the tests and examinations that led to the diagnosis;
- (b) Target intraocular pressures;
- (c) Types of medications to be used;
- (d) A schedule of follow-up visits with the ophthalmologist;
- (e) Surgical referral criteria; and
- (f) A schedule for a periodic consultation with the co-managing licensed ophthalmologist, in a manner to be determined by the ophthalmologist, to occur at least once every 12 months.

V. A treatment plan developed under this section may be modified after both the optometrist and ophthalmologist agree to the modification.

VI. If the results of a treatment plan do not meet the target goals within a time frame currently accepted as the medical standard of care in the treatment and management of primary open-angle glaucoma, a pharmaceutically certified optometrist shall immediately consult with the co-managing licensed ophthalmologist in a manner to be determined by the ophthalmologist.

VII. A pharmaceutically certified optometrist who co-manages primary open-angle glaucoma with a licensed ophthalmologist under the provisions of this section shall provide such ophthalmologist with written reports throughout the co-management period as requested by the ophthalmologist.

VIII. Notwithstanding any other provision of law, a pharmaceutically certified optometrist may initiate emergency treatment for acute angle closure glaucoma and shall immediately refer the patient to a licensed ophthalmologist.

IX.(a) The board shall determine the composition of the glaucoma co-management case reporting forms with recommendations from the glaucoma co-management quality assurance committee established under RSA 327:1-b.

(b) One form shall be required for each open-angle glaucoma patient, with a code for patient and case identification in order to identify the referring optometrist and to maintain patient confidentiality. Each reporting form shall be submitted to the glaucoma co-management quality assurance committee. The reporting forms shall include at least the following information:

(1) The names and signatures of the optometrist and ophthalmologist;

(2) The optometrist's initial diagnosis, proposed treatment plan, and target intraocular pressure;

(3) Written results of tests, examinations, copies of visual field tests, and any other supporting documentation from the patient's medical record;

(4) The actual treatment plan and target intraocular pressure agreed upon by the optometrist and ophthalmologist; and

(5) A section for the members of the glaucoma co-management quality assurance committee to indicate the results of their review and evaluation of the case.

327:1-b Glaucoma Co-Management Quality Assurance Committee.

I. There is hereby established a glaucoma co-management quality assurance committee. The committee shall consist of 2 New Hampshire licensed pharmaceutically certified optometrists appointed by the New Hampshire board of registration in optometry, 2 New Hampshire licensed ophthalmologists appointed by the New Hampshire board of medicine, and a licensed pharmacist nominated by the New Hampshire pharmacy board who shall serve as chair. The committee shall evaluate each case submitted for completeness and appropriateness of documentation and the appropriateness of the diagnosis and treatment plan.

II. The committee shall meet annually in Concord in a state-owned facility and shall issue an annual report of its findings and conclusions relative to the total patient outcomes with respect to treatment of primary open-angle glaucoma on or before December 1, 2001 to the speaker of the house, the senate president, the New Hampshire board of registration in optometry, the New Hampshire board of medicine, and appropriate committee chairs of both houses. The report shall include, but not be limited the following information:

(a) A summary of the case evaluations by the committee members;

(b) The number of patients co-managed under the provisions of RSA 327:1-a;

(c) The number of optometrists and ophthalmologists co-managing patients under the provisions of RSA 327:1-a.

(d) The number of new cases of primary open-angle glaucoma; and

(e) A summary of the outcomes of the co-managed patients.

6 New Paragraph; Authorization; Use of Certain Pharmaceutical Agents. Amend RSA 327:6-a by inserting after paragraph V the following new paragraph:

VI. Notwithstanding any other law to the contrary, an optometrist who is not certified to use pharmaceutical agents in the practice of optometry may use topically applied anesthetics, dyes, mydriatics, and cycloplegics for diagnostic purposes only.

7 New Paragraphs; Rulemaking Authority. Amend RSA 327:31 by inserting after paragraph IX the following new paragraphs:

X. The composition and format of the glaucoma co-management case reporting forms as recommended by the glaucoma co-management quality assurance committee.

XI. Procedures for the glaucoma co-management quality assurance committee to collect data, evaluate case reports, and submit annual reports.

XII. A method for tracking the number of glaucoma cases.

8 Repeal. The unnumbered concluding paragraph of RSA 327:1, IV, relative to the exclusion from the definition of the practice of optometry

of the treatment of glaucoma or other intraocular pressure elevation, or the prescribing, administering, or dispensing of corticosteroids, is repealed.

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

1999-1331s

AMENDED ANALYSIS

This bill provides for the co-management of patients with primary open-angle glaucoma by licensed pharmaceutically certified optometrists and licensed ophthalmologists.

SENATOR GORDON: I started out as the primary sponsor of SB 108 and I did it at the request of a local optometrist. Frankly, I didn't know a whole lot about the issues involved at the time that I sponsored the bill. All that I knew at the time was that the optometrist said that optometrists should be able to expand their scope of practice and that optometrists, or not all optometrists, but many optometrists, have the ability to treat certain eye diseases, including glaucoma, and that many optometrists are currently trained to dispense medications, and that under New Hampshire law, they are not allowed to do so. The optometrists asked me if I would sponsor legislation so that I could bring that debate forward here in the legislature, and I know that you are all glad that I did that. So we have, over the course of the last few months, been working with this issue. As you know, I don't have to tell you that because I am sure that you have been lobbied to death on this bill. It has become a very contentious issue. I will just give you a little bit of a background if I could, and explain what my amendment to this bill would do. The background is this in essence. Optometry has changed **TAPE CHANGE** is trained in a different way. Back then an optometrist was trained basically to check your eyes and basically prescribe glasses. That was the optometric function. Doctors, ophthalmologists, were trained basically to treat eye diseases and to provide surgical care for your eyes. The practice of optometry has changed, and the schooling for optometrists has changed. The school is essential in duration the same amount of time, although it may not have the same internships or residencies or practices that a medical doctor has, but the schooling is of the same duration. The optometrists go to school, and many of them become pharmaceutically trained. They learn about medications, and they learn about eye diseases and eye care during the course of that. As a result of that, today a trained optometrist can perform many more functions than they were able to in the past. They would like to be able to practice that. In fact, most states have recognized that in fact, that is true. Right now 42 states permit optometric glaucoma treatment. That means that optometrists in 42 other states can treat glaucoma, or certain types of glaucoma, particularly open-angled glaucoma. In other states, 46 other states already permit optometrists to use topical steroids that is one of the more common medications that they would prescribe to treat eye infections or diseases. So other states, over the course of time, have recognized the change in function. Unfortunately, we are put in the position where we have to decide what optometrists should be able to do. Unfortunately, it falls upon the legislature to decide what the turf is going to be. What we are going to allow optometrists to do in relationship to the medical practice. We had a very active hearing with an active debate on either side of the issue. The Medical Society, and the physician's feeling very strongly that there shouldn't be any change in the law, absolutely no change in the law. The optometrist's feeling at the beginning that they

should have unrestricted ability to treat open-angled glaucoma and to prescribe medications. I worked very hard over the last few months trying to bring these two groups together to try and find a common ground. The doctors feel that they have the sole ability, or should have the sole ability, to determine how glaucoma is treated, and when these medications should be prescribed. So we have relied upon examples from other states to come up with a plan for co-management, and the co-management would be where an optometrist, in order for them to do these things, would have to work with an ophthalmologist. They would actually have to enter into a formal written relationship where the optometrist would pharmaceutically train or a certified optometrist would work under the auspices of an ophthalmologists and only be able to do what the ophthalmologist allowed them to do. So, if the ophthalmologist didn't want them to treat glaucoma, they couldn't do it. If the ophthalmologist wanted a mandatory referral on every case, they would have to do it. As far as the medications are concerned, it would be the same thing. It would be entirely up to the ophthalmologist to decide to what extent they felt optometrists had the ability to prescribe medications. So the full brunt of deciding how patients would be treated, falls with the doctor, with the ophthalmologist. Well as I said, I worked hard to get the groups together, and in fact, we did meet in the middle ground on many, many issues. In fact, the amendment that I propose reflects, in large part, consensus on many of the issues. But there are two issues, which I am going to say that the medical society, the doctors, just won't agree to. That is on glaucoma, they want a mandatory referral in every single case. That means that when an optometrist determines that there is wide-angle glaucoma, that the optometrist has to physically send that patient to the ophthalmologist, in every single case, even if the ophthalmologist doesn't feel it is necessary. The optometrists feel that should be at the discretion of the ophthalmologists. If the ophthalmologist feels the optometrist has the skill level to treat it, they ought to be able to give them that level. The other area is the prescription of drugs. steroids and anti-viral drugs. The Medical Society has just taken a position, and that position is no. They refuse to allow it under any circumstances, even if they are under control of when it can be done. My amendment splits the baby, basically. What it does, is it says that there will have to be a consultation on a glaucoma case every single time, and the nature of that consultation will be at the discretion of an ophthalmologist. So the ophthalmologist is the one that makes the call. In the prescription of medications, which is done in 46 other states, I might add, again the ophthalmologists would make the decision whether or not the optometrist should be prescribing the medication. The other thing that my amendment does, which I think is very important, is it creates a board. This would be a board to study whether the eye care of New Hampshire citizens is at all affected by this arrangement. For two years what will happen is that the optometrist will do an initial diagnosis and the ophthalmologist will do a subsequent diagnosis to see if the optometrist did the correct thing. They will be sent, this board composed of two optometrists, two ophthalmologists and a member appointed by the Board of Pharmacy, and they will review the cases and make a report. An interim report in one year and a full report in two years on the status of the eye care given by the optometrists. I think that this is a very good approach. The fact is that this was a turf battle, and that is what you have to recognize here. That physicians do not want to give up their turf. That is the basic issue whether we like it or not. It is not really an eye care battle. When you get down to it, and you say to the ophthalmologist...the ophthalmologists original concerns were,

the doctors, were that we are the only ones that can really determine when proper eye care is given. Then when you turn around with my amendment and you put them in charge of deciding when proper eye care is given, they turn around and say 'well we are not sure that we can trust all ophthalmologists to do that.' I think that is wrong. Either they can do it or they can't do it. In fact, they give the authority to do it to people that aren't ophthalmologist now. In fact, with the prescription of medications, many optometrists call regular physicians and have them prescribe the medications that are needed today as opposed to ophthalmologists. See ophthalmologists actually benefit from this in some ways. The long and the short of this is and mostly long today...but I think that this is a good compromise. It represents the interest of both parties, and that there is no way that the doctors are going to agree to this. They won't agree to this because they don't want to give up the turf that they have frankly. I am asking you to give the optometrists an opportunity to prove themselves in a constructive manner, with the ophthalmologists in control over doing that. I would urge you to support a vote for my amendment.

SENATOR F. KING: I think that probably you have answered my question, Senator Gordon, but I want to make sure. You said earlier, I believe, that the practice of optometry has changed dramatically over the years as the practice of medicine has, and that there may be some optometrists still practicing, my age, who probably didn't have that education in school. I guess what I can assume now is that the ophthalmologists who will be working with these optometrists will make this decision of whether they have that sufficient training or not.

SENATOR GORDON: There are two criterias actually. First of all, the optometrist has to be a pharmaceutically certified optometrist. So many of the older optometrists, frankly, wouldn't qualify to begin with for this arrangement. Then on top of that, they could only do this under the supervision and with the direction of a licensed ophthalmologists in the state of New Hampshire.

SENATOR FRASER: Senator Gordon, in many of the states that you alluded to that have changed this law to allow this practice, this expansion of practice, it is my understanding that in most of those states there have been some additional educational requirements. Is there anything in your bill having to do with additional requirements for education of optometrists?

SENATOR GORDON: There is nothing. I will tell you that the optometrists voluntarily agreed to put in an additional training requirement, but when it came down to the discussions, my understanding is that that was not included, but they had no problem putting in a training program, or an initial training function, and were very agreeable to that.

SENATOR FRASER: Thank you.

SENATOR KRUEGER: Senator Gordon, is it true that right now that in veterans hospitals, that the optometrists are able to do the very thing that your amendment has put forth?

SENATOR GORDON: As you probably remember from the public hearing on this particular bill, we had an optometrist who practices at White River Junction in the veterans hospital of White River Junction...seeing New Hampshire residents as patients, and they are able to do exactly what this bill requires, only they wouldn't have to do it under the supervision of an ophthalmologist, they are just allowed to do it generally.

SENATOR D'ALLESANDRO: Senator Gordon, is there any requirement for optometrists to complete a residency training in glaucoma?

SENATOR GORDON: It is my understanding that they are not required to complete the residency training.

SENATOR D'ALLESANDRO: Thank you.

SENATOR WHEELER: Senator Gordon, I admire you greatly for working and sticking with this. I have been on two subcommittees in the course of my legislative history, and I know how hard it is to try to bring these two conflicting opinions together. I also have a real interest in telemedicine as you know. I wonder, under your amendment, could a New Hampshire ophthalmologist, under the terms that you have, consult with an optomologist from New Mexico or Arizona, or something like that?

SENATOR GORDON: I think that we discussed that in the committee, and I think that, as the amendment as currently devised, as it was for the last day to get it here today, as you know, I don't believe that there is any restriction on an out-of-state physician. It does require a licensed ophthalmologist. That becomes an issue of concern because many people in this state, optometrists and ophthalmologists, practice on the border. So if you had an optometrist who was located in Dover for example, and were associated with an ophthalmologist in Berwick, they might want to be able to continue to do that. I don't think that there would be any objection, certainly, to putting in some type of restriction to say that the licensed physician had to be from a contiguous state, I just don't think that that was addressed because it wasn't thought of in time to do that.

SENATOR WHEELER: Thank you.

Recess.

Out of Recess.

Question is on the committee amendment (#1331).

A roll call was requested by Senator Gordon.

Seconded by Senator Fernald.

The following Senators voted Yes: F. King, Gordon, Johnson, Disnard, Roberge, Blaisdell, Francoeur, Krueger, Brown, J. King.

The following Senators voted No: Fraser, Below, McCarley, Trombly, Fernald, Squires, Pignatelli, Larsen, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

Yeas: 10 - Nays: 14

Amendment failed.

1999-1330s

10/09

Amendment to SB 108

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

AN ACT relative to the co-management of patients with primary open-angle glaucoma and establishing a glaucoma co-management committee.

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

1 Statement of Purpose. The general court finds that as the state's health care delivery system becomes more complex, there is a need to

assure high quality eye care including the preservation of appropriate safe guards and the maintenance of consumer confidence. Purchasers of health insurance are demanding high quality eye care from health plans and providers. Eye care providers should strive for high quality by incorporating evidence-based medical knowledge with the needs and desires of patients. The co-management of certain glaucoma patients and the evaluation of such co-management may serve to increase the likelihood of desired health outcomes consistent with current professional standards and may provide measurable data upon which a decision about future legislation can be based.

2 Modification of Definition; "Practice of Optometry". Amend the unnumbered concluding paragraph of RSA 327:1, IV to read as follows: "Practice of optometry" shall not include and nothing in this chapter shall authorize or allow the treatment of glaucoma or other intraocular pressure elevation, *except as provided in RSA 327:35*, or the prescribing, administering, or dispensing of corticosteroids in any form.

3 New Section; Glaucoma Co-Management; Committee Established. Amend RSA 327 by inserting after section 34 the following new section: 327:35 Co-Management of Patients with Primary Open-Angle Glaucoma; Committee Established.

I. There is hereby established a provision for the co-management of patients with primary open-angle glaucoma by licensed pharmaceutically certified optometrists and licensed ophthalmologists.

II. Optometrists shall refer all patients to a licensed ophthalmologist of the patient's choosing within 30 days in the event that an optometrist makes a preliminary diagnosis of glaucoma or suspects glaucoma. For the period January 1, 2000 through December 31, 2001, optometrists shall complete a glaucoma co-management reporting form pursuant to paragraphs VI or VII.

III. A pharmaceutically certified optometrist and a licensed ophthalmologist may co-manage patients with primary open-angle glaucoma provided that they obtain the patient's written consent to be co-managed, jointly agree to protocols, and develop a written individualized treatment plan in accordance with currently accepted standards of care. The written plan shall be agreed to by both the ophthalmologist and the optometrist and shall include, but not be limited to, the following:

- (a) Results of tests and examinations that led to the diagnosis;
- (b) Target intraocular pressures;
- (c) Medications to be used;
- (d) A schedule of follow-up visits with the optometrist;
- (e) Surgical referral criteria; and

(f) A schedule for periodic referrals with the co-managing ophthalmologist, in a manner to be determined by the ophthalmologist, to occur at least once every 12 months.

IV. A treatment plan developed under this section may be modified only after both the optometrist and ophthalmologist mutually agree to the modification.

V. Optometrists shall immediately consult with the co-managing ophthalmologist when there is any significant change to the patient's condition, including but not limited:

- (a) When the patient does not have the expected response to treatment;
- (b) When there is any suspected adverse reaction to the treatment;
- (c) When the patient's target intraocular pressure is not reached; or
- (d) When there is worsening in a patient's visual field or optic nerve head.

VI. For the period of January 1, 2000 through December 31, 2001, when an optometrist does not want to participate in the co-management of a patient with primary open-angle glaucoma, or when a patient chooses not to be co-managed, or when the patient has another form of glaucoma, the optometrist shall submit a glaucoma co-management reporting form along with the written referral to the patient-selected ophthalmologist. Under such circumstances, the glaucoma co-management reporting form only needs to include the optometrist's initial diagnosis, the names of the optometrist and ophthalmologist, a code in place of the patient's name, and an indication that there will not be co-management.

VII. The New Hampshire Optometric Association and the New Hampshire Society of Eye Physicians and Surgeons shall recommend to the board, the composition of the glaucoma co-management case reporting forms. One form shall be required to be completed for each glaucoma patient, with a code for patient and case identification in order to identify the referring optometrist and to maintain patient confidentiality. Each reporting form shall be submitted by the co-managing ophthalmologist to the glaucoma co-management committee. The reporting forms shall include at least:

- (a) The names and signatures of the optometrist and ophthalmologist;
- (b) A place to indicate when there will not be a co-management arrangement;
- (c) The optometrist's initial diagnosis, proposed treatment plan and target intraocular pressure;
- (d) Written results of all tests, examinations, copies of visual field tests and any other supporting documentation from the patient's medical record;
- (e) The actual treatment plan and target intraocular pressure agreed upon by the optometrist and ophthalmologist; and
- (f) A section for the members of the glaucoma co-management committee to indicate the results of their review and evaluation of the case.

VIII. There is established a glaucoma co-management committee which shall consist of 2 New Hampshire licensed pharmaceutically certified optometrists appointed by the board, 2 New Hampshire licensed ophthalmologists appointed by the New Hampshire board of medicine, and a licensed New Hampshire pharmacist appointed by the New Hampshire pharmacy board, who shall serve as chair. The members shall be appointed within 60 days of the effective date of this section. The 2 optometrists and 2 ophthalmologists members shall individually evaluate each case submitted for completeness and appropriateness of documentation and for the accuracy of the diagnosis and treatment plan. The committee shall meet at least annually in Concord in a state-owned facility and shall submit annual reports on or before December 1 each year, to the board, the New Hampshire board of medicine, the speaker of the house, the senate president, and appropriate committee chairs of both houses. The annual reports shall include, but not be limited to:

- (a) The results of the individual case evaluations by the committee members;
- (b) The number of new cases of primary open-angle glaucoma;
- (c) The number of patients being co-managed;
- (d) The number of optometrists and ophthalmologists participating in the co-management of glaucoma patients; and
- (e) A summary of the co-management study.

4 New Paragraphs; Rulemaking Authority. Amend RSA 327:31 by inserting after paragraph IX the following new paragraphs:

X. The composition and format of the glaucoma co-management case reporting forms as recommended pursuant to RSA 327:35, VII, including provisions for patient confidentiality.

XI. Procedures for the glaucoma co-management committee to collect data, evaluate case reports, and submit annual reports.

5 New Paragraph; Authorization; Use of Diagnostic Pharmaceutical Agents. Amend RSA 327:6-a by inserting after paragraph V the following new paragraph:

VI. Notwithstanding any other law to the contrary, an optometrist who is not certified to use pharmaceutical agents in the practice of optometry may use topically applied anesthetics, dyes, mydriatics, and cycloplegics for diagnostic purposes only.

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

1999-1330s

AMENDED ANALYSIS

This bill provides for the co-management of patients with primary open-angle glaucoma by licensed pharmaceutically certified optometrists and licensed ophthalmologists.

SENATOR SQUIRES: It is necessary to offer a disclaimer here. I am not a member of the New Hampshire Medical Society, and I never have been, nor am I a member of the AMA, and nor have I ever been, so I am speaking for myself. This is an odd bill, because the quality of care for eye patients in New Hampshire is excellent. We don't have any evidence, either in the view of malpractice logs, in patient's complaints, or anything that says that there is something wrong with the level of care for eye problems in New Hampshire. You could, I know, advance an argument for convenience. It is not convenient to go 20 miles to get your eyes checked, and maybe so. On the other hand, a few years ago, one of my children had an operation in Boston, and it was highly inconvenient. I hated driving down there, but the payoff was that we had somebody that really knew what they were doing, a pediatric cardiac surgeon. So if quality is not an issue here, what is? Here is how eye care is delivered in New Hampshire at the moment. The diagnosis can be made by a large number of people, by nurses, by pediatricians, family practitioners, optometrists, physician's assistants, and so on and so forth. But the break, the control, one of the reasons we have a level of care that we do, is that treatment, not only confirms the diagnosis, but the treatment controls the outcome. You can give the right treatment for the wrong diagnosis, and you can have the right diagnosis, and give the wrong treatment. The treatment is what this is all about. Now at the moment, treatment is given by ophthalmologists. One of the troubling things to me is that there is this constant attempt to say that so and so is like a doctor, because they have had 'x-amount of time'. It was interesting to hear the testimony about patients seeing hours worked... there is no comparison for medical school and a residency. So we come to the issue now of treatment, and that means scope of practice. We are going to change the scope of practice, based on the argument that optometrists are now able to offer these services. What we are really talking about in these two amendments is the magnitude and the rate of change. I want to tell you about how I changed the scope of practice, because this is the medical model. About six-years ago in the early 1990's, I had been in practice for 20 years, and I have done hundreds of colectomies. I knew how to take out a gallbladder. I knew the anatomy and the diagnoses, and I knew as much about that as anybody could be expected to know after 20 years of doing it. So along comes the laparoscope. So what did I have to do? Could I just call up somebody and say to one of my part-

ners, "Hey, I got this patient here, and I am going to haul out the laparoscope and do it." No, I could not. First thing that I had to do was to go down to Brown, and take a course and get a certificate that I had been there, that I had done the didactics, and that I had done this operation on two pigs. It is a lot easier on a pig, by the way. Then I came home and I applied to the hospital board to allow me to begin the process of getting a privilege to do this. The first thing that I did was go and help somebody that had more experience. I didn't do anything. I just helped them. I began to understand and figure out how to do it. Then came a time when I was going to do one. So I talked to the patient, and I said, look, I haven't done this before and if you are uncomfortable with that, the person that is helping me has had more experience, and I am more than happy to have you go to them and I will help him. I knew many of the patients, and so I started very carefully with someone there to tell me what to do, and how to stay out of trouble. It was not an option. It was not an option for me to call up my partner and say, I am going to do one because I have had the course, and I think that I have the hang of it, and then have him tell me ok, Jim, you are a nice guy, you have done a lot of gallbladder surgery, why not? No way. I had helped, and then I documented them, then I went to the credentials committee, and I said that I was now applying for permission to do this procedure, and here is why. I documented the next 20 that I did. So I knew about the morbidity and the mortality, and there is a record here. Now the big difference between laparoscopes and what Senator Gordon is proposing is here...I am not going to stand here in the New Hampshire Senate and suggest to you that it is good practice to allow, in New Hampshire, the possibility that someone with glaucoma could be diagnosed and treated without ever seeing a doctor, a medical doctor. I think that is a step backwards. Is that going to happen? I have no idea. But I do know that the way that the system works, the way referral mechanisms go back and forth, the way that arrangements come about, sometime we are going to have a phone call, and they are going to say ok, and we are off. The second thing that is important to me is that there be a written agreement by the patient. I had that. I had it laid out so that when this patient let me do that, it was written down. There is nothing in writing here. That is a Medicare rule by the way, in some circumstances. The rest of my amendment pursues the idea of reporting a little bit more specific. As we move out to two years, we get an idea. One of the really important things in medicine is volume for some diseases. Not for colds or sprains, but for this kind of thing, it is volume. You have to see a certain number of cases on a regular basis to know what you are doing. Even if an optometrist had done all of the work, and they don't see a certain number per year, they shouldn't be doing it. We don't know what those standards are, but there are plenty of standards like that in other parts of medicine. You can't do colonoscopies in our hospital without maintaining a certain volume, and for good reason, because you get better at it. So this bill does in fact move towards co-management. It does allow this to happen. It is a major shift in the way that glaucoma care is given in New Hampshire. I think that it is going in the right direction. In two years when we know about volumes, we know about the accuracy of diagnosis, we know about the accuracy of the recommendations for treatment, maybe we move on. But to do it now, to create this dynamic where you can be treated for this disease, which is in fact, sight threatening, and not be compelled to see a physician. The fact of the matter is, you may hate to hear it, but ophthalmologists know more about this than any other practitioner in New Hampshire. To have a situation where you can be treated and not that level of protection is not going forward, it is going backwards. Thank you.

SENATOR WHEELER: Senator Squires, we heard you discuss this and Senator Gordon discuss this subject matter ...that under the Gordon amendment it would be possible to have a consultation just over the telephone. We've talked earlier today about liability, what do you think the liability situation would be under those circumstances?

SENATOR SQUIRES: I can't get a clear answer on that, Senator Wheeler. I am not sure who is liable, probably both. I can tell you who has the higher level of coverage. It is the physician. The liability issues don't necessarily follow who is responsible, they follow the money. So in that case, the ophthalmologist, I think, would bear the greater liability.

SENATOR FERNALD: There has been an awful lot of lobbying on this issue. I want to do a little disclaimer at the beginning. My predecessor being chairman of the Public Institutions, Health and Human Services Committee, got all of the PAC money that was gettable on this issue as well as any other issue that was going to come before this committee, but this is a very personal issue I suspect that you find in the lobbying. My optometrist has lobbied me on this issue, my wife's ophthalmologist has lobbied me on this issue, and it comes from all sides. It has been described as a turf battle, and I am sure that between these two professions, that is how they view it. I think that we need to view it as a question of public policy and think about it in bigger terms. As I understand the history here, optometry started out as a profession early in this century, and these were people who prescribed corrective lenses, and that is all that they did. Ophthalmologists of course, are medical doctors. About 40-50 years ago, optometry began to change both as a profession, and as what was taught in the schools, they began teaching eye diseases, and I think to some extent, eye surgery. I am not sure of all of the history. Over time, their scope of practice in the states has evolved. Their scope of practice within the military hospitals is different than what the state's allow, and that is where this turf battle has come up. An ophthalmologist is a medical doctor, he goes to medical school for four years and has a year of internship and then three years as a resident in ophthalmology. An optometrist has four years, of optometry school, each having got an undergraduate degree...they do not have a residency requirement or an internship requirement, as I understand it. We license medical doctors in this state as a general matter. We don't license ophthalmologists, but if you want to call yourself an ophthalmologist in New Hampshire, you have to be board certified at the national level, and there is some sort of exam that they take to get this national recognition as ophthalmologists. Optometrists are licensed by the state. I guess my point in going through the education and the licensing is that I don't think that the licensing that we do at the state level for either one of them, tests them on their ability to identify or treat glaucoma. We basically, in our scheme of public policy, put our faith in their education, and the educational system, and the schools that they went to, and the training that they have gotten. The ophthalmologists, their practice is primarily glaucoma and surgery, and I suspect there are some that do only glaucoma or only surgery, and there are some that do a lot of each. Optometrists spend more time doing corrective lenses, but a lot of them are trained in glaucoma, and would like to treat it. The question that I think that we have is if we are going to change the scope of practice, do we have the faith in the optometrist's education and training that they can do what the ophthalmologist are doing? The bill that they came into us with originally, would basically, except for the issue of surgery, make the scope of practice of optometrists and ophthalmologists almost identical, and yet with

very different training. So the question is, are we going to let these people with two different types of training do the exact same things? From the testimony that I heard, I cannot support what they came in with originally, and I cannot support all of what Senator Gordon has in his amendment. What we learned is, that glaucoma is a very complicated condition, and that there are apparently more than 40 different types with different diagnosis and treatments. That is why that I think that both of these amendments talk about open-angle glaucoma, because it is one particular type that is the most common and easiest to identify. What is in Senator Gordons' amendment, are some expansion of the drugs that they can prescribe, particularly the anti-virals, which are used to treat herpes in the eye, which we heard testimony, is a very complicated and a very rare matter, and that it requires great care to treat. What I believe is that ophthalmologists because they have had the training and the residency and so forth, that we can have faith that they can treat something that is unusual, particularly since they concentrate primarily in diseases of the eye, they can do it more often than any optometrist would do it if we allowed them to expand their scope of practice. Speaking to Senator Squire's amendment, from what I hear, the optometrist...maybe I am speaking out of school, but I think that they would rather have nothing than to have the Squire's amendment, because in a way, it is sort of an insult because it says that we will let you do this, but a doctor is going to hold your hand every time you want to treat glaucoma. They either want us to say that they can do glaucoma or they can't, and they don't want this handholding, the co-management. The way Senator Gordon has it, it is consultation, but not co-management really. I have prepared a floor amendment that is Gordon light, it doesn't have the drugs in it, but otherwise it is Gordon. It is because I think that from what I have heard from the various sources, is that we can trust the optometrists from their training and so forth, that they can treat the primary open-angle glaucoma. I am not willing to go further than that, not on the drugs. Thank you.

SENATOR MCCARLEY: Senator Squires, what I am asking based on Senator Fernald's statements, as I understand it in your amendment, we would now be allowing optometrists to treat open-angle glaucoma, which they currently cannot do; however, they would not be able to prescribe the medications...and this is the bigger part of my question, which I assume or associated with treating open-angle glaucoma? Is that a true statement or not?

SENATOR SQUIRES: I think so, I am not sure. The trick **TAPE CHANGE** but in the interval saying that optometrist...you know how to look at cupping, you know how to look at field defects, and you know how to examine the eye to see if there is any deterioration, and that is fine except once a year you have to come back.

SENATOR MCCARLEY: Senator Gordon, I am really not trying to drag this out, I am just trying to clarify this. Would you agree with Senator Fernald's statement relative to **TAPE INAUDIBLE?**

SENATOR GORDON: Well I agree with Senator Fernald's statement that it is pretty much of an insult to say to an optometrist right now who is required, and is on a daily basis to referring those patients with whom he or she determines has glaucoma, is now referring them to an ophthalmologist, for them to now say, "ok, we are going to give you a break, we are now going to require that you refer patients to ophthalmologists." I mean, I think that it is pretty insulting. It is actually in many ways, a step backwards from the authority that optom-

etrists have today. The only advantage that I can see in Senator Squires' amendment is that there is some tracking of data for those who want to participate over a period of time to determine the quality of eye care. I can't speak for the optometrist and I don't know whether they would like to see that killed. If Senator Fernald has an amendment that says that it would give them the ability to treat open-angled glaucoma, then I think that I would prefer to see that go and give up the medications. You know, Senator Squires' amendment basically says that things are working well right now, and people are getting good eye care, so we should leave things alone, we should not have any change. That is the basic theory here. Well I am going to ask you, if that is the theory here, why did we go through this CON mess this morning? I have a sense that the people in the state are getting pretty good care right now, healthcare in the state. In fact, if I look at the statistics, they tell me that we have about the best healthcare in the country here in New Hampshire. So if we are getting such good care, why are we talking about dealing with change? I don't understand it. Can't we accommodate change if it is good for the constituents, good for people, and that is what people want out there? The other thing is the written agreement...and Senator Squires said that he would "never do it without a written agreement." I don't know of any doctor, optometrist or ophthalmologist that practices without a consent form. The very first thing that they make you sign when you go to see them is a consent form. Do you know that there is no statutory requirement in New Hampshire for you to give consent? Do you know why you get consent? To protect the doctor from liability. That is why you give consent. There is a requirement under federal statutes for either Medicare or Medicaid, if you see that kind of patient, but the reason that you give consent has nothing to do with New Hampshire requirements, New Hampshire law, it has to do with protecting the doctor. As to liability, in my amendment, the issue of who should have liability? Well if an ophthalmologist wants to enter into a relationship with an optometrist to give them that authority, why shouldn't they have a liability? Wouldn't they understand that going in, that they are taking that responsibility? I am sure that Senator Russman and I take that responsibility every day. I have paralegals that work for me. They do work. Do you think that lawyers are out there preparing deeds today? Probably Senator Trombly is, I don't know. Right, not if they serve in the Senate they don't. But paralegals are preparing those deeds. Now who takes the liability if that deed is messed up? I do, and I should. I should have that responsibility, ok? That doesn't say that the paralegal can't prepare the deed, it just says that somebody, some lawyer out there has to make sure that it is right and take responsibility for the fact that it is right. That is the same thing with the ophthalmologist. They have to take the responsibility to do that. I hope that if Senator Fernald still wants to go forward with his amendment, that he will do that because I do think that it is preferable to the Squire's amendment.

SENATOR FRASER: Senator Gordon, I am trying not to delay this process, but I have a question. Senator Gordon, you said something...would you agree with me that there is a vast difference between your aide mis-crafting the deed and an optometrist prescribing the wrong drug that might end up in some severe disability to the patient?

SENATOR GORDON: Well the fact is that the difference might be...the difference in terms of the type of damage...I think the point that you are trying to get at is that it is a different type of damage. A bad deed could cost you a lot of money. If it hurts your eyes, it could be a physical impairment that could last you a lifetime. There is a difference. There isn't

a difference in my mind in the fact that somebody who is the employer or somebody who accepts responsibility for the work of somebody else...an agent who works on their behalf to accept responsibility. I think that there is no difference there. I am going to say that I guess...I will ask you if any of you have heard here today, and are convinced that optometrists that are pharmaceutically certified and have been trained to do so, are going to be unable to treat open-angle glaucoma or prescribe medications. I would tell you that there is no indication that once they have been given this authority in other states, over 40 other states, that their insurance went up, and in some cases, it appears that their malpractice insurance even went down after they were given the authority. I guess that I would have liked to have had somebody come in from another state to testify and say, "well you know, it was a big mistake giving optometrists that authority because ever since then we have a lot of blind people." But we haven't had any evidence of that.

SENATOR FRASER: Would you believe that it is my understanding that most all of those other states there has been a residency requirement, additional education between 100 and 150 hours for optometrists?

SENATOR GORDON: I don't know that that is the case. I don't recall testimony specifically that would state that.

SENATOR SQUIRES: I have to clear up this issue. This 42 state statement...14 of them do what I am trying to do, they make referrals mandatory. Four of them have even more restrictions, and 17 don't say anything. So it isn't quite haste that 42 states have allowed the free practice and treatment of glaucoma by optometrists.

Question is on the amendment.

A roll call was requested by Senator Gordon.

Seconded by Senator Francoeur.

The following Senators voted Yes: Fraser, Below, McCarley, Trombly, Squires, Pignatelli, Larsen, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Disnard, Roberge, Blaisdell, Fernald, Francoeur, Krueger, Brown, J. King.

Yeas: 13 - Nays: 11

Amendment adopted.

Senator Gordon moved to rerefer.

SENATOR SQUIRES: We had this bill for a month, and at the last executive session when it was plain to all that we were going to exec on it, we couldn't have it because we were making last minute changes. I think that it is time to move on. There has been ample discussion on this bill, and to continue our discussion on it...we need to get this bill to the House. To send this back to committee to continue to tinker, I don't agree with that.

SENATOR MCCARLEY: Senator Squires, based on the vote that we just took, will this bill remain exactly in place as it is, go to the House and there was no more discussion, and it was signed into law, would optometrists now be able to diagnose and treat glaucoma legally if they have all of the rest of it that goes along with what is in your bill?

SENATOR SQUIRES: Yes they could.

SENATOR MCCARLEY: Thank you.

Question is on the motion to rerefer.

A roll call was requested by Senator Gordon.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Disnard, Roberge, Blaisdell, Francoeur, Krueger, Brown, J. King.

The following Senators voted No: Fraser, Below, McCarley, Trombly, Fernald, Squires, Pignatelli, Larsen, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

Yeas: 10 - Nays: 14

Motion failed.

Question is on ordering to third reading.

Adopted.

Ordered to third reading.

SENATOR SQUIRES (Rule #42): I just want to thank you, Mr. President and members of the Senate, for this hodgepodge of bills and discussion. I am actually going to attend a conference on healthcare costs. I planned this months ago, and it never occurred to me that we would still be meeting. I am very grateful and I appreciate it. This is the first time that I will have ever missed a vote. It is a long walk to Denver.

Taken off the table

Senator Pignatelli moved to have **SB 147**, relative to self-referrals for chiropractic care under managed care organizations, taken off the table

Adopted.

SB 147, relative to self-referrals for chiropractic care under managed care organizations.

SENATOR WHEELER: As we learned at the hearing on this bill and during the session last week, the medical model really doesn't work for chiropractic, which is why we have the bill. The amendment addresses some of the issues that were raised during the session. It increases the role of the Department of Insurance in administering the like fees in the CPT code section of the bill. It provides for flexibility in the capitation section and adds an increased role for the department in the capitation section. It retains the ability of the insurers to sell a chiropractic rider that is a cap benefit, and has the department do rulemaking for this. Also it adds some clarity to the section that I failed to describe very clearly myself. It adds some clarity to the section that deals with the ability to charge out of pocket at the exhaustion of the benefits. I sent you all a list of the changes with the changes in bold type. I would be happy to answer any questions, but I think that we had the policy debate on this.

Question is on the committee amendment (#1196).

Amendment adopted.

Senator Wheeler offered the following floor amendment.

1999-1347s

01/09

Floor Amendment to SB 147

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

1 New Section; Chiropractic Care. Amend RSA 415 by inserting after section 18-h the following new section:

415:18-i Comparable Fees Required. Every insurer regulated under this chapter that covers care by doctors of chiropractic shall provide benefit payments at least equal to and consistent with the benefit payments to other health care providers. No insurer regulated under this chapter shall restrict the use of diagnostic code or current procedural terminology (CPT) codes for any provider group if those procedures are allowed for in the group's scope of practice and are deemed medically or chiropractically necessary. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days for the administration of this section.

2 New Sections; Chiropractic Care. Amend RSA 420-A by inserting after section 17-b the following new sections:

420-A:17-c Self-referrals for Chiropractic Care. A health service corporation under this chapter offering chiropractic benefits shall provide benefits to a subscriber who utilizes services of a chiropractic provider, only by a licensed chiropractor (doctor of chiropractic) by self-referral under the following conditions:

I. A subscriber may utilize the services of a doctor of chiropractic within the subscriber's health plan without discrimination relative to scope of practice, access, and fees.

II. The health service corporation shall fully disclose to the subscriber in clear and understandable language the exact terms and conditions of each option that the subscriber has purchased along with the co-payments or other cost-sharing features of each option. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days, regarding presentation of these terms and conditions to facilitate the comparison by the subscriber of the terms and conditions of each option.

III. Within 10 working days of the first visit or consultation the doctor of chiropractic shall send to the health service corporation, or its designee, the chiropractic case findings. This shall be sufficient documentation for the initial 12 visits or the first 4 weeks of care, whichever comes first.

IV. If the chiropractic provider recommends care beyond 12 visits or 4 weeks, the participating doctor of chiropractic shall send to the health service corporation, or its designee, documentation containing information on the subscriber's progress and necessity of care as well as a care plan for extended chiropractic care up to 6 additional weeks or a maximum of 12 additional visits, whichever occurs first. This is recommended to provide the patient with 24 visits or 10 weeks of care without pre-certification or pre-approval and to provide the health service corporation or its designee with a more detailed record of the patient's chiropractic care status. If the doctor of chiropractic fails to provide the required documentation, the health service corporation or its subscriber shall not be liable to the chiropractic provider for any unpaid fees.

V. After a maximum of 24 visits, a subscriber who is continuing chiropractic care shall receive prior authorization, if required, from the health service corporation or its designee for the purpose of continued care by a provider of the same or similar specialty. Without the approval of the health service corporation, or its designee, and the establishment of chiropractic necessity of care, the subscriber shall not receive benefits for more than 24 visits for the same condition to a participating doctor of chiropractic in a 12-month period.

VI. Capitation rates shall be substantially consistent with prevailing fees relative to the designated number of visits. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days, con-

cerning capitation limits under this section. Nothing in this section is intended to restrict the ability of an insurer to offer a chiropractic rider product, which provides an annual capped benefit.

VII. The patient shall retain the right to choose chiropractic care on an elective, self-pay, fee-for-service basis, and no insurer regulated under this section shall prohibit a doctor of chiropractic from continuing care on an elective, self-pay, fee-for-service basis.

420-A:17-d Comparable Fees Required. Every health service corporation regulated under this chapter that covers care by doctors of chiropractic shall provide benefit payments at least equal to and consistent with the benefit payments to other health care providers. No health service corporation regulated under this chapter shall restrict the use of diagnostic code or current procedural terminology (CPT) codes for any provider group if those procedures are allowed for in the group's scope of practice and are deemed medically or chiropractically necessary. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days for the administration of this section.

3 New Sections; Chiropractic Care. Amend RSA 420-B by inserting after section 26 the following new sections:

420-B:27 Self-referrals for Chiropractic Care. A health maintenance organization under this chapter offering chiropractic benefits shall provide benefits to an enrollee who utilizes services of a chiropractic provider, only by a licensed chiropractor (doctor of chiropractic) by self-referral under the following conditions:

I. An enrollee may utilize the services of a doctor of chiropractic within the enrollee's health maintenance organization without discrimination relative to scope of practice, access, and fees.

II. The health maintenance organization shall fully disclose to the enrollee in clear and understandable language the exact terms and conditions of each option that the enrollee has purchased along with the co-payments or other cost-sharing features of each option. The commissioner shall adopt rules, under RSA 541-A, within 120 days, regarding presentation of these terms and conditions to facilitate the comparison by the enrollee of the terms and conditions of each option.

III. Within 10 working days of the first visit or consultation the doctor of chiropractic shall send to the health maintenance organization, or its designee, the chiropractic case findings. This shall be sufficient documentation for the initial 12 visits or the first 4 weeks of care, whichever comes first.

IV. If the chiropractic provider recommends care beyond 12 visits or 4 weeks, the participating doctor of chiropractic shall send to the health maintenance organization, or its designee, documentation containing information on the enrollee's progress and necessity of care as well as a care plan for extended chiropractic care up to 6 additional weeks or a maximum of 12 additional visits, whichever occurs first. This is recommended to provide the patient with 24 visits or 10 weeks of care without pre-certification or pre-approval and to provide the health maintenance organization or its designees with a more detailed record of the patient's chiropractic care status. If the doctor of chiropractic fails to provide the required documentation, the health maintenance organization or its enrollee shall not be liable to the chiropractic provider for any unpaid fees.

V. After a maximum of 24 visits, an enrollee who is continuing chiropractic care shall receive prior authorization, if required, from the health maintenance organization or its designee for the purpose of continued care by a provider of the same or similar specialty. Without the

approval of the health maintenance organization, or its designee, and the establishment of chiropractic necessity of care, the enrollee shall not receive benefits for more than 24 visits for the same condition to a participating doctor of chiropractic in a 12-month period.

VI. Capitation rates shall be substantially consistent with prevailing fees relative to the designated number of visits. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days, concerning capitation limits under this section. Nothing in this section is intended to restrict the ability of an insurer to offer a chiropractic rider product, which provides an annual capped benefit.

VII. The patient shall retain the right to choose chiropractic care on an elective, self-pay, fee-for-service basis, and no insurer regulated under this section shall prohibit a doctor of chiropractic from continuing care on an elective, self-pay, fee-for-service basis.

420-B:28 Comparable Fees Required. Every health maintenance organization, indemnity provider, or third party payor regulated under this chapter that covers care by doctors of chiropractic shall provide benefit payments at least equal to and consistent with the benefit payments to other health care providers. No health maintenance organization regulated under this chapter shall restrict the use of diagnostic code or current procedural terminology (CPT) codes for any provider group if those procedures are allowed for in the group's scope of practice and are deemed medically or chiropractically necessary. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days for the administration of this section.

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

SENATOR WHEELER: I really did just explain it. I forgot that I shouldn't have been explaining it when I did it. I had forgotten that we had a committee amendment, and I thought that I was speaking to my floor amendment. So, what I just stated previously was to this floor amendment. If anyone has any questions, I would be happy to answer them.

Floor Amendment adopted.

Question is on the motion of ordering to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator Fraser.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Larsen, J. King, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Fernald, Francoeur, Krueger, Brown, Russman, Klemm.

Yeas: 11 - Nays: 11

Paired votes: Senators Pignatelli and Squires.

Motion failed.

Senator Trombly moved to have **SB 147**, relative to self-referrals for chiropractic care under managed care organizations, laid on the table.

Question is on the tabling motion.

A roll call was requested by Senator F. King.

Seconded by Senator Trombly.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Larsen, J. King, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Francoeur, Krueger, Brown, Russman, Klemm.

Yeas: 12 - Nays: 10

Adopted.

LAI D ON THE TABLE

SB 147, relative to self-referrals for chiropractic care under managed care organizations

HB 60, relative to meetings of the ballot law commission. Executive Departments and Administration Committee. Vote 4-0. Ought to Pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 60 simply requires that at any meeting of the ballot law commission that there be three members present at the meeting. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 261-L, relative to the official ballot option. Executive Departments and Administration Committee. Vote 4-0. Ought to Pass, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill is at the request of the Department of Revenue and Administration. The bill clarifies procedures of the first and second town meetings. The bill clarifies that if no operating budget is adopted that the budget from the previous shall be approved, reduced or increased by the debt service or other previously incurred obligations. The bill also adds procedures to rectify irregularities in official ballot voting. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

SB 221-FN, relative to competitive bidding for state construction contracts. Executive Departments and Administration Committee. Vote 4-3. Ought to pass with amendment, Senator D'Allesandro for the committee.

1999-1316s

09/01

Amendment to SB 221-FN-A

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

AN ACT relative to procedures for bid listing for state construction contracts.

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

1 New Section; Procedures for Bid Listing for State Construction Contracts. Amend RSA 228 by inserting after section 4-a the following new section:

228:4-b Procedures for Bid Listing for State Construction Contracts.

I. A general contractor bidding on a state contract for construction work on any contract for the construction, reconstruction, installation,

demolition, maintenance or repair of any building by a public agency required to be awarded through competitive bidding shall, in addition to any other provision of this chapter, include in the general contractor's bid in writing the names, addresses, and bid prices of each subcontractor to be used in the performance of the contract.

II. If the general contractor substitutes any subcontractor listed in the general contractors' bid, or if the subcontractor refuses to perform the contract or offered contract, then the general contractor may substitute that subcontractor after having received prior approval of the governor and council. The general contractor shall submit written evidence to the state that the substituted subcontractor is costing the same amount of money or less than the amount shown in the bid proposal. If the substituted contractor costs less than the amount shown in the bid proposal, the savings shall be deducted from the total contract of the general contractor and rebated to the state.

III. Any person who violates the provisions of this section shall be guilty of a misdemeanor and each day of a continuing violation shall constitute a separate violation.

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

1999-1316s

AMENDED ANALYSIS

This bill establishes procedures for bid listing for state construction projects. A person who violates these procedures is guilty of a misdemeanor.

SENATOR D'ALLESANDRO: Senate Bill 221 has three major features at no additional costs to the state. First it mandates that general contractors who win a state contract project, honor the sub-bids that they use to win the bid. Too often a general contractor, having won a state contract will then bid shop with sub contractors in order to lower construction costs and keep the savings. This hurts small businessmen and women who have spent time and resources and money to estimate their sub bid and to expect to be awarded the job. Secondly, it returns any savings realized with a change of sub contractors to the state of New Hampshire. That is an important situation. It is a very important part of this piece of legislation. Let me give you an example. When approximately \$2 million of the \$21 million contract to construct the Whittemore Center in New Hampshire was cut due to bid shopping, taxpayers did not realize any savings. As a result, the university system proposed their own bid procedures. Senate Bill 221 returns any savings made by necessary changes in a sub-bid, to the state of New Hampshire. Thirdly, there is no fiscal impact to the state with this amended version of SB 221. The Department of Transportation, for reasons unexplained, estimated the cost to the original bill at \$600,000. The amendment removes any additional costs. The process now for reviewing bids is in place, and a one or two page list of sub contractors with their names, addresses and sub bids can be added. This bill is about honesty and fairness in the bid process. It protects the many independent small men and women who try very hard to win sub contracts from being squeezed in a bid-shopping scam after their sub bid has been used in a winning proposal. It returns all savings made when a sub contract change is made for good reason, and reductions in construction costs are realized. Senate Bill 221 could be called the "truth in bidding bill" because it requires that a general contractor having won the opportunity to work on a taxpayer financed project, honors the bid process. I urge you to support SB 221 as amended.

SENATOR FRANCOEUR: I ask the Senate to take a look at SB 221. Look at these savings that are proposed. As you read the amendment, the savings would go back to the state. When this was being discussed in committee, I asked during executive session **TAPE CHANGE** even bother. There is no answer to it because it costs money and time and labor to review contracts. If you are going to substitute one for the other, you have to go in front of the council and the governor for approval. Currently, the contractor is responsible to guarantee the work, the schedule and the cost of the project as well as coordination of all sub contractors, so that if there is a problem, he has the right to change it. There was a letter sent out to all of the Senators by the Associated General Contractors of New Hampshire outlining the proposed amendment to the bill, and the costs that the companies would incur by this. I disagree with Senator D'Allesandro that there would be no cost to the state. The Department of Transportation did have a \$600,000 figure. You are requiring a lot of additional paperwork to be submitted, and at times, if anyone has ever done these public bids, they would know that sub contract bids come in over the phone anywhere up to maybe 30 minutes up to the bid opening. To just get all of this stuff on a paper and send it in and be ready for an opening is almost impossible. I urge anyone that has never done this, to go through a general contractor that is offered, and see what it entails. There is a lot of paperwork if we do pass this. The original bill talked about sub bids. The state of Massachusetts had it for a while and if you talk to anyone down there, you will find out that when a sub contractor submits a bid, it is challenged by another one and guess what? That state is paying anywhere around 20 percent more for their construction jobs than we are. The state of New Hampshire did use this sub bid on the university system, and it became a failure, according to the testimony that we heard in the committee. I also want to bring up that there were no sub contractors present at this sub committee that spoke against this, not one. This is supposed to represent those that are unduly dealt with. We didn't hear from many of them. I would urge my fellow colleagues to vote this bill as inexpedient to legislate.

SENATOR F. KING: Senator Francoeur, you are in the construction business. How long do you think a prime contractor can stay in business if he continuously does this with a sub contractor? A sub contractor spends a lot of money, don't they, to do bids? And if they don't get them, they won't keep bidding for them will they?

SENATOR FRANCOEUR: You are correct, Senator King. Bidding a job of significant size, most of your state contracts are in the millions of dollars. It probably takes some of these companies up to three to five days to bid a lot of man-hours. If they don't get the job, they are not going to keep bidding them, they are wasting their time. You are 100 percent right.

SENATOR D'ALLESANDRO: Senator Francoeur, you are trying to tell us that general contractors don't bid-shop?

SENATOR FRANCOEUR: What I am telling you, Senator D'Allesandro, is that the current system that we have is working very well. If you look at the states around us and how much they are paying, it works by 15 to 20 percent under other states, and if they do bid-shop, you will find out that the subs won't put out the bids to them. They are wasting their time submitting them because they know that they are not going to get them. Again, if the bid comes in, and a general contractor doesn't have a bid from a sub contractor, a lot of times he puts his own number in

there, or if the sub contractors come in over priced, there is nothing here that allows them to recoup that, and sometimes they have to adjust one way or the other.

SENATOR D'ALLESANDRO: Senator, are you trying to tell me that general contractors don't bid-shop?

SENATOR FRANCOEUR: No, I am not trying to tell you that contractors don't bid shop. What I am trying to say is that the current system works very well in the state of New Hampshire saving considerable amount of money in the process that they are using.

SENATOR LARSEN: I sat through that hearing and heard from sub contractors. I don't know where Senator Francoeur was, but we did hear from sub contractors. They came in and said that they believed that the state at times, under those who did sub contracting, sub bid shopping, at times the state was the loser in this game. The contractors were able to pocket the difference, and the state received less quality workmanship, lower quality materials, and those who were having to re-bid their work and come in through the bid-shopping process, had to lower their wages to gain the award of the contract. We heard that the state was losing. We were getting shoddy workmanship out of state contracts through this kind of a process. Now we also heard from contractors who said that they would never do this kind of process. What we are trying to do through this bill is to guarantee that the state gets the greatest quality workmanship out of a state contract. If there are savings to be made, it shouldn't be on the backs of those whose wages are reduced, or on the backs of the state whose materials are reduced, it should in fact, be a savings to the state if in fact there are savings to be made. This bill makes that happen through its amendment, and I encourage you to vote yes.

SENATOR BROWN: Senator Larsen, I sat through all of the hearing too and I recall that the only folks who spoke for the sub contractors were representatives from the labor unions. I didn't hear any sub contractors speak. Can you explain the anecdotal evidence, I didn't hear any specific cases where the state had lost only claims. Can you tell me some specific cases?

SENATOR LARSEN: The example most frequently used is the Whittemore center. The center was sub bid and bid-shopped, and there was a \$2 million difference, and the state did not benefit from the reduction and savings of cost of that \$2 million. The people who came to testify, one of them was an electrician, who spoke about the kind of junction boxes used and other materials that they used to reduce the cost, and also the people that he worked with, whose wages were asked to be reduced through bid-shopping. I think that you were at the same hearing that I was, you heard that. Whether he is currently a sub contractor in a bid, I do not know, but he did speak with authority enough to reference the electrical work that he had seen done that was sub par, and done in a shoddy way, in order to make the savings and get out of there quick enough to be able to survive under the contract that they had submitted.

SENATOR BROWN: Didn't the Department of Transportation testify that there are oversights on the projects, and that they didn't have evidence of shoddy workmanship and inferior materials?

SENATOR LARSEN: I don't recall that testimony. I think that if that is not true, that this bill will only promote quality workmanship and reasonable practices that most contractors in this state follow. We are not asking for...we are trying to eliminate the kind of shoddy practices

that result in shoddy workmanship. I think that most contractors have told us that they don't bid-shop, and if they do, they have trouble getting sub contractors over time. This is to stop the kind of things that I think that you and I don't want to see.

SENATOR F. KING: I am a little confused. We are talking about state projects?

SENATOR LARSEN: We are talking about state construction projects.

SENATOR F. KING: You talked about shoddy practices. It is my understanding that the jobs that I have been around that have been done by the state, the state has inspectors on those jobs. They have a detailed set of specifications and plans, and there is a state inspector, the clerk's of the work, the state has on these jobs to make sure that there is no shoddy work, that is their function.

SENATOR LARSEN: I also heard that we always have a shortage of state inspectors and that in fact review is difficult to come by. That we do have inspectors, but we are short of them. If we can do something that doesn't hurt the contractors who are above board, and in fact bring some savings to the state and improve the quality, I don't see that there is anything to lose on this bill.

SENATOR FERNALD: I said earlier today that I believe in competition of the free market. I voted no on the chiropractic thing because there were provisions in there that get right in the middle of the negotiation between an HMO and a chiropractor about how many benefits there are going to be, and how many visits, and how much they are going to get paid. I see this bill as basically the same thing. That we are inserting the legislature in the midst of a private negotiation between a contractor and a sub contractor and I just don't think that we belong there. Thank you.

Question is on the adoption of the amendment.

A roll call was requested by Senator Francoeur.

Seconded by Senator Fernald.

The following Senators voted Yes: McCarley, Trombly, Disnard, Larsen, J. King, D'Allesandro, Wheeler, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Below, Roberge, Blaisdell, Fernald, Francoeur, Krueger, Brown, Russman, Klemm, Hollingworth.

Yeas: 8 - Nays: 14

Amendment failed.

Senator Francoeur moved inexpedient to legislate.

Adopted.

SB 221 is inexpedient to legislate.

SB 190-FN, relative to grievance procedures of managed care entities. Insurance Committee. Vote 7-0. Inexpedient to Legislate, Senator McCarley for the committee.

SENATOR MCCARLEY: This was the bill that was referred to earlier that Senator Squires had brought in. We took much of this bill and moved it into SB 199, which passed by a resounding 20-4 vote, I believe, earlier today. Senator Squires was kind enough to agree to agree to recommend this bill be inexpedient to legislate. Thank you.

Committee report of inexpedient to legislate is adopted.

HB 367, relative to requesting certifying scientists to appear at DWI hearings. Judiciary Committee. Vote 7-0. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1290s

05/09

Amendment to HB 367

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

1 Official Record of Tests. Amend RSA 265:90, I to read as follows:

I. Any person who is arraigned on a charge arising under RSA 265:84 shall file notice in said court, within 10 days immediately following the receipt by the person of the results of any alcohol concentration test administered to ~~him~~ **such person**, requiring the attendance of the person who conducted ~~said~~ **the breath test, or in the case of any other chemical test, the certifying scientist**. Failure to file notice shall be deemed a waiver to require ~~his~~ attendance **of the person who conducted the breath test, or in the case of any other chemical test, the certifying scientist** at the trial. The official report of the test issued pursuant to RSA 265:84 shall be deemed conclusive evidence of the conduct and result of said test.

2 Boating While Intoxicated; Implied Consent for Boaters. Amend RSA 270:56, I to read as follows:

I. Any person who is arraigned on a charge arising under RSA 270:48-a shall file notice in the court, within 10 days immediately following the receipt by said person of the results of any alcohol concentration test administered to ~~him~~ **such person**, requiring the attendance of the person who conducted the **breath test, or in the case of any other chemical test, the certifying scientist**. Failure to file notice shall be deemed a waiver to require ~~his~~ attendance **of the person who conducted the breath test, or in the case of any other chemical test, the certifying scientist** at the trial. The official report of the test issued pursuant to RSA 270:49 shall be deemed conclusive evidence of the conduct and result of said test.

3 Effective Date. This act shall take effect January 1, 2000.

SENATOR WHEELER: I rise to recommend that the Senate vote that HB 367 ought to pass with amendment. This bill simply changes the person who would testify about the result of the chemical, alcohol concentration test from the person who does the actual lab test to the certified scientist who certifies the test results. The amendment is to ensure that in situations where a person has a breath test taken, as opposed to another chemical test, the police officer who conducts the breath test can be required under this statute to appear in court. The committee voted unanimously in favor of it and I hope that the Senate will too.

SENATOR RUSSMAN: I am not certain that this bill is the one that I think that it may be. I think that it allows somebody other than the person who did the test to appear to prosecute somebody in a DWI trial. The only thing that I can tell you is that what you are doing here is further removing people's rights to confront people that would accuse them of crimes. So as long as you understand that, then it is okay to vote for it. We already have to file a notice requesting that the people be there that actually conducted the tests, and it looks like now you won't even be able to get that person, you would only be able to get the person who certi-

fied the test. So if you want to further remove citizen's rights to confront people in criminal cases, that is one more area that you can do that. If you believe that people should have the right to confront the people who are accusing them of a crime, regardless of what it is, then I would question whether or not that it is a good bill.

SENATOR FERNALD: Senator Russman, I don't do this line of legal work. So these are questions to help me understand what you just said as opposed to what I heard in committee. If someone is in a DWI case and that there has been a blood sample, do they at times, in court, try to establish the chain of evidence?

SENATOR RUSSMAN: Yes.

SENATOR FERNALD: So if you were trying one of these cases, wouldn't you call everybody along that chain?

SENATOR RUSSMAN: Well the issue is who has the burden of proof here? I mean if you believe as I do, that in a criminal case that the government has to prove each and every element beyond a reasonable doubt, including the chain of evidence, which goes to whether or not the evidence may have been adulterated or tampered with. I think that they ought to be required to put each and every person on that testifies against you. If you I believe that we ought to start taking short cuts, we are already doing it administrative hearings, now we are going to do it in the court room, where people won't get an opportunity to directly confront those people. You have to understand that under 265: 90, which are the DWI statutes, you have to file within 10 days...when you get your breath test, or if you get a blood test sample back, within 10 days you have to request the operator of the machine or whatever, to be there at your trial. Failure to do that is a waiver, and it is conclusive evidence. It says, "The official report of said test issued shall be deemed conclusive evidence of the conduct and result of the test." That is already the way that it is. A lot of people might not even go to a lawyer until after 10 days, and they have lost their rights under that situation. I just see it as a practitioner, I have been doing that for 26 years, and it just whittles away and whittles away, and it is going to be a rubber stamp situation on some of these cases where people just don't have the right to confront those that are saying that they committed crimes, and I think that is right. I am not saying that they should be found innocent, but I think that the government has a burden of proving their cases, and I think that this is one more subject. You can see where it says on line four, "the concentration test administered to [him] such person, requiring the attendance of the person who conducted [said] the breath test, or in the case of any other chemical test, the certifying scientist. " A lot of times for example, in blood tests, you may get someone that oversees the actual testing results at the laboratory. This is saying that you can no longer have the person who actually conducted the test, and went to the various procedures to determine what the blood alcohol content was of the sample that they did. All that you are going to have is the certifying scientist. He is going to say, 'well yes, that person works for me, and I know that it could be this or that in the results that they did this or that test, and this is what was found.' Now it says, "failure to file said notice shall be deemed a waiver to require the attendance of the certifying scientist at the trial." I think that you should never mind the certifying scientist, and you ought to have the person who conducted the actual test there, present in the flesh, so that you can actually cross examine that person face to face. I mean, it is just a basic constitutional right that again, is being taken away.

SENATOR FERNALD: If we adopt this bill and someone gives their notice within 10 days, and the certifying scientist shows up at the trial, can the defendant also subpoena the person who did the test?

SENATOR RUSSMAN: Sure. You can actually subpoena them if you want to do that, and if you want to go through the trouble of having the sheriff or someone go out there and pay him \$30 plus mileage to go down there and have to find out where they are. I mean, who has the burden here of proving people are guilty or innocent? I am not saying that DWI isn't a very, very serious offense. It is the most serious motor vehicle offense outside of motor vehicle homicide that there is, so it is serious. But at the same time, it is a basic constitutional right that you have the right to confront witnesses that accuse you. In this case, it is further degradation...forgive me for coming in at this late moment. I frankly wasn't aware that this bill had even come out of the hearing. We didn't say anything about it at the caucus this morning, so I didn't know about it until it came up on the floor. So I don't mean to come in at the last minute and do this. I apologize for that.

SENATOR BROWN: Senator Russman, have you seen the amendment on page 20 of the Senate Journal where it talks about...requiring the attendance of the person who conducted the breath test, or in the case of any other chemical test by certifying scientist? We did amend this in committee, are you aware of that?

SENATOR RUSSMAN: No, I was not, but I will say this. What they are saying there is that the person who actually did the breath test, in other words, the breathalyzer operator, would have to be there. He or she, whomever conducted the test. Any other chemical test generally is a blood test, and that at this point...you would have the right to have the actual person who conducted that test there. Under this amendment, again, it would just be the certifying scientist from the laboratory that would be the person to do that. Now I realize that this is an issue of may be saving money because you have the person that would be doing these tests, and they would have to go to court. Occasionally we do require them to come to court and actually testify. By and large, I am not talking a lot of money for the state because basically, everything is done by breath tests. Rarely do you have blood tests done anymore. It just seems as though each year we are faced with this type of thing where a little more is being taken away from us as rights. What concerns me is if it is applied to this case, is it going to apply to other cases as well? That is the basis for it. I don't say it to be an obstructionist, I just think that it is more of a constitutional right that we have and being in the defense business...and having defended people, it seems correct that the government should have to prove its case in each and every element. To me, it is a very important area. A lot of these cases hinge upon the level of the BAC, the blood alcohol content, and that obviously is a key piece of evidence, so it seems like you really ought to really make them go the full nine yards to have to prove that, and this is one way of relaxing that to a small degree. It just seems as though it is unnecessary to do that. Do whatever you think is right, but it is just a matter of whether you feel that way about what the government should have to prove.

SENATOR TROMBLY: I don't do a lot of DWI work, I try to avoid as much as I try to avoid driving drunk, which I don't do at all, so that tells you how much DWI work that I do. But I do want to tell you that what persuaded me in the committee to vote for this...if I remember it cor-

rectly, and I think that I do, is that the people that we are eliminating from this process, are being dragged into the court, cannot interpret the result of the test, they can simply perform it. They can go in and tell you what they did and what the result was, but they can't interpret how that may have come about. If you want to get to the result, if you want to challenge that...if the defendant wants to challenge that, then you have to subpoena the very person who is saying that you have to bring that in now under this bill. So you still have the option to do what Senator Russman is complaining about. I believe that I recollect this correctly. If you want the interpretation of the result, you have to bring in the person that we're saying that you can bring in now. Under current law, the person that you bring in can't interpret that result, so we are saying fine, bring in the person who ultimately can interpret what was done. Also, the person that we are saying to bring in under this amendment, reviews and has the education and the expertise to discuss with the court what the lab technician did. Thank you.

SENATOR RUSSMAN: Senator Trombly, how are you going to require somebody to prove the chain of custody if the certifying scientist who never sees it, never handles it, never touches it, is the one that is actually going to come to court and testify, rather than the person who takes it from the police department, puts it in the refrigerator and conducts the test, puts it back in the refrigerator for the samples that are saved for the person to have their own tests done. You are going to bypass that, Senator.

SENATOR TROMBLY: That is a very good question, and there is a very good answer to that which I will give you. That is, that the person that you are requiring to be in the court who can do the one thing that the person who did the test can't, and that person can simply say that they have reviewed the procedures, the report, the chain of custody, and this is what happened with it. I understand the concern that you have. But what persuaded me, Senator Russman, was that right now in order for the defendant to fully participate in his or her constitutional right, you have to subpoena two people, and under this statute, you would be able to subpoena one. If the short cut there bothers you, then obviously you wouldn't vote for this legislation. To me, it doesn't overly burden the exercise of a defendant's criminal rights by saying that you have an expert who will be there at trial who will not only be able to explain to the court the process in which the sample went, and be able to tell the court based on their review of the record of A, B and C and D, but also will be able to interpret that so that you will be able to reveal the ultimate truth in the court, which is what you want to do in the process.

SENATOR RUSSMAN: So what you are saying then, I guess, is that somebody is just going to look over the paperwork and say, "you know, the paperwork is fine, and you ought to find him guilty, judge."

SENATOR TROMBLY: No.

SENATOR RUSSMAN: Well that is what is going to happen.

SENATOR TROMBLY: What will happen is that the person who is doing the test will be able to interpret the results to the court as well as delineate the chain of custody for the defendant.

SENATOR GORDON: Senator Russman, right now the way that the law provides, it provides for the person who physically does the mechanical operation of the test itself to appear in court?

SENATOR RUSSMAN: Yes it does, if you put them on notice within the 10 days, otherwise you waive that.

SENATOR GORDON: The 10-day requirement hasn't changed in this?

SENATOR RUSSMAN: No.

SENATOR GORDON: What the testimony was that we heard in the committee was that that wasn't really the right person, because that person is just performing a mechanical function, putting the test tube in the center tube... or whatever they do, as opposed to actually looking at the results and interpreting the results, and making the determination of what your blood alcohol content is. That certifying scientist is really the one that is qualified to be the witness. That basically was the testimony. I guess having said that... my question is, having been told that that is the case, and that is the proper person to have in court, do you believe if in fact we pass this bill, people will be giving up their rights to defend themselves legitimately in DWI cases?

SENATOR RUSSMAN: I believe that people in that case would be giving up their rights illegitimately, and that they shouldn't. The reality of it in these cases, when you have these kinds of bills come before you, basically you have either some police officer or DHS or whoever is actually doing the actual blood analysis, and the Department of Safety will come in and say that this is the best way to do it. Criminal defense lawyers, or other lawyers don't get notice for these things, we don't look for these things. I didn't even know that this was on today, and I do a fair amount of them, and I am here. So I think, as a practical matter, you don't always get a balanced view at the hearing. You probably didn't get anyone to come and sign up in opposition to it, that would be my guess. I would doubt if anyone did. But the reality of it is, if you look at it... I have always been opposed to the 10-day thing because, obviously, a lot of people don't know enough to go to a lawyer within 10 days, but that is part of the law. I do think that you are giving up the right to... of course I would rather have the person who actually physically conducted the test in the courtroom, rather than just somebody that just looked it over and it looked pretty good to them. They checked off all of the things on the checklist, and it was good.

SENATOR GORDON: If you had to vote on this bill today, up or down, would you vote for it or against it?

SENATOR RUSSMAN: I would vote no. I am going to vote no on it.

SENATOR FERNALD: My understanding of the way that the law works now is, if you put in a 10-day notice, you get the person who administered the test, and that is so you can question the results of the test. You feel that the test was done wrong or something and the results are false. The other thing that you might do if you are a defendant is try to prove that there is a problem with the chain of evidence, and in which case you would want the same person there. What the Department of Safety or somebody told us, is that if you are questioning the results of the test, the person that you really want to talk to is not the person who administered the test, but the certifying scientist, because they are the ones who can actually interpret the results of the test and the person who administers the test really can't. So what happens is that we get both of them coming when the defendant is questioning the test. All that I see this bill doing is, if you put in your 10-day notice, you automatically get the certifying scientist. And if you want to question the chain of command, well then you subpoena **TAPE CHANGE** in court unnecessarily.

SENATOR RUSSMAN: Frankly, there isn't one in 25 I will bet, that are blood tests anymore. The reality of it is that I think that as a practical matter that you are defending people's rights, and you want to question every single person that had anything to do with that case, and if two people come to court, then sure, you are going to want to sequester them out of the courtroom, out of hearing, of what is going on, so that you can actually cross-examine and give your client a fair hearing in that case. Certainly I wouldn't mind having two people there, if they are both going to again, talk about the chain of evidence. I want all of the people there that I can get to actually show and prove step-by-step that they did the right procedure. It isn't up to a defendant in this country to have to prove anything. They are presumed to be innocent. They are innocent until they're proven guilty. That chain of evidence is not something that we have to go out and show as somehow adulterated. They have to come in, as a state, as part of the burden, and they show. They should have a high burden to be convicted of any crime.

SENATOR FERNALD: I don't see anything in here that limits the defendant's ability to get both people to come. It only changes who shows up automatically when you put in your 10-day notice, and then you can ask for the other one, which they do now anyhow. They ask for the certifying scientists now when the testimony is coming.

SENATOR RUSSMAN: I just file my 10-day notice, and then it is up to them to prove the case. I don't prove anyone's case for them, I don't help them at all. They have to prove their own case. I don't suggest who they might bring. That is up to them. They have to do it by the numbers, and so do I.

SENATOR MCCARLEY: Since I am not an attorney, but married to one, and hear this kind of discourse a lot, I would like to ask to recommit this bill to the Judiciary Committee. It is a House Bill, and we could carry on this discussion at the committee level one more time before we are satisfied with it.

Senator McCarley moved to recommit.

Adopted.

HB 367 is recommitted to the Judiciary Committee.

Recess.

Out of Recess.

SPECIAL ORDER

Senator Trombly moved that all House Bills on the Senate Calendar be made a Special Order for Thursday, May 27, 1999 at 10:00 a.m.

Adopted.

Senator Wheeler moved to have **SB 147**, relative to self-referrals for chiropractic care under managed care organizations, taken off the table.

Question is on the motion to take SB 147 off the table.

A roll call was requested by Senator Russman.

Seconded by Senator Francoeur.

The following Senators voted Yes: Below, McCarley, Disnard, Blaisdell, Fernald, Larsen, J. King, D'Allesandro, Wheeler, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Trombly, Roberge, Francoeur, Krueger, Brown, Russman, Klemm.

Yeas: 10 - Nays: 10

Motion failed.

SB 157, clarifying that a prisoner's right to vote absentee is in his or her town or city of former residence. Public Affairs Committee. Vote 7-0. Inexpedient to Legislate, Senator Trombly for the committee.

Senator Trombly moved to have **SB 157**, clarifying that a prisoner's right to vote absentee is in his or her town or city of former residence, laid on the table.

Adopted.

LAID ON THE TABLE

SB 157, clarifying that a prisoner's right to vote absentee is in his or her town or city of former residence.

Senator Trombly offered the following resolution:

1999 SESSION

99-1046

04/10

SENATE RESOLUTION

8

A RESOLUTION declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget.

SPONSORS: Sen. Trombly, Dist 7; Sen. J. King, Dist 18; Sen. Wheeler, Dist 21; Sen. Fernald, Dist 11; Sen. Disnard, Dist 8; Sen. Blaisdell, Dist 10; Sen. Pignatelli, Dist 13; Sen. Cohen, Dist 24; Sen. D'Allesandro, Dist 20; Sen. Below, Dist 5; Sen. Larsen, Dist 15; Sen. Hollingworth, Dist 23; Sen. McCarley, Dist 6

COMMITTEE: [committee]

ANALYSIS

This senate resolution urges the identification and use of new revenue sources, instead of budget reductions, as a means of financing any deficit in the education trust fund.

99-1046

04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

A RESOLUTION declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget.

Whereas, that the state of New Hampshire provides programs and services essential to the prosperity and well-being of the state and its citizens; and

Whereas, we oppose budget reductions which would jeopardize the quality of life and services to the least fortunate and most vulnerable among us, particularly essential services to the low income, elderly and disabled, which would occur through reduced appropriations to the department of health and human services; and

Whereas, we oppose reducing proposed appropriations to the University system and the New Hampshire regional community-technical colleges which would add to the already severe financial pressures they face, thereby requiring tuition increases that would place the opportunity for higher education beyond the reach of the children of New Hampshire's working families; and

Whereas, we oppose reductions in the state operating budget which would inevitably shift greater fiscal burdens on cities and towns that must be borne by property taxpayers; now, therefore, be it

Resolved by the Senate:

That the Senate intends to finance any deficit in the education trust fund established under 1999, 17 to provide every child an adequate education with new sources of revenue, not with reductions to the appropriations in the operating budget proposed by the governor; and

That copies of this resolution be forwarded to the speaker of the house of representatives and the governor.

SENATOR TROMBLY: If the Senate will remember last week I brought a resolution to this body requesting that the sense of the Senate be taken, that the funding of Claremont and the budget be essentially what they are, and what members of this Senate had said, two separate and distinct funding issues for the state. At that time you will recall, I think some very honorable and distinguished members of this body said that they felt that it was a partisan move on my part. So the resolution was tabled. Although the resolution made to inherit good sense, speaks to the sensibilities of the fiscal matters of this state, and gives some peace and quiet to some people who are suffering a certain amount of disturbance due to rumblings in the House. I was given an amendment by Senator Fernald, which took out the reference to the governor and took out the reference to a reasonable budget being proposed, and that bill was given to every Senator in the Senate for his or her consideration or his or her amendment. Having received none, Mr. President, I think that the time is now to vote for this resolution. The speaker of the House has sent out a letter to the press, and to the Finance Committee in the House saying that Claremont and the budget are inextricably linked. Well, we will give every Senator here today the opportunity to decide whether he or she wants to go on record, whether he or she wants to tell their constituents that they feel as I do. Now, this is my opinion, an opinion of 13 other democratic Senators who have sponsored this resolution. This resolution was left open for every Senator to sign onto if he or she wished to sponsor the resolution. The resolution before you, Mr. President, contains the names of those people who wish to endorse this policy as a sponsor. I do hope, Mr. President, that the changes that I made to this resolution were changes that were made after hearing my colleague's protestations last week. Those protestations of partisanship, and perhaps some inappropriate wording in the language. I feel comfortable with this language, Mr. President. I feel comfortable, because this language says to the people of the state of New Hampshire, that we are not going to provide you with more money for education through the Claremont decision, and then take it away from Meals on Wheels, or the developmentally disabled, or the state police, or the people who work for the state of New Hampshire. They are crying out for some kind of reassurance, and if we need to show a sign, the shining star in the east is that press release from the speaker saying that Claremont and the budget is linked. Well they aren't linked, and we need to send a message to the people of the state of New Hampshire at least the Senate will act responsibly. At least

the Senate recognizes that we will fund the budget, because the budget needs to be funded at the level to provide the services for the people of the state of New Hampshire that allows the state to go about its business. I am not inclined to agree with the position of the speaker of the House. I want her to know it, and I want the people in my hometown to know it, and I want the people in district 7 to know it, and I want the people in the state of New Hampshire to know it. This resolution invites bipartisanship. It begs for it. Mr. President, I think that we may be able to get that bipartisanship on a roll call vote. Thank you, Mr. President.

SENATOR F. KING: I was one of the ones that objected to the resolution last week because very simply, I don't think that passing a resolution...my constituents know where I stand on the issue and I don't have to participate in this type of a process. But I will say that this morning I would not have voted for it, but since I have seen the news release of the speaker, which I believe was throwing down the gauntlet to some degree, to me, in my position, and I think that today, this afternoon, this evening, I guess, I am going to vote for this, because I believe that the news release that I saw today was inappropriate, and therefore, in the few hours that have transpired, I am going to support this.

SENATOR GORDON: I was also one of the individuals who opposed the resolution last time. I just wanted to address the issue of partisanship, because that has been raised here. I think that what I heard Senator Trombly say was that this invites bipartisanship. I did receive a memorandum from Senator Trombly that said "ok, Senator Gordon, I want you to see this, and hopefully you can sign onto this new bipartisan resolution." The only comment that I have, and I have already made this comment directly to Senator Trombly...the next time that you come forward with a bipartisan resolution, I wish that you would talk to Republicans before you do that. Okay? so that it would be a bipartisan resolution, not just make it bipartisan by inviting me to sign on. But say to me, would you like to sit down and craft a resolution that we can put out to our constituents. To me, that is what you would call a bipartisan resolution. I could tell you that if I wrote this, I would probably put different language in here. I probably would try to say pretty much the same thing that you tried to say, but I think that it might have been a little different. I guess that the only point that I would like to make is, I know you feel comfortable with this, and you think that it is bipartisanship, but let's be bipartisan on the front end and not on the back end.

SENATOR TROMBLY: This resolution was drafted last Friday after your comments, Senator Gordon. I believe that it was in your office on Monday. We didn't take it up on Tuesday. I spoke to you in the Transportation hearing regarding if you had any changes to see me. You didn't.

SENATOR GORDON: Senator Trombly, if that is the case, then I would be happy to sit down with you and do exactly that. I think that you realize that this has been a little bit of an oppressive week, and I think that if you probably look at the faces around this room, you might get the sense that that is the case. It certainly hasn't been a pleasant week for me. It has been hard. I haven't had a lot of time to go working and wording on resolutions. I have been trying to deal with optometrists, speedways and issues that are important, that I think are substance issues, and not resolutions. So if you would like to take some time to sit down and work on the wording, I would be happy to do that with you, Senator Trombly.

SENATOR TROMBLY: I don't think, Senator Gordon, that I would impugn for one minute your ability to contribute constructively to this resolution. The time is now however, Mr. President. We have all had these constraints on our time. I tried to do this in as forthright a manner as could be done, and get it done right, and this is where we are, Mr. President. I offer this resolution to the Senate because the speaker is moving ahead with her agenda of cutting millions of dollars from the elderly, from children, from the working poor, and it is all going to go back on the taxpayers, the people of the state of New Hampshire, and I think that we need to move forward today.

Recess.

Out of Recess.

Question is on the adoption of SR 8.

A roll call was requested by Senator Trombly.

Seconded by Senator McCarley.

The following Senators voted Yes: F. King, Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Larsen, J. King, D'Allesandro, Wheeler, Cohen.

The following Senators voted No: Gordon, Johnson, Roberge, Francoeur, Krueger, Brown, Russman, Klemm.

Yeas: 12 - Nays: 8

Adopted.

SB 220-FN, relative to the disclosure of child abuse and neglect information. Public Institutions, Health and Human Services Committee. Vote 6-0. Ought to pass with amendment, Senator McCarley for the committee.

1999-1313s

04/01

Amendment to SB 220-FN

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

1 Purpose. The general court finds that deaths or serious injury to children due to abuse or neglect, despite the involvement of government agencies charged with responsibility to protect children, is unacceptable. The general court further finds that public accountability in such cases will help prevent fatalities and near fatalities. To foster public accountability the general court authorizes the commissioner of health and human services, upon request, to publicly disclose certain case-specific information in those few cases in which there has been a fatality or near fatality resulting from abuse or neglect of a child. The general court further wishes to clarify that the commissioner may disclose case-specific information to a citizen review panel created in response to the Child Abuse Prevention and Treatment Act, as requested by that panel. The general court finds that the above purpose is consistent with the provisions of the Child Abuse Prevention and Treatment Act as amended in 1996, Public Law 104-235.

2 New Paragraphs; Disclosure of Child Abuse and Neglect Information. Amend RSA 126-A:5 by inserting after paragraph XI the following new paragraphs:

XII.(a) Notwithstanding any other provision of law to the contrary, the commissioner may, upon request, publicly disclose certain case spe-

cific information regarding the abuse or neglect of a child as set forth in this paragraph, and the investigation of such abuse or neglect and any services related thereto, if it is determined that such disclosure shall not be contrary to the best interests of the child, the child's siblings or other children in the household and there has been a fatality or near fatality resulting from abuse or neglect of a child. "Near fatality" means an act or event that places a child in serious or critical condition as certified by a physician.

(b) Information may be disclosed as follows:

(1) Information released prior to the completion of the investigation of a report shall be limited to a statement that a report is "under investigation."

(2) When there has been a prior disclosure pursuant to subparagraph (b)(1) of this paragraph, information released in a case in which the report has been unfounded shall be limited to the statement that "the investigation has been completed, and the report has been determined unfounded."

(3) If the report has been founded, then information may be released pursuant to subparagraph (c) of this section.

(c) For the purposes of this paragraph, the following information may be disclosed:

(1) The name of the abused or neglected child.

(2) The fact that the department's investigation resulted in a finding of either abuse or neglect and the basis for the finding.

(3) Identification of services and actions taken, if any, by the department regarding the child named in the report and his or her family as a result of any such report or reports.

(4) Any extraordinary or pertinent information concerning the circumstances of the abuse or maltreatment of the child and the investigation of such abuse or maltreatment, where the commissioner, or designee, determines such disclosure is consistent with the public interest.

(d) Any disclosure of information pursuant to this paragraph shall be consistent with the provisions of subparagraph (c). Such disclosure shall not identify or provide an identifying description of the source of the report, and shall not identify the name of the abused or neglected child's siblings, the parent or other persons legally responsible for the child or any other members of the child's household, other than the subject of the report.

(e) In determining pursuant to subparagraph (a) whether disclosure will be contrary to the best interests of the child, the child's siblings or other children in the household, the commissioner, or designee, shall consider the privacy interests of the child and the child's family and the effects which disclosure may have on efforts to reunite and provide services for the family.

XIII. Notwithstanding any other provision of law to the contrary, the commissioner may, upon request, disclose information relative to a report of abuse or neglect of a child to a citizen review panel established as required by Public Law 104-235, to evaluate the extent to which the department is effectively discharging its child protection responsibilities. The members of a citizen review panel shall not disclose abuse or neglect case records or information identifying the subject of such case records to any other persons.

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

SENATOR MCCARLEY: I rise in support of SB 220. The bill delineates certain circumstances where a disclosure of information concerning child abuse and neglect is permitted. The bill is effective upon passage, as it

is needed to bring New Hampshire law into compliance with the requirements of the Child Abuse Prevention and Treatment Act. At this time, I would ask for your support for the bill.

Recess.

Senator Larsen in the Chair.

Question is on the committee amendment.

Amendment adopted.

Ordered to third reading.

SB 229-FN-L, relative to the supervision of juvenile delinquents on probation and parole and the operation and organization of the youth development center. Public Institutions, Health and Human Services Committee. Vote 6-0. Rereferred to Committee, Senator McCarley for the committee.

SENATOR MCCARLEY: Due to the information that we have heard from the Department of Health and Human Services and the Department of Youth and Family Services and juvenile corrections, and what have you, the sponsors of this bill felt that much headway was being made on this, so we decided that it would be a much better idea to simply rerefer this bill to committee to keep the issue alive, but to allow HHS and DYDS to continue the work that they are doing together. Thank you.

Adopted.

SB 229-FN-L is rereferred to the Public Institutions, Health and Human Services Committee.

SB 156, granting the commissioner of transportation authority to layout and approve the construction of a restricted use driveway onto a public highway. Vote 6-0. Transportation Committee. Ought to pass with amendment, Senator Gordon for the committee.

1999-1323s

01/10

Amendment to SB 156

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

AN ACT granting the commissioner of transportation authority to layout and approve the construction of a restricted use driveway onto a public highway in Canterbury and creating a legislative study committee to consider options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway.

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

1 Findings. The general court finds it in the interest of the state to grant authority to the commissioner of the commissioner of transportation to approve the layout and construction of the north access road to Route 106, so-called, for the New Hampshire International Speedway in Canterbury. The general court further finds that the development of major projects, such as the New Hampshire International Speedway, have statewide impacts. These impacts may not be effectively addressed by current municipal land use regulations.

2 Restricted Use Driveway Approval Process for Canterbury North Access Road to New Hampshire International Speedway.

I. For the purpose of this section, a "restricted use driveway" means a driveway laid out and constructed with the approval of the commissioner of transportation and which is especially designed for restricted access to the class II Route 106 in Canterbury.

II. Notwithstanding any other provision of law, the commissioner of transportation shall have exclusive authority to layout and approve the construction of a restricted use driveway onto Route 106 in Canterbury, so-called the north access road to the New Hampshire International Speedway, upon application by the property owner to construct such a driveway.

III. All expenses relating to the layout, construction and maintenance of a restricted use driveway approved in accordance with this section shall be borne entirely by the property owner.

IV. Use of the approved restricted use driveway shall be permitted subject to terms and conditions as set forth in an agreement between the property owner and the commissioner of transportation.

3 Study Committee Established. There is hereby established a legislative study committee to review regulatory options for addressing the development of major projects, such as the New Hampshire International Speedway, which have statewide or significant regional impacts.

4 Membership and Compensation.

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

(a) Three members 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.

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

5 Duties. The committee shall review the regulatory options for addressing the development of major projects, such as the New Hampshire International Speedway, which have statewide or significant regional impacts. The committee shall determine if current regulatory processes included in RSA 36:54 adequately address the development of major projects of statewide or significant regional impact. Further, the committee shall recommend regulatory options for addressing the impacts of major development projects, such as the New Hampshire International Speedway.

6 Chairperson. 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 senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 1999.

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

1999-1323s

AMENDED ANALYSIS

This bill authorizes the commissioner of transportation to layout and approve the construction of a restricted use driveway onto a public highway. This bill also establishes a committee to study options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway.

SENATOR GORDON: Senate Bill 156 was brought to the Senate Transportation Committee by Senator Fred King. In particular, he was seeking authority to have the commissioner of Transportation take over the

responsibility for laying out and approving the construction of a new access way on the northern end of the New Hampshire International Speedway. Currently, the development of that access way had been held up in the municipal planning process in the town of Canterbury. We heard a lot of testimony in regard to this Senate Bill, and whether or not it was appropriate for the state to usurp local planning regulation. As a result of the testimony that we received, we clearly understood that there was a compelling case made for having the access way at the speedway. Both the Department of Transportation and the Department of Safety came and testified and told us that the access way was needed, and as soon as possible, and it was a safety issue that needed to be addressed with some immediacy. So the committee felt that we should go forward with authorizing the layout of the new access way. At the same time, we heard the concerns of the local residents, particularly those residents that live in Canterbury, and some residents of other towns, including Loudon and Gilmanton, that there are impacts generated by the racetrack. Impacts in regard to traffic and to noise. In particular, their concerns were that the local regulatory process that is currently in place does not adequately address their concerns. So the second part of this bill is a study committee, and the study committee is set up to look specifically at large scale development projects, such as the International Speedway, and whether or not the current way of regulating those projects is adequate, and the study committee, as all legislative study committees would, will come back and report to the legislature on its findings and make recommendations in regard to future legislation. I hope that you will support SB 156 as amended. Thank you.

SENATOR F. KING: I want to thank Senator Trombly and Senator Gordon and the committee for dealing with this very contentious issue. I think that this is, after all, that we have been through today, I would say that this is an example of compromise and agreement to a problem that has been very difficult to deal with. The speedway is a large operation, and certainly it brings a lot of people to New Hampshire. When people come to an area, whether it is to a shopping center or a race track or wherever, it can disrupt things that take place historically. I think that this bill, in its study process, is very important. We built huge pipelines through the North Country last year, and it caused a lot of disruption and a lot of unhappiness from individuals and it really was...it will have a long term economic benefit, but certainly some people were disenfranchised. A major shopping center...when I drive through the construction up on the interstate near Tilton, exit 20, that process there is ongoing. So I think that this study committee is well, and we do a good job, and it needs to be done. It will apply over the speedway and the pipeline and the shopping center, and it will apply to other major projects that may come to the state now and in the future. The racetrack certainly is an important economic issue, and it is going to be able to be preserved, and that is important to the state. I would just like to thank the committee for all of their work and I apologize for bringing in the bill. I know that it wasn't easy.

SENATOR TROMBLY: I would like to begin my remarks by thanking Senator Gordon for his efforts on behalf of the town of Canterbury and the people who would have been affected by the legislation. There has been a notion somehow, that the people of Canterbury had interfered with this project, and I think that the record needs to reflect that the town of Canterbury, through its planning process, never said no to the construction of this road. Current state says that if there is an impact in one town, if there is growth and development in one town, and it is

going to impact your neighboring towns, then the law requires, through the planning process, that the town where the development is going to occur, listen to and consider the impact on the neighboring towns. Now the people of Canterbury had to go to the Loudon planning board on one issue and they didn't feel that that process worked for them. And to the people of Canterbury, that requirement under the statute didn't work. That was a breakdown for them. Then when the track came to the town of Canterbury and said that they want to improve this road, the people from Gilmanton came into the town of Canterbury during their public hearing process, and asked if they would consider these impacts? These impacts were a couple, and in order to do the road, they have to knock down a hill and take down trees, which would have made the noise greater in Gilmanton. The way that the traffic would be rerouted through this road, is that the people in Gilmanton will suffer. I don't want to say suffer, that is a bad word, will be impacted by the rerouting of the traffic while the traffic in Canterbury would be abated. So the Canterbury planning authorities said that they would consider what they heard from the people who live in Gilmanton, and they put a couple of conditions on the building of the road, a noise study, and traffic study. That is where we reached the impasse. I think that the great news is relative to this process, is that we were able to sit down. The road is going to be built as the Canterbury planning authorities already said that it should be built, but the people of Canterbury get out of this process, and I think that it is very important, the reassurance, that we are going to study how regional projects are developed, and what goes into them. I think the restoration of that sort of faith in the system is very important. The road will get built. Canterbury has already said yes to the road. The people of Canterbury, I think, and the people of this state, will benefit from this study of the regional impact process. Thank you, Madame President.

Amendment adopted.

Senator Trombly offered a floor amendment.

1999-1367s

01/10

Floor Amendment to SB 156

Amend the bill by inserting after section 7 the following and renumbering the original section 8 to read as 9:

8 Applicability. Nothing in the provisions and findings of this act shall be used to influence or affect any judicial, administrative, or regulatory proceeding pending at the time of the passage of this act.

SENATOR TROMBLY: The floor amendment that you have before you...to make absolutely clear, that in the amendment that you just adopted, there are certain "findings" to the general court relative to impact or whatnot. The track was concerned where they're involved in litigation that no party interpret this or try to use these "findings" as some sort of factual basis to advance their case in the court system. This amendment makes perfectly clear that none of those findings that we have in the legislation will be used. It is perfectly acceptable to my constituents because they never have intended to use this process in any legal action in any court. I believe that Senator Gordon, this amendment is agreeable to you and Senator King. I just wanted to make absolutely clear to you all where we were. Thank you, Madame President.

Floor Amendment adopted.

Ordered to third reading.

SB 144, relative to qualifications for members of the fish and game commission. Wildlife and Recreation Committee. Vote 6-0. Rereferred to Committee, Senator Disnard for the committee.

SENATOR DISNARD: The Wildlife Committee on a 6-0 vote recommends SB 144 be rereferred.

Adopted.

SB 144 is rereferred to the Wildlife and Recreation Committee.

CACR 16, relating to use of statewide property and personal income taxes. Providing that the general court shall use net revenues from statewide property and personal income taxes exclusively for educational purposes. Education Committee. Vote 6-0. Rereferred to Committee, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: **TAPE CHANGE** I rise to recommend that CACR 16 be rereferred.

Adopted.

CACR 16 is rereferred to the Education Committee.

CACR 17, relating to establishing a restricted education trust fund. Providing that an education trust fund be established, that all moneys designated for the purpose of state aid to education shall be deposited into such trust fund, and that the moneys in such trust fund shall be used exclusively for state aid to education. Education Committee. Vote 6-0. Rereferred to Committee, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: I rise to recommend that CACR 17 be rereferred.

Adopted.

CACR 17 is rereferred to the Education Committee.

Senator Gordon moved to have **SB 50-FN-A-L**, relative to the state's responsibility to provide an adequate education, taken off the table.

Question is on the motion to take SB 50-FN-A-L off the table.

Recess.

Out of Recess.

A roll call was requested by Senator Gordon.

Seconded by Senator Trombly.

The following Senators voted Yes: F. King, Gordon, Johnson, Roberge, Francoeur, Krueger, Brown, Russman, Klemm.

The following Senators voted No: Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Larsen, J. King, D'Allesandro, Wheeler, Cohen.

Yeas: 9 - Nays: 11

Motion failed.

TAKEN OFF THE TABLE

Senator Trombly moved to have **CACR 20**, relating to the election of governor and senators. Providing that beginning with the 2002 general election, and every 4 years thereafter, the governor and senators shall be elected, taken off the table.

Adopted.

CACR 20, relating to the election of governor and senators. Providing that beginning with the 2002 general election, and every 4 years thereafter, the governor and senators shall be elected.

Question is on the committee report of rerefer.

Adopted.

CACR 20 is rereferred to the Internal Affairs committee.

Adopted.

TAKEN OFF THE TABLE

Senator Trombly moved to have **SB 94**, relative to absentee voter affidavits, taken off the table.

Adopted.

SB 94, relative to absentee voter affidavits.

Question is on the adoption of the committee amendment (#0969).

Amendment adopted.

Senator Trombly offered a floor amendment.

1999-1359s

03/10

Floor Amendment to SB 94

Amend RSA 657:7, III as inserted by section 2 of the bill by replacing it with the following:

III. Return envelopes of size sufficient to contain the preceding envelope addressed to the town and city clerks of the state in which absentee voters shall return their ballots. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, [~~at the top~~] **on the back** thereof, [4] **5** blank spaces with the words "Name, Voting Address, Ward, Town or City, *I do hereby certify under penalties of perjury that I personally marked the ballot within and sealed it in the envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind)*" appropriately printed thereon. Amend the bill by replacing section 9 with the following:

9 Elections; Election Procedure; Processing Absentee Ballots; Affidavit and Signature Examinations Removed. Amend RSA 659:53 to read as follows:

659:50 Announcement by Moderator. The moderator shall begin processing absentee ballots by clearly announcing that he *or she* is about to open the envelopes which were delivered to him *or her*. The moderator shall then remove the [~~affidavit~~] envelope containing the ballots of each absentee voter and shall compare the signature on the [~~affidavit~~] envelope with the signature on the **affidavit portion of the** application for the ballot. If:

I. The name of the voter is on the checklist; and

II. The affidavit on the [~~envelope~~] **application** appears to be properly executed; and

III. The signature on the affidavit appears to be executed by the same person who signed the application; and

IV. The signatures appear to be the signatures of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter. If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

659:51 Challenges. All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter but not after the ballot is removed from the envelope. A person who makes a challenge shall state the reason for the challenge. If the ballot is challenged, the moderator shall write on the ~~[affidavit]~~ envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1". The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, ~~[he]~~ **the moderator** shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101. If the moderator decides that the challenge is not well grounded, ~~[he]~~ **the moderator** shall open the ~~[affidavit]~~ envelope ~~[so the affidavit thereon is not destroyed]~~ and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. ~~[He]~~ **The moderator** shall then proceed to deposit the ballot as provided in RSA 659:52.

659:52 Opening Envelope; Depositing Ballot. If the absentee ballot is not challenged, the moderator shall, after announcing the name of the voter, open the ~~[affidavit]~~ envelope containing the ballot ~~[so the affidavit on the envelope is not destroyed]~~. ~~[He]~~ **The moderator** shall then take the ballot out of the envelope without unfolding the ballot or without permitting the ballot to be examined, and ~~[he]~~ shall preserve the ~~[affidavit]~~ envelope with the ballots cast at the election as provided in RSA 659:101. The moderator shall then have a checkmark placed beside the name of the absentee voter on the checklist and write there-with the letters "A.V." in red ink and shall then deposit the ballot in the ballot box.

659:53 Forms Not in Order. If the moderator finds that the absentee voter is not entitled to vote, ~~[he]~~ **the moderator** shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter", "voted in person", "affidavit improperly executed", "not signed by proper person", or whatever the reason is. The moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election as provided in RSA 659:101.

Amend RSA 669:27, IV as inserted by section 11 of the bill by replacing it with the following:

IV. Return envelopes of size sufficient to contain the ~~[affidavit envelopes]~~ **ballot**, addressed to the clerk upon which shall be printed, "Enclosed is the ballot of an absentee voter", and ~~[at the top]~~ **on the back** thereof blank spaces for the name, address, ~~[and]~~ voting place, **and signature** of the sender, with the words "name," ~~[and]~~ "address," **and "I do hereby certify under penalties of perjury that I personally marked the ballot within and sealed it in the envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind)"** appropriately printed thereon.

Amend the bill by inserting after section 11 the following and renumbering the original section 12 to read as 13:

12 Elections; Absentee Voting; Application; Procedure by Applicant; Incomplete Statement. Amend RSA 657:6 to read as follows:

657:6 Procedure by Applicant. An application form for an absentee ballot shall be mailed or delivered to any person who applies therefor to the secretary of state or to any town or city clerk. It shall be filled out by the applicant and sent to the clerk of the town or city in which he desires to

vote. Alternatively, a person may apply for an official absentee ballot by sending to said clerk a written statement containing the information required by the appropriate paragraph of RSA 657:4, or by the federal post card application. *If the written statement does not include the affidavit required by RSA 657:4, but contains all other information required by RSA 657:4, the statement shall be considered a properly executed application, and the clerk shall include with the ballot sent pursuant to RSA 657:15 an application form with the following instructions: "The affidavit on this form must be completed and signed according to law and returned with your ballot."*

SENATOR TROMBLY: Mr. President and members of the Senate, you will recall that this bill dealt with the way that we changed the application for the absentee ballot. There were two concerns raised by the secretary of states through Senator Krueger the last time that this bill was reported out. I have taken care of those changes, and they are beginning on page 1, line 5. It says that "under the penalty of perjury that they mark the within ballot." That would be printed on the back of the envelope. The other situation...that was basically what the secretary of state had a problem with. I would just say that I met with the secretary of state yesterday, and he is in agreement with this amendment.

Floor Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Cohen moved to have **SB 72**, exempting certain portions of Seabrook Village District and certain portions of Hampton Beach from certain provisions of the excavating, filling, and construction laws, taken off the table.

Adopted.

SB 72, exempting certain portions of Seabrook Village District and certain portions of Hampton Beach from certain provisions of the excavating, filling, and construction laws.

Question is on the committee report of inexpedient to legislate.

SUBSTITUTE MOTION

Senator Blaisdell moved to substitute ought to pass for inexpedient to legislate.

Adopted.

Referred to the Finance Committee (Rule #24).

TAKEN OFF THE TABLE

Senator Trombly moved to have **SB 82**, relative to the termination of employees, taken off the table.

Adopted.

SB 82, relative to the termination of employees.

Senator J. King offered a floor amendment.

1999-1356s

10/09

Floor Amendment to SB 82

Amend RSA 275:57 as inserted by section 1 of the bill by replacing it with the following:

275:57 Reason for Termination. Any employee who has worked for the employer for at least 6 months and is informed by an employer of the employee's termination, may request from the employer, within 30 days after the termination, a written notice stating the reason or reasons for the termination. The employer shall, after receiving a written request, provide the employee a written reason or reasons for the termination.

1999-1356s

AMENDED ANALYSIS

This bill requires that employers provide terminated employees, who they have been employed for 6 months or more, with a written reason for the termination upon the terminated employee's written request.

SENATOR J. KING: Any employees that work for the employer for at least six months and is informed by an employer of the employee's termination, "may" request from the employer within 30 days after termination, a written notice stating the reason or reasons for the termination. That is the changes that were suggested last time. We took the word "companies" out and so forth. I hope that you would all vote in favor of this little bill.

Recess.

Out of Recess.

SENATOR FRANCOEUR: It is kind of tough walking in and not knowing that there was an amendment. I wish that there had been a little bit more notice on what the amendment was. Looking at the amendment, it still doesn't tell us...it says "works for at least six months." Is that part-time individuals, full-time? I know that some businesses deal with a lot of different employees, especially in the summer time and it makes it real tough for those...I still don't believe that this amendment is going to do what the sponsor is hoping that it will do. I believe that it is probably going to create more litigation than anything else for the employers in the state of New Hampshire. New Hampshire is already an "employer at will state" and this doesn't really help to change that. I don't think that it is going to do the constituents any good.

SENATOR TROMBLY: Senator King, does this amendment do what you want it to do?

SENATOR J. KING: It certainly does, after a lot of coaching from the troops here in the chamber. It says "An employee who has worked at least six months" so I would consider that they are talking about ones that are there for the long-haul.

SENATOR KLEMM: Senator King, if I hire an employee who works one day a week and works for me for six months, is this person covered under this bill?

SENATOR J. KING: If you consider him a full-time employee...if that is all that you need him for.

SENATOR KLEMM: He obviously is not a full-time employee if he works only one day a week.

SENATOR J. KING: It states that they must work for you for six months. You are not working six months...

SENATOR KLEMM: If I hire a high school student, and he works three hours a day, two days a week after school, he works for me for six months...

SENATOR J. KING: I would consider him a part-time employee, not a full-time employee.

SENATOR KLEMM: But under this amendment, he is considered an employee, right? The bill doesn't differentiate between full- and part-time. Am I correct?

SENATOR J. KING: This would consider anyone that worked six months or more. Those are the ones that are included. If they work six months or more and not six months at a half a day, six months of work.

SENATOR KLEMM: Whether they work one hour a week or forty hours a week?

SENATOR J. KING: I would say yes.

SENATOR TROMBLY: I think that when an employee loses his or her job, it is just as traumatic if you are a high school student working three hours a day trying to buy gas for your car so that you can go to school, as it is for a man or a woman in their 40's trying to go to a forty hour a week job to pay for the essentials to pay your children or pay your mortgage. This bill is just a bill about common decency. You know what? It doesn't require a lot of paperwork. It doesn't require a great deal of effort. It requires you to say that you are going to treat your fellow human beings like fellow human beings. That isn't impossible, and it is a shame that we have to legislate it. We should be embarrassed that we don't have this on the books already. If you go to work, you perform for your employer, and you don't meet what your employer thinks is a level of production, then you are fired. If you come back to them within the timeframe stated here, whether it is one or two hours a day, a half a day, a half a week, a half a year... which is what the requirement is, then you go to them and ask why they fired you and would you put it in writing. That is all that this bill requires. Any other issue is nothing but smoke and mirrors. This bill is just about treating people decently. We shouldn't even be having this debate. Thank you, Madame President.

SENATOR KRUEGER: Senator Trombly, what would happen to the employer if they don't do this?

SENATOR TROMBLY: I would imagine that they will...you know what will happen in real life? They will probably be able to intimidate them to the point where they won't write the letter, and unfortunately, the grievance of the employee will go unheard. But what can happen in real life is that if they want to push it, they can go to the Department of Labor and tell them what happened...that the employer was requested within the timeframe and didn't do it. The Labor Board can deal with the complaint at that point. They will probably discharge a written statement for the benefit of the employee. Heck, there is nothing wrong with that.

SENATOR F. KING: I just want to mention that, I think that there is an error in the bill on line five. I think the word "employee" should say "employer." I think that the bill needs to be amended.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Francoeur.

Seconded by Senator Krueger.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Larsen, J. King, Russman, D'Allesandro, Wheeler, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Roberge, Francoeur, Krueger, Brown, Klemm.

Yeas: 12 - Nays: 8

Floor Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator F. King moved to have **SB 20**, limiting the price for resale of tickets to motor sports events at the New Hampshire International Speedway to the original purchase price, taken off the table.

Recess.

Out of Recess.

Adopted.

SB 20, limiting the price for resale of tickets to motor sports events at the New Hampshire International Speedway to the original purchase price.

SENATOR F. KING: This is a bill that we had early in the session. It deals with counterfeit tickets that were being dispersed at the International Speedway. Last year during the Busch Races, they discovered that they were receiving a lot of counterfeit tickets. It is not a problem when you have a sold out crowd, but if you don't have a sold out crowd, and you have general admission, there are a lot of tickets being sold. As you know today with computers, you can make \$20 and \$100 bills and you can also make race track tickets. They are being sold at a discount price in the parking lots, and then even though the track recognized that they had some counterfeit tickets being issued, they allowed the people to go through last year and didn't make an issue of it. This year they don't intend to do that. So people will be buying these tickets and finding out that they can't use them. So this does two things. It prevents the people from being cheated, and it also will prevent the track from losing some revenue. So what it does, it prohibits the sale of tickets of any speedway tickets, within a certain distance of the track. The reason that it was tabled was because we thought that the language should be improved, but in the debate, it just seemed that the language in the bill is what it has to be in order to do what we need to do. I respectfully ask that you pass this bill.

Question is on the adoption of the committee amendment (#0266).

Amendment adopted.

Ordered to third reading.

CACR 23, relating to the responsibility and authority of the general court to determine the content, extent, and funding of a public education. Providing that the general court shall have the exclusive authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision; provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed. Education Committee. Vote 6-0. Rereferred to Committee, Senator Johnson for the committee.

SENATOR JOHNSON: I move that CACR 23 be rereferred to Committee.

SENATOR MCCARLEY: I would like to speak just very briefly. Senate Education felt that there is a strong feeling with these kinds of discussions are very important to the citizens of New Hampshire relative to this education trust fund and any sort of new revenue sources. These three bills all had different approaches. Nothing can be acted on in terms of constitutional amendments until next year, and so the feeling was that we should keep all of these in Senate Education to be able to deal with them going forward. The feeling was that all three were different, and to pick and choose at this point in time, we should save this and study this because it is a very serious matter, I think, for the citizens of New Hampshire to hear from us as to how we are looking at the problem.

Adopted.

CACR 23 is rereferred to the Education Committee.

TAKEN OFF THE TABLE

Senator Cohen moved to have **SB 147**, relative to self-referrals for chiropractic care under managed care organizations, taken off the table.

Adopted.

Recess.

Out of Recess.

SB 147, relative to self-referrals for chiropractic care under managed care organizations.

Referred to Finance (Rule #24).

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 30, relative to the cruelty to animals law.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 30, relative to the cruelty to animals law.

Senator Disnard moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Trombly, Disnard

RESOLUTION

Senator Blaisdell moved that all Senate Bills left on the table are by this Resolution made inexpedient to legislate.

SB 50-FN-A-L, relative to the state's responsibility to provide an adequate education.

SB 51-FN-A-L, establishing a referendum for a new taxation plan to fund public education.

SB 157, clarifying that a prisoner's right to vote absentee is in his or her town or city of former residence.

SB 179, allowing for motor vehicle license suspension or revocation for certain minors.

SB 194-FN-A, dedicating certain sums in the moose management fund for the payment for damage done by moose to certain trees.

ANNOUNCEMENTS

SENATOR FERNALD (RULE #44): I am doing the best that I can to do what I think is the best for the people of New Hampshire. I know that all of you are doing the same. At times it means that we won't be happy with each other's votes, and I am sorry for that. At times we will misunderstand each other in terms of intentions or wishes or whatever and I am sorry for that too, but thank you.

RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the purpose of House Messages, introduction of bills, Enrolled Bills Reports and amendments, and that when we adjourn, we adjourn until Thursday, May 27, 1999 at 10:00 a.m.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled House Bill sent down from the Senate:

HB 206, relative to restrooms in restaurants.

Third Reading and Final Passage

SB 20, relative to the sale or resale of tickets to motor sports events at the New Hampshire International Speedway.

HB 60, relative to meetings of the ballot law commission.

SB 71, prohibiting the use of MTBE as an additive in gasoline.

SB 82, relative to the termination of employees.

SB 94, relative to absentee voter affidavits.

SB 108, relative to the co-management of patients with primary open-angle glaucoma and establishing a glaucoma co-management committee.

SB 156, granting the commissioner of transportation authority to layout and approve the construction of a restricted use driveway onto a public highway in Canterbury and creating a legislative study committee to consider options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway.

SB 199, establishing certain standards of accountability for health maintenance organizations and other entities providing health insurance through a managed care system.

SB 214, relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

SB 220-FN, relative to the disclosure of child abuse and neglect information.

HB 261-L, relative to the official ballot option.

HB 535, establishing a committee to study the department of resources and economic development.

HJR 3, urging ISO-New England to adopt policies furthering the state's interest in electric utility restructuring.

In recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed a Bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 300, making technical corrections to 1999, HB 117.

INTRODUCTION OF HOUSE BILL

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered 300 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 300, making technical corrections to 1999, HB 117. **Finance**

1999-1398-EBA

03/10

Enrolled Bill Amendment to SB 77

The Committee on Enrolled Bills to which was referred SB 77

AN ACT relative to authorized regional enrollment area schools.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 77

This enrolled bill amendment corrects an RSA reference and inserts language for grammatical consistency.

Enrolled Bill Amendment to SB 77

Amend RSA 195-A:3, V as inserted by section 1 of the bill by replacing lines 25-26 with the following:

term of the agreement, which shall be for a minimum of 10 years unless otherwise provided by mutual agreement of the school districts consistent with the provisions of RSA 195-A:3, XI;

Senator Trombly moved adoption.

Adopted.

1999-1414-EBA

08/01

Enrolled Bill Amendment to SB 60

The Committee on Enrolled Bills to which was referred SB 60
AN ACT establishing a committee to study the licensure of radiographers
and radiologic technologists.

Having considered the same, report the same with the following amend-
ment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 60

This enrolled bill amendment inserts a missing word.

Enrolled Bill Amendment to SB 60

Amend section 3 of the bill by replacing line 3 with the following:
part of the human body for diagnostic or therapeutic purposes. The com-
mittee shall seek input from

Senator Trombly moved adoption.

Adopted.

1999-1415-EBA

04/09

Enrolled Bill Amendment to SB 161-LOCAL

The Committee on Enrolled Bills to which was referred SB 161-LOCAL
AN ACT relative to amending the contributory pension system for em-
ployees of the city of Manchester and authorizing the town of
Salem pension plan.

Having considered the same, report the same with the following amend-
ment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 161-LOCAL

This enrolled bill amendment makes a technical correction to certain
deleted language in section 7 of the bill.

Enrolled Bill Amendment to SB 161-LOCAL

Amend 1973, 218:8, II as inserted by section 7 of the bill by replacing
line 4 with the following:
year [~~for the first three years~~] following the retirement of a member
with a disability retirement

Senator Trombly moved adoption.

Adopted.

LATE SESSION

Senator Cohen moved that the business of day being complete that the
Senate now adjourn until Thursday, May 27, 1999 at 10:00 a.m.

Adopted.

Adjournment.

May 27, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Father David P. Jones, Senate Chaplain.

The political arena in which you live and move and have your beings is a lot like the arena in which I function across the street. In both settings, it seems to me, words tend to dominate our days. Talks and speeches given and listened to and letters written and read, thoughts and feelings and priorities, all expressed in words. As you do your work over here and I try to do mine over there, it is good to remember the directions that Saint Francis of Assisi gave to his followers as he sent them out. He said this, "Preach the message by all means possible, and if it is really necessary, you may even use words." We keep falling into the trap of believing that it is what we say that matters the most and at the end of the day, your product, your sermon, your legacy, will not depend on the words that you have spoken, but on the difference that your actions have made in individual's lives starting with your own. Let us pray:

Lord, teach us how to express ourselves eloquently, lucidly and powerfully without having to resort every time to words. May we tend to our interior lives as carefully as we do to the speeches we deliver. May our actions toward others reveal our true political convictions as accurately as do our words. And may we be remembered as much for who we have been, as for what we have said, for then the people's business will have been safe in our care. Amen.

Senator Klemm led the Pledge of Allegiance.

Senator J. King is excused for the day.

INTRODUCTION OF GUESTS

SPECIAL ORDER

10:01 a.m.

HB 562, relative to the date of decision for appeals of zoning matters. Public Affairs Committee. Vote 4-0. Ought to Pass, Senator Trombly for the committee.

Senator Trombly moved to have **HB 562**, relative to the date of decision for appeals of zoning matters, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 562, relative to the date of decision for appeals of zoning matters.

HB 689-FN, establishing a committee to study campaign contributions and expenditures. Public Affairs Committee. Vote 3-2. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1241s

03/09

Amendment to HB 689-FN

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

1 Committee Established. There is established a committee to study campaign contributions and expenditures.

2 Membership and Compensation.

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

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

(b) Four 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 campaign contributions and expenditures, including campaign financing alternatives.

4 Chairperson. 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.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 1999.

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

SENATOR WHEELER: House Bill 689-FN as you just heard, establishes a committee to study campaign contributions and expenditures. As the bill was introduced, funds for campaigns for major offices would have been publicly financed and soft campaign money would have been eliminated. As amended by the House, the bill now establishes a study committee to investigate and see how consensus can be reached on the public financing of political campaigns. A recent telephone poll of 400 voters in New Hampshire found that 53 percent feel that we need major changes in campaign financing. Enactment of HB 689-FN and the establishment of this study committee is an important step towards reaching this goal. The committee amendment merely equalizes the number of House and Senate members on the committee, changes the reporting and effective dates, and eliminates the requirement for a quorum to be present. The majority of the Public Affairs Committee recommends that HB 689-FN be voted ought to pass with an amendment. I just want to add that we did discuss this in the committee, and the topic for the study committee is not limited to public financing of campaigns, we are truly talking about campaign finance reform. Thank you.

Amendment adopted.

Ordered to third reading.

HB 441, relative to a mother's right to breast-feed. Public Institutions, Health and Human Services Committee. Vote 5-0. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: I rise in strong support of HB 441. Breastfeeding legislation, believe it or not, has been enacted in over 1/3 of the states, in the United States. You would not think that would be necessary, but problems have arisen with women breastfeeding their babies outside of the home, and it has caused problems for them. Now it is no longer considered a lifestyle choice, but a significant health and medical choice for both mothers and babies. No mother should be put into a situation where she cannot continue to provide this health choice for her baby. It is important for us to remember that women have the right to breastfeed in public, and it is not a criminal offense, such as indecent exposure, but unfortunately many mothers experience some form

of harassment by strangers while breastfeeding in public places. Mothers in New Hampshire need to be supported, protected and encouraged to chose this method of feeding, and I urge the members of the Senate to vote ought to pass for HB 441.

Adopted.

Ordered to third reading.

HB 619-FN, requiring the commissioner of health and human services to produce certain annual reports. Public Institutions, Health and Human Services Committee. Vote 4-0. Ought to Pass, Senator Squires for the committee.

SENATOR SQUIRES: I rise in support of HB 619-FN. The purpose of this bill is to give the legislature, the public, the Department of Health and Human Services a more accurate picture, financial picture of DHHS, by making necessary and annual report of certain payables. One problem that has occurred from time to time is a delay in payments that the department makes to their own vendors. So what this bill does is say sixty days after the end of the fiscal year, the commissioner produces a report for class ninety grant lines which are greater than \$1 million. In other words, at the end of each year, 60 days out, you know how much the department owes. DHHS typically receives the largest portion of the state's general operating budget. I think that this bill is a good idea and I ask your support.

Adopted.

Ordered to third reading.

HB 624-FN, establishing a committee relative to health care quality. Public Institutions, Health and Human Services Committee. Vote 3-1. Ought to Pass, Senator Squires for the committee.

SENATOR SQUIRES: This bill establishes a committee to make recommendations regarding the collection, review, and the dissemination to consumers of information related of health care quality. This information should be helpful to consumers by empowering them to make a choice of health care providers that best suits their individual needs. I ask your support.

Adopted.

Ordered to third reading.

HB 477-FN, changing certain requirements for temporary plates on motor vehicles. Transportation Committee. Vote 4-0. Ought to Pass, Senator Russman for the committee.

SENATOR RUSSMAN: This bill allows the dealers when they sell cars to issue temporary plates, rather than right now they are required to attach them, so they just issue them, and it is up to the customer whether or not if they want to do that, if they want them to put it on or not. This bill makes senses that the issuance of the paper plates still allows the state to keep track of the numbers of the vehicles that are sold. But now requiring it to be attached to the vehicle makes it easier on the consumer. There was no testimony in opposition, so we would urge your support of ought to pass.

Adopted.

Ordered to third reading.

HB 554, relative to driver education reciprocity. Transportation Committee. Vote 5-0. Ought to Pass, Senator Russman for the committee.

SENATOR RUSSMAN: Yes, what happens now is sometimes people will go down to another state rather than New Hampshire because the standard might be less, or they can get it a little cheaper. This would require the other state to have the same standards we have in order to have reciprocity for the driver's education program that they go through. No one testified in opposition to this bill.

Adopted.

Ordered to third reading.

HB 573, clarifying the status of class VI highways. Transportation Committee. Vote 4-0. Ought to Pass, Senator Gordon for the committee.

SENATOR GORDON: House Bill 573 clarifies the current statute regarding class VI highways. It was filed at the request of the Department of Transportation, and the New Hampshire Municipal Association. House Bill 573 is needed in part due to a recent Supreme Court decision which ruled that there are two different kinds of class VI highways, those subject to gates and bars, and those which are not. House Bill 573 applies uniform language to the statute, clearly identifies how a road becomes a class VI highway, states that all such highways are subject to gates and bars, and preserves the right of the public to travel on these highways. House Bill 573 provides needed clarifying language for local officials, landowners and the courts. The Transportation Committee recommends HB 573 as ought to pass.

Adopted.

Ordered to third reading.

HB 593-FN-L, relative to the classification of class VI roads which have been maintained by a town. Transportation Committee. Vote 4-0. Ought to Pass, Senator Russman for the committee.

SENATOR RUSSMAN: This simply allows towns to have to not go through the layer process on class V roads if they have been class VI and they begin to regularly maintain and repair them, the town would have the opportunity to restore them to the class V status. No one testified in opposition to the bill, and we urge support of the ought to pass motion.

Adopted.

Ordered to third reading.

HB 362, relative to dam safety program violations. Wildlife and Recreation Committee. Vote 4-0. Ought to Pass, Senator Krueger for the committee.

SENATOR KRUEGER: This bill extends the authority of the commissioner of environmental services to impose fines for violating statutes relative to dams, mills and flowage to violation of rules. This is essentially a housekeeping bill. There was no opposition, and the committee unanimously recommends ought to pass.

Adopted.

Ordered to third reading.

HB 552, relative to the issuance of crossbow permits to persons with a permanent physical disability. Wildlife and Recreation Committee. Vote 5-0. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: This bill effectively expands the range of disabilities that qualifies a person to apply for a permit to hunt with a crossbow. As it stands, the statute entitles those impaired by the perma-

ment loss, or loss function of the shoulder, arm, elbow, forearm, wrist, or hand, to apply for a crossbow permit. This bill removes the specific reference to the arm, and says simply that any person with a permanent physical disability that hinders them from operating a conventional long bow or compound bow, may apply for a crossbow permit. In other words, whatever a person's disability, as long as it prevents them from drawing a bow, they qualify. The applicant must provide medical evidence of their disability, and the department may seek a second opinion. The committee unanimously recommends ought to pass.

Adopted.

Ordered to third reading.

HB 428, relative to school administrative units. Education Committee. Vote 5-0. Ought to pass with amendment, Senator J. King for the committee.

1999-1327s

04/09

Amendment to HB 428

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as section 4:

3 New Subparagraph; School Administrative Units; Planning Committee. Amend RSA 194-C:2, IV(b) by inserting after subparagraph (3) the following new subparagraph:

(4) Any plan for organization, reorganization, or withdrawal from a school administrative unit shall be prepared in accordance with RSA 194-C:2, III, and shall be submitted to the state board pursuant to RSA 194-C:2, VI. The plan shall be submitted to the voters in accordance with RSA 194-C:2, VII or 194-C:2, VIII. If the voters fail to vote in the affirmative by the 3/5 vote required, the school district shall not offer another warrant article seeking to create a planning committee for a period of 5 years after the date of the initial warrant article.

1999-1327s

AMENDED ANALYSIS

This bill replaces the requirement that a public hearing on the plan to form a school administrative unit be held at least 60 days prior to the planning committee's submission of the plan to the state board of education with a requirement that the planning committee hold a hearing no less than 14 days prior to submission of the plan. The bill makes a technical correction to the law relating to voting by members of the joint board of school administrative units by correcting a cross-reference to a repealed provision of law and amends current procedures for submitting a warrant article to the voters relative to establishing a school administrative unit planning committee.

SENATOR MCCARLEY: House Bill 428 clarifies the procedures regarding proposals to organize and reorganize, or withdraw from the school administrative unit. The bill shortens the time for advance notice of a public hearing, and it also removes the duplicative round of voting by requiring only one defeat of the plan, rather than two. It makes a technical correction by deleting an obsolete cross reference. The bill was a request by the Department of Education. There was no opposition at the hearing.

Amendment adopted.

Ordered to third reading.

HB 488, relative to the definition of a developmentally delayed child in the provision of special education services. Education Committee. Vote 6-0. Ought to Pass, Senator Cohen for the committee.

SENATOR COHEN: This bill expands the definition of the developmentally delayed child from the current age group from three to five years to include children from ages three to nine. Due to changes in the federal education disability laws of 1997, states that the option to make this change. Expanding the group to age nine will enable the state avoid duplicated testing of children in the three- to five- year old range since current law requires testing at age five for coding purposes, regardless of when the most recent test took place. The bill will also result in more appropriate coding in special education students by making the test for coding occurred at age nine, then more can be known about the child's condition. In some cases, the child might not need to be coded since the developmental delay may have been successfully addressed prior to the new coding age. This bill has the support of Department of Education Bureaus of Special Education and was unopposed at the hearing.

Adopted.

Ordered to third reading.

HB 313-FN, relative to the regulation of the practice of optometry. Executive Departments and Administration Committee. Vote 5-0. Ought to pass with amendment, Senator Francoeur for the committee.

1999-1358s

10/09

Amendment to HB 313-FN

Amend RSA 327:20, III(e) as inserted by section 13 of the bill by replacing it with the following:

(e) By assessing administrative fines established by the board which shall not exceed \$2,000 per offense or, in the case of continuing offenses, \$200 for each day the violation continues after notice, whichever is greater.

SENATOR FRANCOEUR: This bill is in response to legislation regarding optometrists that was referred last year. The bill updates laws regarding optometrists and is strictly an update of the administration of optometrists. It does not address the scope of practice. The compensation for the members of the Board of Optometry is increased to reflect compensation of members of other boards. The bill clarifies both the investigative and subpoena power of the board, as well as, given the board to assess fines. The committee amendment clarifies that the fines continuing offenses will be administered following notice of the offense. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 318, relative to recovery of costs in utility proceedings and relative to the appointment of public utilities commissioners. Executive Departments and Administration Committee. Vote 5-0. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: This bill requires that nominees for the Public Utilities Commission have a hearing before the executive council before being confirmed. I might say that is a practice that was begun

over twenty years ago, and the executive council will now be doing it permanently, and I am pleased to see that. This bill allows parties that intervene in utility proceedings to recover costs that they have incurred when intervening. These parties must show that there was substantial contributors to the commission's ruling and that they indeed incurred financial hardship. Approval of any cost reimbursement would need the approval of the governor and council, and in cases where money is awarded, the award would be limited to a maximum of \$10,000 per incident. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 55-FN-A, setting the rate for the medicaid enhancement tax for the biennium ending June 30, 2001. Vote 7-0. Finance Committee. Ought to Pass, Senator F. King for the committee.

SENATOR F. KING: This bill continues the medicaid enhancement tax at the present rate of 6 percent for the biennium ending June 30, 2001. House Bill 55-FN-A is needed because RSA 84-A:2 states that if the legislature fails to set the rate of tax on or before May 30, receiving the first fiscal year biennium, that tax rate should be zero for that biennium. Medicaid enhancement tax is collected and returned to the hospitals as the uncompensated care pool payments. As a result, these payments go back to the hospitals and a federal match at fifty percent is expected to generate general fund unrestricted revenue of \$54 million for FY 2000 and \$56 million for FY 2001. The Senate Finance Committee recommends that HB 55 ought to pass.

Adopted.

Ordered to third reading.

HB 204-FN, relative to driving after license revocation or suspension. Finance Committee. Vote 7-0. Ought to pass with amendment, Senator Below for the committee.

1999-1366s

05/10

Amendment to HB 204-FN

Amend the bill by replacing paragraph V-a(a) as inserted by section 2 with the following:

V-a.(a) Except as provided in subparagraph (b), any person who drives a motor vehicle in this state during the period of suspension or revocation of his or her license or driving privilege and is involved in a collision resulting in death or serious bodily injury as defined in RSA 625:11, VI, to any person, shall be guilty of a class B felony, where such person's unlawful operation of the motor vehicle caused or materially contributed to the collision. Evidence that the driver violated any of the rules of the road shall be prima facie evidence that the driver caused or materially contributed to the collision.

SENATOR BELOW The Finance Committee amendment makes a technical correction to properly reflect the intent of the bill, which establishes a class B felony penalty for drivers who cause or materially contribute to a collision, resulting in death, or serious bodily injury while operating a vehicle while their license is suspended or revoked. The proposed amendment changes a sentence to read "evidence that the driver violated any of the rules of the road shall be prima-facie evidence that the

driver caused or materially contributed to the collision." The prime sponsor of the bill and the Department of Safety and Senate Finance committee recommends HB 204-FN as amended ought to pass.

Amendment adopted.

Ordered to third reading.

HB 492-FN-A-L, reducing the state bond guarantee limit for wastewater projects. Finance Committee. Vote 6-0. Ought to pass with amendment, Senator Below for the committee.

1999-1393s

03/09

Amendment to HB 492-FN-A-LOCAL

Amend RSA 485-A:7 as inserted by section 1 of the bill by replacing it with the following:

485-A:7 State Guarantee. In view of the general public benefits resulting from the elimination of pollution from the public waters of the state, the governor and council are authorized in the name of the state of New Hampshire to guarantee unconditionally, but at no time in excess of the total aggregate sum for the entire state of [~~\$250,000,000~~] **\$175,000,000**, the payment of all or any portion, as they may find to be in the public interest, of the principal of and interest on any bonds or notes issued by any municipality, town, city, county or district for construction of sewerage systems, sewage treatment and disposal plants, or other facilities necessary, required or desirable for pollution control, and the full faith and credit of the state are pledged for any such guarantee. The outstanding amount of principal and interest on such bonds and notes, the payment of which has been guaranteed by the state under the provisions of this section, shall at no time exceed the amount of [~~\$250,000,000~~] **\$175,000,000**. The state's guarantee shall be endorsed on such bonds or notes by the state treasurer; and all notes or bonds issued with state guarantee shall be sold at public sealed bidding to the highest bidder. Any and all such bids may be rejected and a sale may be negotiated with the highest bidder. In the event of default in payment of any such notes or bonds, the state may recover any losses suffered by it by action against the municipality, town, city, county or district as provided in RSA 530. Provided, further, that in accordance with RSA 35-A:29, the foregoing requirement for public sealed bidding shall not be applicable to any bonds or notes or both so guaranteed which are sold to the New Hampshire municipal bond bank, and any bonds or notes or both so guaranteed may be sold to the New Hampshire municipal bond bank at private sale in accordance with the provisions of RSA 35-A.

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

1999-1393s

AMENDED ANALYSIS

This bill reduces the aggregate state bond guarantee limit for wastewater projects from \$250,000,000 to \$175,000,000.

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

SENATOR BELOW: This bill is amended by the Finance Committee, reduces the aggregate state bond guarantee limit for wastewater projects from \$250 million to \$175 million. The Department of Environmental Services requested this bill because the necessity for this program has decreased over time, thereby, allowing for this reduction and the potential state guarantees. Currently, the amount of the such outstanding

guarantees are only about \$120 million, and are expected to steadily decline over time. The Finance Committee recommends HB 492 as amended, ought to pass.

Amendment adopted.

Ordered to third reading.

HB 494-FN-A, making an appropriation to the department of cultural resources for the purpose of funding participation of the state in the Smithsonian Festival of American Folklife. Finance Committee. Vote 7-0. Ought to Pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 494-FN-A appropriates \$150,000 from the general fund to the Department of Cultural Resources in the fiscal year 2000 for the state's participation in the Smithsonian Festival of American Folklife to be held this summer on the National Mall, in Washington, DC. Next summer, the festival will be restaged at the beautiful Hopkinton Fairgrounds, so that the people who were unable to travel to Washington can visit beautiful downtown Hopkinton and see the festival as it is presented. It will then, I understand, go on the road to the students of New Hampshire, offering them an opportunity in their schools to learn about the state of New Hampshire. The festival is an opportunity for the state to tell its story of life in New Hampshire, first to thousands of DC visitors, and then to visitors in New Hampshire. The story is told through its artisans, crafts and products. The \$150,000 committed by the state, represents a small but important portion total of the \$3.4 million budget which is primarily funded by generous private support. The Finance Committee recommends HB 494 ought to pass.

Adopted.

Ordered to third reading.

SB 158-FN, relative to indecent exposure. Finance Committee. Vote 7-0. Ought to Pass, Senator Russman for the committee.

Senator Russman moved to have **SB 158-FN**, relative to indecent exposure, laid on the table.

Adopted.

LAID ON THE TABLE

SB 158-FN, relative to indecent exposure.

SB 201-FN, reclassifying non-support as a felony under certain circumstances. Finance Committee. Vote 7-0. Ought to Pass, Senator McCarley for the committee.

SENATOR MCCARLEY: This bill reclassifies nonsupport as a Class B felony when the arrearage has been unpaid for more than one year and is greater than \$10,000. Or if the obligor has been previously convicted of a similar offense in another state. The administrative office of the courts has stated that it is reasonable to assume additional costs to the branch due to increased caseloads, but cannot actually give us an estimate on that amount. The Department of Corrections has stated that their cost may increase by a undeterminable amount. The Finance committee recommends SB 201-FN ought to pass.

SENATOR TROMBLY: Senator McCarley, just quickly, do you know if that arrearage, if there is a time-payment plan, if they violate that does that result in a charge of a felony?

SENATOR MCCARLEY: Senator Trombly, I do not know the answer to that question, and I might refer it to Senator Pignatelli.

SENATOR TROMBLY: Senator Pignatelli, my question was the bill requires that the arrearage be unpaid for a period of one year. Sometimes people have made time-payments on the arrearage. I was wondering if someone has made arrangements for time-payments, and then stops paying, could then they be charged under the bill?

SENATOR PIGNATELLI: My understanding, after listening from testimony from the department, is that they try everything that they can do to work with the nonsupporting parent, and if they are on a time-payment plan and they are making payments and they don't stop making payments for a year, that they would not be charged.

Adopted.

Ordered to third reading.

SB 223-FN-A, establishing a wellness and primary prevention council and making an appropriation therefor. Finance Committee. Vote 6-0. Ought to pass with amendment, Senator Klemm for the committee.

1999-1385s

04/10

Amendment to SB 223-FN-A

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

AN ACT establishing a wellness and primary prevention council and making an appropriation therefor.

Amend the introductory paragraph of RSA 126-M:3, I as inserted by section 1 of the bill by replacing it with the following:

I. There is hereby established a wellness and primary prevention council which shall consist of 17 members as follows:

Amend RSA 126-M:3, I as inserted by section 1 of the bill by inserting after subparagraph (i) the following new subparagraph:

(j) Two members representing county government, one of whom shall be a human services administrator, appointed by the New Hampshire Association of Counties.

Amend the bill by replacing section 2 with the following:

2 Appropriation. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 2000, for the purpose of funding the coordinator position established in RSA 126-M:3, III(c) as inserted by section 1 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

1999-1385s

AMENDED ANALYSIS

This bill establishes a wellness and primary prevention council for the purpose of encouraging, promoting, and coordinating wellness and primary prevention services statewide, and makes an appropriation therefor.

SENATOR KLEMM: Senate Bill 223-FN-A establishing a wellness and primary prevention council and making appropriation therefor. It was referred to Finance by the Senate Public Institutions, Health & Human Services Committee. Senate Finance amended this bill by removing the \$75,000 appropriation and replacing it with \$1. The Finance committee recommended SB 223-FN-A as ought to pass.

Amendment adopted.

Ordered to third reading.

HB 388, relative to telephone number conservation and area code implementation. Internal Affairs Committee. Vote 3-0. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, New Hampshire is in jeopardy of running out of available telephone exchange numbers because of the way that they were assigned. Under the current system, telecommunications providers are assigned telephone numbers in blocks of ten thousand. Currently, the PUC is working with the telephone industry, the Federal Communications Commission, and the North American Numbering Planning Administrator, to explore ways of using numbers more conservatively and sensibly, and avoid having to impose a new area code at this time. If it becomes necessary to implement a new area code, there are two methods. One method is to call the geographic split where the state would be divided into two areas, each with its own area code. The other method is called an overlay of new numbers. Under this method, existing numbers would not change, but any new numbers would have a new area code regardless of location. This bill does not specify which method the commission should choose, but outlines the policy principle that the commissioner should adhere to, if and when such a choice must be made. The bill gives the PUC policy guidelines to address the problem of area code exhaustion and to conserve telephone exchange numbers. The principle in this bill includes minimizing customer disruption and confusion, minimizing cost both to the consumer and the cost of implementation by the phone companies, insuring competitiveness, public safety, and the utilization of the best available technology and planning.

Adopted.

Ordered to third reading.

HB 538, establishing a committee to study the new construction and repair of New Hampshire commemorative monuments at certain Civil War battle sites. Internal Affairs Committee. Vote 2-0. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: This bill establishes a committee to look into the feasibility and the financial implications of repairing and restoring the New Hampshire Civil War Monument, at Gettysburg National Military Park. As well as the feasibility of constructing a new monument to memorialize New Hampshire's participants in the Civil War at Antietam National Battlefield. The committee recommends this bill ought to pass.

SENATOR FRANCOUER: Just to correct it, it was not Senator Fraser this time, it was myself and Senator D'Allesandro, and we thought this bill was so important that we would exec it out with the two of us. And we hope that everyone is going to support it.

SENATOR D'ALLESANDRO: Actually, we deferred the construction expertise of Senator Francoeur who, with his magnificence when it comes to building a trade, and gave us the proper movement as ought to pass. I appreciate that very much.

SENATOR FRANCOUER: Thank you, Senator.

Adopted.

Ordered to third reading.

HB 205, relative to the requirement for posting of bond by an applicant for a writ of replevin. Judiciary Committee. Vote 4-0. Ought to Pass, Senator Fernald for the committee.

SENATOR FERNALD: This bill makes a minor change to the law governing replevin. Replevin is a legal action where you seek to recover your property from somebody else who is unlawfully detaining it. Under the current law, if you want to bring a writ of replevin, you have to put up some security with the court, and it has to be in the form of bond. What our testimony in committee revealed, was that it is very difficult, if not impossible, to get these bonds. People just don't issue them anymore. So the statute will be exchanged by this bill to provide for other types of security. You can put up cash, you can put up a mortgage on real estate, so that it still maintains the idea that there is security for what you are seeking to do. But it broadens the type of security that you can put up. Please support the committee's ought to pass motion.

Adopted.

Ordered to third reading.

HB 278, relative to scheduling of district court sessions. Judiciary Committee. Vote 5-0. Ought to Pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: I rise to support HB 278. This bill came out of a study committee that I served on last summer. Supporters of the bill testified that it will require district courts to hold special sessions. These special sessions could be held in the early morning, at lunchtime, or in the evening. They would be a replacement for court sessions that are currently held now so that it would not put an additional strain on the district court's budget. The idea behind this bill is to make the district courts more friendly, more consumer's friendly, so that individuals that are charged with violations wouldn't have to choose between missing work, and losing a day's pay, or defending themselves in court. The bill provides that the district court to hold flexible sessions that best serve the convenience of the communities, so it wouldn't have to be the same in every district court. The administrative judge for the district court was in support of this bill and testified that the district courts are already conducting community surveys so that they would be able to do this. The administrative judges require an annual report with progress of implementing these flexible schedules with the chairpersons of the House and Senate Judiciary committees, and that would have to take place over the next four years. The Senate Judiciary Committee voted unanimously that this bill ought to pass and we recommend that the Senate also vote ought to pass on this bill. Thank you

Adopted.

Ordered to third reading.

HB 345-FN, relative to harassment via the computer. Judiciary Committee. Vote 6-0. Ought to pass with amendment, Senator Trombly for the committee.

1999-1343s

09/01

Amendment to HB 345-FN

Amend the bill by replacing section 2 with the following:

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

SENATOR TROMBLY: House Bill 345 simply adds using the computer to harass people. The committee heard some horrific tales of people appropriating other people's names representing themselves to third parties and effecting people's jobs, their livelihood, interference with family relations. Because computers were not added to the harassment

statute, they could not be prosecuted once they were caught, and this bill corrects something that is very much needed, and the committee asks you to pass the bill as amended.

Amendment adopted.

Ordered to third reading.

HB 714-FN, changing the potential penalties for certain acts of solicitation and conspiracy to commit murder and attempted murder to life in prison. Judiciary Committee. Vote 6-0. Ought to pass with amendment, Senator Cohen for the committee.

1999-1349s

05/09

Amendment to HB 714-FN

Amend the bill by replacing section 5 with the following:

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

SENATOR COHEN: I rise to recommend that HB 714-FN ought to pass as amended. It increases the penalty for attempted murder from 30 years to life in prison. It also increases the penalties for solicitation of murder and conspiracy to commit murder from 15 years to not more than 30 years. These maximum sentences are not mandatory, and a sentencing judge can award a lesser sentence if leniency is appropriate. The supporters of this bill, including the attorney general's office, testified that this should not be different penalties for the crimes of murder and attempted murder. The intent in both crimes is the same; is to murder the victim. The punishment should reflect the heinous nature of that crime. Testimony in supporting HB 714-FN was tragic and horrifying. One young woman who was a victim of attempted murder in Portsmouth testified about the treatment to which she was subjected. About five years ago she was walking her dog and she was attacked by a 16-year-old boy. Her attacker raped her multiple times and stabbed her multiple times, and cut her throat with a broken bottle. The attacker kicked the young woman's head so many times that he had cracked her skull and left her for dead in a ditch. A witness that called 911 watched the attacker do a jig when he thought that the victim was dead. The victim survived, thanks to help from the police, and medical providers, her survival is a miracle. After conviction, the judge sentenced the attacker to the maximum sentence available according to a law for 30 years. He said that he would of sentenced the attacker to a harsher sentence if he could have. During the trial the attacker showed no remorse and reportedly said while he was in jail that he was sorry that he did not get his victim's other jugular. As you can see from this testimony, intent for this attempted murderer was no different than if the attacker succeeded in killing the victim. Understandably the victim fears the day this attacker will be released. A representative of the attorney general's office testified this bill promotes justice. If enacted, the bill will appropriately punish offenders who have committed such horrible crimes, and will deter other potential offenders. Note, however, that the bill does not alter that the requirement that the prosecutor's and the police must build their case and meet the burden of proof in order to obtain a conviction. The bill passed 5-0 in the Senate Judiciary and the amendment makes the bill effective on passage. I strongly urge the Senate vote ought to pass on HB 714-FN as amended.

Amendment adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Trombly moved that the Rules of the Senate be so far suspended as to allow a House Bill into the Senate without referral to committee, a public hearing, notice of a hearing in the Senate Calendar, and with no calendar notice of committee report.

Adopted by the necessary 2/3 vote.

HB 68, adding the name of Martin Luther King, Jr. to Civil Rights Day.

SUSPENSION OF THE RULES

Senator Trombly moved that the Rules of the Senate be so far suspended as to allow House Bill 68 be on Second Reading at the present time.

SENATOR TROMBLY: House Bill 68 is an act adding the name of Martin Luther King, Jr. to Civil Rights Day. I think that a vast number of people within this state and within this Senate were pleased to see that for the first time in the history of the state of New Hampshire that the House passed both the Senate bill and House bill. They are identical pieces of legislation, word for word, punctuation marks, etc. We had a fairly substantial hearing on the Senate Bill on this issue, and we voted rather convincingly here, to pass that legislation. The House in deference to the Senate, passed both their bill and did not kill the Senate bill, but passed their bill over unto us, which I think was a very honorable thing to do. I would like to act at this time...I don't think that there is going to be any new evidence...any swaying of any minds, I don't think that there is anything constructive that can come from a public hearing on this issue in the Senate. I think it would be appropriate to send both bills to the governor so that she can act on both of them simultaneously. And I would ask, Mr. President, that the Senate concur with my motion, and vote to suspend the rules and then pass the House Bill and then get both the bills over to the governor so she will have the House and the Senate Bills.

Adopted by the necessary 2/3 vote.

HB 68, adding the name of Martin Luther King, Jr. to Civil Rights Day. Ought to pass.

Adopted.

Ordered to third reading.

HB 61, relative to political contributions by members of the ballot law commission. Public Affairs Committee. Vote 6-0. Ought to Pass, Senator Russman for the committee.

SENATOR RUSSMAN: This is a very important bill for the ballot law commission. This bill prohibits them from giving contributions to any of the candidates, and that makes a lot of sense because obviously, they are going to be looking over the ballots pertaining to those candidates. This is a request of the ballot law commission because they probably don't want to give away the money anyway. They were excited about this thought and this way it would prohibit them from giving any money to the candidates, and they will probably save a lot of money in the process and it will purify the elections as well. We urge you to support the ought to pass recommendation.

Adopted.

Ordered to third reading.

HB 251, relative to official ballot procedures. Public Affairs Committee. Vote 4-2. Inexpedient to Legislate, Senator Wheeler for the committee.

Senator Wheeler moved to rerefer.

Adopted.

HB 251 is rereferred to the Public Affairs Committee.

HB 374, relative to the order of names on presidential primary election ballots. Public Affairs Committee. Vote 4-2. Inexpedient to Legislate, Senator Trombly for the committee.

Senator Trombly moved to have **HB 374**, relative to the order of names on presidential primary election ballots, laid on the table.

Adopted.

LAID ON THE TABLE

HB 374, relative to the order of names on presidential primary election ballots.

HB 422, relative to advertising by rent-to-own businesses. Public Affairs Committee. Vote 5-0. Rereferred to Committee, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, House Bill 422 takes away a loophole which currently exists in the law regulating advertisements by rent-to-own companies. House Bill 422 would require the companies to disclose the total amount, which a customer would be paying for an item. This is an important piece of consumer protection and information legislation. After acting on this legislation, the committee was asked by the prime sponsor to please rerefer the bill. The rent-to-own centers wish to further negotiate with the sponsor; therefore, the Public Affairs recommends HB 422 be rereferred to committee.

Adopted.

HB 422 is rereferred to the Public Affairs Committee.

HB 604, relative to filling a vacancy in the office of county commissioner. Public Affairs Committee. Vote 6-0. Ought to pass with amendment, Senator Disnard for the committee.

1999-1417s

10/09

Amendment to HB 604

Amend RSA 661:9, II as inserted by section 1 of the bill by replacing it with the following:

II. (a) If a vacancy occurs in the office of a county commissioner, the superior court shall fill the vacancy until the next biennial election of county officers. If the term filled is less than the unexpired term, then notwithstanding any provisions of RSA 653:1, VI, the commissioner district filled pursuant to this paragraph shall be added to the next biennial election ballot to be chosen by the inhabitants of the county for a 2-year term.

(b) The provisions of subparagraph (a) shall apply only where the vacancy occurred no later than 30 days preceding the printing of the ballots for the primary election.

(c) The provisions of RSA 655:32 and RSA 655:37 relating to nominations by appropriate party committees for vacancies in an office on a primary or general election ballot, respectively, shall apply to vacancies to be filled under this paragraph.

SENATOR DISNARD: House Bill 604 requires that an appointment to fill a vacancy in the office of county commissioner shall be for the time only until the next regular election when commissioners would be elected. Currently, if a commissioner resigns, the Superior Court appoints someone to fill the balance of the term. However, as commissioners are elected for a four-year term, and if someone resigns in the first year of the term, the court then fills the position for the remaining three years. House Bill 604 allows that the courts fills the position only until the next election when the commissioners are on the ballot. The committee amendment clarifies a procedure of resignation, if a resignation occurs no more than 30 days before the filing period. The Public Affairs Committee recommends that HB 604 ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 444, relative to establishing a study committee to review reestablishing passenger rail service on the Eastern Line between Newburyport, Massachusetts and Kittery, Maine. Transportation Committee. Vote 4-0. Ought to pass with amendment, Senator Russman for the committee.

1999-1392s

05/09

Amendment to HB 444

Amend paragraph I(a) as inserted by section 2 of the bill by replacing it with the following:

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

Amend the bill by replacing section 4 with the following:

4 Chairperson. 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.

SENATOR RUSSMAN: This is a very good bill, that will evaluate the feasibility of reestablishing a rail service on Eastern Line between Newburyport, Massachusetts and Kittery, Maine. No one testified against it, one bus company did, but we urge your support of ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements. Transportation Committee. Vote 5-0. Ought to pass with amendment, Senator Pignatelli for the committee.

1999-1386s

05/10

Amendment to HB 491

Amend the bill by replacing section 4 with the following:

4 Behind the Wheel Training Requirements Increased. Amend RSA 263:19 to read as follows:

263:19 Driver Education.

I. A driver's license may be issued subject to the provisions of this chapter to a person under the age of 18 years who has attained his six-

teenth birthday, if such person shall present a certificate of successful completion of a driver education course given by a public or nonpublic secondary school and approved by the department of education in cooperation with the department of safety or given by a motor vehicle driver's school licensed under the provisions of this chapter. An approved driver education course, whether conducted by a secondary school or by a school licensed under this chapter, shall consist of both classroom instruction and behind the wheel driver training, in accordance with rules adopted pursuant to RSA 541-A, published jointly by the commissioner of education and the commissioner of safety, such standards to be not less than those presently required.

II. To qualify for a driver's license under this section, a person under the age of 18 shall also certify the completion of 25 hours of additional supervised driving time under the supervision of a licensed parent or guardian, or, if there is no licensed parent or guardian, under the supervision of a licensed adult over the age of 25. The commissioner shall adopt rules relative to the method of certification.

III. Any person who wishes to obtain a motorcycle endorsement shall not be required to complete the 25 hours of practice driving time specified in paragraph I, but shall successfully complete a program authorized pursuant to RSA 263:34-b and shall be exempt from RSA 263:14, II(c) while operating a motorcycle.

1999-1386s

AMENDED ANALYSIS

This bill requires all qualifying examinations for individuals seeking to obtain driver's licenses be conducted by department of safety personnel. The bill also requires that persons under the age of 18 must complete 25 hours of additional supervised driving time with a parent or guardian in order to obtain a license. Motorcycle license applicants are exempted from the additional 25 hours of driving time.

SENATOR PIGNATELLI: House Bill 491 was filed as a result of a legislative study committee and combines several related House Bills. House Bill 491 returns the final examination responsibility for teen drivers to the Department of Safety personnel. This change is supported by the driver's training instructor's, and the Departments of Safety and Education, and everyone who testified. The amended House version increased the hours behind the wheel with the driver's training instructor from eight to ten. Some members of the Senate Transportation Committee felt that it should remain at eight, and we decided to leave it at eight, because of the costs. One of the reason was because of concern over costs increasing the amount of time. House Bill 491 increases the amount of time a parent, guardian, or other driver over the age of 25 must drive with a teen. The House Bill came over with 60 hours, and that was a compromise from the higher number as it was introduced in the House. Some of us on the committee felt that 60 hours were a little bit too much. Some of us felt that 25 hours was way too much, and so in the spirit of compromise, we compromised on 25 hours. We thought it was better to encourage families to drive with their teens than require a very high number that would encourage families that weren't able to do it to lie about driving with their teens. Another component of 491 exempts drivers to qualify to obtain a New Hampshire motorcycle license from the 25 hours of practice driving, and this provision received no opposition; therefore, the increased expectations outlined

in HB 491 are an important step towards preparing our teens to be careful, responsible and alive drivers. The Transportation Committee recommends HB 491 as ought to pass as amended. Thank you.

SENATOR RUSSMAN: I couldn't resist the...you can imagine... I am sure if this is the family help bill, or the family break up bill, because when they came over from the House, they were going to require you to spend 60 hours with your car learning to drive. You could drive to California and back, although only one of you come back from California. So we lowered it to 25, which the state was all prepared with rules to have a log book and everything to log in when you drove and who drove with you and so on and so forth, so that ferrets out the criminals, but we lowered it to 25, which I am still not sure that it is the best. We probably will end up in committee conference on this bill. The idea is to promote safer drivers, but our constituents may have other views on it, some of them, in the terms of safety component, whether or not it is a good idea or bad idea. Some people thought it would be a great time to bond with child. Time will tell!

SENATOR HOLLINGWORTH: If anyone thought that this was going to be a bonding thing has not taught his or her child to drive. I recall teaching my youngest who got out of the car at a intersection when the car stalled, and she could not get it going, and she left me in the middle of the intersection in the passenger seat, as she walked home. I am very glad that you've lowered hours, and I wish you all luck in the Committee of Conference.

SENATOR PIGNATELLI: I am probably an aberration, but I have two sons, we drove probably a lot longer than 25 hours with each one and it was a bonding experience for us, because usually I would pick the time to drive with them when they wanted to go somewhere that they needed to go. Also, I realized that in the course of my son's instruction, that he was not given what I considered to be proper instruction as a way of exhibiting that. For his driving test, after he completed his driving course, he drove from the school where the driving course was - one block to the donut shop where the teacher went in to get a donut, leaving the answers to the written test on the seat and the instructor "said don't look at these answers". So if it weren't for the time that I spent driving with my son, and sons, they probably would not be the fine drivers that they are today. So I would encourage parents to drive many more than 25 hours with their children. So that we have fewer accidents and we're not having so many funerals for our young children who are inexperienced drivers. Thank you.

Amendment adopted.

Ordered to third reading.

HB 541, establishing a committee to study the upgrade of Routes 11 and 140. Transportation Committee. Vote 5-0. Ought to pass with amendment, Senator Trombly for the committee.

1999-1391s

05/09

Amendment to HB 541

Amend paragraph I(b) as inserted by section 1 of the bill by replacing it with the following:

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

Amend the bill by replacing section 2 with the following:

2 Study Submitted to the General Court. The committee shall submit the findings and recommendations made as a result of the study conducted pursuant to section 1 of this act 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, 2000.

SENATOR TROMBLY: This bill establishes a committee to study the upgrades of Routes 11 and 140. Thank you.

Amendment adopted.

Ordered to third reading.

HB 566, relative to the supervision of the driver education program. Transportation Committee. Vote 3-0. Ought to pass with amendment, Senator Gordon for the committee.

1999-1340s

05/10

Amendment to HB 566

Amend the bill by replacing section 1 with the following:

1 Supervisory Authority Jointly Vested in the State Board of Education and Department of Safety. Amend RSA 186:11, XXXI to read as follows:

XXXI. Driver Education. Establish jointly with the department of safety, teacher qualifications, course content and standards, in connection with the driver education program conducted in secondary schools in this state; [~~promulgate~~] **and adopt** such rules [~~and regulations~~] as may be necessary to carry out the program and supervise the driver education program in the secondary schools of the state. ***Although authority is shared by the departments of safety and education, those regulations, directions and procedures that have a direct or indirect relationship to a life or safety issue shall rest with the department of safety as the final and ultimate authority.***

SENATOR GORDON: Currently, the Department of Education and the Department of Safety have joint jurisdiction over course content and standards for driver education programs. This has caused a problem on some cases where there is needed enforcement for life or safety issues. What this bill clarifies that when in fact there is a life or safety issue, even though there continues to be joint jurisdiction, that the Department of Safety will have jurisdiction over those issues.

Amendment adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bill sent down from the Senate:

SB 43, creating a commission to research making Hilton Park in the city of Dover property of that city.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 14, establishing a committee to study the impact of federal welfare reform on the cities and towns of New Hampshire.

SB 22, relative to the pilot program relative to the administration of medication in residential care facilities.

SB 64, relative to powers of appointment.

SB 80, adding the name of Martin Luther King, Jr. to Civil Rights Day.

SB 165, relative to the Uniform Trustees' Powers Act.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 42-L, establishing a committee to study safety improvements at the U.S. Route 1, traffic circle in the city of Portsmouth.

SB 152-L, relative to the procedures for establishing a charter school.

SB 155, relative to the naming of certain bridges in the city of Concord.

1999-1432-EBA

05/09

Enrolled Bill Amendment to SB 42-LOCAL

The Committee on Enrolled Bills to which was referred SB 42-LOCAL AN ACT establishing a committee to study safety improvements at the U.S. Route 1 traffic circle in the city of Portsmouth.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 42-LOCAL

This enrolled bill amendment corrects a conflict between section 2 and section 4 of the bill regarding the appointment of the committee chairperson.

Enrolled Bill Amendment to SB 42-LOCAL

Amend subparagraph I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Two members of the senate, one of whom shall be from senate district 24, appointed by the president of the senate.

Senator Trombly moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 101, relative to landlord-tenant obligations.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 101, relative to landlord-tenant obligations.

Senator Trombly moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Trombly, Disnard, Russman

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 204, establishing the New Hampshire excellence in higher education endowment trust fund.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 204, establishing the New Hampshire excellence in higher education endowment trust fund.

Senator McCarley moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Larsen, Gordon, Cohen

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 124, establishing a committee to study the integration of technology at the state and municipal level.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 124, establishing a committee to study the integration of technology at the state and municipal level.

Senator D'Allesandro moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: D'Allesandro, McCarley, Klemm

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 13, relative to the bonding authority of joint boards in joint maintenance agreements and relative to the eligibility of joint maintenance agreement districts for school building aid.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 13, relative to the bonding authority of joint boards in joint maintenance agreements and relative to the eligibility of joint maintenance agreement districts for school building aid.

Senator McCarley moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 215, transferring certain responsibilities for shellfish harvesting and regulation.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 215, transferring certain responsibilities for shellfish harvesting and regulation.

Senator Russman moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 21, relative to domestic animals.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 21, relative to domestic animals.

Senator Disnard moved to concur.

Adopted.

Recess.

Out of Recess.

SUSPENSION OF THE RULES

Senator Hollingworth moved that the Rules of the Senate be so far suspended to allow a committee report not in the Calendar, and to further suspend as to the requirement of a five day notice for a hearing.

Adopted by the necessary 2/3 vote.

Recess.

Out of Recess.

HB 300, making technical corrections to 1999, HB 117. Finance Committee. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: During the break the Senate Finance Committee met and voted a majority vote to recommend passage of HB 300. House Bill 300 is a bill that most people are well aware of because we have discussed it at length. It is a bill that is intended to make technical corrections in the education bill that passed a few weeks ago. I find myself in a strange position, because I voted against the first bill, but what has happened, the majority of the Senate and the majority of the House... and the governor signed a bill into law, and it is now law, and became effective 30 days after it was signed by the governor. The 30 days is on Saturday, it intends to have the Department of Revenue Administration send out to the town warrants so that the towns will now know what they have to raise in taxes for the statewide property tax. There are still some issues that are left

unresolved in this bill, and they need to be dealt with. We all have some communities that will adversely affected by what happened originally. We are going to try to correct **TAPE INAUDIBLE** we will be working on that bill to put some of these changes in. Clearly, we all had personal beliefs, and some of them pretty strong about how this issue should be resolved. I certainly did have. But we have got to get on with this. The time has come for the legislature to let this process go forward. The bill that passed is now a law, it establishes three commissions, that through the summer it will be addressing some of the unresolved issues. I don't believe that we continually, one at a time, deal with them right now. We have got to get this behind us. We got to go forward. We have a budget to do and there is probably another couple hundred laying around that we have not dealt with. So based on the vote of the Senate Finance Committee I would recommend the Senate pass HB 300 and get on with business.

SENATOR D'ALLESANDRO: Thank you very much Mr. President, I rise to speak against the pending motion. House Bill 300 comes to us from the House of Representatives, and contains a series of technical corrections. We are asked in a very short period of time, to accept these technical corrections. We knew that when we passed HB 117 that there were problems with the bill and that there were corrections to be made. Yet we were asked to work diligently in a short time period to get that bill passed, and we did it. We should of learned by that experience that by not taking the time that is required to put corrections in place that are truly effective, we're remiss in our responsibility. The technical changes suggested in HB 300 are changes that are needed. I don't think that there is any question about that. But when you're talking about policy in the redistribution formula, that is something that should be weighed carefully and looked at very carefully. As I said, we did things in haste with HB 117, why repeat that situation in this piece of legislation? The House of Representatives passed that bill on Tuesday and went away leaving us with one alternative, because of the crisis mentality that was set forth, passed this piece of legislation, knowing full well that another piece of legislation will follow, and probably another piece of legislation will follow that. We are going to be in a mode of technically correcting things. I don't agree with that. I think we have great minds in this Senate and people have worked diligently on these pieces of legislation, given the time these situations could be corrected and could be done very well. For these reasons, I oppose the passage of this bill, thank you very much, Mr. President.

SENATOR HOLLINGWORTH: Some of you are as old as I am, or nearly as old as I am, will remember Jack Benny, his answer to the thief when he put a gun to him said "your money or life". There was a pause and he said "don't rush me". That is somewhat what I feel like, Jack Benny. Many of us have serious doubts and questions and misgivings about HB 300. As Senator Fred King said, many of our communities are impacted and we need to correct those problems. And yes, Senator D'Allesandro, HB 300 was considered a technical corrections bill to make the language of HB 117 consistent with the agreement reached in the Committee of Conference. But as you stated, it is not really a technical corrections bill. As a member of the Committee of Conference, I can tell you this is not a technical corrections bill. It addresses significant issues of public policy that was not stated by the Committee of Conference. The conferees did not agree to treat kindergarten pupils in different communities differently. We did not agree to withhold funds from communities to cope with the in-

creases and special education process. We did not agree to a formula that adversely affects communities with significant numbers of children at risk. We did not agree that the cities and towns most in need of state assistance would be left out in the cold. We are troubled by the adjustment of the formula for **TAPE INAUDIBLE** children at risk. We are troubled by the treatment of kindergarten, we are troubled by the provisions of catastrophic aid, but above all, we are troubled with the House, that they have sent HB 300 to the Senate at the eleventh hour, leaving the Senate no opportunity thoroughly to consider, let alone responsibility to the amendment to amend the bill. I raised all these concerns with the House leadership this morning, specifically with the Deputy Speaker, Donna Lee Lozeau, who chaired the Committee of Conference with HB 117. I told her that the Senate wanted to extend the deadline for mailing the warrant, we wanted more time to debate and consider the provisions of HB 300. But many members of the House leadership team are attending a conference, and doubted that could convene the House early next week. In return, Representative Lozeau gave me assurance that the House would address the Senate's concerns. She stated that there is already a second technical corrections bill that has already been filed. In other words, the Senate has little choice today if we fail to act on HB 300. Warrants will be mailed to school districts that will set their budget incorporating a distribution that we did not adopt in the Committee of Conference on HB 117. Therefore, I urge my colleagues to vote in favor of HB 300. At the same time, I want to assure you, as the chair of the Finance Committee, I intend to hold the House leadership to their word. That they will address the concerns of HB 300 expressed by the Senate. And I also assure that I have warned the House leadership that they must not deal with the budget as they have dealt with HB 117 and HB 300. The fiscal year is fast coming to the close, soon we will face another deadline, and the House Finance Committee is behind schedule. I have stressed how important it is to move the budget process forward in a timely manner. As you know, apart from different sections in the budget itself, the Senate and the House still must overcome the deficit in the school funding plan before the end of the fiscal year. Once again, we must swallow a bitter pill prescribed by the House, and as we do so, let us agree that it will be the last time. The Senate will prepare early next week, their own Senate corrections piece to the many problems that we have in all of our communities. Let us agree to move on to our remaining challenges and complete the people's work in an open and timely and orderly manner. Thank you very much and I ask for your support.

SENATOR KRUEGER: I rise in opposition of HB 300. I wish I could stand here and tell you that it was because I wanted to make sure that one of my cities and towns, that of Manchester, would receive more money, that is not why I rise in opposition. I wish I could tell you that what I do like about this bill is that the fact that the money will go to municipalities and not directly to the school district, thereby maybe ensuring some property tax relief. That is also not why I stand here. I stand here in the consistency of somebody who has opposed this bill the first time around at \$825 million. I certainly supported and approved Senator F. King's bill, which had a revenue stream that was attached to it. This does not, did not, and heaven knows that it may never have enough money attached to it. Therefore, if I did not think that it was right before, I certainly can't stand here today and vote for it again as the lesser of two evils. Thank you.

SENATOR LARSEN: It is with some reluctance, I rise in support to HB 300. But I have come to believe that there are three reasonable points that we must pass HB 300. The first and critical point is that the Commissioner of the Department of Revenue has until, in essence, becomes June 1, 1999, to set the warrants for school districts. We have the option of informing those school districts that they're going to get more money, that we then either have to meet or renege on, or guaranteeing that we will meet the money that we said we would that \$825 million. I believe that it is responsible to inform the school districts that the grants that they will be receiving are at the level we set, and that the commissioner of the Department of Revenue should be able to respond to the laws as set by the state of New Hampshire and issue a reasonable statement on June 1, 1999, as to what those warrants are. If we don't pass this bill today, that puts the commissioner at a severe problem of having to break the law or send the grant notices out in a manner, which may then, be changed. The second important point is that this bill, while it does not fully address what I like to see addressed in kindergarten aid, at least restores those kindergarten programs that are started between the years 98-2000. They will get at least the basic amount of kindergarten incentive aid that they would assume that they would get when they voted for kindergarten aid. The third point in HB 300 is an important one. That is that it states that the monies that are appropriated will come out of the governor's warrant. That language guarantees that the monies will in fact go to the school districts, that is important language and that is in HB 300. When we were trying to decide if we were going to support HB 300 with all the concerns that we had, some of our concerns had not been addressed. In Finance today, we looked at SB 49 and brought in amendments, which we will be discussing further. Those points which we have gotten an agreement with, and as Senator Hollingworth pointed out, from House leadership, those points that we yet have to discuss include a full adjustment to the half of this kindergarten student, aid for kindergartens. So that the districts who choose to start kindergarten will be equal to those who have started kindergarten in the past. We have gotten an agreement that they will consider that language, that we have had leadership inform us that they will support within their membership, a full discussion of the fairness of fully funding and equally funding kindergarten children, no matter where they live and when they start the kindergarten program. We have also gotten a guarantee that they will fairly discuss and bring and allow for discussion between the House and Senate, the adjustment of the formula for at risk communities. We have had those two guarantees, and I believe that it is responsible that we vote for HB 300, knowing the three important points that are there. And knowing that we have guarantees from the House leadership and that in a continuing discussion we will address those two items as well as the items that are relating to cooperative school districts. For this reason, I think we need to support HB 300, and know that we will be full speed ahead addressing or continue issues in the next few weeks.

SENATOR FRANCOUER: Senator Larsen, just for a clarification on page two, line ten, and eleven, and I will start nine, "the school year 1999-2000 the adequate education grant determined RSA 198:41 should be distributed to each school district, or in the case of the dependent school district, to the city from the education trust fund in four payments". If the money is distributed, where Hudson has a selectman and school board, who would the check be written out to?

SENATOR LARSEN: Under this language it is written to the school district. The intent was that the aid would go to the school districts because we are required to provide adequate aid to schools so the decision was not send it through the municipality who might chose to build sidewalks, but in fact, send the school aid directly to the schools.

SENATOR FRANCOUER: On line 25, this money goes directly to the school district, but it shall not be considered unanticipated funds so they can't add this to their current budget?

SENATOR LARSEN: That language on unanticipated revenues is there because if it is considered unanticipated revenues there is no requirement for school board hearing, a school hearing.

SENATOR FRANCOUER: Right.

SENATOR LARSEN: It was clarified in this language that it is not considered unanticipated funds; therefore, any disbursement or allocations of those funds has to be done following the normal school district meetings.

SENATOR FRANCOUER: So just to be clear, they cannot spend the money unless the people vote for them to spend the additional funds, is that correct?

SENATOR LARSEN: That is true.

SENATOR FERNALD: I rise in opposition to this technical corrections bill. My family, my wife's family, has a road rally each summer. She has eight brother and sisters, they get together for this scavenger hunt on wheels and it is hotly contested, and the winners are crowned at the end and it is a big deal in the family. One year one of the losers really felt the judge had done him wrong. So the next year he showed up with a t-shirt that said technical winner of the 1994 Rushford road rally. We all knew what that meant, he was not the winner at all. This is called a technical corrections bill, and it is not a correction bill at all. This is a change in what we did before. The reasons for the changes are really quite simple. When they finally ran the final numbers through the formula that we all agreed on, it came out \$17 million dollars too expensive, above the number that we agreed on. So we need to change what we did before so that it fits within the \$825 million amount that we agreed to fund. Then the question comes, how do we make this change? The decision out of the House has been, let's change the formula in a way that we save \$17 million at the expense of about 12 school districts, and everybody else gets basically the same as before under our original agreed upon formula. I do not think that is the right way to get us the \$17 million dollars reduction. So I am going to vote against this. I also think, as it has been pointed out, that makes no sense not to count all kindergarten students equally, particularly, those who have recently opened a kindergarten and are going to be treated at basically half of what the people who had a kindergarten before 1998. We can do this right. The Finance Committee is already working on language to do it right, to save the \$17 million, to get us to the agreed \$825 million dollars. We should work on that. I am sorry that the House leadership is off in Tahoe, instead of here working on this problem.

SENATOR GORDON: I find myself in a box on this particular bill. I find myself in a situation where I think I want to vote for this bill, and the reason I want to vote for the bill is because, as I understand it, what in essence does is fulfills the original intent of HB 117. Knowing

that passed the Senate, I think there is some obligation for us to carry out the original will of the body. On the other hand, if I vote for the amendment, basically, it makes it appear that I am supporting the original HB 117, which I disagreed with and which I don't feel adequately funds education, or it has a sound basis for funding, I should say, for education, which I don't agree with and I don't support. I am finding myself tested. The one thing that I would say is over the last couple of days, the Capital Budget Committee has been having hearings, or actually, public session, where we would be listening to department heads. One of things that has been most interesting to me is Administrative Services coming in and talking again about the Health and Human Service building. If anyone is familiar with the Health and Human Services building, you will know that it was not a building that was particularly well constructed. I have been now in the legislature, this is now my fourth term. One term in the House and three terms in the Senate, and I have had the opportunity to work on the Capital Budget four different times. Each of those times we have made significant investments in the Health and Human Services building, not to improve it, but to retrofit. As you may recall a couple of years ago, we put \$6 million heating and ventilation system in, because basically it was a sick building. We renovated the lab over there, because basically we were blowing the materials from the labs back into the building at \$3 or \$4 million, I have forgotten what it was now. Last Capital Budget cycle, we put more money into the building to retrofit it. This year they come in and say with the building over there we have a problem because the stairwells are leaking, so we got to repair the stairwells. But then at the last minute they come back in and say that they need another half million dollars because we need another whole brand new roof because the roof is now broken down. The fact is, that since I have been here, we have spent more money on retrofitting the building than we did constructing the building originally. In fact, we could have gone and bought the New Hampshire Insurance building in Manchester, renovated it, retrofitted it, for less money than what we spent to redo this building up on the heights for Health and Human Services. I guess, what I am getting at, is that in large part what I am hearing here today in terms of the debate is exactly what we are doing with HB 117. We created something which is a problem, and it is not a well constructed building on HB 117, and now we find ourselves back here today **TAPE CHANGE** I am told that now there is now another technical correction in the works. My guess is that we are going to be back here technically correcting it for the rest of this session and probably next year, the year after that, and the year after that, and the year after that. I guess my point that I have taken too long to make, Mr. President, is that you know I think that the point is we should be looking at HB 117, the work that we have done and coming up with a well constructed building, and well constructed system for funding education, instead of taking these types of technical corrections.

SENATOR BELOW: I rise in opposition to the pending motion. Since we have been asked to take it or leave it, I think that there is a third alternative which is to amend it and try to get it right. The issue that has come up is that that would be a problem because the commissioner of revenue administration has to get these warrants out. Well, most of the warrants are for \$6.60 statewide property tax that isn't going to change regardless of what we do. The commissioner of education has to issue a notice about what the grants are. We are substituting one flawed grant

system for a new flawed grant system apparently. We have been told that there are essentially two intents of the Committee of Conference. One was to fund \$825 million total and the second was to have a poverty weight that was based on elementary population times the portion of elementary pupils who receive free or reduced lunch with the weight being determined by that proportion. Because the Department of Education ran some spreadsheets that mixed high schools with elementary, we are now revising the formula to fit the number, but ending up with a policy that is not particularly logical or rational, because what we are saying is that if you are in a district that has a high school in it, high schools we know, have uniformly pretty much lower participation in free and reduced lunch programs, you have a lower percentage to apply against your elementary population. If you are in a district that only has elementary pupils, then you are much better off because you are using apples to apples. Some districts are now apples to oranges, and it is a little mixed up and not consistent from district to the next, depending on whether you have a high school or not. There are other ways to fix this, to come up with \$825 and have a logical and consistent and fair policy with regard to free and reduced lunch. It is just that we apparently don't have time to figure it out and get it right. The other obvious problem is that we are saying that not all kindergarten pupils are created equal. Every town in the state is going to be assessed the \$6.60 statewide property tax to pay for an adequate education. We have said that an adequate education goes from K-12 and the state is going to fund that at the cost of \$3201 per elementary pupil, kindergarten pupils get half of that, \$1600, and yet we are saying that if you are late to start kindergarten, if you start it this year or next year or the next year, you are only going to get \$750 per pupil, yet you are going to pay the same statewide property tax as those communities that are getting \$1600 per pupil. That is not logical, and that is not fair. It is something that I hope that we will correct in subsequent legislation. Thank you.

SENATOR COHEN: Well it certainly has been interesting having a majority in the Senate. On many issues we do agree, philosophical, values issues, there is real strength there. But as Senator D'Allesandro mentioned, there are some great minds here, and part of that I think is our strength that we have in independent thinking majority. It does not always make it easy. Many of us believe we would not be here wrangling and riving about this issue if we were simply allowed to pass an income tax. That, unfortunately, is not the case. Right now, HB 300 is a policy change, as people have said, it is not a technical correction. Our back is against the wall. But having our backs against the wall is no way to make policy. My opinion, we could have learned from HB 117. A lot of us feel that that was not the best way to go about it, our backs were against the wall. We are trying to correct that now. I think that the important thing to remember today, I am going to vote against it, is because we have other vehicles. We have SB 49, we can take a little bit more time on that and make some good, better, corrections than this bill makes. I am voting no on this, but we have some other vehicles we can use to make better corrections that are not policy changes such as this bill.

SENATOR BROWN: It is very interesting to see whom I am standing up with on the same side. I bet it makes you all feel good. This is the first, I believe, of many corrections, call them technical, call them policy, and call them whatever you want, to a bill that was flawed from the beginning. I understand why some of you voted for it, I did not, and I

feel that I cannot vote for it at this time in any form. There are problems with funding, where is the money going to come from? I think there are problems with the disbursement, we are talking about the phase-in period, is it constitutional? There is one technical correction I would vote for, if you get to it, and that is to repeal the statewide property tax. Thank you.

SENATOR PIGNATELLI: I see many reasons to vote for this and I see many reasons to vote against it. In a perfect world where we have all the time in the world to fix whatever problems come up with previous bills, I would say we ought to take the time and fix it. I believe in this Senate. We have the knowledge and the intelligence to fix the problems. But what we don't have is the time. I am not willing to play chicken with the House and lose kindergarten, and lie to our communities about what they will be receiving. For those reasons, I will be voting in favor for this bill and hope we will be able to fix it at some near future time, and I encourage you to do the same.

Adopted.

Ordered to third reading.

ANNOUNCEMENTS RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the purpose of House Messages, introduction of bills, Enrolled Bills Reports and amendments, and that when we adjourn, we adjourn until the Call of the Chair.

Adopted.

Third Reading and Final Passage

HB 55-FN-A, setting the rate for the medicaid enhancement tax for the biennium ending June 30, 2001.

HB 61, relative to political contributions by members of the ballot law commission.

HB 68, adding the name of Martin Luther King, Jr. to Civil Rights Day.

SB 201-FN, reclassifying non-support as a felony under certain circumstances.

HB 204-FN, relative to driving after license revocation or suspension.

HB 205, relative to the requirement for posting of bond by an applicant for a writ of replevin.

SB 223-FN-A, establishing a wellness and primary prevention council and making an appropriation therefor.

HB 278, relative to scheduling of district court sessions.

HB 300, making technical corrections to 1999, HB 117.

- HB 313-FN**, relative to the regulation of the practice of optometry.
- HB 318**, relative to recovery of costs in utility proceedings and relative to the appointment of public utilities commissioners.
- HB 345-FN**, relative to harassment via the computer.
- HB 362**, relative to dam safety program violations.
- HB 388**, relative to telephone number conservation and area code implementation.
- HB 428**, relative to school administrative units.
- HB 441**, relative to a mother's right to breast-feed.
- HB 444**, relative to establishing a study committee to review reestablishing passenger rail service on the Eastern Line between Newburyport, Massachusetts and Kittery, Maine.
- HB 477-FN**, changing certain requirements for temporary plates on motor vehicles.
- HB 488**, relative to the definition of a developmentally delayed child in the provision of special education services.
- HB 491**, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements.
- HB 492-FN-A-L**, reducing the state bond guarantee limit for wastewater projects.
- HB 494-FN-A**, making an appropriation to the department of cultural resources for the purpose of funding participation of the state in the Smithsonian Festival of American Folklife.
- HB 538**, establishing a committee to study the new construction and repair of New Hampshire commemorative monuments at certain Civil War battle sites.
- HB 541**, establishing a committee to study the upgrade of Routes 11 and 140.
- HB 552**, relative to the issuance of crossbow permits to persons with a permanent physical disability.
- HB 554**, relative to driver education reciprocity.
- HB 566**, relative to the supervision of the driver education program.
- HB 573**, clarifying the status of class VI highways.
- HB 593-FN-L**, relative to the classification of class VI roads which have been maintained by a town.
- HB 604**, relative to filling a vacancy in the office of county commissioner.
- HB 619-FN**, requiring the commissioner of health and human services to produce certain annual reports.
- HB 624-FN**, establishing a committee relative to health care quality.
- HB 689-FN**, establishing a committee to study campaign contributions and expenditures.
- HB 714-FN**, changing the potential penalties for certain acts of solicitation and conspiracy to commit murder and attempted murder to life in prison.

In recess.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 300, making technical corrections to 1999, HB 117.

HB 60, relative to meetings of the ballot law commission.

HB 206, relative to restrooms in restaurants.

HB 261, relative to the official ballot option.

HB 306, relative to discoverability of environmental audit reports.

HB 322, relative to funds provided by a mortgagee at real estate closings.

HB 357, establishing a committee to study and investigate issues related to investigations, trials, convictions, and sentencing of sex offenders.

HB 373, making technical corrections to the securities laws.

HB 420, relative to orders for spousal support in domestic relations cases.

HB 535, establishing a committee to study the department of resources and economic development.

HB 736, ratifying the 1999 Allenstown annual town meeting.

SB 14, establishing a committee to study the impact of federal welfare reform on the cities and towns of New Hampshire.

SB 42, establishing a committee to study safety improvements at the U.S. Route 1 traffic circle in the city of Portsmouth.

SB 60, establishing a committee to study the licensure of radiographers and radiologic technologists.

SB 75, establishing a committee to study the establishment of a permit system for vessels registered in another state temporarily using the waters of New Hampshire.

SB 81, permitting the city of Manchester to issue bonds to finance unfunded liability of the city's employee pension system.

SB 117, relative to the duties of the board of trustees of the community-technical college system and relative to reports made to the commissioner of the regional community-technical college system.

SB 139, relative to self-proved wills and making reference changes.

SB 152, relative to the procedures for establishing a charter school.

SB 155, relative to the naming of certain bridges in the city of Concord.

SB 161, relative to amending the contributory pension system for employees of the city of Manchester and authorizing the town of Salem pension plan.

HJR 3, urging the ISO-New England to adopt policies furthering the state's interest in electric utility restructuring.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 55, setting the rate for the medicaid enhancement tax for the biennium ending June 30, 2001.

HB 61, relative to political contributions by members of the ballot law commission.

HB 68, adding the name of Martin Luther King, Jr. to Civil Rights Day.

HB 278, relative to scheduling of district court sessions.

HB 318, relative to recovery of costs in utility proceedings and relative to the appointment of public utilities commissioners.

HB 362, relative to dam safety program violations.

HB 388, relative to telephone number conservation and area code implementation.

HB 441, relative to a mother's right to breast-feed.

HB 477, changing certain requirements for temporary plates on motor vehicles.

HB 488, relative to the definition of a developmentally delayed child in the provision of special education services.

HB 494, making an appropriation to the department of cultural resources for the purpose of funding participation of the state in the Smithsonian Festival of American Folklife.

HB 538, establishing a committee to study the new construction and repair of New Hampshire commemorative monuments at certain Civil War battle sites.

HB 552, relative to the issuance of crossbow permits to persons with a permanent physical disability.

HB 554, relative to driver education reciprocity.

HB 573, clarifying the status of class VI highways.

HB 593, relative to the classification of class VI roads which have been maintained by a town.

HB 619, requiring the commissioner of health and human services to produce certain annual reports.

HB 624, establishing a committee relative to health care quality.

SB 13, establishing a committee to study joint maintenance agreements in school districts.

SB 21, relative to domestic animals.

SB 22, relative to the pilot program relative to the administration of medication in residential care facilities.

SB 64, relative to powers of appointment.

SB 77, relative to authorized regional enrollment area schools.

SB 80, adding the name of Martin Luther King, Jr. to Civil Rights Day.

SB 165, relative to the Uniform Trustees' Powers Act.

SB 215, transferring certain responsibilities for shellfish harvesting and regulation.

Senator D'Allesandro moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives has passed Bills and a Resolution with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 375, relative to substitutions for disqualified and deceased candidates.

HB 395-FN-A, establishing a program of matching grants to preserve historic agricultural structures in New Hampshire.

HB 411, requiring voters to present identification.

HB 468, relative to the home rule powers of municipalities.

HB 657-FN, relative to the health services planning and review board and the certificate of need process.

HB 666, relative to the taxation of sand, gravel, loam and other similar substances.

HB 676-FN-A, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

HB 685-FN-A, relative to the duties of the New Hampshire land and community heritage commission.

CACR 6, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law.

INTRODUCTION OF HOUSE BILLS

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 375-CACR 6 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 375, relative to substitutions for disqualified and deceased candidates. **Executive Departments and Administration**

HB 395-FN-A, establishing a program of matching grants to preserve historic agricultural structures in New Hampshire. **Internal Affairs**

HB 411, requiring voters to present identification. **Public Affairs**

HB 468, relative to the home rule powers of municipalities. **Public Affairs**

HB 657-FN, relative to the health services planning and review board and the certificate of need process. **Public Institutions, Health and Human Services**

HB 666, relative to the taxation of sand, gravel, loam and other similar substances. **Finance**

HB 676-FN-A, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor. **Transportation**

HB 685-FN-A, relative to the duties of the New Hampshire land and community heritage commission. **Internal Affairs**

CACR 6, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law. **Public Affairs.**

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 443, allowing certain beverage manufacturers to distribute products directly to retailers.

HB 449-FN, requiring boating safety education.

HB 464, relative to electric rate reduction financing.

HB 471, exempting certain family owned and operated businesses from certain requirements in the workers' compensation act relative to safety programs.

HB 503-FN-L, relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas.

HB 524, increasing the alternate members on the public employee labor relations board.

HB 545-FN, establishing a committee to study ambulatory surgical facilities.

HB 576-FN-A, establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor.

HB 586, relative to rulemaking authority of the board of chiropractic examiners and unlawful practice of chiropractic.

HB 606-FN, relative to managed care programs under worker's compensation and relative to certain members of the compensation appeals board.

HB 633-FN-L, establishing parental choice scholarships.

HB 640-FN, relative to grievance procedures of managed care organizations.

HB 688, relative to the custody and escheat of abandoned and unclaimed property.

HB 690-FN-L, relative to charter schools and open enrollment districts.

HB 720-FN, relative to the practice of midwifery.

HB 722-FN, revising the law relative to protection of persons from domestic violence.

HB 726-FN, relative to the credentialing of personnel in early care and education **programs**, establishing a fee for such credential, and making an appropriation therefor.

HB 741, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs.

HB 742, defining "domestic employee" for purposes of workers' compensation.

INTRODUCTION OF HOUSE BILLS

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 443-742 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 443, allowing certain beverage manufacturers to distribute products directly to retailers. **Ways and Means**

HB 449-FN, requiring boating safety education. **Transportation**

HB 464, relative to electric rate reduction financing. **Energy and Economic Development**

HB 471, exempting certain family owned and operated businesses from certain requirements in the workers' compensation act relative to safety programs. **Insurance**

HB 503-FN-L, relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas. **Education**

HB 524, increasing the alternate members on the public employee labor relations board. **Executive Departments and Administration**

HB 545-FN, establishing a committee to study ambulatory surgical facilities. **Public Institutions, Health and Human Services**

HB 576-FN-A, establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor. **Judiciary**

HB 586, relative to rulemaking authority of the board of chiropractic examiners and unlawful practice of chiropractic. **Executive Departments and Administration**

HB 606-FN, relative to managed care programs under worker's compensation and relative to certain members of the compensation appeals board. **Internal Affairs**

HB 633-FN-L, establishing parental choice scholarships. **Education**

HB 640-FN, relative to grievance procedures of managed care organizations. **Public Institutions, Health and Human Services**

HB 688, relative to the custody and escheat of abandoned and unclaimed property. **Executive Departments and Administration**

HB 690-FN-L, relative to charter schools and open enrollment districts. **Education**

HB 720-FN, relative to the practice of midwifery. **Public Institutions, Health and Human Services**

HB 722-FN, revising the law relative to protection of persons from domestic violence. **Judiciary**

HB 726-FN, relative to the credentialing of personnel in early care and education programs, establishing a fee for such credential, and making an appropriation therefor. **Education**

HB 741, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs. **Insurance**

HB 742, defining "domestic employee" for purposes of workers' compensation. **Insurance**

HOUSE MESSAGE

The House of Representatives has passed Bills and Resolutions with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 66-FN, relative to disability retirement benefits for retirement system members permanently incapacitated for duty.

HB 88-FN, relative to purchasing credit for prior service for certain employees in the New Hampshire retirement system.

HB 89-FN-A, making an appropriation for a department of transportation study of the state house complex to evaluate space needs.

HB 97, relative to the right to farm.

HB 216, relative to release conditions pending trial for defendants in domestic violence, stalking, or protective order violation cases.

HB 263, repealing the Northern New England Low-Level Radioactive Waste Management Compact.

HB 274-FN, relative to the office of the consumer advocate.

HB 294-FN-L, relative to state aid to municipalities for closure of certain municipal incinerators.

HB 311-FN-A, relative to grants made under the New Hampshire incentive program.

HB 360-FN, clarifying that any person convicted of a felony in this state is prohibited from owning or possessing firearms and other dangerous weapons.

HB 414-FN, establishing a committee to study the unclassified salary structure for state officers.

HB 451, establishing a committee to study first and second mortgage home loans.

HB 470, relative to settlement of personal actions.

HB 485-FN, relative to the calculation of unemployment compensation benefits.

HB486-FN-A, relative to the physician effectiveness program.

HB 487, relative to the adoption of bonds or notes in certain school districts and municipalities.

HB 525-FN, relative to special number plates for certain veterans.

HB 546-FN-A, providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied.

HB 551, revising the definition of "employer" under the employment discrimination laws of the state.

HB 574-FN-A, establishing a fisheries habitat fee required for persons obtaining a fishing license and continually appropriating the funds for fisheries habitats.

HB 584-FN, relative to administrative license suspensions.

HB 596, making technical corrections to certain laws administered by the department of revenue administration and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.

HB 601, allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, and changing the personnel group status of the warden of the lakes region facility.

HB 605-FN, affirming sovereign immunity for the state and its political subdivisions as it relates to the "year 2000 problem".

HB 608-FN-A, establishing a New Hampshire emergency management response and recovery fund and making an appropriation therefor.

HB 609, relative to construction of a sewer force main through a state land conservation easement.

HB 616-FN-A, establishing a house study committee to consider issues related to the driver training fund.

HB 626-FN, relative to revising the laws regulating accountancy.

HB 652-FN, relative to victims' assistance, penalty assessments on criminal offenses, and establishing a surcharge on items sold at state prison commissaries which is continually appropriated to the victims' assistance fund.

HB 658-FN, relative to certification, registration, and insurance requirements for recovery agents who assist bail agents and sureties.

HB 670, establishing an advisory board to study the future of the New Hampshire automated information system's "Webster" Internet site.

HB 698-FN-L, restricting fees for registration permits for certain vehicles.

HB 706, relative to the definition of "sexual contact" under the sexual assault laws and relative to the registration of certain criminal offenders.

HB 715-FN-A-L, granting responsibility for court security to the county sheriff and abolishing certain court security officer positions.

HB 719-FN, relative to procedures regarding children in need of services.

HB 723-FN, relative to standby and emergency guardianship proxies.

HB 728-FN, establishing a commission to study the compensation of members of the legislature and the reimbursement for expenses.

HB 732, relative to nonpayment of member dues and fees and access to financial records of condominium associations.

HB 738-FN, making an appropriation to the department of administrative services for the purpose of reimbursing counties for providing prisoner custody in courthouses.

HB 739, eliminating certain restrictions on the number of days bingo volunteers may serve.

HCR 2, recognizing students who display good behavior in the public schools.

HCR 9, encouraging greater health care choices for Medicare eligible citizens throughout New Hampshire.

HJR 7, supporting the continued management of the White Mountain National Forest for multiple uses as a part of the National Forest System.

HJR 8, urging the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO).

INTRODUCTION OF HOUSE BILLS

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 66-HJR 8 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 66-FN, relative to disability retirement benefits for retirement system members permanently incapacitated for duty. **Insurance**

HB 88-FN, relative to purchasing credit for prior service for certain employees in the New Hampshire retirement system. **Insurance**

HB 89-FN-A, making an appropriation for a department of transportation study of the state house complex to evaluate space needs. **Transportation**

HB 97, relative to the right to farm. **Environment**

HB 216, relative to release conditions pending trial for defendants in domestic violence, stalking, or protective order violation cases. **Judiciary**

HB 263, repealing the Northern New England Low-Level Radioactive Waste Management Compact. **Environment**

HB 274-FN, relative to the office of the consumer advocate. **Executive Departments and Administration**

HB 294-FN-L, relative to state aid to municipalities for closure of certain municipal incinerators. **Public Affairs**

HB 311-FN-A, relative to grants made under the New Hampshire incentive program. **Education**

HB 360-FN, clarifying that any person convicted of a felony in this state is prohibited from owning or possessing firearms and other dangerous weapons. **Judiciary**

HB 414-FN, establishing a committee to study the unclassified salary structure for state officers. **Internal Affairs**

HB 451, establishing a committee to study first and second mortgage home loans. **Banks**

HB 470, relative to settlement of personal actions. **Judiciary**

HB 485-FN, relative to the calculation of unemployment compensation benefits. **Insurance**

HB 486-FN-A, relative to the physician effectiveness program. **Public Institutions, Health and Human Services**

HB 487, relative to the adoption of bonds or notes in certain school districts and municipalities. **Education**

HB 525-FN, relative to special number plates for certain veterans. **Transportation**

HB 546-FN-A, providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied. **Environment**

HB 551, revising the definition of "employer" under the employment discrimination laws of the state. **Internal Affairs**

HB 574-FN-A, establishing a fisheries habitat fee required for persons obtaining a fishing license and continually appropriating the funds for fisheries habitats. **Wildlife and Recreation**

HB 584-FN, relative to administrative license suspensions. **Transportation**

HB 596, making technical corrections to certain laws administered by the department of revenue administration and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001. **Ways and Means**

HB 601, allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, and changing the personnel group status of the warden of the lakes region facility. **Executive Departments and Administration**

HB 605-FN, affirming sovereign immunity for the state and its political subdivisions as it relates to the "year 2000 problem". **Internal Affairs**

HB 608-FN-A, establishing a New Hampshire emergency management response and recovery fund and making an appropriation therefor. **Finance**

HB 609, relative to construction of a sewer force main through a state land conservation easement. **Environment**

HB 616-FN-A, establishing a house study committee to consider issues related to the driver training fund. **Transportation**

HB 626-FN, relative to revising the laws regulating accountancy. **Executive Departments and Administration**

HB 652-FN, relative to victims' assistance, penalty assessments on criminal offenses, and establishing a surcharge on items sold at state prison commissaries which is continually appropriated to the victims' assistance fund. **Judiciary**

HB 658-FN, relative to certification, registration, and insurance requirements for recovery agents who assist bail agents and sureties. **Executive Departments and Administration**

HB 670, establishing an advisory board to study the future of the New Hampshire automated information system's "Webster" Internet site. **Internal Affairs**

HB 698-FN-L, restricting fees for registration permits for certain vehicles. **Transportation**

HB 706, relative to the definition of "sexual contact" under the sexual assault laws and relative to the registration of certain criminal offenders. **Judiciary**

HB 715-FN-A-L, granting responsibility for court security to the county sheriff and abolishing certain court security officer positions. **Judiciary**

HB 719-FN, relative to procedures regarding children in need of services. **Public Institutions, Health and Human Services**

HB 723-FN, relative to standby and emergency guardianship proxies. **Judiciary**

HB 728-FN, establishing a commission to study the compensation of members of the legislature and the reimbursement for expenses. **Internal Affairs**

HB 732, relative to nonpayment of member dues and fees and access to financial records of condominium associations. **Public Affairs**

HB 738-FN, making an appropriation to the department of administrative services for the purpose of reimbursing counties for providing prisoner custody in courthouses. **Finance**

HB 739, eliminating certain restrictions on the number of days bingo volunteers may serve. **Public Affairs**

HCR 2, recognizing students who display good behavior in the public schools. **Education**

HCR 9, encouraging greater health care choices for Medicare eligible citizens throughout New Hampshire. **Public Institutions, Health and Human Services**

HJR 7, supporting the continued management of the White Mountain National Forest for multiple uses as a part of the National Forest System. **Wildlife and Recreation**

HJR 8, urging the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO). **Public Affairs**

LATE SESSION

Senator Cohen moved that the business of the day being complete that the Senate now adjourn until Tuesday, June 8, 1999 at 10:00 a.m.

Adopted.

Adjournment.

June 8, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

A budget is a number of things. It is a spending plan. It is an essential tool for effective administration. It is, if followed, the guarantor of financial discipline. It is the product of political compromise. And it is both the provider and the denier of various opportunities. A budget is all of those things. Do not forget, however, the two main things that any budget is, including yours. First, a budget is a statement of faith. It reveals to anyone who looks at it where you are placing your trust. And as is true with all statements of faith, there is the possibility that you are wrong. Second, every budget is a creed, for it states numerically what those who produce it actually believe and value. It is your job to articulate your statement of faith and to craft your creed. It will then be our job to decide whether or not we choose to take the pledge of allegiance and make it our creed too. Let us pray:

Lord, You have loaned us a vast and extravagant treasure. Make us responsible trustees of Your wealth, that is, of our lives, our relationships, our opportunities and our money. And may this Senate place its trust in Your guidance and pledge its allegiance to values which transcend our mere political opinions and our calculator constricted sight. Amen.

Senator Hollingworth led the Pledge of Allegiance.

Senator F. King is excused for the day.

**INTRODUCTION OF GUESTS
TAKEN OFF THE TABLE**

Senator McCarley moved to have **HB 374**, relative to the order of names on presidential primary election ballots, taken off the table.

Adopted.

HB 374, relative to the order of names on presidential primary election ballots. Inexpedient to legislate.

SUBSTITUTE MOTION

Senator McCarley moved to substitute ought to pass for inexpedient to legislate.

Adopted.

Senator Hollingworth offered a floor amendment.

1999-1494s

05/10

Floor Amendment to HB 374

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

AN ACT making adjustments to the fiscal year 1999 budget for the department of health and human services and the New Hampshire retirement system.

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

1 Funds Lapsed; Department of Health and Human Services. Notwithstanding any other provision of law, the following amounts shall lapse to the general fund from the department of health and human services.

I. \$558,317 in state fiscal year 1999 from PAU 05-01-03-02-05, class 000, revenue account 3881 (Federal Funds, Title IV-E, Foster Care).

II. \$939,137 in state fiscal year 1999 from PAU 05-01-03-02-05 class 000, revenue account 0230 (Federal Funds, Title XIX, Medicaid).

III. \$3,944,108 in state fiscal year 1999 from PAU 05-01-02-04-10, class 000, revenue account 3951 (Federal Funds, Medicaid System Certification).

2 Supplemental Appropriations. In addition to any other sums for the fiscal year ending June 30, 1999, the following appropriations and charges are hereby authorized for the following departments and agencies. Said appropriations shall be a charge against the funds as specified in the individual appropriation:

FY 1999

05 Health and Social Services

01 Dept of Health and Human Services

04 Div of Human Services

04 Financial Grants

05 Medical Grants

Provider Payments

19,648,718

Total

19,648,718

Estimated Source of Funds For Medical Grants

00 Federal Funds

9,824,343

05 Private Local Funds

(290,671)

09 Agency Income

3,198,242

General Fund

6,916,804

Total

19,648,718

05 Health and Social Services	
01 Dept of Health and Human Services	
04 Division of Human Services	
04 Financial Grants	
06 Nursing Services	
90 Nursing Services	(386,992)
91 Home Nursing Services	(124,683)
93 Other Nursing Services	(508,341)
95 Mid Level Care	(375,000)
Total	(1,395,016)
Estimated Source of Funds For Nursing Services	
00 Federal Funds	(675,057)
05 Private Local Fund	(4,441,226)
General Fund	3,721,267
Total	(1,395,016)
01 General Government	
10 NH Retirement System	
02 State Contributions	
92 Retirees Health Insurance	3,250,000
Total	3,250,000
Estimated Source of Fund for State Contributions	
General Fund	3,250,000
Total	3,250,000
05 Health and Social Services	
01 Dept of Health and Human Services	
03 Division of Children Youth and Families	
02 Bureau of Children's Services	
05 DCYF – Settlement Services	
90 Foster care IV-E	893,183
93 Residential	1,785,882
Total	2,679,065
Estimated Source of Funds For Settlement Services	
00 Federal Funds	4,073,667
05 Private Local Funds	(348,228)
General Fund	(1,046,374)
Total	2,679,065
05 Health and Social Services	
01 Dept of Health and Human Services	
09 Office of Information Systems	
01 Management Systems	
29 Transfers to Data Center	2,500,000
Total	2,500,000
Estimated Source of Funds For Management Systems	
00 Federal Funds	1,250,000
General Fund	1,250,000
Total	2,500,000

3 Personnel Appropriations and Reductions; General Fund Appropriation Reduction; Health and Human Services. Amend 1997, 350:10, I to read as follows:

I. The commissioner of the department of health and human services shall provide the commissioner of the department of administrative services a list of general fund reductions for permanent, temporary, and unclassi-

fied personnel services and related fringe benefits on July 31, 1997, and for whatever period is necessary to result in a total general fund appropriation reduction of \$3,250,000 in each year of the biennium ending June 30, 1999. *The commissioner of the department of health and human services shall provide the commissioner of administrative services with a list of additional reductions of \$1,250,000 for the fiscal year ending June 30, 1999.* Such reductions shall limit the aggregate number of permanent, temporary, and unclassified positions in pay status to those in aggregate positions funded by remaining appropriations in the department of health and human services. Upon receipt of the commissioner's list, the commissioner of the department of administrative services shall make the appropriate reductions.

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

1999-1494s

AMENDED ANALYSIS

This bill makes adjustments to the budget for the department of health and human services and the New Hampshire retirement system for fiscal year 1999.

SENATOR HOLLINGWORTH: By unanimous vote, the Senate Finance Committee has brought forward this floor amendment to HB 374. The amendment represents the committee's recognition of the Senate's responsibility to act immediately to address insufficient appropriations in important accounts within the budget of Health and Human Services. These accounts include funds for provider payments for medical services to New Hampshire's 70,000 Medicare recipients, to services to children in need, or neglect or abuse or adjudicated, and in need of services of delinquency. The amendment also affirms the department's outstanding efforts to offset those increased expenditures by bringing in additional federal revenue to New Hampshire. As the result of the shortfall of the budget funds for Medicare providers payments on May 28, 1999, the state suspended payments for medical services provided by hospitals, clinics, individual healthcare practitioners, and other health professionals for the balance of 1999 state fiscal year. Provider payments average approximately \$3.7 million per week. Thus, as of today's date, New Hampshire's providers, our constituents, who have taken on the work of caring for the most vulnerable citizens, and have provided approximately \$8 million of services for which they have not been reimbursed. The current situation is the most difficult for the small independent providers who are the backbone of the service delivery system in many parts of New Hampshire. The committee received testimony from those who rely on state reimbursements to meet weekly operations and payroll expenses. These providers have had to borrow funds to keep their doors open to serve our citizens, and in so doing, these providers have had incurred additional costs for interest and inventory that will not be repaid by the state. Funds for provider payments will be depleted before the end of this current fiscal year as a result of an increased cost of provider healthcare services. In particular, increases in pharmaceutical and outpatient hospital costs. Pharmaceutical costs went up 15 percent last year, have increased another 17 percent this year. Outpatient hospital costs increased over 12 percent since the past year. As a consequence, since these sharp increases, spending has been higher than budgeted. The increased expenditures in DCYF settlement account in 1999, which committee notes are entirely offset by increased federal revenue, which is the result of the increased clinical complex-

ity of children coming into the department. The treatment needs of these children are more intense, and more costly services have driven the increased expenditures. The cost of DCYF's most intense services has increased 46 percent in the last two-years. A second factor, is the expenditure increase, is at the 1998-1999 budget that the legislature inserted a footnote, which required DCYF to provide a 5 percent increase each year to its providers; however, no monies were included in the budget to fund the second year rate increase. It is not acceptable for the state to depend on the goodwill and commitment of its service providers to fulfill our responsibility to our citizens. We need to act immediately to minimize the further interruption of payments. I urge you to join the members of the Senate Finance Committee in supporting the floor amendment to HB 374.

Floor Amendment adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Pignatelli having voted on the prevailing side, moved reconsideration on **HB 245-FN**, relative to fees and appropriations to the division of safety services, whereby we ordered it to third reading.

Question is on the motion of reconsideration.

A division vote is requested.

Recess.

Out of Recess.

Senator Pignatelli withdrew the motion for a division vote.

SENATOR GORDON: Senator Pignatelli, I would like to know why we need to reconsider this bill since it came out of my committee and we were all in agreement that it was a good bill?

SENATOR PIGNATELLI: Actually I am a co-sponsor of it, but I have come to have some concerns about the passage of this bill now.

Question is on the motion of reconsideration.

A division vote is requested.

Yeas: 11 - Nays: 9

Adopted.

Senator Pignatelli moved to have **HB 245-FN**, relative to fees and appropriations to the division of safety services, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 245-FN, relative to fees and appropriations to the division of safety services.

COMMITTEE REPORTS

HB 262-L, relative to emergency expenditures and over expenditures by school boards. Education Committee. Vote 6-0. Ought to Pass, Senator Cohen for the committee.

SENATOR COHEN: This bill simply adds a section to the statute that sets up a manner in which a school board can meet an unanticipated or emergency expense. An example of this type of unanticipated expense

could be if the school boiler breaks down. Currently a local school board must apply to the commissioner of education for the authority to meet an expense that is not covered by a prior budget appropriation. Requirements added by HB 262 are first, that the local school board must send a copy of its application to the Department of Revenue Administration and secondly, that the Department of Education must notify the DRA when it approves the expenditure. The bill was requested by both departments in order to keep the DRA aware of unanticipated expenditures by local school boards. The Education Committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 532, establishing a commission to study early childhood education. Education Committee. Vote 5-0. Ought to pass with amendment, Senator McCarley for the committee.

1999-1412s

04/09

Amendment to HB 532

Amend subparagraph I (b) as inserted by section 3 of the bill by replacing it with the following:

(b) Three members of the senate, one of whom shall be the chairperson of the education committee or designee, appointed by the president of the senate.

Amend paragraph II of section 3 of the bill by inserting after subparagraph (h) the following new subparagraph:

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

Amend the bill by replacing sections 6-7 with the following:

6 Report. The commission shall submit an interim report to the speaker of the house, the president of the senate, and to the governor no later than June 1, 2000, and shall submit a final report of its findings no later than November 1, 2000.

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

SENATOR MCCARLEY: This bill reflects our basic understanding that what children can learn in their very early years can be of crucial importance to their ability to learn going forward. House Bill 532 creates a commission on early childhood education to study the elements of early childhood experiences that form the foundation for later success in school. The commission shall consist of legislators and experts and groups that specialize in early childhood development, and education and will be an important piece in serving the interest of our children and the success of our schools. Please support the Education Committee's unanimous recommendation of ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HJR 9, urging the United States Congress and federal Environmental Protection Agency to eliminate federal requirements for oxygenate additives for gasoline. Environment Committee. Vote 3-0. Ought to Pass, Senator Johnson for the committee.

SENATOR JOHNSON: The purpose of this resolution is to address those problems created by the Federal Clean Air Act of 1990. The Clean Air

Act requires that oxygenate be added to gasoline for the purpose of reducing air pollution and in particular, ground level ozone and carbon monoxide. House Joint Resolution 9 states that Congress should eliminate the oxygenate requirement without imposing new requirements to reduce air pollution, as substantial evidence has been developed over the last few years that in much of the country, the formation of ground level ozone is not significantly dependent upon amounts of hydrocarbon emissions. I urge you to consider the importance of this issue and vote ought to pass on HJR 9.

Adopted.

Ordered to third reading.

HB 727-FN, establishing a committee to study the problems and possible regulation of outdoor lighting. Environment Committee. Vote 2-1. Ought to Pass, Senator Russman for the committee.

SENATOR RUSSMAN: Mr. President, I rise in strong support of HB 727-FN. The regulation of outdoor lighting is an issue that originated among amateur astronomers. As many of you probably have noticed, the night sky has changed over cities such as Manchester and Concord, as these areas continue to expand more outdoor lights are installed and as a result, fewer stars are visible. The original bill specified regulations for outdoor lighting; however, it was amended by the House Municipal County Government Committee and it passed unanimously. I believe that it was on their consent calendar. The bill as amended, establishes a committee to study the problems and possibilities of introducing outdoor lighting regulations. It is also important to control outdoor lighting in order to diminish excess electric consumption of wasted light, and reduce the air pollution caused by the generation of electricity required for outdoor lighting. Other states such as Maine, Connecticut, New Jersey and Arizona have already passed similar legislation. The state needs to establish a policy in regard to the regulation of lighting, as the state is responsible for highway lights and government owned properties. Through this study committee, it may be determined what is the best solution for all of the parties involved, and everybody would be expected and invited to the table to join in the debate. We would urge your passage of the bill.

Adopted.

Question is on the motion of ordering to third reading.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Russman.

The following Senators voted Yes: Gordon, Fraser, Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Pignatelli, Larsen, J. King, Russman, Wheeler, Hollingworth, Cohen.

The following Senators voted No: Johnson, Roberge, Francoeur, Krueger, Brown, Klemm.

Yeas: 15 - Nays: 6

Adopted.

Ordered to third reading.

Senator Squires in favor of the motion of ought to pass on HB 727-FN.

COMMITTEE OF CONFERENCE REPORT**1999-1444CofC****04/09**

Committee of Conference Report on HB 67, an act relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

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

1 Purpose; Intent. The purpose of this amendment to RSA 170-C is to initiate New Hampshire's compliance with the Adoption and Safe Families Act of 1997 that became effective on November 19, 1997. The Adoption and Safe Families Act is designed and intended to reform parts of the current child welfare system and to promote the safety, permanency and well being of children in out-of-home placements.

2 Grounds for Termination of Parent-Child Relationship. Amend RSA 170-C:5, III to read as follows:

III. The parents, subsequent to a finding of child neglect or abuse under RSA 169-C, have failed to correct the conditions leading to such a finding within ~~[18]~~ 12 months of the finding despite reasonable efforts under the direction of the district court to rectify the conditions.

3 New Section; Termination of Parental Rights; Termination Petition Required; Reasonable Efforts to Reunify the Family Required. Amend RSA 169-C by inserting after section 24 the following new section:

169-C:24-a Petition for Termination of Parental Rights Required; Reasonable Efforts to Reunify.

I. The state, through an authorized agency, or if required by a district court, shall file a petition for termination of parental rights or, if such a petition has been filed by another party, the state shall seek to be joined as a party to such petition, where any one or more of the following circumstances exist:

(a) Where a child has been in an out-of-home placement pursuant to a finding of child neglect or abuse, under the responsibility of the state, for 12 of the most recent 22 months.

(b) Where a court of competent jurisdiction has determined that a child has been abandoned as defined by RSA 170-C:5, I; or

(c) Where a court of competent jurisdiction has made any one or more of the following determinations:

(1) That the parent has been convicted of murder of another child of the parent pursuant to RSA 630:1-a or RSA 630:1-b.

(2) That the parent has been convicted of manslaughter of another child of the parent pursuant to RSA 630:2.

(3) That the parent has been convicted of attempt, pursuant to RSA 629:1, solicitation, pursuant to RSA 629:2, or conspiracy, pursuant to RSA 629:3, to commit any of the offenses specified in subparagraphs I (c) (1) or I (c) (2).

(4) That the parent has been convicted of a felony assault under RSA 631:1, 631:2, 632-A:2, or 632-A:3 that resulted in serious bodily injury to the child or to another child of the parent.

II. Concurrent with the filing or joinder in a petition for termination of parental rights as defined in paragraph I of this section, the state shall seek to identify, recruit, and approve a qualified family for adoption in accordance with the provisions of RSA 170-B, and in accordance with the principle that the health and safety of the child shall be the paramount concern.

III. The state may not be required to file a petition for termination of parental rights, or seek to be joined as a party to such a petition, if one or more of the following conditions exist:

(a) The child is being appropriately cared for by a relative.

(b) A state agency has documented in the case file a compelling reason for determining that filing a petition for termination of parental rights would not be in the best interests of the child; or

(c) The state has not provided to the family of the child, consistent with RSA 170-C:5, III, such services and reasonable efforts as the state deems necessary for the safe return of the child to the child's home. In determining whether the state has made reasonable efforts to prevent placement and reunify the family, the district court shall consider whether services to the family have been accessible, available, and appropriate.

IV. The state shall submit a sworn statement prior to any district court hearing in which the court is to determine whether there have been reasonable efforts to prevent placement, reunify the family, or make and finalize a new permanent home for the child. Such statement shall be submitted to the court and to the parties at least 5 days prior to the hearing, and shall describe such reasonable efforts made by the state or the rationale for not making such efforts.

4 New Paragraph; Termination of Parental Rights; Grounds for Termination of Parent-Child Relationship. Amend RSA 170-C:5 by inserting after paragraph VI the following new paragraph:

VII. The parent has been convicted of one or more of the following offenses:

(a) Murder of another child of the parent, pursuant to RSA 630:1-a or 630:1-b.

(b) Manslaughter of another child of the parent pursuant to RSA 630:2.

(c) Attempt, pursuant to RSA 629:1, solicitation, pursuant to RSA 629:2, or conspiracy, pursuant to RSA 629:3, to commit any of the offenses specified in subparagraphs VII(a) and VII(b).

(d) A felony assault under RSA 631:1, 631:2, 632-A:2, or 632-A:3 which resulted in serious bodily injury to the child or to another child of the parent.

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

The signatures below attest to the authenticity of this Report on HB 67, an act an act relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses.

*Conferees on the Part
of the Senate*

Sen. Pignatelli, Dist. 13
Sen. Fernald, Dist. 11
Sen. Squires, Dist. 12

*Conferees on the Part
of the House*

Rep. Lyman, Carr. 5
Rep. I. Pratt, Ches. 5
Rep. Bickford, Straf. 1
Rep. Moran, Hills. 15

1999-1444CofC

AMENDED ANALYSIS

This bill:

I. Provides that, under certain circumstances, the state shall be required to file or join a petition for termination of parental rights.

II. Reduces from 18 months to 12 months the time allowed, subsequent to a finding of child abuse, for a parent to correct the conditions leading to such a finding.

III. Specifies additional grounds under which a termination of a parental rights petition may proceed.

SENATOR PIGNATELLI: This is a Committee of Conference on the way that we terminate parental rights in this state. In 1997 the federal government passed the American Safe Families and Children Act, and in order to comply with it, we needed to start to make a first start in how we terminate parental rights, so that the best interests of the child are maintained. This is a first start in changing our laws to comply with the federal act. If we did not comply by May 31, we were going to lose \$16 million in federal money. So this was a very small attempt to make our first step to comply with the federal act. We will be looking at parental rights and the best interest of the child in foster care over the next several years in an attempt to further comply with this federal act. I urge your passage of this Committee of Conference Report. Thank you.

Senator Pignatelli moved concurrence.

Adopted.

HB 448, relative to the board of dental examiners and the regulation of dentists and dental hygienists. Executive Departments and Administration Committee. Vote 3-1. Ought to pass with amendment, Senator Brown for the committee.

1999-1476s

10/09

Amendment to HB 448

Amend the bill by inserting after section 13 the following and renumbering the original sections 14-30 to read as 15-31, respectively:

14 Rulemaking; Dental Assistants. Amend RSA 317-A:12, XII-b to read as follows:

XII-b. Procedures which may be assigned by a licensed dentist to dental hygienists, dental assistants, and to persons not licensed to practice dentistry. *Notwithstanding any other provision of law to the contrary, the board may adopt rules relative to certified dental assistants performing polishing. Such rules shall not authorize a certified dental assistant to perform a complete oral prophylaxis;* and

Senator Cohen moved to have **HB 448**, relative to the board of dental examiners and the regulation of dentists and dental hygienists, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 448, relative to the board of dental examiners and the regulation of dentists and dental hygienists.

HB 527, relative to the duties of the public utilities commission. Executive Departments and Administration Committee. Vote 5-0. Ought to pass with amendment, Senator Cohen for the committee.

1999-1445s

03/09

Amendment to HB 527

Amend the bill by replacing section 2 with the following:

2 Public Utilities Commission; Appointment, Qualification, etc.; Prohibition on Future Employment. RSA 363:12-b is repealed and reenacted to read as follows:

363:12-b Prohibition on Future Employment. For one year after leaving the employment of the commission, the commissioners and general counsel shall not appear as a lobbyist or as an advocate in any matter over which the commissioner or general counsel had direct responsibility while with the commission.

SENATOR COHEN: This bill clarifies those people who would not be allowed to accept employment with a utility for one year after working with the Public Utilities Commission. This bill restores the power of the PUC regarding mergers of parent companies. The PUC can review parent company mergers to determine whether or not the merger would have adverse affects. So this review will not affect any prior mergers. It revises procedures affecting parent company transactions entered into on or after July 1, 1999. These procedures will not apply to transactions currently under review by the PUC. The bill strikes an appropriate balance between the need for consumer protection and the avoidance of inefficient over-regulation. This bill further addresses dig-safe policies regarding construction, which provides underground utility damage prevention. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HCR 5, encouraging New Hampshire Public Radio to extend its broadcast signal to northern areas of New Hampshire. Internal Affairs Committee. Vote 3-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: New Hampshire Public Radio is a valuable asset to the state. An extended broadcast will greatly benefit the North Country. This bill encourages Public Radio to do just that, and extend their broadcasting range. The committee recommends that this bill ought to pass.

Adopted.

Ordered to third reading.

HCR 12, urging the United States Congress to enact legislation which prohibits the federal government from recouping state tobacco settlement funds. Internal Affairs Committee. Vote 3-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: This bill is important because the Congress needs to realize that it was the states, not the federal government, that sued the tobacco companies, and it is the states that should receive the money from that suit. The committee recommends that this bill ought to pass.

Adopted.

Ordered to third reading.

HB 519-L, requiring law enforcement agencies to adopt written policies regarding emergency responses and vehicular pursuits. Internal Affairs Committee. Vote 3-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: This bill requires law enforcement agencies to adopt polices regarding high-speed pursuits. These policies would be a matter of public protection, setting in place, proper courses of action during high-speed chases to ensure the safety of the public. The policies would also be a form of liability protection for law enforcement agencies. The policies adopted by the agencies would have to conform to national and state standards and be credited. The floor amendment changes the phrase "state national" to "state or national" because some departments conform with federal standards now while others have chosen the state standards. Both standards are accredited, though they have their differences in requiring departments to meet both standards, could be onerous.

Adopted.

Senator Klemm offered a floor amendment.

1999-1490s

09/01

Floor Amendment to HB 519-LOCAL

Amend RSA 265:8-a as inserted by section 1 of the bill by replacing it with the following:

265:8-a Police Pursuit and Emergency Response. Each state, county and local law enforcement agency that conducts emergency response and vehicular pursuits shall adopt a written policy or policies that set forth the manner in which these operations shall be conducted. Such policy or policies shall conform to state or national accreditation standards as adopted by the police standards and training council or the national commission on accreditation for law enforcement agencies and shall be kept on file and available for inspection by the police standards and training council and the attorney general.

SENATOR KLEMM: There are two standards that are being used in high-speed chases. There is a state standard and a national standard, and the original bill said that the standard adopted by the local police departments were to follow both standards. What this amendment does is it changes **TAPE CHANGE**

Floor Amendment adopted.

Ordered to third reading.

HB 69, relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees. Insurance Committee. Vote 5-0. Ought to pass with amendment, Senator Fraser for the committee.

1999-1451s

10/09

Amendment to HB 69

Amend the bill by replacing section 6 with the following:

6 Effective Date. This act shall take effect January 1, 2000.t

SENATOR FRASER: Mr. President and members of the Senate, the commissioner of Labor testified at the public hearing that HB 69 is really a housekeeping bill that consistently defines "employee" throughout the statute the way that it is defined in workers' compensation laws. Defin-

ing the word "employee" in that manner will clarify departments...the Department of Labor's authority to enforce overtime provision. The bill also clarifies the statute to reflect the fact that independent contractors are an exception to the standard definition of "employee." The amendment changes the effective date to allow for printing or explanatory materials reflecting the new definition. The bill was supported by both the Department of Labor and the BIA, and the Insurance Committee was unanimous in reporting this bill out as ought to pass.

Amendment adopted.

Ordered to third reading.

HB 82, establishing a committee to study financial arrangements among hospitals, physicians, and insurance companies. Insurance Committee. Vote 6-0. Ought to pass with amendment, Senator Fraser for the committee.

1999-1440s

01/09

Amendment to HB 82

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

AN ACT establishing a committee to study financial arrangements among hospitals, health care providers, and insurance companies.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study financial arrangements among hospitals, health care providers, and insurance companies.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study the financial arrangements and contracts among hospitals, health care providers, and insurance companies. The study shall include, but not be limited to, how these arrangements affect insurance premiums and health care costs in New Hampshire. The committee shall examine how reimbursement rates are determined and withholdings are calculated. The committee may seek outside information from any relevant source.

Amend the bill by replacing section 6 with the following:

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

1999-1440s

AMENDED ANALYSIS

This bill establishes a committee to study financial arrangements among hospitals, health care providers, and insurance companies.

SENATOR FRASER: Mr. President and members of the Senate, of all of the study committees that we created this session, this one is surely one of the most important and timely. Thousands of people in this state rely on health insurance companies. At the same time, there is a great deal of confusion about the relationships between healthcare providers and the companies, especially financial incentives. A climate of confusion is just one step away from a climate of distrust. We have all seen this distrust in action surrounding the issues such as the HMO accountability and the coverage mandates, which seem to pit the needs of plan members against the needs of the insurance industry. Confusion has led to distrust, which has created a tense relationship between insurers and the insured. House Bill 82 addresses this climate of uncertainty and distrust by opening up to the legislative scrutiny, the financial arrange-

ments between healthcare providers and the insurance companies. The committee will study issues, including capitation withholds, reimbursement rates and how premiums are affected by financial arrangements. If we are going to try and legislate issues that touch these financial relationships, we need to be sure that we understand them. The goal of this committee is to achieve that deeper level of understanding. There was no opposition to the bill at the public hearing. The amendment extends the reporting time and makes the bill effective upon passage. The committee was unanimous in reporting this bill out as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 15-FN-A, creating a position within the insurance department and making an appropriation therefor. Finance Committee. Vote 8-0. Inexpedient to Legislate, Senator Squires for the committee.

SENATOR SQUIRES: I rise with some sadness to recommend to you that this bill as inexpedient to legislate. This is an important issue, and there is no doubt that in the years to come, it will become increasingly important as the cost of long-term care increase; however, the day that this was heard in the Finance Committee, I was reminded of the fact that when we vote for something over here, in effect, we vote not to do something over here...that is because when this bill was heard, we also heard testimony that the state of New Hampshire now owes at least one pharmacist, at least \$50,000 for medicaid prescriptions. There are institutions in New Hampshire that are in fact carrying the state of New Hampshire because it can't pay its bills. This bill, this amount of money in this bill, would have paid for the pharmacist. So how could I vote to do this knowing that there are vendors that the state does business with that we are not paying? I couldn't do that. So I have to ask you to make this inexpedient to legislate and hopefully, we can put our house in order and bring it back at another time to reemphasize this important problem. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 68, establishing minimum 300 foot buffer zones around sensitive areas from application of herbicides, authorizing a study of environmental effects from residual herbicides and making an appropriation therefor. Finance Committee. Vote 8-0. Ought to pass with amendment, Senator Squires for the committee.

1999-1483s

08/10

Amendment to SB 68

Amend the bill by replacing section 4 with the following:

4 Appropriation. The sum of \$20,000 is hereby appropriated to the scientific measurement and monitoring of residual pesticides in the waters and aquatic resources of the state fund for the biennium ending June 30, 2001 for the purposes of section 2 of this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

SENATOR SQUIRES: This bill addresses an issue which we heard here on the Senate floor about the usage of herbicides, aerial herbicides, a practice occurring in the Coos county for all intents and purposes. What

the bill does is direct our environmental services to examine this practice. It makes an appropriation of \$20,000 to do that. To find out if in fact, this has a deleterious effect and thus, I urge you to pass the bill as amended.

SENATOR JOHNSON: I believe this bill in Finance was voted in favor by Senator Fred King who could not be here today. I think that we did have some concerns about the buffer zones, and I think that this will go a long way in helping out the wood products industry to work through that problem.

Amendment adopted.

Ordered to third reading.

SB 143-FN, relative to penalties for incest. Finance Committee. Vote 8-0. Ought to pass with amendment, Senator Squires for the committee.

1999-1479s

05/09

Amendment to SB 143-FN

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Maximum and Minimum Sentences for Incest Involving Victims Under the Age of 16. Amend RSA 639:2 by inserting after paragraph II the following new paragraph:

III. Notwithstanding the provisions of paragraph I, a person convicted of incest where the victim is under the age of 16 shall be sentenced to a maximum sentence which is not to exceed 20 years and a minimum which is not to exceed ½ the maximum. Notwithstanding the provision of this paragraph, no person under 18 years of age shall be subject to any minimum sentence of imprisonment for a conviction of incest under this section.

1999-1479s

AMENDED ANALYSIS

This bill eliminates the statute of limitations when an incest victim is under age 18, and establishes a maximum and minimum sentence for incest when the victim is under age 16. Defendants under the age of 18 will not be subject to any minimum sentence of imprisonment.

SENATOR SQUIRES: Senate Bill 143 as amended, is relative to the penalties for incest. The hearing on this bill was remarkable. A woman came forth with a long and painful story for which we should salute her courage. What the bill does is eliminate the statute of limitations when an incest victim is under the age of 18. It does make a slight change in the...what happens if you are convicted of incest with someone under the age of 16, that is because sometimes, we were told, children actually do that to other members of the family; and to put a child into prison for the rest of their lives for that may not be what we want to do. This may need a little bit more work as it moves to the House, but it has improved. I have talked to Senator Brown about it and she may well want to speak on her own behalf, because it is her bill, but we recommend that it be passed as amended.

SENATOR BROWN: I appreciate the committee's work and effort and I concur to go ahead with the amendment. I am not going to object with it. I would just point out that I felt that it was a policy change to the bill, and I might have liked to have known that ahead of time, But thank you anyway.

Amendment adopted.

Ordered to third reading.

SB 147, relative to self-referrals for chiropractic care under managed care organizations. Finance Committee. Vote 7-1. Ought to pass with amendment, Senator Larsen for the committee.

1999-1484s

10/03

Amendment to SB 147

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

1 New Section; Comparable Fees Required. Amend RSA 415 by inserting after section 18-h the following new section:

415:18-i Comparable Fees Required. Every insurer that issues or renews any individual policy of accident or health insurance regulated under this chapter that covers care by doctors of chiropractic shall provide benefit payments at least equal to and consistent with the benefit payments to other health care providers. No such insurer regulated under this chapter shall restrict the use of diagnostic code or current procedural terminology (CPT) codes for any provider group if those procedures are allowed for in the group's scope of practice and are deemed medically or chiropractically necessary. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section for the administration of this section.

2 New Sections; Chiropractic Care. Amend RSA 420-A by inserting after section 17-b the following new sections:

420-A:17-c Self-referrals for Chiropractic Care. A health service corporation under this chapter offering chiropractic benefits shall provide benefits to a subscriber who utilizes services of a chiropractic provider (doctor of chiropractic) by self-referral under the following conditions:

I. A subscriber may utilize the services of a doctor of chiropractic within the subscriber's health plan without discrimination relative to scope of practice, access, and fees.

II. The health service corporation shall fully disclose to the subscriber in clear and understandable language the exact terms and conditions of each option that the subscriber has purchased along with the co-payments or other cost-sharing features of each option. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section, regarding presentation of these terms and conditions to facilitate the comparison by the subscriber of the terms and conditions of each option.

III. All health service corporation subscribers shall have 10 self-referral visits without referral. Following the initial evaluation of the patient the doctor of chiropractic shall send to the health service corporation or its designee the chiropractic case findings.

IV. After 10 self-referral visits, a subscriber who is continuing chiropractic care may be subject to utilization review from the health service corporation or its designee for the purpose of continued care. Any denial of continued care must be determined by a provider of the same specialty. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section, for the purpose of implementing this section.

V. Capitation rates shall not be less than the sum equivalent of the prevailing fees relative to the designated number of visits. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section, concerning capitation limits under

this section. Nothing in this section is intended to restrict the ability of an insurer to offer a chiropractic rider product, which provides an annual capped benefit.

VI. The patient shall retain the right to choose chiropractic care on an elective, self-pay, fee-for-service basis; no health service corporation regulated under this section shall prohibit a doctor of chiropractic from continuing care on an elective, self-pay, fee-for-service basis.

420-A:17-d Comparable Fees Required. Every health service corporation regulated under this chapter that covers care by doctors of chiropractic shall provide benefit payments at least equal to and consistent with the benefit payments to other health care providers. No health service corporation regulated under this chapter shall restrict the use of diagnostic code or current procedural terminology (CPT) codes for any provider group if those procedures are allowed for in the group's scope of practice and are deemed medically or chiropractically necessary. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section for the administration of this section.

3 New Sections; Chiropractic Care. Amend RSA 420-B by inserting after section 26 the following new sections:

420-B:27 Self-referrals for Chiropractic Care. A health maintenance organization under this chapter offering chiropractic benefits shall provide benefits to an enrollee who utilizes services of a chiropractic provider only by a licensed chiropractor (doctor of chiropractic) by self-referral under the following conditions:

I. An enrollee may utilize the services of a doctor of chiropractic within the enrollee's health maintenance organization without discrimination relative to scope of practice, access, and fees.

II. The health maintenance organization shall fully disclose to the enrollees in clear and understandable language the exact terms and conditions of each option that the enrollee has purchased along with the co-payments or other cost-sharing features of each option. The commissioner shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section, regarding presentation of these terms and conditions to facilitate the comparison by the enrollee of the terms and conditions of each option.

III. All health maintenance organization subscribers shall have 10 self-referral visits without referral. Following the initial evaluation of the patient the doctor of chiropractic shall send to the health maintenance organization or its designee the chiropractic case findings.

IV. After 10 self-referral visits, a subscriber who is continuing chiropractic care may be subject to utilization review from the health maintenance organization or its designee for the purpose of continued care. A provider of the same specialty must determine any denial of continued care. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section, for the purpose of implementing this section.

V. The capitation rates shall not be less than the sum equivalent of the prevailing fees relative to the designated number of visits. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section, concerning capitation limits under this section. Nothing in this section is intended to restrict the ability of an insurer to offer a chiropractic rider product, which provides an annual capped benefit.

VI. The patient shall retain the right to choose chiropractic care on an elective, self-pay, fee-for-service basis; no health maintenance organization regulated under this section shall prohibit a doctor of chiropractic from continuing care on an elective, self-pay, fee-for-service basis.

420-B:28 Comparable Fees Required. Every health maintenance organization or third party payor regulated under this chapter that covers care by doctors of chiropractic shall provide benefit payments at least equal to and consistent with the benefit payments to other health care providers. No health maintenance organization regulated under this chapter shall restrict the use of diagnostic code or current procedural terminology (CPT) codes for any provider group if those procedures are allowed for in the group's scope of practice and are deemed medically or chiropractically necessary. The commissioner of insurance shall adopt rules, under RSA 541-A, within 120 days of the effective date of this section for the administration of this section.

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

SENATOR LARSEN: The Finance Committee amendment to SB 147 makes several changes to the legislation. Among the most substantive changes are the following: It reduces the number of self-referral visits from 24 to 10. The ten self-referral number is consistent with the state employees existing HMO benefit. Although the Insurance Committee amendment, which would have allowed 24 visits, would not have had a direct effect on the existing contract, the amended version with 10 visits is in line with our existing model, which will be renegotiated in October. The amendment also makes clear that if a managed care plan wants to sell a chiropractor rider with a capped annual benefit, that they can do so. The amendment adds a role for the Insurance Department to adopt rules for the application of new guidelines. These administrative rules add consistency to the guidelines. Finally, the Finance Committee amendment clarifies that after 10 visits, care may be subjected to utilization review. The bill had originally addressed that as continued care, and the utilization review standard is more comprehensive.

SENATOR KRUEGER: Senator Larsen, just a quick question. That is 10 visits per what? Per month, per week, per year, per forever?

SENATOR LARSEN: I understood that it was 10 visits per contract, so it would be per whenever the next renewal is.

SENATOR KRUEGER: Do you think, Senator Larsen, that maybe it isn't clear in the wording of the bill?

SENATOR LARSEN: I see that Senator Hollingworth may want to respond as well. We had a discussion, and I think that it depends on the contract.

SENATOR HOLLINGWORTH: I think that we tried to follow the state contract, and that is precisely what we believe that it does, because Senate Finance felt that it was important that there not be additional costs. So the language is represented by what is in the state contract.

SENATOR FRASER: My colleagues in the Senate, I am going to read you some numbers. It won't take me very long, but you should know what is going on in the marketplace today, so far as the health delivery system is concerned. First of all, these are the increases that are going to be...folks like myself, self-employed people...people who employ other people...these are some of the increases that are going to take place...they have already taken place this year. Twenty-four percent, 25 percent, 30, 30, 30, 25, 30, 35. Every health delivery insurance has increased rates already. The point that I am trying to make is that no matter what you do for chiropractic, it is going to increase rates. There is just no question about that. So the first quarter of 1999, Matthew Thornton lost \$570,000. Blue Cross lost \$1,289,000. Healthsource

lost \$690,000. Those are just some examples of why I stand here, Mr. President, in strong opposition to this bill. I, like Senator Krueger, don't understand whether we are talking about...to me, it wasn't clear in the bill...the amendment, as to whether or not we are talking about 10 visits per contract, per year or per lifetime. The most important thing that everyone in this room should know is the fact that right now, that the cost of the health delivery system is totally out of control because of the increased cost of drugs and the new machinery that is being used for testing. I would hope that you would vote against this bill. Thank you, Mr. President.

SENATOR FERNALD: I voted against this bill before because I had some misgivings, and I am ready to vote for it today. I think that the most important thing in this bill is the self-referral. It does not make sense to me that we require patients to go through a medical doctor to get to their chiropractor, when we know that medical doctors and chiropractors do not see eye to eye quite often. So I think that this is a good concept and I support it.

SENATOR WHEELER: I know that everyone in this chamber is concerned about rising premium costs and we all want to make sure that everyone in the state has affordable access to high quality health insurance. I truly do not believe that this will raise costs. We are not talking about a new mandate. We are not talking about a new benefit. These are for policies which offer chiropractic benefits already. As far as whether the 10 visits is over a lifetime or over a year, that is between you and your insurer. That is part of the contract that one has, and we are not saying what it needs to be, because we know that that is a negotiated arrangement. All that we are saying is that if you are paying for this benefit, you ought to be able to have access to it. That is why the direct access is in there, but it is not a new mandate. I do not believe that it should anyway, increase costs. We have put the rulemaking provisions in there to help deal with whatever confusion might have existed if we tried to legislate everything. So we are letting it happen through rules. Thank you.

SENATOR FRASER: Senator Wheeler, would you agree with me that if this bill is passed, that it takes self-referral of chiropractic care out of managed care?

SENATOR WHEELER: Senator Fraser, I really hate to disagree with you, but I would not agree with that. It is still managed by the number of visits, the total number of visits that are allowed in the contract. As I understand it, although Medicare we know is federal, they have, I believe, 24 self-referral visits. We are only saying that your initial access should be your own choice, and then utilization review sets in after the 10 visits.

SENATOR FRASER: Thank you for that answer. My only other question, would you agree with me that some of the carriers who are not providing chiropractic care via in their contracts might very well be eliminating that coverage from the present contract?

SENATOR WHEELER: Well, Senator Fraser, the carrier's actions are often a mystery to me, but I do believe that this reflects what most of the carriers are doing now, in fact, some are doing more than this. So I know that they can use many excuses to reduce their benefit package, and I hope that they would not use this.

SENATOR FRASER: Thank you.

SENATOR BROWN: Senator Wheeler, just so that I understand, is this bill mandate all insurance companies to provide chiropractic coverage?

SENATOR WHEELER: No it does not.

SENATOR SQUIRES: I rise to make a comment as to what I think is going to happen. I disagree with the fact that this will not increase the costs for riders. The reason is, that with exception of the state employee's plan, this is not the level of benefits that cost the per member, per month per cost for chiropractic benefits is presumed to be based on a certain utilization and essentially, it is not 20. So you will see a rise in the per member per month, cost to the managed care organization, and now it is possible that it will be offset by productions in something else, although I doubt it. But what I predict is going to happen, is that the health plans will drop the riders, because people can't stand the premium, and then we are going to have an interesting debate about what next. You will see a movement to mandate. That is my prediction. I hope that it doesn't come true, but I believe it to be the case.

SENATOR GORDON: I voted against this bill in the past. The basic issue is that I disagree, or I guess my basic feeling right now is that I don't think that we should deny the rest of the people in the state what we basically decided that state employees ought to have. I think that perhaps we ought to look at it that way. If it is good for state employees, then other people in the state ought to be entitled to the same type of benefits when they negotiate for their insurance policies. I voted against it in the past and I thought that this bill was a pain in the neck. I have since talked to the chiropractors, and I will be voting for it today.

SENATOR BELOW: I rise in support of the ought to pass with amendment motion. The issue in part is that many people receive great benefit from chiropractic care, and they are often paying for it out of their pocket. So the question is, does it reduce costs to consumers? I think that it does, even if there is some modest increase in premiums, many people are already paying these costs directly because they can't get the referrals from their primary care even though there is supposedly coverage in their policy. So I think that the people who work and want this kind of coverage will tend to pressure their employers to maintain the chiropractic rider, and this will give them the access and coverage under the insurance in which they are already paying for out of pocket. Thank you.

SENATOR HOLLINGWORTH: Just briefly. The Senate Finance Committee heard lots of testimony just as the Insurance Committee did. I guess that we heard our testimony in Finance primarily from phone calls that many of us received in support of this legislation. In Insurance, this bill had overwhelming constituent support. So it seems clearly, that there is a problem, otherwise we would not have seen the numbers that turned out for a hearing that lasted for many, many hours. I think that we can all debate whether in fact this is going to cost more money, but clearly, there is a problem that people are not...that people have a contract, they have a rider on their contract that says that they can see a chiropractor, and yet they are being denied that. So I think that while I, just like many of you, will debate whether this will have an increased cost or not, I think that in fact, it may do just the opposite, because right now, providers are sending people to clinics that sometimes are not helping them.. places that have physical therapists and other people who, in sports medicine, who are working on them. So that costs will be deferred, and I think that those people who are going to a chiropractor, that we admit that we get much

less than the average medical provider, and it will probably end up saving us money. So we will not know the answer to that question, but I would ask that you support this piece of legislation, because it clearly is one that the constituents want. Thank you.

Question is on the adoption of the amendment.

A roll call was requested by Senator Fraser.

Seconded by Senator Hollingworth.

The following Senators voted Yes: Gordon, Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Francoeur, Larsen, Krueger, Brown, J. King, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No: Johnson, Fraser, Roberge, Russman.

Yeas: 18 - Nays: 4

Amendment adopted.

Ordered to third reading.

SB 153-FN-A, requiring that a percentage of profits derived by the liquor commission be placed into and continually appropriated to a special fund for an alcohol education and abuse prevention and treatment programs. Finance Committee. Vote 8-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: Senate Bill 153 was referred to the Finance Committee by the committee on Ways and Means. The Liquor Commission assumed a base year gross profit for fiscal year 1999 of \$78.3 million and an annual growth of 2.4 percent each year thereafter. The bill calls for 50 percent of the amount, which the current year gross profit exceeds fiscal year 1999 actual gross profit, but not more than 5 percent of the current year gross profits, to be deposited into the new fund. Based on these assumptions, the commission estimates that \$940,000 in fiscal year 2000 and \$1,900,000 in fiscal year 2001 will be deposited into a new non-lapsing and continually appropriated alcohol abuse prevention and treatment fund, instead of the general fund. Senate Finance recommends SB 153-FN-A ought to pass.

SENATOR GORDON: I would just like to take a second and thank the Finance Committee for bringing out the bill. It is a bill that I feel very strongly about, and it is a recognition by the state, at least by the Senate, that in fact, if we are going to market alcohol, and if we are going to sell \$252 million worth of hard liquor in this state every year to enhance our general fund, then we have some responsibility for the effects of those actions. I just want to thank the Finance Committee for bringing the bill out. I can't predict what is going to happen in the House with the shenanigans that are going on over there, but I hope that the bill will be well received there as well.

Adopted.

Ordered to third reading.

SB 197-FN-A, establishing a pilot program for opioid agonist therapy of addiction and making an appropriation therefor. Finance Committee. Vote 8-0. Ought to Pass, Senator Squires for the committee.

SENATOR SQUIRES: Opium is a specific type of narcotic and opioid includes the family thereof. Heroin and morphine, those are all opioids. The

bill simply allows the Bureau of Alcohol and Substance Abuse to establish five pilot programs in New Hampshire. The money is hoped to come from grants to support the purpose. Agonist means that it is similar to antagonist, which again, this is to substitute for the use of drugs, particularly cocaine and heroin. There are a number of other agents now used for that in addition to methadone, hence the title opioid Agonist. I hope that you will support this bill. Thank you.

Adopted.

Ordered to third reading.

SB 209-FN-L, establishing a study committee on certain matters concerning superior court justices. Finance Committee. Vote 8-0. Ought to Pass, Senator McCarley for the committee.

SENATOR MCCARLEY: Senate Bill 209 establishes a committee to examine the need for the number of justices required to serve the Superior Court and whether or not it is possible to assign Superior Court Justices to hear Supreme Court appeals. The bill has no fiscal impact. The Finance Committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 570, restricting a presiding judge's authority to interrupt jury deliberations. Judiciary Committee. Vote 6-1. Inexpedient to Legislate, Senator Trombly for the committee.

SENATOR TROMBLY: House Bill 570 doesn't do what the title says. The concern was that in one case a defendant was concerned that his perception was that the judge interrupted jury deliberations in order to force the jury into a verdict. Well that doesn't happen. There is a process seldomly used in the state of New Hampshire, whereby, if a jury is deadlocked, they can report that to the judge, and the judge under case law, has the ability to give certain, very specific instructions to the jury as to what they are to do next to try to reach a verdict, and those instructions pass constitutional muster to protect the defendant's right. So the bill doesn't do what it says, judges don't interrupt jury deliberations. The instance where this bill was to address what a defendant perceived is a wrong, is only in those very rare occasions when a jury comes back and reports to a judge that it is deadlocked. Judges from time to time, have to answer questions from juries and Chief Justice Nadeau felt that if we passed this bill, it might interrupt that process, which is a helpful process for administering justice. We ask that you kill this bill.

Committee report of inexpedient to legislate is adopted.

HB 667, relative to the quorum required for sessions of the supreme court. Judiciary Committee. Vote 7-0. Ought to pass with amendment, Senator Brown for the committee.

1999-1435s

09/01

Amendment to HB 667

Amend the bill by replacing section 1 with the following:

1 Quorum Required for Supreme Court Sessions. Amend RSA 490:7 to read as follows:

490:7 Quorum. Sessions of the court ~~may~~ **shall** be held by **at least 3 supreme court** justices. A lesser number, or the clerk, if no justice attends, may adjourn the sessions from day to day until 3 justices at-

tend. If one or more of the justices present is disqualified to sit in any case, one or more temporary justices may be assigned in accordance with RSA 490:3 [~~or the remaining justices or justice shall hear and determine the case with all the power of the court~~]; ***provided that at least 3 justices, either full-time or temporarily appointed, must sit, participate, and decide.***

1999-1435s

AMENDED ANALYSIS

This bill requires that at least 3 supreme court justices sit, participate, and decide in each case before the supreme court.

SENATOR BROWN: I rise to support the committee recommendation of ought to pass with amendment. This bill requires that at least three justices sit, participate and decide each case that is heard before the New Hampshire Supreme Court. The three justices must be full time Supreme Court justices or temporarily appointed to the bench. Under current law it is possible that only two or even just one justice may hear and decide a case. The Senate Judiciary Committee voted 7-0 that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 438, relative to certain changes to the membership of the advisory committee on child care. Public Institutions, Health and Human Services Committee. Vote 3-0. Ought to Pass, Senator McCarley for the committee.

SENATOR MCCARLEY: House Bill 438 slightly alters the membership of the advisory council on childcare, and updates the list of eligible members. The restructuring of the council was suggested as a means to improve efficiency, and is supported by both the Department of Health and Human Services and the council. I urge your support of ought to pass motion on HB 438. Thank you.

Adopted.

Ordered to third reading.

HB 463-L, relative to local regulation of junkyards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations. Transportation Committee. Vote 4-0. Ought to pass with amendment, Senator Roberge for the committee.

1999-1425s

08/09

Amendment to HB 463-LOCAL

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

4 Repeal. RSA 236:111-a, relative to an exception to the laws governing motor vehicle recycling yards and junkyards for facilities approved under RSA 149-M, is repealed.

1999-1425s

AMENDED ANALYSIS

This bill gives towns jurisdiction to regulate junkyards within 1,000 feet of certain federal and state highways.

This bill alters the definition of federal aid primary system to include any highway included in the national highway system for purposes of the laws regarding highway regulations, protection and control regulations.

This bill also eliminates an exception to the laws governing motor vehicle recycling yards and junkyards for facilities approved under RSA 149-M.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 463 gives jurisdiction to towns to regulate junkyards within 1,000 feet of certain federal and state highways. Because of a recent Supreme Court Ruling, this jurisdiction was removed from towns. House Bill 463 restores concurrent jurisdiction over junkyards. The New Hampshire Municipal Association, the New Hampshire Association of Conservation Commissions, Auto and Truck Recyclers Association of New Hampshire as well as the sponsors, all testified in support of this legislation. No one was in opposition. The Transportation Committee recommends that HB 463 be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Below having voted with the prevailing side moved reconsideration on **HCR 12**, urging the United States Congress to enact legislation which prohibits the federal government from recouping state tobacco settlement funds, whereby we ordered it to third reading.

Adopted.

HCR 12, urging the United States Congress to enact legislation which prohibits the federal government from recouping state tobacco settlement funds.

Senator Below moved to recommit.

Adopted.

HCR 12 is recommitted to the Internal Affairs Committee.

TAKEN OFF THE TABLE

Senator Below moved to have **HB 562**, relative to the date of decision for appeals of zoning matters, taken from the table.

Adopted.

HB 562, relative to the date of decision for appeals of zoning matters. Ought to pass.

Senator Hollingworth offered a floor amendment.

1999-1487s

08/10

Floor Amendment to HB 562

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

AN ACT relative to the date of decision for appeals of zoning matters, and ratifying the East Kingston School District annual meeting held on March 6, 1999.

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

5 Ratification of the March 6, 1999 East Kingston School District Annual Meeting. All acts, votes, notices, and proceedings of the East

Kingston School District annual meeting held on March 6, 1999 and the related public hearing held on February 4, 1999 are hereby legalized, ratified, and confirmed.

6 Effective Date.

I. Section 5 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2000.

1999-1487s

AMENDED ANALYSIS

This bill clarifies what day the period starts for filing of zoning board of adjustment motions for rehearings, zoning board of adjustment appeals, and planning board appeals.

This bill also ratifies all acts, votes, notices, and proceedings of the East Kingston School District annual meeting held on March 6, 1999.

SENATOR HOLLINGWORTH: I rise to offer a floor amendment. This is something that happened in East Kingston. As many of you know, these kinds of things happen several times, and we would ask that you would pass this today so that the House can take action on it tomorrow.

Recess.

Out of Recess.

Senator Below moved to have **HB 562**, relative to the date of decision for appeals of zoning matters, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 562, relative to the date of decision for appeals of zoning matters.

TAKEN OFF THE TABLE

Senator Russman moved to have **SB 158-FN**, relative to indecent exposure, taken off the table.

Adopted.

SB 158-FN, relative to indecent exposure. Ought to pass.

Senator Russman offered a floor amendment.

1999-1505s

05/01

Floor Amendment to SB 158-FN

Amend RSA 645:1, I(a) as inserted by section 1 of the bill by replacing it with the following:

Fornicates, exposes his or her genitals or performs any other act of gross lewdness with the intent to cause affront or alarm.

SENATOR RUSSMAN: What this bill does is that it makes changes so that the person in line five, "in circumstances which he or she should know, will likely cause alarm", we changed that to make it, "with the intent to cause affront or alarm." That is the purpose of it, so that if somebody intends to cause affront or alarm, that would be an offense. If it is unintentional, then it wouldn't be. It seems as though that would be the fair thing to do under the circumstances. So hopefully, we will adopt the amendment and we will continue on and pass the bill as amended.

Floor Amendment adopted.

Ordered to third reading.

Recess.

Out of Recess.**TAKEN OFF THE TABLE**

Senator Cohen moved to have **HB 56**, establishing a procedure for reinstating corporate charters that have been expired for more than 3 years, taken off the table.

Adopted.

HB 56, establishing a procedure for reinstating corporate charters that have been expired for more than 3 years.

SENATOR COHEN: Currently each corporation that would want to reinstate their charter has to have the legislature pass legislation for each reinstatement. This establishes a process, so that each corporation doesn't need specific legislation. The committee recommends this bill as ought to pass as amended. It was put on the table after the secretary of state's office found some difficulty in the language. There will be a floor amendment which changes an incorrect word in reference as to how hearings shall be held.

Question is on the adoption of the committee amendment (#1215)**Amendment adopted.**

Senator Cohen offered a floor amendment.

1999-1309s

08/09

Floor Amendment to HB 56

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

AN ACT establishing a procedure for reinstating corporations that have been administratively dissolved for more than 3 years.

Amend the bill by replacing section 5 with the following:

5 New Section; Late Reinstatement Hearing; Notice; Requirements. Amend RSA 293-A by inserting after section 14.22 the following new section:

293-A:14.22-a Late Reinstatement Hearing; Notice; Requirements.

(a) A corporation administratively dissolved under RSA 293-A:14.21 may apply to the secretary of state for late reinstatement if more than 3 years have expired since the effective date of dissolution. The application shall:

(1) Recite the name of the corporation and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the corporation's name or proposed name satisfies the requirements of RSA 293-A:4.01;

(4) Contain a certificate from the New Hampshire department of revenue administration in accordance with RSA 77-A:18, III, and RSA 77-E:12, III;

(5) Contain a statement asserting that no lawsuits are pending against the corporation;

(6) Contain a statement explaining the reason that reinstatement is being requested;

(7) Include all of the annual report fees and annual franchise fees, if any, for each year since the date of dissolution; and

(8) Contain a statement from the commissioner of the department of employment security showing that to the best of the commissioner's knowledge, as of the date of the statement, such corporation has paid all of its contributions or that it was not liable for any contributions, or that it has made adequate provisions, with such surety as shall be satisfactory to the future payment of any contributions.

(b) If the secretary of state determines that the application contains the information required by subsection (a), and that the corporation name is available for registration, and that it is accompanied by the fee required in RSA 293-A:1.22(a)(13), the secretary of state shall schedule a public hearing on the late reinstatement. The public hearing shall be held before the secretary of state, or designee and the attorney general, or designee. Any interested party shall have the right to testify at a late reinstatement hearing. Late reinstatement hearings shall be conducted twice a year, on April 1 and September 1. If any such date falls upon a Saturday, Sunday or legal holiday, the hearing shall be held on the first business day after each date. An application for late reinstatement must be received at least one month prior to a hearing date in order to be scheduled for that date.

(c) Notice of the late reinstatement hearing shall be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office, or, if none in this state, its registered office, is or was last located. The notice shall:

(1) Clearly state the reason for the hearing.

(2) State the date, time, location of the hearing.

(3) Indicate that all interested parties are encouraged to attend or submit written comments within one week of the hearing.

(4) Include the mailing address of the secretary of state.

(d) If, after the public hearing, the secretary of state, in conjunction with the attorney general, determines that the information submitted in the application for late reinstatement is correct and that the corporation should be reinstated, the secretary of state shall cancel the notice of dissolution and prepare a notice of reinstatement that recites the determination and the effective date of reinstatement and mail said notice to the corporation.

(e) If the application for reinstatement included a change of name of the corporation, the notice shall set forth the change of name of the corporation and the fee required pursuant to RSA 293-A:1.22(a)(2), and the notice shall constitute an amendment to the articles of incorporation. If the application for reinstatement included a change of the registered agent, the notice shall set forth the name of the new registered agent and the fee required pursuant to RSA 293-A:1.22(b)(5).

(f) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

(g) Except for provisions and requirements set forth in this section, late reinstatement hearings shall be subject to RSA 421-B:26-a.

1999-1309s

AMENDED ANALYSIS

This bill establishes a procedure for reinstating corporations that have been administratively dissolved for more than 3 years.

SENATOR COHEN: The floor amendment comes from the secretary of state's office which changes an incorrect word in references as to how hearings shall be held. I would hope that the Senate would pass this floor amendment.

Floor Amendment adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator McCarley having voted with the prevailing side moved reconsideration on **HB 532**, establishing a commission to study early childhood education, whereby we ordered it to third reading.

Adopted.

HB 532, establishing a commission to study early childhood education.

Senator Hollingsworth offered a floor amendment.

1999-1512s

04/10

Floor Amendment to HB 532

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

AN ACT establishing a commission to study early childhood education and ratifying the East Kingston school district annual meeting held on March 6, 1999.

Amend the bill by replacing all after section 6 with the following:

7 Ratification of the March 6, 1999 East Kingston School District Annual Meeting. All acts, votes, notices, and proceedings of the East Kingston School District annual meeting held on March 6, 1999 and the related public hearing held on February 4, 1999 are hereby legalized, ratified, and confirmed.

8 Effective Date.

I. Section 7 of this act shall take effect upon its passage.

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

1999-1512s

AMENDED ANALYSIS

This bill establishes an early childhood education commission to study, identify, and prioritize the early childhood experiences, including parental involvement, teaching, early care, and education.

This bill also ratifies all acts, votes, notices, and proceedings of the East Kingston School District annual meeting held on March 6, 1999.

SENATOR MCCARLEY: This floor amendment is sponsored by Senator Hollingsworth. This deals with a vote that took place in East Kingston, which we need to ratify in the legislature, and it needs to go to the House tomorrow for that ratification. So this is no change to the earlier bill, which is a bill sponsored by Neal Kurk and myself, but we would like the opportunity to allow the ratification of this vote that took place in East Kingston, which we had earlier said that the process could happen. That in essence is the floor amendment.

Floor Amendment adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 16, relative to revocation of wills by divorce.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 16, relative to revocation of wills by divorce.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 24, extending the application of certain provisions of the child protection act to all children in out-of-home placements.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 24, extending the application of certain provisions of the child protection act to all children in out-of-home placements.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 25, expanding the waiver of administration under the law regarding decedents' estates.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 25, expanding the waiver of administration under the law regarding decedents' estates.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 26, establishing a committee to study trustee process.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 26, establishing a committee to study trustee process.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 111, relative to requirements for acknowledgements and jurats by justices of the peace.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 111, relative to requirements for acknowledgements and jurats by justices of the peace.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 112, relative to the guardianship of minors.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 112, relative to the guardianship of minors.

Senator Pignatelli moved to concur.

Adopted.

NOTICE OF RECONSIDERATION

Senator Fraser served notice of reconsideration on **HB 532**, establishing a commission to study early childhood education.

ANNOUNCEMENTS

RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the purpose of House Messages, introduction of bills, Enrolled Bills Reports and amendments, and that when we adjourn, we adjourn until the Call of the Chair.

Adopted.

Third Reading and Final Passage

HB 56, establishing a procedure for reinstating corporate charters that have been expired for more than 3 years.

SB 68, establishing minimum 300 foot buffer zones around sensitive areas from application of herbicides, authorizing a study of environmental effects from residual herbicides and making an appropriation therefor.

HB 69, relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees.

HB 82, establishing a committee to study financial arrangements among hospitals, physicians, and insurance companies.

SB 143-FN, relative to penalties for incest.

SB 147, relative to self-referrals for chiropractic care under managed care organizations.

SB 153-FN-A, requiring that a percentage of profits derived by the liquor commission be placed into and continually appropriated to a special fund for an alcohol education and abuse prevention and treatment programs.

SB 158-FN, relative to indecent exposure.

SB 197-FN-A, establishing a pilot program for opioid agonist therapy of addiction and making an appropriation therefor.

SB 209-FN-L, establishing a study committee on certain matters concerning superior court justices.

HB 262-L, relative to emergency expenditures and over expenditures by school boards.

HB 374, relative to the order of names on presidential primary election ballots.

HB 438, relative to certain changes to the membership of the advisory committee on child care.

HB 463-L, relative to local regulation of junkyards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations.

HB 519-L, requiring law enforcement agencies to adopt written policies regarding emergency responses and vehicular pursuits.

HB 527, relative to the duties of the public utilities commission.

HB 532, establishing a commission to study early childhood education.

HB 667, relative to the quorum required for sessions of the supreme court.

HB 727-FN, establishing a committee to study the problems and possible regulation of outdoor lighting.

HCR 5, encouraging New Hampshire Public Radio to extend its broadcast signal to northern areas of New Hampshire.

HJR 9, urging the United States Congress and federal Environmental Protection Agency to eliminate federal requirements for oxygenate additives for gasoline.

In Recess to the Call of the Chair.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 205, relative to the requirement for posting of bond by an applicant for a writ of replevin.

HB 374, making adjustments to the fiscal year 1999 budget for the department of health and human services and the New Hampshire retirement system.

Senator D'Allesandro moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives has passed Bills and Resolutions with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 252, establishing a committee to study all aspects of the condominium act established under RSA 356-B.

HB 301, relative to burials and funerals at the New Hampshire state veterans cemetery.

HB 314, relative to the escrowing of certain utility payments.

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

HB 399, allowing the secretary of state to have flexibility in moving the date of New Hampshire's presidential primary and changing the filing period for declarations of candidacy for candidates for president and vice-president at the presidential primary.

HB 665, relative to the New Hampshire emergency management compact with other jurisdictions.

HB 684, making adjustments to the fiscal year 1999 budget for the department of health and human services.

HB 744, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999, and the Gilford School District annual meeting held on March 17, 1999.

HCR 7, urging the federal government not to adopt rules requiring financial institutions to monitor their customers' banking habits.

HCR 11, urging Congress and the Internal Revenue Service to modify tax laws to broaden the ability of taxpayers to make tax-deductible contributions to Nuclear Decommissioning Reserve Funds.

INTRODUCTION OF HOUSE BILLS

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 252-HCR 11 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 252, establishing a committee to study all aspects of the condominium act established under RSA 356-B. **Public Affairs**

HB 301, relative to burials and funerals at the New Hampshire state veterans cemetery. **Internal Affairs**

HB 314, relative to the escrowing of certain utility payments. **Energy and Economic Development**

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers. **Transportation**

HB 399, allowing the secretary of state to have flexibility in moving the date of New Hampshire's presidential primary and changing the filing period for declarations of candidacy for candidates for president and vice-president at the presidential primary. **Public Affairs**

HB 665, relative to the New Hampshire emergency management compact with other jurisdictions. **Executive Departments and Administration**

HB 684, making adjustments to the fiscal year 1999 budget for the department of health and human services. **Finance**

HB 744, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999, and the Gilford School District annual meeting held on March 17, 1999. **Internal Affairs**

HCR 7, urging the federal government not to adopt rules requiring financial institutions to monitor their customers' banking habits. **Banks**

HCR 11, urging Congress and the Internal Revenue Service to modify tax laws to broaden the ability of taxpayers to make tax-deductible contributions to Nuclear Decommissioning Reserve Funds. **Environment**

LATE SESSION

Senator Cohen moved that the business of the day being complete that the Senate now adjourn until Thursday, June 17, 1999 at 10:30 a.m.

Adopted.

Adjournment.

June 17, 1999

The Senate met at 10:30 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

Lord of both truth and balance, of both integrity and humility, look straight into the hearts of the members of this Senate who vote, the staff members who people these offices, the press corps who filters and interprets what happens here and the lobbyists who walk with influence down these hallways, and fire them with convictions which are true, as well as with wise and listening souls which depend upon the wisdom of others who surround them. In so doing may they know what You really want of them and may they do that - nothing more, nothing less. Amen.

Senator Cohen led the Pledge of Allegiance.

Senator Klemm is excused for the day.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House bill:

HB 67, an act relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 57, permitting challenges to judges.

SB 92, relative to education grants funded by the companion animal-neutering fund.

SB 146, granting district courts exclusive jurisdiction over actions involving certain real estate purchase deposits held in escrow accounts.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 412, an act relative to the powers of the state treasurer and increasing the limit on state indebtedness, and relative to the use of bond proceeds awarded under a state guarantee.

HB 542-FN-A, repealing the legacies and succession tax.

SUSPENSION OF THE RULES

Senator Below moved that **HB 542**, repealing the legacies and succession tax, be introduced and referred to Ways and Means at the present time.

Adopted by the necessary 2/3 vote.

SENATOR BELOW: I am going to make a couple of motions by the suggestions of the Clerk that will lead us to referring the bill to committee directly without going through the normal process. The reason being that we are out of time at this point, the intent would be to have a full public hearing on the bill in September, and exec it, consider it like any bill that we would.

SUSPENSION OF THE RULES

Senator Below moved that the Rules of the Senate be so far suspended as to allow a committee report not in the calendar, the suspension of a hearing and the five day requirement of the hearing, and notice of said hearing in the calendar.

Adopted by the necessary 2/3 vote.

HB 542, repealing the legacies and succession tax. Ways and Means Committee. Senator Below for the Committee.

Senator Below moved to rerefer.

Adopted.

HB 542 is rereferred to the Ways and Means Committee.

SUSPENSION OF THE RULES

Senator Gordon moved that **HB 745**, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, be introduced at the present time.

Adopted by the necessary 2/3 vote.

SUSPENSION OF THE RULES

Senator Gordon moved that the Rules of the Senate be so far suspended, reference the referral to committee, report of committee and the notice and report in the calendar, and the requirement of a five day notice for a hearing, and to further suspend the rules as to allow **HB 745** to be before the Senate at the present time.

Adopted by the necessary 2/3 vote.

HB 745, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit.

Senator Gordon moved ought to pass.

SENATOR GORDON: Thank you, Mr. President, those of you who have been reading the papers may realize that the town of Ashland has a financial problem. The financial problem is in the magnitude of \$1.2 - \$1.5 million. It appears that for whatever reason, and that has not yet been determined..., and there is an audit that is currently underway. There was a mistake made by the town of Ashland, in terms of determining how much money it had available to spend. Over the course of the last couple of years, they have spent in excess of \$1.2 million or incurred debt in excess of \$1.2 million for monies that they don't have available to them. It has created a severe financial crisis, and unless that crisis is addressed, the town of Ashland could very well find itself in receivership. A receiver being appointed, and there is some precedent in doing that, and I believe that the town of Unity had a similar situation sometime in the past where the state was appointed to serve as the receiver. The town of Ashland could find itself in a position where it could not pay its bills as they come due. In fact, we are already at situation where that may be the case. So something has to be done, and what needs to be done, is there needs to be an immediate town meeting. At that town meeting, the voters of the town of Ashland need to be presented with options. The three options that would be available or made available to them, are that they could raise their general appropriation, or the annual appropriation, for the year to cover any outstanding debt. The other option that would be available to them, that they might be able to bond over a period up to five years, the amount of which they are in debt, in order to have some time to pay off their outstanding debts. The third option would be that they might be given the option that they might be able to sell some of the assets that are owned by the town in order to generate some additional funds. This is a crisis that needs to be addressed, and that is why this legislation has been specifically put forth for this purpose. I would ask you to support HB 745.

Adopted.

Senator Hollingworth offered a floor amendment.

1999-1649s

08/09

Floor Amendment to HB 745-LOCAL

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

AN ACT authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, and relative to the excess education property tax payment for certain municipalities.

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

2 New Paragraph; Excess Education Property Tax Payment; Phased In Collection of Education Property Tax. Amend RSA 198:46 by inserting after paragraph IV the following new paragraph:

V. Any municipality in which the equalized value of utility property taxed under RSA 83-F comprises more than 50 percent of the municipality's equalized assessed valuation, which would have had an excess education property tax obligation under this section had utility property been subject to taxation under RSA 76:3, shall phase in the collection of the education property tax on the schedule stated in paragraph IV. For each of the tax years 1999 through 2004, the amount phased in shall be the difference

between the amount required to provide an adequate education in that municipality as calculated under RSA 198:40, I(a) and (b), and the total amount that would be assessed if utility property were subject to taxation under RSA 76:3. The department of education shall increase the adequate education grant paid to the school district or districts educating the children of such a municipality to ensure that the district or districts receive the amounts required to provide an adequate education as calculated in this chapter.

1999-1649s

AMENDED ANALYSIS

This bill allows the town of Ashland to call a special meeting, without seeking court permission, to raise money to address a general fund deficit. Such money may be raised from taxation, or incurring long term debt, or both. No other purposes shall be addressed at such meeting.

This bill also provides that municipalities with equalized value of utility property taxed under RSA 83-F comprising more than 50 percent of their equalized assessed valuation, which would have had an excess education property tax obligation had utility property been subject to taxation under RSA 76:3, shall phase in the collection of the education property tax based on the schedule in RSA 198:46. From 1999 through 2004 the amount phased in shall be the difference between the amount required to provide an adequate education and the total amount that would be assessed if utility property were subject to taxation under RSA 76:3.

SENATOR HOLLINGWORTH: I would like to further amend HB 745. As you probably all have heard Seabrook, which is a town that is heavily dependent on the Seabrook power plant, and with the removal of the utility tax, it is 80 percent of the tax value, and it places Seabrook in a position where under the new scenario, they would be a receiver town that would become a donor town of a tremendous amount of money. This allows Seabrook to be phased in just as the other donor towns. They would have been required to take and pay a large sum of money off the top without any phasing in at all. This bill simply allows them to be phased in, just like those other towns would be under normal circumstances, would be a receiver town.

SENATOR GORDON: Just so that I understand, Senator Hollingworth, this amendment is only going to apply to the town of Seabrook?

SENATOR HOLLINGWORTH: Yes, they are at 80 percent...their utility would have been 80 percent of their property tax, and this addresses that situation. Because of their poverty level would have been a receiver town, but because of this unique situation they become a donor town and with no phase-in. This only changes it so that there is a phase in for that amount of money.

SENATOR GORDON: I am just concerned, because you know the sense of urgency I have on this bill for the town of Ashland. Is it to the best of your knowledge, that the House is in agreement with this amendment?

SENATOR HOLLINGWORTH: We have been assured by the Speaker of the House, and the governor, that they have all worked on this piece of legislation, and the drafting of this with the attorney general's office and this has their blessing.

SENATOR GORDON: Thank you.

Floor Amendment adopted.

Senator Gordon offered a floor amendment.

SENATOR GORDON: I have a further amendment which is being handed out. When this bill, having to do with the Ashland special meeting was first drafted, it provided the people of the town with two options. That was to raise money directly from taxation, or to incur long-term debt, and that would mean to bond. This amendment adds in the words "from the sale of assets" as a third alternative. The reason for this, is that the selectman in the town want to make sure that the townspeople have all options available to them at the meeting, including the potential sale of assets. An example, is that they do have an electric utility that the town owns up there, and in order to...if the townspeople should elect to do so, they might want to decide to sell and hold a partial interest in that electric utility. They want to make that option available to the townspeople, and so they would like those words added. I would appreciate your support for the amendment.

1999-1564s

08/09

Floor Amendment to HB 745-LOCAL

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

1 Authorization of 1999 Ashland Special Meeting to Address General Fund Deficit. Notwithstanding any law to the contrary, the town of Ashland is hereby authorized to call a special meeting in 1999, without seeking court permission, for the sole purpose of raising money to address a general fund deficit. The town is authorized to raise an amount from taxation, from the sale of assets, or by incurring long term debt, not to exceed five years, or to vote a combination of the foregoing. No other purposes shall be addressed at such meeting.

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

1999-1564s

AMENDED ANALYSIS

This bill allows the town of Ashland to call a special meeting, without seeking court permission, to raise money to address a general fund deficit. Such money may be raised from taxation, the sale of assets, incurring long term debt, or a combination thereof. No other purposes shall be addressed at such meeting.

Floor Amendment adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Hollingworth moved that **HB 412**, an act relative to the powers of the state treasurer and increasing the limit on state indebtedness, and relative to the use of bond proceeds awarded under a state guarantee, be introduced into the Senate at the present time.

Adopted by the necessary 2/3 vote.

SUSPENSION OF THE RULES

Senator Hollingworth moved that the Rules of the Senate be so far suspended reference the referral to committee, report of committee and the notice and report in the calendar, and the requirement of a five day notice for a hearing, and to further suspend the rules as to allow **HB 412** to be before the Senate at the present time.

Adopted by the necessary 2/3 vote.

HB 412, an act relative to the powers of the state treasurer and increasing the limit on state indebtedness, and relative to the use of bond proceeds awarded under a state guarantee.

Senator Hollingworth moved ought to pass.

SENATOR HOLLINGWORTH: The immediate passage of HB 412 is necessary that many jobs, 800 jobs, in fact, that can be reserved in the Franklin and Laconia area. House Bill 412 repeals the requirements of the Business Finance Authority can only guarantee bonds issued by the FDIC, insured banks, so long as the bonds are projects in the economic depressed areas. This legislation was in the possession of the House Finance committee since April 22, and was not voted out of the House until yesterday. Freudenberg plans to construct new manufacturing plants in Laconia, and in Franklin, and preserve 800 jobs that would be lost by the impending closure by the Bristol plant. It had been delayed pending passage of this legislation. It is essential that this legislation be enacted now, so that New Hampshire can retain these high paying jobs at the Freudenberg option sites in Laconia and Franklin, with secure bids with construction of 48,000 square feet manufacturing facility in each community. They need to begin construction in June to be ready for the winter occupancy, but cannot proceed until HB 412 is enacted into law.

SENATOR TROMBLY: I urge you to vote in favor of the motion. Most certainly Franklin is an area that is needy of jobs, good paying jobs. We do not need to lose jobs from the state of New Hampshire. I think where it benefits such an economically depressed area as Franklin, I think we should do that now. Thank you Mr. President.

SENATOR GORDON: Just for clarification from Senator Hollingworth. You mentioned a closing of the Bristol plant, and I just want to make sure that Freudenberg is not intending on closing the Bristol plant where they currently employ 1000 people.

SENATOR HOLLINGWORTH: I hope that is not the case, I have to tell you that the minutes, it says, it will be lost by the impending closure of its Bristol plant if had been delayed pending passage of this bill. I don't quite understand and this is the message that I got. I am sure that must be incorrect.

SENATOR JOHNSON: Just aside of this information that Senator Hollingworth gave us this morning, last night there was some question about the ownership of that property, and last night Gilford voted overwhelmingly to sell that piece of property to Laconia.

SENATOR GORDON: I just want to make it clear that my understanding is that the Bristol plant will remain open, and that there is an intention on the part of Freudenberg, who is a very good employer, and supports many people in the Lakes region, and particularly in the Bristol area, and has been for years to expand its plans. It currently has planned a facility in Ashland and currently has one in Northfield, and it very fortunately has decided to employ more New Hampshire people both in Franklin and Laconia, and this bill is very important, and I hope you will pass it. I just want to make it clear that we continue to have some employment in Bristol.

SENATOR HOLLINGWORTH: Yes, Senator Gordon, I picked up a memo that was here from Jack Donovan, and in fact it does say that they plan to continue to keep the plant open.

Adopted.

Ordered to third reading.

COMMITTEE REPORTS

HCR 2, recognizing students who display good behavior in the public schools. Education Committee. Vote 6-0. Ought to Pass, Senator J. King for the committee.

Adopted.

SENATOR J. KING: This bill is a state sponsored award for two students from each school in New Hampshire to lead by example and displaying good behavior in schools. It is not an academic award. It is designed to recognize students that behave with respect for teachers and further peers who strive for excellence in and out of the classroom. Unlike other awards that were created, this one would be unique because it comes from the state of New Hampshire, the Senate, the House of Representatives and the Governor. It is not a financial award, it is a certificate of recognition, and will cost the state nothing. It is a good idea, and this bill ought to pass.

Ordered to third reading.

HB 265, relative to the student trustees on the university system of New Hampshire board of trustees. Education Committee. Vote 6-0. Rereferred to Committee, Senator McCarley for the committee.

SENATOR MCCARLEY: House Bill 265 would increase the number of student trustees on the University System Board of Trustees from one to two. At the public hearing, it was clear that there was still some questions about a way to involve the College of the Life Long Learning, and at the end of the discussion, the committee felt that perhaps the most appropriate thing at this time would be to rerefer the bill and bring it up next session.

SENATOR GORDON: I believe that this bill has been around for some period of time, and that rather than rerefer it, we ought to act on it today. I would simply ask that the committee vote down the motion to rerefer, and having to do that I would offer a substitute motion of ought to pass.

SENATOR MCCARLEY: Having read out the rerefer motion, I would encourage you to follow Senator Gordon's suggestion and reject the rerefer motion

Motion failed.

Senator Gordon moved ought to pass.

Adopted.

Senator McCarley offered a floor amendment.

Sen. McCarley, Dist. 6

Sen. F. King, Dist. 1

Sen. Gordon, Dist. 2

Sen. Below, Dist. 5

June 17, 1999

1999-1666s

04/09

Floor Amendment to HB 265

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

AN ACT relative to the student trustees on the university system of New Hampshire board of trustees, relative to adequate education grants in cooperative school districts, relative to alternative kindergarten programs, and relative to the adequate education grant in the town of Stratford.

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

4 Statement of Purpose. The enactment of HB 117 (1999, 17) has created questions within cooperative school districts about how the costs of providing an adequate education should be credited against the cooperative district's total budget. The general court's intention is to encourage the existence of cooperative school districts, which increase educational opportunities and promote efficient delivery of education in municipalities that otherwise would be unable to provide such opportunities in a cost effective manner. The general court finds that crediting adequate education money in the cooperative districts in the next 2 years as if it were foundation aid would promote the continuation of cooperative school districts and treat the receipt of such revenue in pre-existing districts in the same manner as it is treated in single-municipality school districts. Therefore, the intention of the general court in enacting this legislation is to have the cost of an adequate education in cooperative districts credited against the pre-existing districts' obligations to the cooperative school district as foundation aid was credited under the provisions of the former RSA 198:29, VI. The general court also finds that the issue is appropriate for further study and places the issue in the jurisdiction of the commissions established in RSA 198:49 and 1999, 17:55.

5 Cooperative School Districts; Costs of Capital Outlay and Operation; Adequate Education Grants. Amend the introductory paragraph of RSA 195:7, I to read as follows:

I. If a cooperative school district was organized prior to July 1, 1963, during the first 5 years after the formation of a cooperative school district each preexisting district shall pay its share of all capital outlay costs and ~~all~~ operational costs ~~[in excess of the amount determined necessary to provide an adequate education under RSA 198:40, I(a)]~~ in accordance with either one of the following formulas as determined by a majority vote of the cooperative district meeting:

6 Cooperative School Districts; Certification of District Taxes; Adequate Education Grants. Amend RSA 195:14, I (b) to read as follows:

(b) The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum, in accordance with RSA 21-J:35, which may be used as a setoff against the amount appropriated when it appears to the commissioner of revenue administration such adjustment is in the best public interest. ~~[The commissioner of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42.]~~

7 Cooperative School Districts; Certification of District Taxes. Amend RSA 195:14, I (c) to read as follows:

(c) The commissioner of revenue administration shall certify to the state department of education the total amount ~~[of taxes to be raised for the support of the cooperative school district]~~ ***to be apportioned among the pre-existing school districts. Such total shall include the adequate education cost for the district under RSA 198:38, XII, and the amount above the cost of an adequate education to be assessed and collected as local educational taxes.***

8 Cooperative School Districts; Certification of District Taxes; Determination of Proportional Share Amended. RSA 195:14, I (d) is repealed and reenacted to read as follows:

(d) The state department of education shall determine the proportional share of the costs above adequacy to be assessed as local education taxes as follows:

(i) First, the department shall determine each pre-existing district's proportional share of the total amount to be apportioned based on the cooperative school district formula.

(ii) Second, the department shall then deduct each pre-existing school district's adequate education cost under RSA 198:38, XII, from its proportional share of the total amount to be apportioned.

(iii) Third, the department shall notify the commissioner of revenue administration of its determinations.

(iv) If the amount determined in subparagraph (ii) for any pre-existing district is less than zero, the department shall reduce the adequate education grant payable to the cooperative district under RSA 198:42 by the difference between the amount determined in subparagraph (i) and the pre-existing district's adequate education cost under RSA 198:38, XII.

9 Cooperative School Districts; State Aid Computation Amended. Amend RSA 195:15 to read as follows:

195:15 State Aid. The state aid to which a cooperative elementary and/or secondary district shall be entitled shall be the total of those shares of the aid to which the pupils attending the cooperative district would have entitled the pre-existing districts, had they remained in the pre-existing districts. *For the purposes of crediting the cooperative district's adequate education cost to the pre-existing districts, each such pre-existing district shall have its adequate education cost under RSA 198:38, XII credited against its share of the cooperative school district budget. However, cooperative school districts formed by 2 or more pre-existing districts whose boundaries approximate those of a single township in which they are located shall be treated as a single school district for the purposes of this section.*

10 Cooperative School Districts; Formation Procedures; Adequate Education Grants. Amend RSA 195:18, III (e) to read as follows:

(e) The method of apportioning ~~all~~ **the** operating expenses ~~[in excess of the amount determined necessary to provide an adequate education under RSA 198:40, I(a),]~~ of the cooperative school district among the several preexisting districts and the time and manner of payment of such shares. Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II shall not be included in the average daily membership relative to apportionment formulas.

11 Cooperative School Districts; Formation Procedures; Adequate Education Grants. Amend RSA 195:18, IX to read as follows:

IX. The organization meeting of a cooperative school district shall be called to order by the chairperson of the cooperative school district planning board, or by the clerk-treasurer thereof, who shall serve as temporary chairperson for the first order of business which shall be the election of a moderator and of a temporary clerk, by ballot, who shall be qualified voters of the district. From and after the issuance of the certificate of formation by the board to the date of operating responsibility of the cooperative school district, such district shall have all the authority and powers of a regular school district for the purposes of incurring indebtedness, for the construction of school facilities and for such other functions as are necessary to obtain proper facilities for a complete program of education. When necessary in such interim, the school board of the cooperative school district is authorized to prepare a budget and call a special meeting of the voters of the district, which meeting shall have the same authority as an annual meeting, for the purpose of adopting

the budget, making necessary appropriations, and borrowing money. Whenever the organization meeting is held on or before April 20 in any calendar year, no annual meeting need be held in such calendar year. Sums of money raised and appropriated at the organization meeting or any interim meeting prior to the first annual meeting shall be forthwith certified to the commissioner of revenue administration and the state department of education upon blanks prescribed and provided by the commissioner of revenue administration for the purpose, together with a certificate of estimated revenues, so far as known, and such other information as the commissioner of revenue administration may require. The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum which may be used as a setoff against the amount appropriated when it appears to the commissioner such adjustment is in the best public interest. ~~[The commissioner of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42, as a setoff against the amount appropriated.]~~ The commissioner of revenue administration shall certify to the state department of education the total amount of taxes to be raised for said cooperative school district and the state department of education shall determine the proportional share of said taxes to be borne by each preexisting school district and notify the commissioner of revenue administration of its determination. Upon certification by the commissioner of revenue administration the selectmen of each town shall seasonably assess the taxes as provided by law. The selectmen shall pay over to the treasurer of the cooperative district such portion of the sums so raised as may reasonably be required according to a schedule of payments needed for the year as prepared by the treasurer and approved by the cooperative school board, but no such payment shall be greater in percentage to the total sum to be raised by one local district than that of any other local district comprising such cooperative school district.

12 New Paragraph; State Aid for Educational Adequacy; Education Trust Fund; Definition of Adequate Education Cost Added. Amend RSA 198:38 by inserting after paragraph XI the following new paragraph:

XII. "Adequate education cost" means the amount calculated for a municipality in accordance with 198:41, I (a) and (b). In a cooperative school district, the adequate education cost shall equal the sum of the adequate education costs of the municipalities whose pre-existing school districts constitute the cooperative school district.

13 New Subparagraph; Adequate Education and Education Financing Commission; Duties Amended. Amend RSA 198:49, IV by inserting after subparagraph (d) the following new subparagraph:

(e) Recommend changes in policy, procedure, financing, and governance in cooperative school districts, including how the cost of an adequate education should be determined, apportioned, and credited within cooperative school districts.

14 Tax Equity and Efficiency Commission; Duties Amended. Amend 1999, 17:55, V to read as follows:

V. The commission shall study issues arising under this act relating to tax fairness and administrative implementation which may be appropriate for further legislative action, as well as other aspects of fairness and efficiency in the funding of public education. The commission shall also study and recommend changes in policy, procedure, financing, and gov-

ernance in cooperative school districts, including how the cost of an adequate education should be determined, apportioned, and credited within cooperative school districts.

15 Adequate Education Grant; Town of Stratford. Notwithstanding the provisions of 1999, 17, the town of Stratford shall receive \$707,000 for its adequate education grant for fiscal year 2000 and \$707,000 for its adequate education grant for fiscal year 2001.

16 Kindergarten; Alternative Kindergarten Programs. 1999, 65:9 is repealed and reenacted to read as follows:

I. If a school district implements a public kindergarten program in school years 1998-1999 or 1999-2000, the school district maintaining such a kindergarten program shall receive reimbursement for fiscal year 1999 and fiscal year 2000 at the rate of $\frac{1}{2}$ the average base cost per pupil of an elementary school pupil as determined in accordance with RSA 198:40. If a school district implements a public kindergarten program in school years 2000-2001 or thereafter, the school district maintaining such a kindergarten program shall receive reimbursement for each pupil at $\frac{1}{2}$ the average base cost per pupil of an elementary school pupil as determined in accordance with RSA 198:40, until such pupils are counted in the average daily membership in residence for purposes of determining adequate education grants under RSA 198:40 and 198:41.

II. If the town of Springfield continues to maintain, at public expense, a kindergarten program established prior to school year 1998-1999, it shall receive reimbursement for each pupil for fiscal year 1999 and each fiscal year thereafter at the rate of $\frac{1}{2}$ the average base cost per pupil of an elementary school pupil as determined in accordance with RSA 198:40 and 198:41.

III. Notwithstanding the repeal of RSA 198:15-n by 1999, 17:58, VIII, the alternative kindergarten programs in the towns of Wentworth, Rumney, and Strafford, which were approved prior to such repeal, may continue to operate as approved alternative kindergarten programs under the provisions of RSA 198:15-n which were in effect prior to April 29, 1999.

17 Kindergarten; Alternative Kindergarten Programs; Additional Funding for Fiscal Years 2000 and 2001. In addition to the provisions of section 16 of this act, and notwithstanding the provisions of RSA 198:39-42, the sum of \$1,700,000 for the fiscal year ending June 30, 2000, and the sum of \$3,000,000 for the fiscal year ending June 30, 2001, is hereby transferred from the education trust fund established in RSA 198:39 to the department of education for the purposes of section 16 of this act.

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

1999-1666s

AMENDED ANALYSIS

This bill increases the number of student trustees on the university system of New Hampshire board of trustees from one to 2. This bill clarifies the procedure for calculating and apportioning adequate education grants within cooperative school districts. The bill also specifies the per pupil reimbursement rates for public kindergarten programs established in the 1998-99 and 1999-2000 school years, and provides the amount of the adequate education grant for the town of Stratford.

SENATOR MCCARLEY: Mr. President, I would like to offer a floor amendment to HB 265 that could be passed out to you. I would like to speak briefly to it and I know that there others that want to speak briefly to it. The floor amendment that is being offered today deals specifically with

some issues that arose after the passage of HB 117. We discovered after the passage of that bill, we, meaning all of us discovered. We heard from constituents that while our intent in terms of the distribution of those dollars, that the dollars would be flowing as they had when we distributed foundation aid, which clearly had dollars flowing to the towns that needed help the most. The mechanical language of HB 117 did not allow that to happen, and actually had the reverse impact in terms of the way that the dollars were flowing. This became known as the Co-op issue. There has been a lot of work done on this by a number of people, both in this room, and elsewhere in state government. A decision was made to put in a floor amendment which indeed follow our intent when we passed HB 117, which the dollars would flow as they always have had under foundation aid. That is one piece of this bill, there was also a belief in terms of fearless that kindergarten dollars for communities that were starting 98-99, 99-2000, 2000-2001, should be paid at this same rate as kindergarten dollars for every other community that has kindergarten dollars. House Bill 300 took care of half of that amount of money, and this bill will complete that and will allow those kindergartens to be treated the same, which we feel is a fair way to treat them. There are other pieces that perhaps at this point, and I will stop, and I think other people who might want to speak specifically to a couple of the other pieces. But for the record, I would also like to include a letter that we received from the Superintendent of Lincoln Woodstock. I think that it is very important that we speak to the issue that not making this change really would be an incredible detriment to the cooperative school system's districts going forward. And certainly, we have never had any intent in trying to disrupt and cause the kind of economic disruption, as well as frankly, educational destruction. Co-ops are able to provide education at a more cost effective manner, and the last thing you want to do is upset that going forward. This is a letter that I simply want to put into the record as well, supporting that very concept.

SENATOR F. KING: I just want to speak to a portion of this bill found on page 4, line 32. We have talked about the dilemma that the town of Stratford and the North Country found itself in with the passage of the legislation for education reform. The town that arguably is the poorest town in the state with a \$104,000 of property per student and a per capita income less than \$11,000 in the town, found itself in the unique position of having a school tax rate of \$45 a thousand, when it looks to me, like most school rates are going to be at average, in the twenties. So an attempt to deal with the Stratford issue, short-termed, is to ultimately find out what the real problem is, which I don't think that anyone understands right now. There is a provision in here to essentially hold Stratford, the town of Stratford, harmless from any loss of income that they have had in the past as a result of legislation which that we have passed. I would encourage you to support this town. Thank you.

SENATOR DISNARD: Senator McCarley, I have noticed that you mentioned HB 300. I see that we are taking care of the co-op districts, I understand the kindergartens, I understand Stratford. But I will recall in our discussion, in order to have HB 300 pass, when we took \$18 million away from the way to vote districts, that also was going to be rectified. Is there any reason why that is not included in here? Or are these towns still going to swallow the \$18 million against what your committee said?

SENATOR MCCARLEY: I guess to respond to that, Senator Disnard, there was certainly further discussion about could we do anything more in terms of the weighting system for school districts. Indeed, it is not in

here, because in looking at it, to make those changes, did not actually produce the results that people thought it would. And in the end, that piece of corrections bill has not been brought forward.

SENATOR DISNARD: When might the communities, who lost the \$18 promised million, when might they expect some action?

SENATOR MCCARLEY: I guess, Senator Disnard, I would respectfully disagree with you that they lost the \$18 million. I don't personally believe they had the \$18 million. Indeed, we have talked about ways, and I believe in what we did with HB 117, we have done an absolutely best effort possible to funnel dollars to our poorest communities through the schedule and the weighting system that we have chosen. Going forward over the next two years, it is obviously all going to be looked at, and we may have to make some changes to that.

SENATOR FERNALD: Senator McCarley, I am trying to understand this co-op thing. It says at the bottom of page 2, "For purposes of crediting the co-ops adequate education costs to the preexisting districts within in the co-op, each preexisting district will have its share of the whole district's grant apportioned and accredited towards their share of the expenses within the co-op." I guess the part that I am trying to understand is, we calculate the education grants using not just the number of students, which we know town by town, district by district. But also the number of kids that are getting free lunch and the number of kids getting special education. It is my understanding that we don't have, the state does not have the information town by town, to figure out for example, what the adequate education grant would be for the town of Hancock, in my district, which is part of a co-op school district. Am I my correct that we do not have this information?

SENATOR MCCARLEY: My understanding is that data continues to be certainly not to the degree of the specificity that we would want to do it. So those are being done on a percentage basis back to the preexisting districts based on their percentage of students in the co-op. As again, using the best available data we have right now, that is the way those dollars will be distributed. So their percentage of kids will have an impact on where rates work, but in the end, the current...what they currently get under the grant would apply specifically to the town. The educationally disadvantaged children, and the free produced lunch weights, will be reflected in the distribution dependent on the percent of the students that the preexisting district sends to the co-op.

SENATOR FERNALD: So is it the intent to extent our data is not complete and we are going to try to do better in the years going forward? So that we can credit to the individual town within the school district for its poor kids or its special education kids?

SENATOR MCCARLEY: I think certainly as we go forward, that the discussion is within the adequacy commission, that the reporting functions currently being used are going to have to try to direct, and once the adequacy commission makes some decisions, those are going to have to be tied to the entire data processing going forward, to guarantee that we are not in a situation two years from now where we have not picked a direction, and have the ability to have the data to back up that direction. Which is why specifically, these entire issues are mentioned in the purpose statement, will be addressed as a part of the two commission's studies; because there is a taxing issue, and it is an education distribution issue.

SENATOR FRANCOUER: Senator McCarley, looking at page 5, is this an additional \$1.7 million and \$3 million in the year 2001? I am looking down on page 5, down on line 18-23, and it is talking about the alternative kindergartens? It is talking about in addition to the provisions in section 16, "the sum of \$1.7 million and the sum of \$3 million as hereby transfer." Is this additional money from previous HB 300?

SENATOR MCCARLEY: It is half again as much as HB 300. House Bill 300 had \$750 per pupil. These will be the total amounts, which you sort of had to double those numbers which is what it amounts. House Bill 300 had about \$900,000 in the first year, and \$1.5 million in the second year. This in effect, doubles those two lines, because the dollars will be flowing at roughly twice to seven fifty. So it will be going out at \$1600 per child. You don't add those onto HB 300, this will be the total distributed under the alternative kindergarten program.

SENATOR FRANCOUER: So the \$825 million is still the cap and this is just a redistribution of that \$825 million, not additional?

SENATOR MCCARLEY: No, this is additional money to the \$824.5 million.

SENATOR FRANCOUER: So this is going to push it up to another \$1.7 million?

SENATOR MCCARLEY: That is correct.

SENATOR FRANCOUER: Have you found more money in the budget?

SENATOR MCCARLEY: We will be working on the budget this afternoon, Senator Francoeur, and I would invite you come and see how we are doing.

SENATOR GORDON: I am rising in support of the amendment. I, as you all know, represent 32 towns, and the kids in those 32 towns go to 12 different high schools. Every single one of those high schools...those high schools are composed of multiple towns and multiple districts. The majority of them are cooperative school districts. What has happened in the formula, as it is being interpreted in the current bill, is just unexplainable results. One of the results that has been mentioned is up in Lincoln and Woodstock. In Lincoln and Woodstock you have two towns. You have Lincoln that is a donor town, and you have Woodstock that is a recipient town. When you apply the bill as it is currently being interpreted, the donor town, which is Lincoln, will have their tax rate go up about 50 cents a thousand. Where the recipient town Woodstock, because of the way that it is being applied, will have their tax rate go up about a \$1.50, three times more. It makes absolutely no sense to anyone. Basically, it is the way the formula is being applied. What this does is it changes the formula back to the way we understood it. When we originally were presented with HB 117, whether you voted for it or didn't, we were given a configuration of what impact it would have on our communities. Basically that impact was the way this amendment proposes to have the money distributed. That was the original intent, I believe, of HB 117. I believe that we should in fact venerate that intent. We should go back and make sure that the intent is carried out. Otherwise, the cooperative school districts, particularly those cooperative school districts that have some formula based upon school census as opposed to property valuation, are going to find themselves in situations where they just create an unfairness, an inequity. There is one other piece in here that this bill allows to happen, and that is alternative kindergarten programs are continued and perpetuated, and I have two particular towns in my district in Wentworth and Rumney,

where that is extremely important to them that those kindergartens be continued. I rise in support of the amendment, and I encourage all of you support the amendment as proposed to HB 265.

SENATOR F. KING: Senator McCarley, I continue to be confused a little bit about what we are doing, but that probably is not unusual. We had a lot of discussion earlier on in this issue about education; whether we should have an interim plan or not. Based on this discussion today and the discussions that I have been having, can I assume that, in fact, the law that we have passed is in fact an interim plan.

SENATOR MCCARLEY: I think the law that we passed in HB 117 is a law that indeed starts to address the problem, but now as in HB 117 again, as Senator Gordon has said, whether it was voted by each individual member here, we acknowledged in HB 117 that the issue of the cost of an adequate education and the impact on taxes, is certainly not clear yet, and going forward, those two commissions are going to have to put a lot of time and work to bring us to a point two years from now to how we can improve on what we have done.

SENATOR F.KING: So the answer is yes?

SENATOR MCCARLEY: I believe that I answered the question.

SENATOR FERNALD: This amendment does several different things, I think that the fix for Stratford is a great idea. I think that crediting all kindergarten kids with the same amount of adequacy grant is also a great idea, even though it apparently is more money than what we voted before. I have a problem with the cooperative school aspect of this bill, of this amendment. I represent 14 towns, and most of those towns are cooperative school districts too, so I am familiar with the issue. To explain the issue I am going to give you an extreme example. Let's say we have a cooperative school district and we have a child that needs an out-of-district placement that cost \$100,000. That is an expense to the school district, and that one \$100,000 additional expense gets paid by all the towns in the school district, divided up according to whatever their co-op formula is. Now, if for some reason we have a catastrophic aid from the state that goes to help that school district with that huge cost, that catastrophic aid gets credited to the entire district, because that entire district is paying for that additional special education cost. We do not credit that catastrophic aid to the town that "generates that special education kid" that goes to the district. Let's go to HB 117. We have in our formula, a recognition that special education costs more money than regular kids. And also that poor kids on average, cost more than not poor kids, so we give extra money for those poverty kids and for those special education kids. If we are correct in our assumption that special education cost more, and that poor kids cost more, those costs are being borne by the entire district. All the towns in the district are paying extra for all of those kids, and we are going to give the school districts extra money for those kids. What this bill does, is it gives the extra money to the town that generates the kids, rather to the entire school district, and that to me does not make any sense. It means that for example, in my district, Hancock, which is better off than other towns in the district, is going to paying extra for the special education kids, they do now, they are contributing their share for whatever the special education costs is for the district as a whole. But they are not going to get any credit for the special education children that come from other towns. The money that we are intending to use for reimbursing the special education costs of the district are actually going to the

credit of the individual towns where the kids come from. That does not make any sense to me. I recognize that there are anomaly's in HB 117 and Senator Gordon spoke to that, but the primary reason why, the anomaly is this, that in some co-op districts, the rich towns will have a bigger reduction in their property tax rate than in the poor towns. The reason why that is so, is because of the phase-in. In the first year when the rich towns are only paying 10 percent of the new property tax, their rate goes down. But at the end of the phase-in, they will be paying more than the poor towns, and those relative changes in the taxes that we are seeing in the first year, that everyone is all excited about, "oh look it, New London is getting a bigger break than Sutton, that is not fair". At the end of the six years in the phase-in that will go away, and then we will have in place this crazy idea, and the formula, and even though special education costs are picked by the entire school district, we are going to pay the special education money to the town that the money comes from. I would ask people to vote down this amendment, and let's vote on another one that votes on the Stratford thing, and does the kindergarten thing, and leave the co-op the way it is.

SENATOR BELOW: I rise in support of the floor amendment. I think that one very important aspect of this bill is that it puts all kindergartens on equal footing. As you know, in HB 300 that was passed, new kindergarten districts to start kindergartens in the past year, in the current year, or the next year, would only be receiving reimbursement at half the rate of existing kindergartens. In addition, there was an anomaly where the town of Springfield, which operates a kindergarten as a town, and has done so for almost 20 years, would also only be receiving reimbursement at half the rate of other districts. So one thing that this amendment does is fund kindergartens all on an equitable and equal basis, which is what we should be doing. It provides ineffectively, an appropriation to cover that. With regard to the co-op districts, I think the bill right up front recognizes in the first page, at line 22-23, that these issues need further study. As Senator King has said in a sense, this is an interim measure, that it needs further refinement, and further work. It recognizes that and places the issue to be studied by the Education, Finance and the Tax Equity Commission. In the first year that this is being implemented, where you have the extreme anomaly's of districts, where the most property wealthy communities with the very low tax rates now see the greatest reduction, proportionate reduction in their tax rates, and the disparity between towns can actually increase. In the Newfound area for instance, there is a 1 to 7 disparity in the tax rates. Hebron pays three dollars per thousand and Danbury pays over twenty dollars a thousand for the same cooperative district education. With the bill as it is being interpreted now, Hebron could have a 50 percent reduction in their school tax rate down to \$2 per thousand. Danbury would only see a reduction to 17, about a 15 percent reduction. Whereas, this approach most defectively, reduces the disparity in tax rates between towns with, in the co-op district, and treats towns within the co-op districts in a way that is comparable to towns that are not in co-op districts, so that all towns will have a similar affect, which is the affect that produces the greatest reduction in tax disparity, tax burden for funding the same education.

Recess.

Out of Recess.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Disnard.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, McCarley, Trombly, Blaisdell, Squires, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: Disnard, Roberge, Fernald, Francoeur, Krueger, Brown.

Yeas: 16 - Nays: 6

Floor Amendment adopted.

Ordered to third reading.

HB 295-FN-L, relative to alternative kindergarten programs in cooperative school districts. Education Committee. Vote 7-0. Inexpedient to Legislate, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 295 would have clarified the conditions under which school districts operate alternative kindergarten programs. Since the bill was introduced, the legislature passed HB 117. HB 117 repealed alternative kindergarten provisions, except those that were pre-existing in Wentworth, Rumney and Strafford as specified in the bill that we just acted on. Therefore, HB 295 has moved and the education committee voted unanimously to recommend this bill inexpedient to legislate. I urge the Senate to vote inexpedient to legislate, and I will follow that with a motion to table this bill.

Senator McCarley moved to have **HB 295-FN-L**, relative to alternative kindergarten programs in cooperative school districts, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 295-FN-L, relative to alternative kindergarten programs in cooperative school districts

HB 454, requiring the university system of New Hampshire board of trustees to initiate a study of the status of veterans' access to higher education within the university system. Education Committee. Vote 7-0. Inexpedient to Legislate, Senator McCarley for the committee.

SENATOR MCCARLEY: Mr. President, this bill would take the unusual step of requiring a nonlegislative entity to conduct a study for the legislature. While the University System representative, assure us that they are ready and willing to provide any information that we request, it is not the policy of the Senate to enact legislation requiring an outside group to conduct a formal study committee. A subject matter in question, that a Veteran's Access to Higher Education in New Hampshire is certainly worthy of inquiry, and can be pursued through veteran's organizations and the University System. However, the education committee voted unanimously to recommend this bill inexpedient to legislate

Committee report of inexpedient to legislate is adopted.

Senators Gordon and F. King are in opposition to the motion of inexpedient to legislate on HB 454.

HB 487, relative to the adoption of bonds or notes in certain school districts and municipalities. Education Committee. Vote 5-1. Ought to Pass, Senator Cohen for the committee.

SENATOR COHEN: House Bill 487 changes the majority needed to approve a bond issue in SB 2 districts from the current 2/3 to 3/5. Those of us that were here at the time remember that SB 2 was a fairly controversial bill. There was great fear that adopting the official ballot voting would cause a fundamental change to the deliberative face to face town meeting format followed in New Hampshire for generations. Now that we have had time to see SB 2 in operation, we are able to assess its benefits and its costs. There is no doubt that one benefit of SB 2 is that more people are voting, but the drawback is that we have lost the give and take of ideas in a democratic forum, lost deliberations and debates of a local town meeting, lost the ability to talk to our neighbors about issues of mutual concern. Senate Bill 2 has eroded this established process and changed the practice of local government in New Hampshire. I am not saying that SB 2 was a bad idea. As I mentioned earlier, more people are voting and that is good. What we don't really know is whether all these new voters are taking an active and an informed interest in the issues that they are voting on. This is especially important when it comes to adopting bonds for school districts, which currently require a 2/3 majority to pass. Many voters, as we all know, simply vote no on any bond issue without having to take the time to listen to arguments that are in favor. It is just a matter of mailing in your ballot, why to go to the extra trouble of going to the meeting and becoming informed about the issues. Here is one very telling analysis. The outcomes of the school district's bond issues votes in March 1999, illustrate that bond issues are casualties of the switched of SB 2 voting. In towns with traditional meetings, 12 bond issues passed and six failed, that is a 67 percent passage rate. But for towns with SB 2 voting, eight bond issues passed, and 14 failed, and that is a 64 percent failure rate. If a 3/5 majority requirement had been in place in those SB 2 towns, there would have been a 64 percent passage rate on those bond issues. It is clear that SB 2, where it is in effect, has changed the voting dynamics, and the schools are being hurt by it. Facilities' needs are seriously being compromised, this impedes our children's education. It even creates safety and accreditation issues. This bill only makes a small change from 2/3 to 3/5, and in other words, it reduces the majority required from 66.7 percent to 60 percent, not a dramatic change and still a super majority, but it does correct the imbalance that has resulted demonstrably to SB 2 voting procedures. Proposed changes to 3/5 would still require a super majority to approve long term debt, a 2/3 requirement in SB 2 communities in an essence still requiring more. Passage of a bond issue under SB 2 has become a sell unfortunately, and requires the kind of campaign complete with bumper stickers usually directed by a marketing expert and often results in significant cost to the district. At the same time, building costs escalate, the problems worsen, accreditation is at risk, some students spend their entire high school experience in deplorable conditions. Look at the numbers. All HB 487 would do is level the field so that result of bond issues are not askew to different methods of voting, and I strongly urge you to support the education committee recommendation of ought to pass.

SENATOR FRANCOEUR: After reviewing HB 487, it has come to my attention that it is just the opposite. In a couple of towns that I represent here today do have SB 2 and it has contentiously in the years past, as far as when you had deliberative sessions that have lasted till two o'clock in the morning and beyond and also those elderly that could not attend or could not come out after dark. There are a lot of reasons why we passed SB 2 in these towns with a majority vote to even get them in

place and that to see that they are working. I would take contrast with those who say that we don't have deliberative sessions, we still do. Matter of fact, we are within almost 80 percent of those attending that we had prior to those with just the voting only prior to SB 2. Also, we have cable and internet service which provides coverage of them and they are repeated numerous times on the television, on the cable channels. There are more voters, considerably more. We have gone from about 500 to about 4000. And, yes, we should be very considerate when we are binding the individuals of the town for more than one year. A lot of these bonds are 20/30 years. I ask you to take, it is not the amount of money that is being spent, but let's stop and let's take a look at the test scores of the students of the towns that we are spending more money on. Is there a difference between those that the bonds passed in, and those that didn't? Yes, I do believe that we should have to sell, a good idea is not hard to sell, and our constituents can tell the difference. I would ask the Senate today to in-expedient to legislate HB 487.

Recess.

Out of Recess.

Question is on the motion of ought to pass.

A roll call was requested by Senator Roberge.

Seconded by Senator Francoeur.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Francoeur, Krueger, Brown.

Yeas: 14 - Nays: 8

Adopted.

Ordered to third reading.

HB 675-FN, extending the applicability of postsecondary educational assistance for New Hampshire national guard members and requiring an annual reporting from state-supported postsecondary institutions. Education Committee. Vote 7-0. Ought to pass with amendment, Senator J. King for the committee.

1999-1061s

04/10

Amendment to HB 675-FN

Amend the bill by replacing section 1 with the following:

1 Prospective Repeal Extended; Postsecondary Educational Assistance for Members of the New Hampshire National Guard. Amend 1996, 237:7, I as amended by 1998, 65:2 to read as follows:

I. Section 6 of this act shall take effect [~~June 1, 1999~~] **July 1, 2004**. Amend RSA 110-B:63-g as inserted by section 2 of the bill by replacing it with the following:

110-B:63-g Report. The chancellor of the university system on behalf of the university system and the commissioner of the regional community-technical colleges on behalf of the regional community-technical institute and colleges shall, no later than November 1 of each year, submit a report to the speaker of the house, the senate president, and the

governor detailing the number of national guard members enrolled at postsecondary institutions for the prior fiscal year under this subdivision and the specific courses or curriculum in which such members are enrolled.

SENATOR J. KING: This bill extends postsecondary educational assistance to all the members of the New Hampshire National Guard until July 1, 2004. This program has been in existence since 1995, it has been a proven benefit to the New Hampshire National Guard members. There is no cost to the university, and they do support it. This program allows you to enroll in space on an available basis, for classes at the University of New Hampshire. Good Bill, continue it.

Amendment adopted.

Ordered to third reading.

HB 726-FN, relative to the credentialing of personnel in early care and education programs, establishing a fee for such credential, and making an appropriation therefor. Education Committee. Vote 6-0. Ought to Pass, Senator Larsen for the committee.

SENATOR LARSEN: Mr. President, and members of the Senate, while we too often undervalue what childcare is, an oversight of greatest natural resource, our children. In 1998, a study committee, which I served on, was established to look at several elements of childcare that needed to be addressed, including access, quality, affordability and compensation. House Bill 726 grew out of that study, and it is an attempt to improve on one aspect of childcare in New Hampshire, and that is professionalizing childcare workers. Childcare workers are responsible for the medical, legal, educational and safety related measures of our children. Given the magnitude of these responsibilities, the study committee decided that the childcare workers should be encouraged through incentives, voluntary incentives, to seek specialized education, which would further professionalize childcare in New Hampshire. Currently, we have no state level credential or certification process for these workers. This bill is the modest step of creating a voluntary certification that can be requested by childcare workers that have met requirements set by the Health and Human Services. A fee to fund the program accompanies each application for the voluntary credential. Total cost to the state is less than \$10,000 over the biennium. Implementing this legislation, modest as it is, will make important contributions to the status of childcare in New Hampshire. It will enhance the pride and the professionalism of childcare workers. A state credential is likely to convey a sense of value to workers who are at the bottom of a pay scale earning on average, less than fast food clerks and pet groomers. In doing so, it may lessen the appalling turn over rate which is currently among child care workers, a turnover rate, 30 to 40 percent. It also can give parents a sense of confidence and accountability to whom they entrust their children. That they are certified by the state of New Hampshire if they voluntary choose to be so. Passing HB 726 is an excellent step to improving childcare. The education committee urges you to join us in voting ought to pass.

Adopted.

Ordered to third reading.

HB 561-FN, reducing lab analysis fees of chemical analyses of water. Environment Committee. Vote 4-0. Ought to Pass, Senator Johnson for the committee.

SENATOR JOHNSON: I rise in support of HB 561-FN. This bill updates the schedule of both analytical parameters and prices offered by the environmental service laboratory. Changes in lab procedures, along with the steady demand for safe drinking water act analysis, have resulted in a decrease in cost for some tests. This legislation will ease a financial burden of water quality test for homeowners and public water systems, and will provide homeowners with more information about the water that they are drinking. Therefore, I urge to vote ought to pass on HB 561.

Adopted.

Ordered to third reading.

HB 609, relative to construction of a sewer force main through a state land conservation easement. Environment Committee. Vote 5-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: I rise in support of HB 609. This bill is important for three reasons. First, the sewer line proposed in this bill will extend 4.3 miles along existing roadways and undeveloped land between the Sullivan County complex and its connection with the Claremont Sewer interceptor. Second, the bill recognizes that the proposed forced main will be utilized solely for public purposes, with no private connections allowed and the action will have no impact on the conservation values of the specific piece of agricultural land on which the conservation easement was purchased by the state. The land owner will continue to farm the property, and the rights of the general public will not be diminished, and there will be no scenic impact to the easement and the state's investment in the conservation lands will not depreciate as a result of the action. Finally, this is the first bill, since the inception of the land conservation investment program, which requires legislative approval to override a specific deed restriction, held by the General Court in trust for the general public. This bill reaffirms the legislature's commitment to the purposes of the land conservation investment program, while acknowledging that in this particular instance, and with the specific statutory restrictions, those purposes will not be impaired by the imposed action.

SENATOR DISNARD: On behalf of the voters of Sullivan County, I hope you will pass the bill.

Adopted.

Ordered to third reading.

HB 274-FN, relative to the office of the consumer advocate. Executive Departments and Administration Committee. Vote 4-0. Ought to Pass, Senator Francoeur for the committee.

SENATOR FRANCOEUR: This bill establishes a four-year term for the office of the consumer advocate. It also stipulates that the consumer advocate will be appointed by the governor and approved by the council. The bill allows the consumer advocate to appoint an assistant. The bill further creates the Residential Ratepayer Advisory Board, and designates how members on the board are selected. There is currently an ad hoc voluntary board that is acting in the same way that the board would function. This bill gives the board statutory credibility. Though this bill creates a new four-year term for the consumer advocate, should this bill pass, the current consumer advocate would retain the position until December 31, 2002. This committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 375, relative to substitutions for disqualified and deceased candidates. Executive Departments and Administration Committee. Vote 3-0. Ought to Pass, Senator Cohen for the committee.

Senator Cohen moved to have **HB 375**, relative to substitutions for disqualified and deceased candidates, laid on the table.

Adopted.

LAI D O N T H E T A B L E

HB 375, relative to substitutions for disqualified and deceased candidates.

HB 397, establishing a 4-year term for the commissioner of the department of corrections, and clarifying the process of appointing personnel under the commissioner. Executive Departments and Administration Committee. Vote 4-0. Inexpedient to Legislate, Senator Cohen for the committee.

SENATOR COHEN: This bill would have established a four-year term for the commissioner of the Department of Corrections. The committee feels that the commissioner needs to be held accountable to the governor, and that this legislation would limit that accountability to only every four years. The Department of Corrections is an important department and especially in light of the new prison that is being built. It is important to ensure that it is run properly. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 524, increasing the alternate members on the public employee labor relations board. Executive Departments and Administration Committee. Vote 3-0 Ought to Pass, Senator Brown for the committee.

SENATOR BROWN: This bill changes the membership of the public employee labor relations board by adding an additional public member. An additional alternate public member will help to ensure that the board has enough members to hold meetings when scheduling conflicts arise among members. The committee recommends this bill ought to pass.

Adopted.

Ordered to third reading.

HB 586, relative to rulemaking authority of the board of chiropractic examiners and unlawful practice of chiropractic. Executive Departments and Administration Committee. Vote 4-0. Ought to Pass, Senator Cohen for the committee.

SENATOR COHEN: This bill allows the Board of Chiropractic Examiners to adopt rules to specifically define certain terms relative to the practice of chiropractic. These definitions will help specify the distinct practice and also it removes the Commissioner of Department of Health and Human Services oversight of the board's rulemaking. Further, the bill adds a penalty for unlawful practice of chiropractic. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 688, relative to the custody and escheat of abandoned and unclaimed property. Vote 3-0 Executive Departments and Administration Committee. Ought to Pass, Senator Brown for the committee.

SENATOR BROWN: This bill simplifies the abandoned property procedures for the Treasury Department. The bill eliminates archaic sections that no longer apply. It also alters procedures so that smaller institutions report abandoned property to the Treasury Department in instances when the owners may be in other states. In these cases, the department would contact the other state on behalf of the institution. This bill also eliminates the requirement that the department obtain permission through the Superior Court before taking control of abandoned property. The property that the department controls is always recoverable by the rightful owner. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 236-FN-L, relative to felonious disarming of a law enforcement officer. Finance Committee. Vote 7-0. Ought to Pass, Senator F. King for the committee.

SENATOR F. KING: House Bill 236-FN-L was referred to Finance by the Senate Judiciary Committee. This bill makes the taking of a firearm from a law enforcement officer, or an attempt to taking a firearm from a law enforcement officer, when the firearm is discharged, is a Class A felony. The Administrative Office of the courts, the judicial council, the Department of Corrections were unable to determine what the costs of this bill would be, but it seemed not to be a significant issue. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 272-FN, relative to the use of laser pointing devices. Finance Committee. Vote 7-0. Ought to Pass, Senator J. King for the committee.

SENATOR J. KING: House Bill 272-FN, criminalizes certain uses of laser pointing devices. The administrative office of the court does not anticipate it, use of laser pointing devices alone will impact caseload or cost. The judicial council cannot estimate the impact on defense cost, however. The Class A misdemeanor carries a right to council. The standard contact rate of 220...the individual...and a misdemeanor is for a period not more than one year, therefore, the individual, will be held at a county level. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 495-FN-A, relative to reauthorizing the motor oil discharge cleanup fund and increasing the fuel oil discharge cleanup fund fee, allowing coverage for discharge prevention, and allowing reimbursement for replacing substandard tanks. Finance Committee. Vote 7-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: This bill was referred to Finance by the Senate Environment Committee. The Finance Committee did not see any problem with it and urges its passage.

Adopted.

Ordered to third reading.

SB 219-FN-L, establishing a procedure for providing educational improvement assistance to local school districts. Finance Committee. Vote 5-2. Ought to pass with amendment, Senator McCarley for the committee.

1999-1590s

04/10

Amendment to SB 219-FN-LOCAL

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

2 Adequate Public Education; Delivery of an Adequate Public Education; Local Educational Improvement Plan. RSA 193-E:3 is repealed and reenacted to read as follows:

193-E:3 Delivery of an Adequate Education.

I. In order to implement New Hampshire's policy of providing all students with the opportunity to acquire an adequate education, each school district shall put in place a local education improvement and assessment plan as follows: by June 30, 2001, and every 3 years thereafter, each school district, through a process involving parents, teachers, employers, and other community members, shall prepare and implement a local education improvement and assessment plan and file such plan with the department of education. The department of education shall comment to the district on the plan in a timely fashion. Districts may reference the state-wide education improvement and assessment plan established in RSA 193-C, in preparing the district plan. At a minimum, the plan shall include:

(a) Curriculum and proficiency standards for all students.

(b) School and district performance goals based on reported data on educational indicators listed in paragraph II.

(c) Procedures for aligning curriculum, instructional practices, and student and programmatic assessments, including annual reporting of results.

(d) Local assessment measures which focus on individual student performance.

(e) Role of support services and programs.

(f) Role of instructional leadership.

(g) Strategies to promote family and community involvement; and

(h) Staff supervision and evaluation and performance-based professional development.

II.(a) By July 15, 2000, each school district shall report to the department of education its data for the previous school year on its school and district performance indicators. The requirements for data keeping and the form of the report shall be established in accordance with rules adopted by the state board of education. Performance indicators shall include the following areas:

(1) Attendance and dropout rates.

(2) School environment indicators, such as safe-school data.

(3) Proportion of graduating students going on to post-secondary education, military service, and the workplace; and

(4) Performance on state tests administered pursuant to RSA 193-C and other standardized tests administered at local option.

(b) In addition, local districts shall report on locally developed performance indicators and assessment measures.

III. Beginning December 1, 2002, and annually thereafter, the commissioner of education shall determine the extent to which each school district is meeting the requirements of its local education improvement and assessment plan developed under paragraph I of this section. The commissioner of education shall also determine whether each elementary, middle, junior high and high school in each district meets the standards for school approval adopted by the state board of education pursuant to RSA 186:8. A school district that meets or exceeds the quality standards in its local education improvement and assessment plan shall

be recognized in accordance with RSA 193-E:4, II. A school district that does not meet the quality standards shall be designated by the commissioner of education as a school district in need of assistance. Each year, the commissioner of education shall provide a report of such determinations to the governor and council, state board of education, speaker of the house, president of the senate, and chairs of the house and senate committees responsible for education and finance.

IV. Beginning no later than December 1, 2000, and annually thereafter, the department of education shall issue a report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall include demographic and student performance data including, but not limited to, school and district performance on state tests administered pursuant to RSA 193-C, other standardized tests administered at local option by at least 25 percent of school districts, data provided under paragraph I of this section, as well as other relevant statistics. Comparisons with state averages and with the condition of each district and school in comparison with previous years shall be provided, including, but not limited to, statewide rankings of each district and school on the state tests administered pursuant to RSA 193-C and on other standardized tests administered at local option by at least 25 percent of the school districts. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school board with the identification of trends, strengths, and weaknesses and the development of its local education improvement and assessment plan.

3 New Sections; Adequate Public Education; Education Improvement Assistance to Local School Districts. Amend RSA 193-E by inserting after section 3 the following new sections:

193-E:4 Educational Assistance to Local School Districts.

I. Within 60 days of the issuance of the annual report on the condition of education as provided in RSA 193-E:3, IV each school board shall provide an opportunity for public discussion of the report at a meeting of the board called for the exclusive purpose of reviewing the report. At least 7 days advance public notice shall be given.

II. A school district that has been identified pursuant to RSA 193-E:3, III as meeting or exceeding the quality standards shall receive formal recognition from the state board of education and the governor. Any school district, school, or teacher that demonstrates a best practice worthy of recognition shall also receive formal recognition from the state board of education and the governor. Such school districts, schools, or teachers shall be eligible to apply for grants from a special projects and improvement fund administered by the department of education pursuant to RSA 193-E:5, VII.

III.(a) A school board, in response to the annual report on the condition of education, may request from the department of education the assistance available under paragraph IV.

(1) If a school board requests assistance on behalf of a school district that has not been designated as a school district in need of assistance pursuant to RSA 193-E:3, III, then the assistance requested under paragraph IV to be provided by the department of education shall be based on the availability of resources as determined by the commissioner of education.

(2) If a school board requests assistance on behalf of a school district that has been designated as a school district in need of assistance, then the school or district shall receive assistance from the department of education in accordance with subparagraph IV(a)(2).

(b) If a school board has received notice pursuant to paragraph VI, then the school district shall receive assistance from the department of education in accordance with subparagraph IV(a)(3).

IV. The department of education and the state board of education shall work cooperatively with school boards to provide assistance as follows:

(a)(1) Within 30 days of a school board's request for assistance pursuant to subparagraph III(a)(1), the commissioner of education may appoint a quality assurance team to review the educational programming and effectiveness of the school district. In cooperation with local officials, the team shall prepare and present a report at a regularly scheduled public meeting of the local school board and to the state board of education. This report shall be issued within 4 months of the team's appointment. Based on this report, the local school board and superintendent shall, within 6 months of the issuance of the report, prepare a corrective action plan and submit it to the state board of education for approval. If the plan is not approved, the local school board may revise the plan and resubmit it to the state board. The school board may decide to implement the corrective action plan on its own, through the use of a technical assistance advisor, or through the use of a peer review team. Any such decision shall be included in the corrective action plan.

(2) Within 30 days of a school board's request for assistance pursuant to subparagraph III(a)(2), the commissioner of education shall appoint a quality assurance team to review the educational programming and effectiveness of the school district. In cooperation with local officials, the team shall prepare and present a report at a regularly scheduled public meeting of the local school board and to the state board of education. This report shall be issued within 4 months of the team's appointment. Based on this report, the local school board and superintendent shall, within 6 months of the issuance of the report, prepare a corrective action plan and submit it to the state board of education for approval. The school board may decide to implement the corrective action plan on its own, through the use of a technical assistance advisor, or through the use of a peer review team. Any such decision shall be included in the corrective action plan.

(3) Within 30 days of the issuance of a notice to a school board pursuant to paragraph VI, the commissioner of education shall appoint a quality assurance team to review the educational programming and effectiveness of the school district. In cooperation with local officials, the team shall prepare and present a report at a regularly scheduled public meeting of the local school board and to the state board of education. This report shall be issued within 4 months of the team's appointment. Based on this report, the local school board and superintendent shall, within 6 months of the issuance of the report, prepare a corrective action plan and submit it to the state board of education for approval. The school board may decide to implement the corrective action plan on its own, through the use of a technical assistance advisor, or through the use of a peer review team. Any such decision shall be included in the corrective action plan.

(b) If the state board of education does not approve a corrective action plan submitted in accordance with subparagraphs IV(a)(2) or IV(a)(3), then the commissioner of education shall work with the local school board and superintendent to revise the corrective action plan. If the local school board and superintendent do not revise the corrective action plan within 2 months or the state board of education does not approve the revised corrective action plan, then the commissioner

of education shall submit in a timely manner a corrective action plan, including methods for implementing it, to the state board of education for approval without further action of the local school board.

(c) If an approved corrective action plan includes the use of a technical assistance advisor, then the commissioner of education shall appoint a technical assistance advisor who is authorized to access the state special projects and improvement fund to provide assistance to local school district staff in the implementation of the corrective action plan until the goals of the corrective action plan are met.

(d) If an approved corrective action plan includes the use of a peer review team, then the commissioner of education shall name a peer review team consisting of one person appointed by the chairperson of the local school board, one person appointed by the chairperson of the state board of education, and a third member chosen by the local school board and state board of education appointees to advise the school district's superintendent and the local school board relative to the implementation of the corrective action plan until the goals of the corrective action plan are met.

V. If, by the time of the annual school district meeting or by April 30 in a city with a dependent school department, the school board of a school district in which a school district has been designated as a school district in need of assistance pursuant to RSA 193-E:3, III has not submitted a request for assistance under paragraph III, then the legislative body of the school district may vote to direct the school board to submit a request for assistance under paragraph III. If a majority of the legislative body votes in favor of requesting assistance, then that assistance shall be requested and provided in accordance with paragraphs III and IV.

VI. A school board shall have one year from the date that a school district has been designated as a school district in need of assistance pursuant to RSA 193-E:3, III to remedy identified problems at the local level. If the school district is designated as a school district in need of assistance and the school board does not request assistance under paragraph III within one year of such designation, then on December 1 of the year following the designation, if the school district continues to be designated as a school district in need of assistance, the commissioner of education shall issue a notice to the school board and shall initiate a process for providing assistance pursuant to subparagraph IV(a)(3), without further action of the school board.

193-E:5 Assistance to Local School Districts.

I. By June 30, 2000, and every 3 years thereafter, the state board of education through a process that provides opportunities for public input from parents, employers, educators, and other citizens shall review and update the statewide education improvement plan developed in accordance with RSA 193-C that describes how the department of education will help schools and school districts improve student achievement. The plan shall include goals and strategies for the delivery of technical assistance and professional development, the sharing of best practices, the modification or expansion of existing programs, and the establishment of new programs.

II.(a) Notwithstanding any other provisions of law, no later than June 30, 2001, and every 5 years thereafter, the state board of education shall review and update school approval standards based on input from parents, employers, educators and other citizens.

(b) The state board of education shall work with a joint select committee of the house and senate education committees, whose members shall be appointed by the speaker of the house and the president of the senate, to identify amendments that should be made to the school ap-

proval standards to reflect the provisions of RSA 193-E. Further, any proposed amendments shall consider the recommendations of the adequate education and education financing commission established in RSA 198:49 and should be reviewed by the house and senate education committees, which may submit comments on the proposed amendments to the state board of education. The state board of education shall consider such recommendations and comments in adopting amendments to the school approval standards pursuant to RSA 541-A.

III. Beginning no later than January 1, 2000 the commissioner of education shall ensure that the state curriculum frameworks adopted under RSA 193-C shall be reviewed on a staggered, 5-year cycle such that no more than 2 frameworks are being reviewed at the same time. In order to provide reliable annual comparisons of data at the school and district levels, the statewide improvement and assessment program shall be expanded to include more than the 3 grades required under RSA 193-C:6.

IV. No later than January 1, 2000, the state board of education shall adopt rules, pursuant to RSA 541-A, establishing the requirements for data keeping and the form of the report as required in RSA 193-E:3, II.

V. No later than December 1, 2000, the state board of education shall adopt rules, pursuant to RSA 541-A, for the approval of corrective action plans as required by RSA 193-E:4, IV(a).

VI. The department of education shall implement credible procedures to review compliance with school approval standards.

VII. A special projects and improvement fund shall be established in the department of education and continually appropriated to the department. The department of education shall use moneys appropriated for this fund to provide grants to school districts pursuant to RSA 193-E:4, II. The department of education shall also use moneys appropriated for this fund to support the implementation of approved corrective action plans. The technical assistance advisor assigned to work in school districts pursuant to subparagraph IV(c) shall be authorized to access this fund in accordance with procedures established by the department of education.

193-E:6 Enforcement. The attorney general has authority to enforce the provisions of this act in accordance with New Hampshire law through appropriate civil and equitable relief, including but not limited to injunctive relief.

4 Repeal. RSA 194:23-d, relative to state financial aid to elementary schools and high schools which are approved by the state board of education, is repealed.

5 Effective Date. This act shall take effect July 1, 1999.

Senator McCarley moved to rerefer.

Adopted.

SB 219-FN-L, is rereferred to the Education Committee.

SB 228-FN, relative to spousal benefits upon the death of certain retired group II members of the New Hampshire retirement system. Finance Committee. Vote 7-0. Ought to Pass, Senator J. King for the committee.

SENATOR J. KING: This bill provides a retirement allowance for a surviving spouse of retired group II police and firemen before April 1, 1987. The cost for funding the benefits provided by this bill will be funded by the special account. Those who had options at the time of retirement will be allowed to continue. This bill is not an option, it is a benefit. Senate Bill 228-FN, will provide a benefit equal to 50 percent of the member's benefits to the surviving spouse. Both committees vote ought to pass on this bill.

Adopted.

Ordered to third reading.

HB 66-FN, relative to disability retirement benefits for retirement system members permanently incapacitated for duty. Insurance Committee. Vote 5-0. Ought to Pass, Senator J. King for the committee.

SENATOR J. KING: Currently, when a public employee member of the New Hampshire retirement system receives workers' compensation benefits for on the job injury, that injury is considered work related for retirement disability benefits as well. This works well, except for one exception, that exception is a so-called nuisance lump sum settlement of workers' claims. These are settlements for claims that were initially denied by the insurance carrier and were never found to be compensable by the Department of Labor. These are generally small payments by the insurance company to avoid the cost of litigation; however, since any payment technically means that the injury has been found compensable, these lump sum payments created a problem for the New Hampshire Retirement System. The Insurance Committee believes that under the circumstances, the law should be changed to require these claimants to prove to the Retirement System that the disability is work related. House Bill 66-FN closes this loophole and will make it so that they will have to prove that there is a disability there. The committee recommends ought to pass.

Adopted.**Ordered to third reading.**

HB 88-FN, relative to purchasing credit for prior service for certain employees in the New Hampshire retirement system. Insurance Committee. Vote 4-0. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President and members of the Senate. This is a very simple bill that was requested by the trustees of the New Hampshire Retirement System. When an employee decides to join the Retirement System... the employee has the option to purchasing credit for prior services. Currently, the employees have to purchase the credit within one year of the date of the employee's participation. This bill would extend that time to five years; the bill will help those employees who have to buy into the retirement system, but may not be able to afford it within the first year. No cost to the state for the bill and no detrimental effect to the Retirement System. The trustees have asked to put this provision into the statute, rather than leave it to the discretion of the board. The committee was unanimous in voting this bill out as ought to pass.

Adopted.**Ordered to third reading.**

HB 469, raising the medical payments coverage under automobile insurance policies. Insurance Committee. Vote 5-0. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: House Bill 469 raises the limits from minimum medical pay coverage under the auto policy from \$1000 to \$5000. This type of insurance covers medical, surgical, and dental and funeral to named insurers, and members of their household, and certain others. For example, friends that are riding in the insured car at the time of an accident. Medical pay coverage is not a liability coverage. The bill is necessary because the last time this issue was addressed in the statute it was in the late 70's. Obviously, \$1000 as a minimum coverage today does

not amount to very much, and this is not a new mandate, just a financial appropriate update to the current option. The committee was unanimous in voting this bill out as ought to pass.

Adopted.

Ordered to third reading.

HB 471, exempting certain family owned and operated businesses from certain requirements in the workers' compensation act relative to safety programs. Insurance Committee. Vote 5-0. Inexpedient to Legislate, Senator Fraser for the committee.

SENATOR FRASER: House Bill 471 would create an exemption to certain safety requirements in the workers' compensation act for family owned businesses with fewer than 15 employees. While the committee could sympathize with those who feel burdened by the regulatory requirements, we strongly feel that safety is not an area where the state should compromise. If this bill were to become law, eligible companies that go three years without a loss time claim would become exempt from safety requirements as required under RSA 281-A, the Workers' Compensation Act. The premise of HB 471 seems to be when a company proves over three years that New Hampshire safety requirements are effective in preventing injuries, then it is time to remove the requirements. That simply makes no sense. At worse, that provides an incentive not to report cases of injury. Testimony from several individuals in group II, oppose this bill, and including the Department of Labor, supported the assertion of safety requirements that were implemented in 1994. By the way Mr. President, you and I were involved in that, and that proved to be effective reducing workers' compensation claims and creating a safer environment in which to work. Another problem with the bill is the lack of clarity in defining what a family owned and operated business is. Neither the sponsor or the supporters of the bill or the Department of Labor could provide a useful definition to determine eligibility for this family ownership exemption. This bill came out of the House Labor Committee with a split vote and the Senate Insurance Committee was unanimous in reporting this bill out as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 473, establishing a committee to study the non-group health insurance market. Insurance Committee. Vote 5-0. Ought to pass with amendment, Senator Squires for the committee.

1999-1547s

01/09

Amendment to HB 473

Amend the bill by replacing section 6 with the following:

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

SENATOR SQUIRES: The problem with individuals without health insurance is like a silent plague. It is growing, and unless you get it, it is somewhat irrelevant, but like all plagues, this one left unattended will consume us, in some manner, it already is. We have spent an enormous amount of time this session improving the coverage for people who do have benefits, and we have been unable to address those individuals who don't have any benefits. This study committee, and this issue, were it not for education and budget problems, be as important a thing as we can do. This is an extremely critical issue and finally we are going to address it in some organized manner. I urge you all to support it.

Amendment adopted.

Ordered to third reading.

HB 485-FN, relative to the calculation of unemployment compensation benefits. Insurance Committee. Vote 3-0. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: The Unemployment Compensation Advisory Council requested this bill, to help calculate unemployment benefits. The bill is necessary because employers seem to be increasingly savvy about circumventing unemployment compensation laws. For example, companies can be held responsible under certain circumstances, for paying unemployment after a person has worked at the company for more than four consecutive weeks. So some companies will employ a person for four weeks, lay them off for one, rehire them for four weeks, and so on. House Bill 485-FN fixes that by changing the time to any nine weeks of employment, in the proceeding in the thirteenth week period. Another change brought about by this bill, is to put more of the information-gathering burden on the Department of Labor and less on the companies. The current system has the company filling out a form when an employee has been separated, but the Department of Labor has to almost always call for follow up information. This bill changes the approach so that the department is responsible for making the initial phone call to get whatever information is needed to evaluate a claim. The Department feels that this will streamline the process and make it easy for everyone involved. There are a few other technical fixes in the bill, again designed to have rationalized and streamline the process. No one opposed the bill at the public hearing, and it has the unanimous recommendation of both the House Labor Committee and the Senate Insurance Committee. I urge you to vote ought to pass.

Adopted.**Ordered to third reading.**

HB 742, defining "domestic employee" for purposes of workers' compensation. Insurance Committee. Vote 4-0. Ought to pass with amendment, Senator Fraser for the committee.

1999-1522s

01/10

Amendment to HB 742

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Definitions Added. Amend RSA 281-A:2 by inserting after paragraph V the following new paragraphs:

V-a. "Domestic", "domestic employee" or "domestic worker" means a person performing domestic services in a private residence of the employer, where the employer is an individual, family, local college club, or local chapter of a college fraternity or sorority and not an agency or other entity engaged in the business of providing domestic workers to the public and the person is not defined as an independent contractor under RSA 281-A:2, VI(b).

V-b.(a) "Domestic labor" or "domestic services" means the performance of such duties as housekeeping, childcare, gardening, handy person work, and serving as a companion or caregiver for children or others who are not physically or mentally infirm.

(b) "Domestic labor" or "domestic services" shall also include the services rendered by paid roommates or live-in companions who provide fellowship, care, and protection for persons who because of advanced age, or physical or mental infirmity cannot care for their own

needs, regardless of whether the paid roommate or companion is employed by an agency or entity other than the person using such services, but subject to the following limitations:

(1) The services may encompass housekeeping duties provided such services do not exceed 20 percent of the total hours worked; and

(2) The services do not include those relating to the care and protection of the aged and infirm that require and are performed by specially trained personnel such as registered or licensed practical nurses or similarly trained personnel.

SENATOR FRASER: Mr. President, this bill is a result of a court case in which a person that was working on a home was injured and claimed compensation of the homeowners, workers' compensation as a domestic employee. The court determined that the worker was actually an independent contractor; therefore, not eligible for workers' compensation. Though the court noted that the term "domestic employee" was not adequately defined in the statute. This bill puts a definition of "domestic employee" into the statute, so that in the future, it will not have to be individually determined by the court.

Amendment adopted.

Ordered to third reading.

HB 685-FN-A, relative to the duties of the New Hampshire land and community heritage commission. Internal Affairs Committee. Vote 3-0. Ought to pass with amendment, Senator Below for the committee.

1999-1565s

05/09

Amendment to HB 685-FN-A

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

AN ACT relative to the duties of the New Hampshire land and community heritage commission and making an appropriation therefor.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as section 4:

3 Appropriation; Department of Cultural Resources; New Hampshire Land and Community Heritage Commission. The sum of \$15,000 is hereby appropriated to the department of cultural resources for the fiscal year ending June 30, 2000, for the purpose of supplementing funds raised privately in anticipation of this appropriation for the purposes of continued staffing, operational support, and public outreach and communication for the New Hampshire land and community heritage commission during the 1999 legislative session. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

1999-1565s

AMENDED ANALYSIS

This bill clarifies the duties of the New Hampshire land and community heritage commission, and makes an appropriation to the department of cultural resources to fund the second year of the New Hampshire land and community heritage commission's study.

SENATOR BELOW: This bill accepts the findings of the New Hampshire Land and Community Heritage Commission and continues the commission with some additional duties. The commission is working towards the establishment of a permanent program. The work of the commission has tremendous public support, and the public benefits from the preservation of open lands and continues safeguarding of the state's resources. The

commission is pursuing funding through both state departments and private sources. Although their funding is not firm at this time, they did operate last year with a grant from the New Hampshire Charitable Foundation. The committee amendment includes a \$15,000 appropriation to the commission to enable the commission to complete its duties. There was an appropriation in the original bill, but that money was removed in the House. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Order to third reading

HB 367, relative to requesting certifying scientists to appear at DWI hearings. Judiciary Committee. Vote 4-0. Ought to pass with amendment, Senator Fernald for the committee.

1999-1582s

05/09

Amendment to HB 367

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

1 Official Record of Tests. Amend RSA 265:90, I to read as follows:

I. Any person who is arraigned on a charge arising under RSA 265:84 shall file notice in said court, within ~~[10]~~ **30** days immediately following the receipt by the person of the results of any alcohol concentration test administered to ~~[him]~~ **such person**, requiring the attendance of the ~~[person who conducted said test]~~ **certifying scientist**. Failure to file notice shall be deemed a waiver to require ~~[his]~~ attendance **of the certifying scientist** at the trial. The official report of the test issued pursuant to RSA 265:84 shall be deemed conclusive evidence of the conduct and result of said test.

2 Boating While Intoxicated; Implied Consent for Boaters. Amend RSA 270:56, I to read as follows:

I. Any person who is arraigned on a charge arising under RSA 270:48-a shall file notice in the court, within ~~[10]~~ **30** days immediately following the receipt by said person of the results of any alcohol concentration test administered to ~~[him]~~ **such person**, requiring the attendance of the ~~[person who conducted the test]~~ **certifying scientist**. Failure to file notice shall be deemed a waiver to require ~~[his]~~ attendance **of the certifying scientist** at the trial. The official report of the test issued pursuant to RSA 270:49 shall be deemed conclusive evidence of the conduct and result of said test.

3 Effective Date. This act shall take effect January 1, 2000.

SENATOR FERNALD: You all may remember a fascinating debate a few sessions ago where all the non-lawyers in the Senate went to sleep and Senator Russman went toe to toe with the rest of the lawyers present over this bill. That will not be repeated today, not only because Senator Russman is absent and because we are voting on his amendment. The current law provides that if you are charged with DWI, and you want to challenge the breathalyzer or the blood test results, you have to give ten days notice, and then the state is obligated to show up at the trial with the person who administered the test. This bill, as amended by Senator Russman, will change the person that shows up from the person that administered the test, to the certifying scientist, and changes the time period from ten days to 30. The committee unanimously voted ought to pass as amended. I urge you to join us in voting yes.

Amendment adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Hollingworth having voted on the prevailing side, moved reconsideration on **HB 685-FN-A**, relative to the duties of the New Hampshire land and community heritage commission, whereby we ordered it to third reading.

Adopted.

HB 685-FN-A, relative to the duties of the New Hampshire land and community heritage commission.

Referred to Finance (Rule #24).

HB 706, relative to the definition of "sexual contact" under the sexual assault laws and relative to the registration of certain criminal offenders. Judiciary Committee. Vote 4-0. Ought to Pass, Senator Gordon for the committee.

SENATOR GORDON: I rise in support of HB 706. The supporters of HB 706 testified that there has been some question as to whether a sexual offender must have contact with the skin of the victim in order to be convicted under RSA 632-A:2 for the crime of felonious sexual assault without penetration. In order to remove any doubt, this criteria is not an element of such a crime, this bill changes the definition of "sexual conduct" such that it reads "touching whether directly through clothing or otherwise" and adds a nearly identical provision of the definition of aggravated felonious sexual assault without penetration. There was no testimony against this bill. The committee voted 4-0 ought to pass. I recommend that the Senate also vote ought to pass.

Adopted.

Ordered to third reading.

HJR 8, urging the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO). Public Affairs Committee. Vote 5-0. Ought to Pass, Senator Krueger for the committee.

SENATOR KRUEGER: House Joint Resolution 8 urges the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO) to create a more appropriate representative body to address the utility issues before it. Because the (ISO) membership is currently chaired by the former CEO of Virginia Power, and many members are too close to the industry, this resolution calls for consumers to be represented. Questions have been raised regarding how motivated members of the New England Power Pool are to increase competition. The Public Affairs committee recommends that HJR 8 be ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 294-FN-L, relative to state aid to municipalities for closure of certain municipal incinerators. Public Affairs Committee. Vote 5-0. Ought to Pass, Senator Krueger for the committee.

SENATOR KRUEGER: I am going to defer to our dear Senator Trombly. Senator Trombly moved to have **HB 294-FN-L**, relative to state aid to municipalities for closure of certain municipal incinerators, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 294-FN-L, relative to state aid to municipalities for closure of certain municipal incinerators.

HB 739, eliminating certain restrictions on the number of days bingo volunteers may serve. Public Affairs Committee. Vote 6-0. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1566s

08/09

Amendment to HB 739

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

AN ACT eliminating the restrictions on the number of days bingo volunteers may serve.

Amend the bill by replacing section 1 with the following:

1 Repeal. RSA 287-E:7, XIV, relative to restrictions on assisting in the conduct of bingo games or of lucky 7, is repealed.

1999-1566s

AMENDED ANALYSIS

This bill eliminates the restrictions on the number of days volunteers may assist in the conduct of bingo games or lucky 7.

SENATOR WHEELER: Mr. President, don't press your luck, and members of the Senate, House Bill 739 removes the limit on how frequently a volunteer may assist in games of bingo. Bingo is regulated by the Sweepstakes Commission and is a valued source of fundraising for many nonprofit organizations in our state. For instance, the Lake Winnepesaukee Historical Society has raised over \$55,000 in the past year to purchase historical property from their twice-weekly games at Funspot. When I served on the board of Great Bay Services, in Newington, I realized how important bingo was to the fundraising efforts of this agency, which serves the developmentally disabled. I realized how important that the volunteers were to run this. Many of them were family members who are doing this because they really want to help their adult children, and the rest of the developmentally disabled community. So bingo workers do receive a daily stipend, but the Public Affairs committee did not feel that it was appropriate to limit the number of times that a person can volunteer. We are talking about volunteers that just totally unreasonable. So the committee amendment repeals RSA 287-E:7, XIV, thus removing the prohibitions. The Public Affairs Committee recommends HB 739 as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

HB 356, relative to the issuance of summons and notice in CHINS petitions. Public Institutions, Health and Human Services Committee. Vote 4-0. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1517s

05/09

Amendment to HB 356

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

1 Issuance of Summons and Notice. Amend RSA 169-D:6, I to read as follows:

I. After a legally sufficient petition has been filed, the court shall issue a summons to be served personally or if personal service is not possible, at the usual place of abode of the person having custody or control of the child or with whom the child may be, requiring that person to appear with the child at a specified place and time which time shall not be less than 24 hours [~~nor more than 7 days~~] after service. If the person so notified is not the parent or guardian of the child, then a parent or guardian shall be notified, provided they and their residence are known, or if there is neither parent nor guardian, or their residence is not known, then some relative, if there be one and [~~his~~] *the* residence is known.

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

1999-1517s

AMENDED ANALYSIS

This bill requires that a person having custody or control of a child and served with a summons in a CHINS petition appear with the child not less than 24 hours after service.

SENATOR WHEELER: I rise in support of HB 356 relative to the issuance of summons and notice in CHINS petitions. This bill will simply allow the delivery of a court summons more than seven days in advance of a hearing. Current law regarding the issuance of a summons requires that the hearings occur within seven business days of the filing of a legally sufficient petition. However, delivering a summons within this time frame is often a problem in rural areas where there are few law enforcement officer officials. Law enforcement officials, such as sheriffs, who work every calendar day as opposed to only business days, would like the law to be changed to allow them to deliver a summons at anytime between its issuance and no less than 24 hours before a hearing. The prime sponsor of HB 356 offered an amendment that eliminates lines 9 and 10 of the bill, which you have in your packet, and referred to a noncustodial parent. So that amendment was a request of the House members, and we agreed to it in the Senate. House Bill 356 is a simple piece of legislation to which I urge you all to vote ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 719-FN, relative to procedures regarding children in need of services. Public Institutions, Health and Human Services Committee. Vote 6-0. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: I remain risen in support of HB 719-FN, this is similar to the next bill HB 721-FN, in making the laws consistent when filing for petitions for CHINS. This bill clarifies procedures regarding CHINS by providing a definition of children in need, providing a definition of what is meant of diversion, and by clearly outlining what is required in the way of services or corrective action for these children. Through this legislation, we recognize that certain behaviors occurring within a family or school environment, may indicate that a child is having problems. House Bill 719-FN recognizes that these children could benefit from services and/or corrective actions. The bill also requires parents to be aware of their contribution if any, to the problem at hand. It holds them accountable for their role in the solution, and requires the participation of parents in any program of care ordered by the court. This

will help in order to assure that the outcomes may have a good probability of success. At the same time, this bill advocates supporting families in their mission to teach values to youth, and to exercise reasonable control of their children. In instances where a school official has filed a petition for a child in need of services, HB 719-FN requires that the petition include evidence that the legally liable school district tried to help the child resolve their problem. The school district must show that they tried to engage the parents or guardian in solving the problem, but engage them without success. This bill is important for clarifying procedures for children in need of services; therefore, I urge you to vote ought to pass on HB 719.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 721-FN, relative to procedures regarding delinquent children under RSA 169-B. Public Institutions, Health and Human Services Committee. Vote 6-0. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1518s

05/09

Amendment to HB 721-FN

Amend the bill by replacing section 1 with the following:

1 Applicability of Chapter; Purpose. Amend RSA 169-B:1, II to read as follows:

II. Consistent with the protection of the public interest, to promote the minor's acceptance of personal responsibility for delinquent acts committed by the minor, encourage the minor to understand and appreciate the personal consequences of such acts, and provide a minor who has committed delinquent acts with counseling, supervision, treatment, and rehabilitation *and make parents aware of the extent if any to which they may have contributed to the delinquency and make them accountable for their role in its resolution.*

Amend RSA 169-B:2-a, I(c) as inserted by section 3 of the bill by replacing it with the following:

(c) Fully participate in all services ordered by the court including, but not limited to, substance abuse treatment, parenting classes, mediation, and community service.

Amend RSA 169-B:2-a, II as inserted by section 3 of the bill by replacing it with the following:

II. Failure to supervise and otherwise accept responsibility as required by this section may be treated as criminal contempt of court punishable by up to a \$1,000 fine and 90 days' imprisonment. It shall be a defense to any such charge of contempt that the parent, guardian or such other person or persons having custody and control of the minor made reasonable efforts to comply.

Amend the bill by replacing section 5 with the following:

5 Juvenile Diversion. RSA 169-B:10 is repealed and reenacted to read as follows:

169-B:10 Juvenile Diversion.

I. An officer authorized under RSA 169-B:9 to take a minor into custody may dispose of the case without court referral by releasing the minor to a parent, guardian, or custodian. The officer shall make a written report to the officers department identifying the minor, specifying the grounds for taking the minor into custody and indicating the basis for the disposition.

II. At any time before or at arraignment pursuant to this chapter, a minor and the minor's family may be referred to a court-approved diversion program or other community resource. Referral may be made by the arresting or prosecuting agency or juvenile services officer, prior to filing a petition with the court or after the filing of a petition by such agency with the court's approval, or by the court on its own, or any party's motion. The administrative judge of the district court shall have the authority to approve diversion referral procedures for use in all juvenile matters throughout the state.

III. Referral to diversion or other community resource after filing is appropriate if:

(a) The facts bring the case within the jurisdiction of the court;

(b) Referral of the case is in the best interest of the public and the minor; and

(c) The minor and the parents, guardian, or other custodian consent with the knowledge that consent is not obligatory.

IV. Referral after filing shall stay the proceedings for a period not to exceed 3 months from the date of referral, unless extended by the court for an additional period not to exceed 3 months and does not authorize the detention of the minor.

V. During the period of referral, the court may require further conditions of conduct on the part of the minor and the minor's parents.

Amend RSA 169-B:21, I as inserted by section 11 of the bill by replacing it with the following:

I. Any court, finding that a minor has committed the alleged offense may, before making a final disposition, order the minor, minor's parents, guardian, or person with custody or control to submit to a mental health or substance abuse evaluation to be completed within 60 days. Any substance abuse evaluation of the parent guardian, or person having custody of the child shall be conducted by a provider contracted with the bureau of substance abuse services, or a provider paid by the parent, guardian, or person having custody of the child. The cost of such evaluation shall be paid by private insurance, if available, or otherwise by the person undergoing the evaluation, to whom the evaluation shall be provided free or at reduced cost if the person is of limited means. A written report of the evaluation shall be given to the court before the dispositional hearing. If the parents, guardian, minor, or person having custody or control objects to the mental health or substance abuse evaluation, they shall object in writing to the court having jurisdiction within 5 days after notification of the time and place of the evaluation. The court shall hold a hearing to consider the objection prior to ordering such evaluation. Upon good cause shown, the court may excuse the parents, guardian, minor, or person having custody or control from the provisions of this section.

SENATOR WHEELER: I'm still standing. I have become the de facto expert on CHINS today and I am speaking in favor HB 721-FN, which clarifies the role of parental responsibility in cases of delinquency of minors. This legislation makes parents aware of their contribution, if any, to a delinquency of a minor, and it holds them accountable for their role in the resolution. House Bill 721-FN is intended to help parents understand that they must play an active role in the process of finding a viable solution for a delinquent child. The bill outlines the responsibilities and obligations of a parent or guardian of a delinquent. These obligations consist of attending in person, and assuring that a minor attends, all hearings of the court, attendance of both parent and minor, with all

meetings with DHHS, full participation in all service ordered by the court, supervision of a minor's compliance with all orders of the court, and conditions of release and probation and payment of a portion, or all, any restitution or fines imposed by the court. It is the hope of the bill sponsors that the inclusion of parental responsibilities and obligations in this statute, will allow both the delinquent minor and his or her family to receive the services necessary to prevent further delinquent behavior, and to prevent further involvement in the legal system. House Bill 721-FN also provides definitions of both "diversion" and "intervention". In the context of this legislation, diversion means diverting a child from the legal system and in lieu of such, providing an individually designed program for services for the juvenile. The goal of diversion is to prevent further involvement of the juvenile in the formal legal system. Intervention is similar to diversion, the only difference being that, intervention may occur once the juvenile is already involved in the legal system. Both diversion and intervention are important to this process, as it is often found that family circumstances have contributed to the delinquent behavior of a minor. An amendment was offered to HB 721-FN that serves to clarify which services may be ordered to a parent of a minor by the court. I encourage your support of this legislation, and hope that you will vote ought to pass as amended on HB 721-FN. Thank you.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SENATOR SQUIRES: I just rise for a point of order. I have a question. Both these bills, although they have a FN, the fiscal notes says that there is no impact on state, county, local revenues or expenditures on both bills, so why are they going to Finance?

SENATOR BLAISDELL: Senator Hollingworth would you like to answer that question?

SENATOR HOLLINGWORTH: I think that it is important that we look at them in Finance. They may not have any impact, but we know that the CHINS bills in the past have had a cost. I did ask them to go, because they do have a FN on them.

SENATOR BLAISDELL: I think the word was "could" have an increase, I think that would be.

SENATOR HOLLINGWORTH: They said there would be an undetermined amount. I would like to try to determine the amount.

HB 443, allowing certain beverage manufacturers to distribute products directly to retailers. Ways and Means Committee. Vote 6-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: House Bill 443 is designed to make a small change in the way business has always been done in the New Hampshire beer marketplace. While still recognizing the importance that some businesses and individuals place on the historic three-tier system, HB 443 will assist small brewers in getting their product to the market in the most efficient and cost effective manner. It allows them to directly distribute small quantities of beer that they make. Consumers will also benefit, and if businesses **TAPE CHANGE**. I recommend that this bill be ought to pass.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Pignatelli moved to have **HB 245**, relative to fees and appropriations to the division of safety services, taken off the table.

Adopted.

HB 245, relative to fees and appropriations to the division of safety services.

SENATOR PIGNATELLI: I move to pass HB 245-FN.

Question is on ordering to third reading.

Adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 204-FN, relative to driving after license revocation or suspension.

HB 215, placing restrictions on name changes for certain felons and imposing a duty to notify certain law enforcement agencies when changes are made.

HB 313-FN, relative to the regulation of the practice of optometry.

HB 325, prohibiting "cramming" in telecommunications billing.

HB 345-FN, relative to harassment via the computer.

HB 374, making adjustments to the fiscal year 1999 budget for the department of health and human services and the New Hampshire retirement system.

HB 431, establishing a committee to study methods and processes necessary to retain and enhance uses of the White Mountain National Forest, the impact of any change in designation or uses, and relative to promoting the continual multiple use management of such land.

HB 444, relative to establishing a study committee to review reestablishing passenger rail service on the Eastern Line between Newburyport, Massachusetts and Kittery, Maine.

HB 456, establishing a committee to study issues relating to the deaf community in New Hampshire.

HB 527, relative to the duties of the public utilities commission.

HB 541, establishing a committee to study the upgrade of Routes 11 and 140.

HB 566, relative to the supervision of the driver education program.

HB 714-FN, changing the potential penalties for certain acts of solicitation and conspiracy to commit murder and attempted murder to life in prison.

June 14, 1999

1999-1588-EBA

04/09

Enrolled Bill Amendment to HB 215

The Committee on Enrolled Bills to which was referred HB 215

AN ACT placing restrictions on name changes for certain felons and imposing a duty to notify certain law enforcement agencies when changes are made.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 215

This enrolled bill amendment makes a reference in section 2 of the bill gender neutral.

Enrolled Bill Amendment to HB 215

Amend RSA 651-B:5 as inserted by section 2 of the bill by replacing line 4 with the following:

to which [he] *the person* last reported under RSA 651-B:4 within 10 days of such change of residence, *name, or*

Senator Trombly moved adoption.

Adopted.

June 15, 1999

1999-1608-EBA

05/10

Enrolled Bill Amendment to HB 325

The Committee on Enrolled Bills to which was referred HB 325

AN ACT prohibiting "cramming" in telecommunications billing.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 325

This enrolled bill amendment contingently renumbers certain RSA sections inserted by the bill to avoid duplicating the numbering of RSA sections inserted by SB 141 of the 1999 session.

Enrolled Bill Amendment to HB 325

Amend the bill by replacing section 2 with the following:

2 Contingent Renumbering. If SB 141 of the 1999 session becomes law, then RSA 378:43-47 as inserted by section 1 of this act shall be renumbered as RSA 378:44-48.

3 Effective Date. This act shall take effect January 1, 2000.

Senator Trombly moved adoption.

Adopted.

June 15, 1999

1999-1623-EBA

08/09

Enrolled Bill Amendment to HB 438

The Committee on Enrolled Bills to which was referred HB 438

AN ACT relative to certain changes to the membership of the advisory committee on child care.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 438

This enrolled bill amendment inserts a missing word.

Enrolled Bill Amendment to HB 438

Amend RSA 126-A:17, VI(a) as inserted by section 1 of the bill by replacing line 1 with the following:

(a) Informing the advisory council, in a timely manner, of any proposed legislation and any

Senator Trombly moved adoption.

Adopted.

June 14, 1999

1999-1576-EBA

03/09

Enrolled Bill Amendment to HB 566

The Committee on Enrolled Bills to which was referred HB 566

AN ACT relative to the supervision of the driver education program.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 566

This enrolled bill amendment changes the form of a word to make a term consistent with its use elsewhere in the section and in other statutes.

Enrolled Bill Amendment to HB 566

Amend RSA 263:19 as inserted by section 2 of the bill by replacing line 14 with the following:

private motor vehicle drivers' school courses.

Senator Trombly moved adoption.

Adopted.

June 15, 1999

1999-1602-EBA

03/09

Enrolled Bill Amendment to HB 714-FN

The Committee on Enrolled Bills to which was referred HB 714-FN

AN ACT changing the potential penalties for certain acts of solicitation and conspiracy to commit murder and attempted murder to life in prison.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 714-FN

This enrolled bill amendment corrects a typographical error and inserts an omitted word.

Enrolled Bill Amendment to HB 714-FN

Amend RSA 629:1, IV as inserted by section 1 of the bill by replacing line 1 with the following:

IV. The penalty for attempt is the same as that authorized for the crime that was attempted,

Amend RSA 629:3, IV as inserted by section 3 of the bill by replacing line 3 with the following:

felony] the punishment shall be imprisonment for a term of not more than 30 years.

Senator Trombly moved adoption.

Adopted.

Recess.

Out of Recess.

SUSPENSION OF THE RULES

Senator Larsen moved that the Rules of the Senate be so far suspended, report of committee and the notice and report in the calendar, and the requirement of a five day notice for a hearing, and to further suspend the rules as to allow **HB 744**, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999, and the Gilford School District annual meeting held on March 17, 1999, to be before the Senate at the present time.

Adopted by the necessary 2/3 vote.

HB 744, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999, and the Gilford School District annual meeting held on March 17, 1999.

Senator Larsen moved ought to pass.

SENATOR LARSEN: I rise for the purpose of a motion I move ought to pass on **HB 744**, and urge those representing the towns of Plainfield and Gilford to make their statements. I am sorry, Alton. That they might perhaps wish to explain the rationale behind needing to do this.

SENATOR FRASER: Gilford and Alton are both Senate district four, without getting into a lot of discussion about, I am not sure that I understand the technical aspects, except that the posting was done by the school board in Gilford, and it should have been done by the board of selectmen. Alton has another problem, which had to do with one vehicle. What happened did not fulfill the intent of the governing body, so a correction has to be made in **HB 744**. They are technical corrections.

Adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 30, relative to the cruelty to animals law.

And the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Everett Weare
Walter Mikowski
Robert Fesh
Frank Schanda

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 101, relative to landlord-tenant obligations.

And the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Peter F. Bergin
Phyllis L. Woods
Janet G. Wall
James N. Craig

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 124, establishing a committee to study the integration of technology at the state and municipal level.

And the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Harold Lynde
Larry Guay
Roy Maxfield
Lucien Bergeron

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 204, establishing the New Hampshire excellence in higher education endowment trust fund.

And the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Elizabeth K. Hoadley
John M. Alger
Perley E. Davis
Clair A. Snyder

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 56, establishing a procedure for reinstating corporations that have been administratively dissolved for more than 3 years.

HB 82, establishing a committee to study financial arrangements among hospitals, health care providers, and insurance companies.

HB 519-L, requiring law enforcement agencies to adopt written policies regarding emergency responses and vehicular pursuits.

HB 667, relative to the quorum required for sessions of the supreme court.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills sent down from the Senate:

SB 59-L, relative to bonding of animal owners convicted of animal cruelty.

SB 141, relative to information not subject to the right-to-know law.

SB 150, making certain reference changes to the department of youth development services.

SJR 1, supporting the reduction of the sulfur content of gasoline.

HOUSE MESSAGE

The House of Representatives has Re-Refered to committee the following entitled Senate Bill sent down from the Senate:

SB 137-FN, relative to use of social security numbers in child support enforcement and in the issuance of driver's licenses.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate bills:

HB 204, relative to driving after license revocation or suspension.

HB 262, relative to emergency expenditures and overexpenditures by school boards.

HB 345, relative to harassment via the computer.

HB 431, establishing a committee to study methods and processes necessary to retain and enhance uses of the White Mountain National Forest, the impact of any change in designation or uses, and relative to promoting the continual multiple use of management of such land.

HB 456, establishing a committee to study issues relating to the deaf community in New Hampshire.

HB 527, relative to the duties of the public utilities commission.

HB 541, establishing a committee to study the upgrade of Routes 11 and 140.

SB 16, relative to revocation of wills by divorce.

SB 24, extending the application of certain provisions of the child protection act to all children in out-of-home placements.

SB 25, expanding the waiver of administration under the law regarding decedents' estates.

SB 59, relative to bonding of animal owners convicted of animal cruelty.

SB 111, relative to requirements for acknowledgements and jurats by justices of the peace.

SB 141, relative to information not subject to the right-to-know law.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate bills:

HJR 9, urging the United States Congress and federal Environmental

Protection Agency to eliminate federal requirements for oxygenate additives for gasoline.

HB 444, relative to establishing a study committee to review reestablishing passenger rail service on the Eastern line between Newburyport, Massachusetts and Kittery, Maine.

HB 727, establishing a committee to study the problems and possible regulation of outdoor lighting.

SJR 1, supporting the reduction of the sulfur content of gasoline.

SB 26, establishing a committee to study trustee process.

Senator D'Allesandro moved adoption.

Adopted.

ANNOUNCEMENTS

RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

ANNOUNCEMENTS

LATE SESSION

Senator Cohen moved that the Senate be in recess for the purpose of House Messages, introduction of bills, Enrolled Bills Reports and amendments, and that when we adjourn, we adjourn until Tuesday, June 22, 1999 at 10:00 a.m.

Adopted.

Third Reading and Final Passage

HB 66-FN, relative to disability retirement benefits for retirement system members permanently incapacitated for duty.

HB 88-FN, relative to purchasing credit for prior service for certain employees in the New Hampshire retirement system.

SB 228-FN, relative to spousal benefits upon the death of certain retired group II members of the New Hampshire retirement system.

HB 236-FN-L, relative to felonious disarming of a law enforcement officer.

HB 245, relative to fees and appropriations to the division of safety services.

HB 265, relative to the student trustees on the university system of New Hampshire board of trustees.

HB 272-FN, relative to the use of laser pointing devices.

HB 274-FN, relative to the office of the consumer advocate.

HB 356, relative to the issuance of summons and notice in CHINS petitions.

HB 367, relative to requesting certifying scientists to appear at DWI hearings.

HB 412, an act relative to the powers of the state treasurer and increasing the limit on state indebtedness and relative to the use of bond proceeds awarded under a state guarantee.

HB 443, allowing certain beverage manufacturers to distribute products directly to retailers.

HB 469, raising the medical payments coverage under automobile insurance policies.

HB 473, establishing a committee to study the non-group health insurance market.

HB 485-FN, relative to the calculation of unemployment compensation benefits.

HB 487, relative to the adoption of bonds or notes in certain school districts and municipalities.

HB 495-FN-A, relative to reauthorizing the motor oil discharge cleanup fund and increasing the fuel oil discharge cleanup fund fee, allowing coverage for discharge prevention, and allowing reimbursement for replacing substandard tanks.

HB 524, increasing the alternate members on the public employee labor relations board.

HB 561-FN, reducing lab analysis fees of chemical analyses of water.

HB 586, relative to rulemaking authority of the board of chiropractic examiners and unlawful practice of chiropractic.

HB 609, relative to construction of a sewer force main through a state land conservation easement.

HB 675-FN, extending the applicability of postsecondary educational assistance for New Hampshire national guard members and requiring an annual reporting from state-supported postsecondary institutions.

HB 688, relative to the custody and escheat of abandoned and unclaimed property.

HB 706, relative to the definition of "sexual contact" under the sexual assault laws and relative to the registration of certain criminal offenders.

HB 726-FN, relative to the credentialing of personnel in early care and education programs, establishing a fee for such credential, and making an appropriation therefor.

HB 739, eliminating certain restrictions on the number of days bingo volunteers may serve.

HB 742, defining "domestic employee" for purposes of workers' compensation.

HB 744, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999, and the Gilford School District annual meeting held on March 17, 1999.

HB 745, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit.

HCR 2, recognizing students who display good behavior in the public schools.

HJR 8, urging the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO).

In recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 532, establishing a commission to study early childhood education and ratifying the East Kingston school district annual meeting held on March 6, 1999.

HB 604, relative to filling a vacancy in the office of county commissioner.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate bill:

HB 532, establishing a commission to study early childhood education and ratifying the East Kingston school district annual meeting held on March 6, 1999.

Senator D'Allesandro moved adoption.

Adopted.

ENROLLED BILL AMENDMENT

HB 744, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999 and the Gilford School District annual meeting held on March 17, 1999.

Amendment (1688-EBA)

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

AN ACT ratifying the Plainfield Village Water District annual meeting held on March 27, 1999 the Alton annual town meeting held on March 10, 1999, and the Gilford School District annual meeting held on March 17, 1999.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate bill:

HB 67, relative to termination of parental rights upon a finding of child abuse.

HB 487, relative to the adoption of bonds or notes in certain school districts.

HB 744, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999, the Alton annual town meeting held on March 10, 1999 and the Gilford School District annual meeting held on March 17, 1999.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate bill:

HB 412, relative to the powers of the state treasurer and increasing the limit on state indebtedness, and relative to the use of bond proceeds awarded under a state guarantee.

Senator D'Allesandro moved adoption.

Adopted.

LATE SESSION

Senator Cohen moved that the business of day being complete that the Senate now adjourn until Tuesday, June 22, 1999 at 10:00 a.m.

Adopted.

Adjournment.

June 22, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Father David P. Jones, Senate Chaplain.

Referring to the leaders who are on other sides in the budget development process currently underway, a political friend of mine recently stated, "we are eager to engage them and their counterparts in a debate that focuses on the future of our state in an honest, open fashion". I am calling him up this afternoon to commend him for those noble words and to tell him I will hold him accountable for them, for I know he is sincere. I know you are too. The trick, of course, is putting sentiments like those into practice by foregoing verbal hyperbole, character assassination, motive questioning, scary scenario depicting, and ostrich imitation. I would hate to think that I or my group could be wrong about our convictions. An open, honest and respectful conversation is the only way for me to check them out. Good luck and thanks. Let us pray:

Lord, You have crafted each one of us carefully and lovingly and You have infused our lives with breathtaking dignity. Help us each to find ways to be diffusers of that great worth to all around us in the ways we think and vote and listen and speak - today and every day. Amen.

Senator F. King led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 664, establishing a study committee on rights of ownership to cemetery plots.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Betsey Patten
 Mary Griffin
 Roger Zerba
 Thomas Rice

SENATE ACCEDES TO HOUSE REQUEST

HB 664, establishing a study committee on rights of ownership to cemetery plots.

Senator Trombly moved to accede to request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Trombly, Disnard, Roberge

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 689-FN, establishing a committee to study campaign contributions and expenditures.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Lynn C. Horton
Francis W. Davis
James R. Splaine
Robert E. Clegg, Jr.

SENATE ACCEDES TO HOUSE REQUEST

HB 689-FN, establishing a committee to study campaign contributions and expenditures.

Senator McCarley moved to accede to request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: McCarley, Wheeler, Krueger

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Sherman Packard
Robert Letourneau
George Laporte
John Gleason

SENATE ACCEDES TO HOUSE REQUEST

HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements.

Senator Gordon moved to accede to request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Trombly, Below

Conferee Change: Senator Roberge replaces Senator Below.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 428, relative to school administrative units.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Robert E. McKinley
Brien L. Ward
David G. Larrabee
Claudette Jean

SENATE ACCEDES TO HOUSE REQUEST

HB 428, relative to school administrative units.

Senator McCarley moved to accede to request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Disnard, Johnson, J. King

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 192, relative to vital records.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 192, relative to vital records.

Senator Squires moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 159, relative to early reductions of greenhouse gases.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 159, relative to early reductions of greenhouse gases.

Senator Russman moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bill sent down from the Senate:

SB 156, granting the commissioner of transportation authority to layout and approve the construction of a restricted use driveway onto a public highway in Canterbury and creating a legislative study commit-

tee to consider options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 45-FN-A, allowing a waiver of interest for the time period of an extension of the date of payment of the legacies and successions tax.

SB 74, relative to the rule making authority of the real estate commission concerning practices relating to certain dwellings.

SB 129-L, requiring school districts to disclose any reimbursements received to offset special education expenditures.

SB 173-FN, relative to optional allowances for beneficiaries of New Hampshire retirement system members.

SB 193-FN, relative to holiday pays for certain state employees.

HOUSE MESSAGE

The House of Representatives has Re-Referred to Committee the following entitled Senate Bills sent down from the Senate:

SB 71, prohibiting the use of MTBE as an additive in gasoline.

SB 94, relative to absentee voter affidavits.

SB 116, eliminating straight ticket voting.

SB 170-FN-A, establishing a parents as teachers pilot program in Sullivan county and making an appropriation therefor.

SB 178-FN-A, relative to appropriations to the port authority for dredging projects.

SB 207, relative to authorizing bonds for the construction and renovation of regional vocational education centers.

SB 208-FN, establishing a "parents as scholars" program.

SB 216-FN, allowing veterans the right to purchase credit in the retirement system for certain service in the armed forces.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate bill:

HB 82, establishing a committee to study financial arrangements among hospitals, health care providers, and insurance companies.

HB 215, placing restrictions on name changes for certain felons and imposing a duty to notify certain law enforcement agencies when changes are made.

HB 524, increasing the alternate members on the public employee labor relations' board.

HB 566, relative to the supervision of the driver education program.

HB 714, changing the potential penalties for certain acts of solicitation and conspiracy to commit murder and attempted murder to life in prison.

Senator D'Allesandro moved adoption.

Adopted.

MOTION OF RECONSIDERATION

Senator Hollingworth having voted on the prevailing side, moved reconsideration on **HB 745**, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, whereby we ordered it to third reading and final passage.

Adopted.

HB 745, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit.

SENATOR GORDON: House Bill 745 is an act authorizing the town of Ashland to call a special meeting. And, as you may recall, when we heard this bill before the purpose HB 745 with the original purpose was to allow the town of Ashland and the selectmen to call a special meeting. Because they find themselves in a situation where they have a deficit between \$1.2 and \$1.5 million, they are looking desperately for a way to fund that. You may have seen the headline in the *Union Leader* today explaining their circumstances. The bill would authorize the town to have the meeting and also to raise funds either from taxation from the sale of assets or from incurring long term debt.

Adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Gordon having voted on the prevailing side moved reconsideration on **HB 745**, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, whereby we ordered it to third reading.

SENATOR GORDON: Again, this is HB 745, and I am afraid that we got our orchestration a little confused. What I am going to do is offer an amendment on that which is amendment #1726. I already moved reconsideration, but we have not voted on it yet.

Adopted

HB 745, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit.

Senator Hollingworth offered a floor amendment.

Sen. Hollingworth, Dist. 23

Sen. Gordon, Dist. 2

June 21, 1999

1999-1726s

04/09

Floor Amendment to HB 745-LOCAL

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

AN ACT authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, and relative to the excess education property tax payment for certain municipalities.

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

1 Authorization of 1999 Ashland Special Meeting to Address General Fund Deficit. Notwithstanding any law to the contrary, the town of

Ashland is hereby authorized to call a special meeting in 1999, without seeking court permission, for the sole purpose of raising money to address a general fund deficit. The town is authorized to raise an amount from taxation, from the sale of assets, or by incurring long term debt, not to exceed five years, or to vote a combination of the foregoing. No other purposes shall be addressed at such meeting.

2 New Paragraph; Excess Education Property Tax Payment; Phased In Collection of Education Property Tax. Amend RSA 198:46 by inserting after paragraph IV the following new paragraph:

V. Any municipality in which the equalized value of utility property taxed under RSA 83-F comprises more than 50 percent of the municipality's equalized assessed valuation, which would have had an excess education property tax obligation under this section had utility property been subject to taxation under RSA 76:3, shall phase in the collection of the education property tax on the schedule stated in paragraph IV. For each of the tax years 1999 through 2004, the amount phased in shall be the difference between the amount required to provide an adequate education in that municipality as calculated under RSA 198:40, I(a) and (b), and the total amount that would be assessed if utility property were subject to taxation under RSA 76:3. The department of education shall increase the adequate education grant paid to the school district or districts educating the children of such a municipality to ensure that the district or districts receive the amounts required to provide an adequate education as calculated in this chapter.

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

1999-1726s

AMENDED ANALYSIS

This bill allows the town of Ashland to call a special meeting, without seeking court permission, to raise money to address a general fund deficit. Such money may be raised from taxation, or incurring long term debt, or both. No other purposes shall be addressed at such meeting.

This bill also provides that municipalities with equalized value of utility property taxed under RSA 83-F comprising more than 50 percent of their equalized assessed valuation, which would have had an excess education property tax obligation had utility property been subject to taxation under RSA 76:3, shall phase in the collection of the education property tax based on the schedule in RSA 198:46. From 1999 through 2004 the amount phased in shall be the difference between the amount required to provide an adequate education and the total amount that would be assessed if utility property were subject to taxation under RSA 76:3.

SENATOR GORDON: I move adoption of the floor amendment. Thank you.

Floor Amendment adopted.

Ordered to third reading.

COMMITTEE REPORTS

HJR 2, urging that federal air pollution programs not punish early adopters of air pollution control technology. Environment Committee. Vote 8-0. Ought to pass with amendment, Senator Russman for the committee.

1999-1684s

08/09

Amendment to HJR 2

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

Whereas, the federal Clean Air Act has in the past allocated pollution allowances, which are items of commercial value, to pollution sources based on emissions existing on arbitrary baseline dates, where higher emissions equated to being granted more allowances; and

Whereas, such a policy has rewarded dirtier operators by allocating to them more allowances than their cleaner competitors, and further, has unfairly served to punish operators who have happened to install expensive air pollution controls shortly before the baseline dates; and

Whereas, these past actions have made it more difficult to encourage polluters to reduce emissions prior to regulatory deadlines; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That future federal air pollution legislation should avoid using baseline pollution as a basis for allocation of allowances or other items of commercial value, or any future reduction requirements;

That to the extent that the federal government chooses to continue to use baseline emissions to determine allowance allocation and future reduction requirements, either to individual polluters or to states, that it choose a baseline date far enough in the past in order that recently-improved sources are not placed at a competitive disadvantage against dirtier competitors that have not made such investments and have smaller capital and operating costs as a result; and

That such care with baselines be used not only for sulfur dioxide and nitrogen oxide emissions, but also for any other emissions which the federal government may subsequently choose to control with allowance-based mechanisms; and

That copies of this resolution be sent by the house clerk to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the chairpersons of committees of the United States Congress having jurisdiction over the Clean Air Act, the Administrator of the United States Environmental Protection Agency, and each member of the New Hampshire congressional delegation.

1999-1684s

AMENDED ANALYSIS

This house joint resolution urges that:

I. Future air pollution legislation not use baseline pollution as a basis for allowance allocation or any future reduction requirements.

II. Failing this, any baseline date chosen be far enough in the past so that recently-improved sources not be at a competitive disadvantage.

III. Care be used with baselines adopted for emissions besides sulfur dioxide and nitrogen dioxide that the federal government chooses to control with allowance-based mechanisms.

SENATOR RUSSMAN: House Joint Resolution 2 urges the federal air pollution programs not punish early adopters of air pollution control technology, so that people go out and spend money to prove the air pol-

lution technology, they would not be penalized. And the amendment just makes anything that they just add in the future so that it is prospective as well as present.

Amendment adopted.

Ordered to third reading.

HB 263, repealing the Northern New England Low-Level Radioactive Waste Management Compact. Environment Committee. Vote 8-0. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: I rise in support of HB 263. This bill would repeal RSA 125-E, the statute that authorizes the compact. In the eight years that the prime sponsor has been assigned to the board relative to this compact, there has been no meetings, no election of offices, no correspondence, and no organization. Sounds like a no, no. This is a not functioning entity. It is for this reason supporters of this bill, including the Department of Health and Human Services, believe that this statute should be removed from New Hampshire law. I urge you to repeal this compact by voting ought to pass on HB 263.

Adopted.

Ordered to third reading.

HB 291, establishing a study committee for seed sterilization technology or "terminator" technology. Environment Committee.

MINORITY REPORT: Ought to Pass, Senator Johnson for the committee. Vote 2-6

MAJORITY REPORT: Ought to pass with amendment, Senator Cohen for the committee. Vote 6-2

1999-1680s

08/09

Amendment to HB 291

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

AN ACT banning and establishing penalties for the sale or planting of crops that have been genetically engineered to produce sterile seeds.

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

1 New Subdivision; Terminator Crops. Amend RSA 433 by inserting after section 36 the following new subdivision:

Terminator Crops

433:37 Definition. "Terminator crops" mean those plants or seeds that have been genetically engineered so that the seeds produced by the mature plant will be sterile, or may be rendered sterile upon application of an external stimulus.

433:38 Prohibitions. It is unlawful for any person:

I. To sell, offer for sale, expose for sale, or transport for sale within this state any terminator crop, as defined in RSA 433:37.

II. To plant or sow within this state any terminator crop, as defined in RSA 433:37.

433:39 Rulemaking. The commissioner of agriculture is hereby authorized to adopt all necessary rules under RSA 541-A, in order to carry out the provisions of this subdivision.

433:40 Penalties. Any person who violates any prohibition under RSA 433:38 shall be guilty of a violation if a natural person or guilty of a felony if any other person.

433:41 Report. The commissioner of agriculture shall complete an annual report on any recent developments in the field of genetically-engineered plant life. The commissioner may use any appropriate department personnel and resources for completing the report as the commissioner deems necessary. Such annual report shall be provided to the state library, the governor, the speaker of the house of representatives, the senate president, and the chairs of the house and senate committees relating to agriculture and the environment, on or before November 1 of each year.

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

1999-1680s

AMENDED ANALYSIS

This bill:

I. Prohibits the sale or planting of "terminator crops", meaning those plants or seeds that have been genetically engineered so that the seeds produced by the mature plant will be sterile, or may be rendered sterile upon application of an external stimulus. A violator of these prohibitions shall be guilty of a violation if a natural person or a felony if any other person.

II. Requires the commissioner of agriculture to complete an annual report on recent developments in the field of genetically-engineered plant life.

SENATOR JOHNSON: I rise in support of HB 291 as originally introduced. This legislation was intended to establish a study committee for seeds sterilization technology, or otherwise known as "terminator" technology. Many individuals have expressed concerns on what this technology might do to New Hampshire agriculture, but the truth is we really don't know. I support the opportunity to study this issue further as to oppose to an outright ban. "Terminator" technology may offer agricultural advantages. Testimony was given at the hearing that "terminator" seeds would offer North American farmers a more level playing field when competing in commodity production with farmers worldwide. Testimony was also given that this technology may stimulate breeding and marketing efforts in countries that have not benefitted from advances that are currently available in the developed world. "Terminator" seeds would not even be available on the commercial market for another five to six years if it goes forward. Therefore, I would urge you to consider studying this technology before deciding whether or not a ban on "terminator" seeds is appropriate. I ask that you vote ought to pass on HB 291, which establishes a study committee. Thank you.

SENATOR COHEN: This bill study out in the House as a study committee, but in the House after hearing the testimony there, it was agreed that there should be a ban, not just a study committee. I will tell you after listening to the testimony in the Senate hearing, and it was overwhelming as to why this should not be a study committee, and instead this should be a ban. "Terminator" technology is also known as 'genetic seed sterilization', and how it works, is inserting a toxin gene into seeds, which then sterilize their own crops. Genetically engineered seeds do not reproduce, farmers are thus prevented from saving the seed from their harvest, making them dependent on commercial seed markets, which is dominated by fewer and fewer corporations. Farmers must buy more seeds to maintain their crop, unlike traditional methods. "Terminator"

technology promotes crop uniformity at the expense of diversity that prevents seed sharing, cross breeding and development of locally adapted seeds. This is all prevented by 'terminator' technology, this is unprecedented danger. One example, pollen widely planted laboratory designs strain of corn has killed monarch butterflies. The way that it works is that the caterpillars eating the same milkweed dusted with pollen from the altered corn, ate less, and grew more slowly, and died more quickly. After four days 44 percent were dead, and none of the caterpillars that didn't feed on the pollen had died. Other insects may be killed too, this is an unseen outcome. Genetically engineered crops can contaminate for miles around. Seed sterility will flow to other plants via pollen from the "terminator" technology to surrounding plants rendering their seeds sterile as well. This technology relies on antibiotics, which can affect the balance of soil organisms required for healthy crops. Antibiotics resistance and super bacteria could develop has a result. There is great concern in the worldwide scientific community regarding toxin genes affecting birds, insects, fungi and bacteria. The toxin gene transfer to nonfood to food varieties is very difficult or not impossible to trace. There continued to be new previously unthought of consequences with this technology. There is a tremendous potential for accidents, uncontrollable effects. The poor farmers around the world who are normal save their seed, cannot afford to buy seed each year, and they are rebelling against this dangerous technology. This can wipe out small farmers and replace them with industrialized agribusiness. This "terminator" technology has been banned in several European countries, as well in India. In our hearing, national recognized scientific experts in the field traveled far to be here because they were so concerned about this technology and so much in favor of HB 291 as amended. If this product were allowed to be spread out, it would restrict the food producing capacity of farmers and present a widespread threat to bio diversity. This has exceptionally dangerous potential. New Hampshire should be proud to take the lead in the United States in banning the "terminator" technology. I urge ought to pass as amended.

SENATOR KRUEGER: Senator Cohen, I did not know if you were aware of the fact that as someone who has planted quite a bit, that I have found that often times, because of notations and work that has already been done with seeds, and I don't know if this has ever happened to you, but I would like to know, that often you cannot use the seeds or the corn kernels, or the tomato seeds, or most anything, and plant it and expect to get the same plant, because of alterations that have already taken place, either naturally or not naturally. For example, to create a more brilliant flower or a tomato that lasts longer on the shelf. So I was wondering if you were familiar with that?

SENATOR COHEN: Definitely, and I would say if you want to be absolutely assured about a photocopy if you will, of the same plant, and nothing stops you from going out and buying some more seeds.

SENATOR JOHNSON: Senator Cohen, would you agree that all of these concerns that you talked about would be what the study committee would be all about? We have to find these things out. And with this study committee that we proposed on the original bill that came from the House as introduced, that would address those issues?

SENATOR COHEN: I will answer your question with another question. Would you agree that the scientific community that came out for the hearing that was delayed a long time. They wanted to be there, and it was so important to them because it has been studied, because the ex-

perts in the field who know a great deal more about that issue I am sure all of combined, were there before us to speak very much in favor of this. It needs to be done now. That it would be wrong to study this when we had tremendous and overwhelming evidence. When the utility of this technology seems very, very limited, except to help certain agribusinesses, as opposed to the small farmers, and it is at their expense.

SENATOR JOHNSON: I guess, Senator Cohen, I would answer that by saying of all of that material that we have received on this issue, because it is an emotional issue. I had nothing in my packet that was really something that I could look at that said that this is a scientific study, and this is why we should have the ban.

SENATOR F. KING: Senator Cohen, what was the position of the New Hampshire Department of Agriculture on this bill?

SENATOR COHEN: I am afraid I don't remember that to be perfectly honest.

SENATOR F. KING: Senator Johnson, did the New Hampshire or the Department of Agriculture Commissioner or any of his representatives appear at this hearing?

SENATOR JOHNSON: They did not take a position on the bill to my knowledge.

SENATOR WHEELER: The Department of Agriculture did not testify according to my notes. I think that is what Senator Johnson said also. But a lot of people did testify from across the country, bringing us some international concerns. We also had the concerns expressed that for 15,000 years farmers have been able to save their seeds for their own purposes. As Samuel Cayman said that it is "flawed, dangerous and immoral". Farmers, three quarters of the world's farmers depend on farm safe seeds as their primary food source. For those of you who are afraid that this might be premature, every major seed in agricultural company right now is trying to get patents on the "terminator" seeds. It is definitely happening, and for us to take a position now would be appropriate for something that is clearly inappropriate thing for our nation to be involved in. The world's largest international agricultural resource network that consulted a group on international agricultural research, who just headquartered at the world bank, adopted a policy banning the use of "terminator" technology and other genetic seeds sterilization programs and its plant reading programs. The African delegates to the United Nations Food and Agriculture Organization have said that they don't want "terminator" genes used on African soil. India, as Senator Cohen has said, India's agriculture minister said that he would ban the imported seeds containing the "terminator" gene. "Terminator" is also on the agenda of at least two UN agencies; and the Center for Plant Breeding and Reproductive Research at the University of the Netherlands, the world's premier Agriculture University has adopted a policy not to use "terminator" technology. There is action taking place in the international scene and I think that it is entirely appropriate for this legislature to give a strong message that we do not countenance the continuation of developing this technology which is so "fly's in the face of farming" techniques for centuries.

SENATOR F. KING: Senator Wheeler, I want to make sure is that what you are telling me is that the Commissioner of the Department of Agriculture of New Hampshire was not concerned about this bill and did not appear to testify? Apparently he was not concerned, or he would have appeared to testify?

SENATOR WHEELER: I cannot speak for whether he was concerned, but he did not show up.

SENATOR JOHNSON: Senator Wheeler, would you agree that in the research that is on-going, that the United States Department of Agriculture is involved in that research?

SENATOR WHEELER: Yes, but the USDA, according to the notes from the committee, has stated that it would not release "terminator" **TAPE CHANGE**

SENATOR KRUEGER: Senator Wheeler, one quick question. Since we are not exactly known in New Hampshire as being the center of agriculture for the United States, does this strike you a little strange that any of the corn belt states or any of the states that I traveled through that are involved, and their main market is agriculture, have not stepped forward to the plate on an issue that is as vital as this, and that New Hampshire wouldn't in fact, if this very extreme piece of legislation were passed, would be the first state in the nation?

SENATOR WHEELER: I think that it is good proof that we are good leaders and not followers in New Hampshire, and that we understand the importance of farming and supporting our farmers with sustainable agriculture. What interested me at the hearing, that was the fact that Monsanto is trying to acquire Delta and Pine Land Company, that they spent the money to send someone all the way here, probably from St. Louis, where Monsanto, is or at least wherever Delta and Pine Land Company is, to testify against the bill.

SENATOR KRUEGER: Would you agree those companies, with the resources such as a company, and I am certainly not citing that Monsanto is a classic example, but for the sake of the argument, why don't we. Having spent enormous amount of money, billions of dollars to research better crops, they have addressed world hunger issues, and in fact, are looking for economic ways to ensure that the fact we get, what I call the three week refrigerator tomato, as well as inexpensive grains that taste awful?

SENATOR WHEELER: Considering that Monsanto is the company that brought us agent orange, and I am not totally convinced of their humanitarian goals. Their stock sells well, and I don't think that they are looking out for farmers. I think that they are looking out for profits.

SENATOR KRUEGER: Do you think that it is terrible for a company then, would you go on record saying, to look for profits?

SENATOR WHEELER: Course I don't think it is, I am a capitalist.

SENATOR FERNALD: Senator Krueger, would you agree with me, that a gene that causes a seed or a seedling to kill itself is not normally found in nature?

SENATOR KRUEGER: Actually, I am not really a biologist or a botanist. My brief tenure in those course 35 years ago, taught me that we are not exactly sure what is capable in nature, and that in fact they do exist. Remember the flower that only blooms once and dies, the hornet that stings once and dies, I have a sense that there are those things in fact in nature, but I am really not very qualified to answer your question.

SENATOR FERNALD: So the answer is that you don't know.

SENATOR KRUEGER: I really don't.

SENATOR FERNALD: Don't you think that it is a dangerous idea for us to release this gene that is not found in nature into our environment?

SENATOR KRUEGER: Well, I might agree with you if I thought at first at all, this technology existed. I have often thought that in research, that on the way to developing one thing, for example, cancer cures, or in the way to look at the problems with mold on lemons, we accidentally found penicillin. I have never been one who thought we need not to study an issue. In fact, I very much supported this original bill and it will go on record as supporting that. But to ban something that on its way through the study process that we have no clue about its adverse or its beneficial benefits, certainly would not fit into my way of looking at research. But I understand where you are coming from.

SENATOR FERNALD: You said at the beginning that you were not sure that this technology existed? Therefore, can I conclude that you see no objection to banning it since you are not sure that it exists?

SENATOR KRUEGER: I would appreciate the fact that some of the European countries where actually government controls agriculture, not private industry, have in fact, an offshoot of this technology. I would be very reluctant to ban something without studying it and knowing exactly in what form was I banning it. I can assure you, having spent time in the agriculture industry in a very small degree, that I would definitely, definitely, not want to do something that would hurt whether it was monarch butterflies, or my neighbor's crops.

SENATOR TROMBLY: Senator Johnson, I have pulled the bill out to read it and in the bill it uses language that says that "the committee should study the threat to bio diversity". And then it says further on "that the committee should study the value of legislation or regulate technology to protect agriculture and wild plants". It sounds to me, that we are heading down toward the path of already having made a decision that this is a scientific breakthrough, that we ought to regulate and pose as a threat to the environment. So why not just ban it today and save the time? It sounds like the bill itself calls it a threat to nature?

SENATOR JOHNSON: That is the sponsors' language and I was not a co-sponsor on that bill, so I cannot speak to that. But I think that a study of the whole issue is the appropriate way to go.

SENATOR GORDON: Boy I did not know anything about "terminator" technology until about a month and half ago. My first reaction was a visceral one, and I said what do you mean they are going to be creating seeds that cannot grow and that aren't going to be reproduced? It just seems to be particular, with my background in the North Country, to be a little irresponsible to be creating plants that can't reproduce, so basically in the future we need to be concerned about our food stocks. But then I gave it a little more thought, and as I drive up through my district and see large corn fields along the Connecticut River Valley with genetically produced corn, hybrid corn, which is currently genetically adapted for purposes providing food stock to cattle to produce the very milk that we are drinking. In fact, as I understand it, that genetically produced corn, if you were in fact to harvest seeds and replant them, would not provide you with that same plant over again. We are already going down the road towards genetic engineering, and that this happens to be one phase of genetic engineering. So my immediate response was that this is nuts. On further contemplation, I think that it is something that we ought to give some time to contemplate. I don't believe that in

taking the summer, and having a study committee look at this issue, and then making a reasonable and responsible decision based upon the best information that is available at the time, rather than making one decision, a hasty decision, based upon one committee hearing, is a better approach. So I would support the idea of doing the study committee. If they come back next fall, and they come back and say this is just bad for the state of New Hampshire, then let's ban it. Let's not just do that based upon one committee hearing in the Senate. I think that the approach that the House took is a reasoned approach, it is a moderate approach, and as I guess as a moderate, I support it.

SENATOR MCCARLEY: Senator Gordon, I am just checking. It indicates here that the committee is actually going to work...and the report's not due to November of 2000. Were you under the impression that it was fall 1999 or a fall 2000?

SENATOR GORDON: I was under the impression that it was a fall 99 report. But I would have no objection if you wanted to amend that to make it a fall 99 report, Senator McCarley.

SENATOR RUSSMAN: Members of the Senate, I sat here listening to this debate and I really had not thought about talking on this too much. In a way, some of us would be saying, crying wolf, which brings up a whole idea. As some of the speakers here talked about not voting to ban anything unless there was a detailed analysis of why they would ban it, and yet, some of those same people, my guess is, to vote not to ban this, but I think they may well have supported a banning of the wolves without an awful lot of thought or an awful lot of knowledge about the issue. We all know that we received dozens and dozens and dozens of letters from the people, the people that we represent, and that is important, I think. I can remember back when I put in a bill to eliminate or limit the use of phosphates and phosphorus and soap detergents. I want to tell you how many people showed up from FMC and from Monsanto, the two leading producers from phosphorus in the world, in order to say how wonderful phosphates were. Because there was such great nutrients, they ought to be used extensively, even more than we can, and that we can't even get clean clothes, clean dishes, unless we have phosphates in the detergent. That was Monsanto. Eventually we did put in effect, a serious limitation, as all states around the Great Lakes have done, and as all the states around the Chesapeake Bay had done, prior to us doing that. The study of this is a waste of time. The prime sponsor, a republican lady from Plaistow, a constituent of mine and fellow colleague in the House, Marie Rabideau, put in this amendment and asked for it to be banned, because after all the research that she had done through this process, that she realized that listening to the scientific community that "terminator" seeds are bad for America and bad for New Hampshire. We ought to be leading the charge in this particular area and not be afraid to step out in front. I got a letter from Delta and Pine Land Company, the company that is doing this, and in their second paragraph, says they don't call it "terminator" seed they call it 'technology protection system'. "TPS is not a method designed solely to boost corporate profits" not solely, "but is a way to allow seed companies to protect their research by physically enforcing", they don't have to go out with a gun, they can put it right in the seed, "existing intellectual property protection laws such as the Plant Variety Protection Act of 1994 and utility patent laws". That is what it has come down to, so when you vote against the ban, you ought to vote for Monsanto, you ought to vote for corporate process, and you ought to

vote against your constituents that have asked you, every one of you, in dozens and dozens of letters, to support this. Now other countries around the world, African delegates and the United Nations Food and Agriculture organizations have said that they don't want to have "terminator" seeds used on African soil. India's agriculture administrator will ban the import of seeds containing "terminator" gene. The Center for Plant Breeding and Reproductive Research at Wageningen University in the Netherlands, the world's premier Agriculture University, adopted a policy not to use "terminator" technology. There ought to be...the notion of seeds that are genetically engineered to kill themselves, ought to say something to you. If it is all that good, if it is all that wonderful, I suspect that we can turn around, in two or three or four years, and we can lift the ban, if it is that wonderful for our constituents and if it is that wonderful for New Hampshire. I guess I would ask why commissioner Taylor did not come to testify for or against? What does that tell you? I think it tells you exactly how he feels about it, because if he thought it was a good thing for New Hampshire to have the seeds, he would have been there saying that this a great thing for it. The notion of controlling the seed production, this is corporate profits. Do you think that the millions of dollars that Monsanto is spending on all this technology is for the betterment of the world? Come on. They would spend all this money to make bigger bucks. It is as simple as that. This is a wonderful way to do it, to control worldwide seed usage and seed production. I would urge you to support the ought to pass.

SENATOR LARSEN: Senator Russman, would you, it sounds like you would agree from your testimony, that if you want a study that will result in a scientific result, that your best option would be to vote for the ban and put the onus back on Monsanto to prove to us that these seeds are in fact beneficial to humanity? Do you believe that you would get a better result from Monsanto being forced to prove its worth of these seeds, or having a legislative study committee come out with a report in a couple of years?

SENATOR RUSSMAN: We know that a legislative study committee is going to be the way to come out with the answer this thing. Certainly, I would not trust Monsanto. Let them prove that it is okay for us. Matter of fact, it goes with our Yankee traditions, and the New Hampshire traditions that if you are in doubt you should vote no. Okay, you should vote no on this seed.

SENATOR LARSEN: I don't know if you heard the report recently on NPR regarding intellectual property and that they are, in fact, scientists and companies are in fact attempting to develop individual property rights on all genetic property including the human being, the genes of a human being?

SENATOR RUSSMAN: Absolutely correct, and I am sure that next we are going to find computer chips in all the seeds so that can control it right from the computer.

SENATOR JOHNSON: Senator Russman, I have a concern about your statement about the sponsor and all of her research that she did on this. In my research on her testimony, she said that she knew very little about "terminator" technology? I was wondering where all this research was that she had?

SENATOR RUSSMAN: She talked with me in terms of the scientific community that she had called. Maybe, it was after the hearing, be-

cause I asked her about coming in with the amendment and so on and so forth. She said at that time, and I was not at that hearing as you know, and I don't know what she said at the hearing, and this is what she told me at a later date.

SENATOR JOHNSON: I am glad you clarified that that you were not at the hearing, because that is what she did say.

SENATOR KRUEGER: Senator Russman, with all due respect, would you believe that the prime sponsor of the bill, Representative Rabideau came into our Senate office, Senator Brown's and mine, and we asked her specifically if she knew anything about this technology? In front of both of us she said "absolutely I do not know anything"?

SENATOR RUSSMAN: Nobody knows anything about this technology. I mean even the scientific community, the ones who came and testified. I understand that they knew something about, other than the lay people that are here in the legislature, we don't know anything about this technology. All that we know is that it is clearly something that they want to have, seeds that will actually kill themselves as soon as they produce. If you think that is a good idea, then you ought to vote for the study committee, and if you think it is a bad idea, you ought to vote ought to pass.

SENATOR COHEN: Senator Krueger, would you believe that the scientists that came in, that we heard from, who traveled great long distances at their own expense to be here, had worked specifically in the field, in the laboratories themselves? These are the people that impressed me very much. They knew what they were talking about, and that is the testimony that we should rely on, in my opinion. These people were very, very motivated by science and in the public interest. They knew their stuff better than anyone here in the entire legislature.

SENATOR KRUEGER: Senator Cohen, I might be inclined to believe that. However, I really don't know who paid for their research, and I am not so blindsided to think that there is always something, as it was said in one movie not too long ago, "Follow the money trail". Thank you.

SENATOR F. KING: I don't have any great impassioned speech to make about this particular bill. I just want to tell you that I would not be too concerned about the dairy industry in this state. In my previous life, I ran a large dairy operation and we planted corn every year. We found it a lot more cost effective to buy new corn every year rather than have my help shuck the corn cobs and try to make their own seeds. I don't think that there is a threat to the dairy industry in this state. I think that you will find that the commercial farmers will always buy new seed. I do not think that should be part of the argument.

SENATOR WHEELER: I wouldn't have spoken again, but a couple of things were said that I think are misleading. I would hate to think that as sponsors of legislation that our role was to become an expert in the field of every bill that we sponsor. I don't think it was Representative Rabideau's duty to get a Ph.D. in biology before she could sponsor this bill. But what she did, and what I think we all do when we are doing our job well, is to find the knowledgeable people in the field that will come and talk and share their expertise with us. That is what Representative Rabideau did when she had Professor Martha Crouch, from the biology department of the University of Indiana. When driving through Indiana as a child I am pretty sure they raised corn, and they're doing a lot of research there. She actually studied the first "terminator" patents in detail, and saw early on that plants were being taught

to kill their own offspring, that there was a trigger that makes the poison that causes the seeds to die. She said that this is a betrayal of the way seeds are formed. So we did have experts there testifying about the technology. When we get around HB 546 I am going to remind Senator Krueger about her question of wondering who pays for the research.

SENATOR RUSSMAN: Senator Wheeler, are you aware that the Speaker, and some of her leadership, went out to conference on DNA and genetics not too long ago? I think it was out in Tahoe. And part of that, were you aware, that they were allotted by the group, that New Hampshire was the first to actually step up to the plate and ban this technology?

SENATOR WHEELER: I did not know that, that's wonderful, that shows that we can definitely be first in good things.

Question is on the adoption of the amendment.

A roll call was requested by Senator Trombly.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Francoeur, Krueger, Brown, Klemm.

Yeas: 15 - Nays: 9

Amendment adopted.

Ordered to third reading.

HB 379, setting up a study committee to study issues pertaining to the Sullivan county regional refuse disposal district. Environment Committee. Vote 8-0. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: I am going to defer to the Honorable Senator Disnard for his report on this bill.

SENATOR DISNARD: I would like to believe that the Maple Avenue School students were here to watch that you vote yes on this bill. Mr. President, I rise in support of HB 379, setting up a study committee to study issues pertaining to the Sullivan county regional refuse disposal district. The New Hampshire/Vermont solid waste project was created by law in both New Hampshire and in Vermont, and by an interstate compact and act by our U.S. Congress. This waste facility handles approximately two hundred tons per day of waste, and serves 29 communities in New Hampshire and in Vermont. The issues involved in waste management in the Sullivan County and the surrounding area are important, and very worthy of study. The range of concern exists, include the management structure of the New Hampshire/Vermont project. Apprehension regarding the environmental impact of the Ashland landfill. And at the present time, a great concern regarding privatization and possible partial conversion of the Ashland landfill to receive municipal solid waste, which is mostly from out-of-state. The financial and the environmental issues are imbedded in an intrastate and interstate waste management infrastructure. It needs to be addressed in this context. It is also important that the local, regional, and statewide decisions are based upon valid data and thorough analyses, and that the public be involved and informed throughout this process. A legislative study com-

mittee is an appropriate way to be determined what might be done at the state level to elevate the concerns expressed by many area residents. Therefore, I and the Maple Avenue students, urge you to vote HB 379 ought to pass.

Adopted.

Ordered to third reading.

HB 410, relative to enforcement authority of the department of environmental services. Environment Committee. Vote 8-0. Ought to Pass, Senator Johnson for the committee.

SENATOR JOHNSON: I rise in support of HB 410. This bill will enhance the department's ability to pursue collection of quarterly fees when hazardous waste generators do not submit payment as required. The Hazardous Waste Cleanup Fund is a dedicated fund supported by fees and penalties. The fee that is being addressed in this bill is three cents per pound that is assessed when generators ship hazardous waste offsite for treatment or disposal. However, it is not uncommon for generators to fail to remit payment. This bill would provide for the assessment of interest when payment is not made as required, which DES believes will provide an added incentive for companies to make payments, and reduce the need to pursue collection through the court system. This bill also makes enforcement provisions more consistent, both internally and with other DES implemented statutes. I urge you to vote HB 410 ought to pass.

Adopted.

Ordered to third reading.

HB 421, relative to penalty provisions for the law regarding control of marine pollution, exotic aquatic weeds and other aquatic growth. Environment Committee. Vote 8-0. Ought to Pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: I rise in support of HB 421. Testimony on HB 421 revealed that exotic weeds can grow rapidly when introduced into New Hampshire waters. Once established in these new water bodies, exotic both interfere with recreational enjoyment of lakes and rivers and upset the ecological balance by displacing native plants. Presently, DES has been directed to take steps to prevent the introduction of the exotic aquatic weeds. As of January 1, 1998, DES is authorized to regulate the sale, distribution, and importation, propagation, transportation and introduction of exotics in New Hampshire. DES has since introduced public outreach programs to deter the spread of exotic weeds, and notify all biological supply houses that the sale of exotic plants that were in use in ornamental pools and aquaria is now prohibited in New Hampshire. This legislation would grant DES enforcement authority that is consistent with other statutes implemented by the department. Therefore, allow them to enforce marine pollution laws more effectively; therefore, I urge your support on the ought to pass motion on HB 421.

SENATOR F. KING: I don't have any particular feelings about this bill, but it seems to me that if someone...if I take my boat into Vermont, and unknowingly, and pick up some milfoil and bring it back into New Hampshire **TAPE CHANGE** it says "recklessly". I guess that I would be 'reckless' if I did that, but that happens all of the time. Is that true?

SENATOR PIGNATELLI: I wouldn't believe that you would be subject to that fine; however, I think that we all owe it to our lakes and rivers

to inspect our motors to make sure that if we are using them out-of-state, that they haven't picked up milfoil or other exotic weeds in the engine, which then can transfer to our lakes and rivers. I wouldn't think that if you did it, and it was an accident, that you would be prosecuted. If you knowingly did it and knowingly imported exotic weeds into the state and planted them for whatever reason, then you should be subjected to this ruling, and I believe that you ought to be.

SENATOR F. KING: Do you think that if I would not be perceived to be reckless, if I did that not knowing that I was doing that?

SENATOR PIGNATELLI: I don't think that you are a reckless person, Senator King.

SENATOR F. KING: Well how about my neighbor who is?

SENATOR PIGNATELLI: Perhaps, yes.

Adopted.

Ordered to third reading.

HB 546, providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied. Environment Committee.

SPLIT REPORT: Ought to pass with amendment, Senator Russman for the committee. Vote 4-4

SPLIT REPORT: Ought to Pass, Senator Krueger for the committee. Vote 4-4

1999-1683s

08/09

Amendment to HB 546-FN-A

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

AN ACT providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied, and providing funding to support a pilot program for studying the use of vegetation cover on spent gravel pits.

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

1 Findings. The general court recognizes there is an ongoing scientific debate about the environmental hazards associated with using sewage sludge and industrial paper mill sludge at reclamation sights. The general court recognizes that alternatives exist to creating vegetative covers at reclamation sights that do not require the use of sludges or topsoil. The general court further recognizes that aquifers are located under gravel pits at reclamation sights, and that such aquifers are an important source of drinking water for New Hampshire communities. The general court therefore authorizes the university of New Hampshire to conduct research on the impacts to groundwater at reclamation sights from the application of sewage sludge and industrial paper mill sludge, and to conduct research on gravel pit reclamation that does not require the use of sludges.

2 Research Authorized.

I.(a) The university of New Hampshire office of sponsored research shall conduct research on groundwater at gravel pit sites that have been treated with a mixture of sand, sewage sludge, and industrial paper mill sludge. This research shall include testing for dioxins, toxic organics, heavy metals, surfacants, and nitrates leaching into groundwater. In

addition to the annual reports required under section 6 of this act, the office of sponsored research shall continue to monitor soil and water for evidence of leaching of heavy metals for 10 years after the initial application of sludges at the gravel pit sites used in the study.

(b) If gravel pits that have not previously been treated with sand, sewage sludge, and industrial paper mill sludge are added to this research study, testing shall be done during the first year during the stockpiling, mixing, and spreading phase as well as during the first few months after application when vegetation is not yet established.

II. The university of New Hampshire office of sponsored research shall conduct a pilot program designed to study what vegetative cover can be successfully grown on the sandy soil in spent gravel pits for reclamation purposes as an alternative to the use of topsoil and sludges. The pilot program shall focus on using organic plants such as cranberries and high bush blueberries, pine trees, and other conifers. The pilot program shall also focus on the income-producing options that such vegetative cover would provide.

3 State Support of Research; Source of Funds. The commissioner of the department of environmental services shall provide funds, notwithstanding RSA 485-A:4, XVI-c, from the sampling and analysis of sludge or biosolids samples fund totaling \$40,000, for the fiscal year ending June 30, 1999, to the university of New Hampshire office of sponsored research for the purposes of section 2 of this act. Of such funds \$20,000 shall be used for the research specified in paragraph I of section 2 of this act, and \$20,000 of such funds shall be used for the pilot program established in paragraph II of section 2 of this act.

4 Transfer of Appropriation. The sum of \$40,000, from available funds appropriated for state aid grants by 1997, 350:1, PAU 03-04-02-01-04, for fiscal year 1999, shall be transferred to the sampling and analysis of sludge or biosolids samples fund established by RSA 485-A:4, XVI-c, provided all eligible municipalities have received such state aid grants.

5 Application of Receipts; Sampling and Analysis of Sludge or Biosolids Samples Fund; Reference Corrected. Amend RSA 6:12, I(ttt) to read as follows:

(ttt) Money received under RSA [~~485-A:4, XVI-b~~] **485-A:4, XVI-c**, which shall be deposited in the sampling and analysis of sludge or biosolids samples fund.

6 Annual Reports. The university of New Hampshire office of sponsored research shall submit annual reports on the research for the years ending June 30, 2000 and 2001 to the speaker of the house, the president of the senate, the governor, the chair of the house committee on environment and agriculture, the chair of the house resources, recreation and development committee, the commissioner of agriculture, markets, and food, and the commissioner of environmental services.

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

1999-1683s

AMENDED ANALYSIS

This bill provides funding to support research monitoring groundwater at reclamation sites that have had sludge applied.

This bill also provides funding to support a pilot program, established by this bill, for studying the use of vegetation cover on reclamation sites that does not require the use of topsoil or sludge.

SENATOR RUSSMAN: House Bill 546, basically this bill started off...and matter of fact I was a sponsor of this bill. I am certainly encouraged to

support the amendment proposed. I would hope that you would support it as well. The bill when it first started off was essentially requested by the industry. The biosolids industry wanted a study to be done, and all they want to study is the percolation of nitrates into the water in terms of reclaiming gravel pits. So whether you put wood fiber or whether you put sludge on a gravel pit, you know that the gravel pits are sandy, and gravelly things do percolate down there more easily. That was all that was going to be studied. Under the amendment, what would be studied would be dioxins and other toxic organics, surfacants and other pollutants that would be in this sludge material. Now the industry does not want that study. Why do you think that they don't want that study? We know that in the sludge materials those things exist. A lot of these gravel pits and whatnot, are over aquifers. Now does it make sense not to study those, and have that a part of the study? Certainly, it does not make sense to do that. The other thing that the amendment does, is also look at the alternatives of growing native species in there like blueberries, and cranberries, which are already growing in New Hampshire, as an alternative, and a more environmental friendly way, of reclaiming gravel pits. Now is that a tough amendment, I don't think so? The people at UNH would do this, and they would conduct the study, and it would further protect our groundwater, and it further protects your constituent's ability to have clean water, which they are entitled to. Certainly, it would go a long way towards resolving the issue of whether or not the biosolids, the sludge issue, is a safe issue or not. And so we don't think that in terms of offering the amendment, that it goes too far, or extravagant, or unbalanced, and certainly it is a greater protection for the environment and for your constituents. I would urge you support the amendment that was offered in order to expand the study slightly. This is not a big expansion, but slightly. The other thing that I would tell you, is that the prime sponsor would come in and say that, "well, I didn't know about this to the day of the hearing". Whose fault is it if the House decided on June 22, 1999, as crossover day? Whose fault is that? When the House members come in here and say, "we did not get enough notice on this", this is the Senate. We have a right to have a hearing, we have a right to impose what we feel our imprints should be on these bills. Certainly we would be shirking our responsibility if we said that we would go along with the House because it took so long to get over here, and people didn't know about it, and now we are not suppose to touch it because the House has given its blessing. We ought to stand apart and stand alone as the Senate and be proud of it, and do the right thing and make sure this bill passes in terms of giving greater terms of protection for the environment and greater protection for our constituent's drinking water.

SENATOR BELOW: Senator Russman, is the amendment that is being proposed the one found in the calendar?

SENATOR RUSSMAN: I believe so, I think that it is found on page 5, but I could be wrong.

SENATOR BELOW: The amendment would require the University of New Hampshire to conduct a pilot program. Have you identified someone from the University of New Hampshire that has agreed to do such a pilot program to enact this into law?

SENATOR RUSSMAN: I haven't personally identified them, but I can tell you this, if they smell money over there...they are looking for it in a big way... they will be happy to do any project that we ask them to do.

SENATOR F. KING: Senator Russman, would you point out in the bill where the test is only going to be of nitrates?

SENATOR RUSSMAN: My understanding is from the testimony that was offered, Senator F. King, that what they were going to look at was nitrates, in the testimony. Okay, if you look at the amendment it says nitrates and all the other things would have to be required. That was the testimony that was offered.

SENATOR F. KING: So it is not in the bill, but that was the testimony?

SENATOR RUSSMAN: Right, that is what the study would be composed of.

SENATOR KRUEGER: I rise in opposition to the amendment and I rise in full support of the original bill. It may surprise some of you to see the name of Senator Krueger on the bill that wants to test sludge. I was on the original bill because you know what, it makes sense. Not only does it make sense, that all the months of preparation, those months that are needed to find researchers at UNH...the amount of time that is needed to be able to set up a research project, is already in place. So let's first look at the timeframe. The timeframe is, that if we had passed the original bill today, we have looking at us, a deadline of June 30, 1999, that if we don't make that deadline, we will lose the money, we will lose \$70,000. We will lose the ability to in fact, put forth a project that a conservative, as such is myself, says I would like to know if there are problems with sludge. And the people who believe that sludge should not be used are also going to look at this study. Senator Wheeler earlier asked who actually is paying for this, and I would kind of like to talk to that for one second a little out of context. One of the things that we know from this study, is that this bill, in its original form, will create public private/partnership to broaden support to the ongoing UNH research. Through this proposed effort, the state gains valuable research for a minimal cost. The state investment is \$20,000, and that already got through in the Finance Committee on the House side, in each of the subsequent two years will be more than matched by the annual... and I will admit to this funding, Nebra input which will be \$30,000. However, Nebra has been able to obtain an in-kind contribution from the environmental protection, and I will say that again, the environmental protection certified testing laboratory for testing of the water samples valued at an estimated \$70,000. If we don't pass it in its original form, there is no way that we will get any of that research. So what you call cutting off your nose to spite your face. We all know what happened here, and we all know that the researcher, Professor McDowell, has agreed to do this study. We all know the amount of energy that it has taken to put into place to get this project off the ground to get some data. We did hear some testimony relative to the fact that in fact there will be other, and I will address that also, that there are other potential contaminants to answer Senator F. King's question that are going to be evaluated in this study. "The research project does include plans for testing of other trace of contaminants of concern". We also heard testimony at the time of the hearing, that in fact if you do test nitrates, you then have a red flag if nitrates are out of line with normal values. Well let's face it, in order to grow cranberries, you better have nitrates. It seems to me that you will find, as was evidence by testimony, a flag will go up and you will know if there are surfactants, you will know all these kind of things. That is what this study is about. Further, the prime sponsor of the bill, just to make sure that this research project gets off its feet and gets going, has

personally assured the committee and many members of this body that she would personally sponsor legislation to look into cranberry bogs, to look into further testing. Because, she, better than anyone, knows that it took months to set up this project at UNH, and in order to get the project forward, it is imperative that this body not turn our face on sludge testing. In fact, as I stand here, I am gravely concerned that some of the people who put themselves forward as environmentalists and have great concern about sludge, would in fact risk any testing at all, because there is no way as amended, that this bill can meet the deadline of June 30, 1999. Thank you, Mr. President.

SENATOR RUSSMAN: Senator Krueger, so it is clear from your statement that the very industry that we are trying to regulate is going to be in part, going to be helping fund this?

SENATOR KRUEGER: I would agree to that, and they would be part, yes.

SENATOR RUSSMAN: Would you also agree that the commissioner of Agriculture and other Senate members have asked what the commissioner's response was to earlier bills, that the commissioner of Agriculture, Steve Taylor, supported the pilot project that we have in this amendment to study cranberries and blueberries in the new agriculture crops in New Hampshire?

SENATOR KRUEGER: I would agree with you that Steve Taylor did that. In fact, I would suspect that if you thought that we could get a bill together next year that he would be very proud to be a part of that. However, I think that Steve Taylor would be gravely concerned if he thought that there was no testing at all going to happen soon just because, quite frankly, there is no research project to view the pits with cranberries.

SENATOR RUSSMAN: But he has not said that has he?

SENATOR KRUEGER: No.

SENATOR RUSSMAN: Would you also be surprised to know that the Cooperative Extensive Services from Merrimack County has staff that they devote to this particular project as well?

SENATOR KRUEGER: Senator, I don't doubt that Pat Krueger wouldn't be involved in such a project. I love cranberries, but you need to know as it is put forward, at this moment, on this date of June 22, 1999, that there is no way on this planet that the original bill as amended, as you have put forth, could possibly go forward. Thank you.

SENATOR FERNALD: I am a co-sponsor of this bill and I do not support this amendment. I would like to explain why. There is a study currently underway as I understand it through UNH, to test ground water and reclamation sites. The purpose of this bill is to continue to provide funding for that study to continue. The reason why this is important is because we are concerned that perhaps the stuff that is in sludge is going to be poisoning our groundwater. And gravel pits are very porous and the water can flow through them. The idea of this study is to give us more information so that perhaps we can have further legislative action on reclamation of gravel pits in the future. This is important because, under current law, reclamation of gravel pits with sludge is allowed. I should point out under SB 214, which failed, which would have changed the rules of sludge, reclamation of gravel pits with sludge would have still been allowed, but we still have these concerns. Here is why I oppose the amendment. There are two reasons. The first, is that the bill was designed with \$20,000 to fund the study as it currently consists. The

amendment seeks to add some new requirements. So it raises the question whether the \$20,000 is going to be sufficient to do the job that is intended to be done here. I would add additionally, that the study is already on its way. They are studying certain things. If we start adding new requirements midstream, it just does not make sense. So let's let these studies follow through. We have a new part to this bill, which is studies of vegetation that might be used to reclaim gravel pits. This is quite simply a sludge bill. Let's talk about sludge in this bill. If you want to talk about reclamation using vegetation, that can be a different bill. I don't want to jeopardize the importance of this study, in this bill, by adding on new ideas. And I would say that reclamation of gravel pits with vegetation is not some new idea that we need to think about. People have been doing it for years. There is a gravel pit near my house that was reclaimed with red pine thirty or forty years ago, obviously, it works. The reason why we are using sludge is because that works too. We don't need a study to find out that you can use blueberries or red pine or some other vegetation to reclaim a gravel pit. We know that we can do that. I do not want to bog down this bill with this amendment, and I would ask you to approve it unamended. Thank you.

SENATOR WHEELER: I rise in support of the amendment, and if the amendment fails, then I would urge you to vote against the bill. Because I think that the research is fundamentally flawed, it shows and points out all the problems when you have academic research supported by industry that wants a specific outcome. In the research project summary, which Nebra, which is a trade association, the New England Biosolids and Residual Association, they have a vested interest in finding a place to get rid of sludge, so they are sponsoring this research, and their research objective includes to "provide New Hampshire data that may assist in the development of the best management practices for the use of biosolids and paper mill residuals on gravel pit reclamation sites". That is what they want. They want to be able to have research that shows that it is okay to reclaim gravel pits, which is almost always above our aquifers with sludge. What they have tested so far is only nitrates which are and do have nutrient value. If they continue with focusing on nitrates, adding as they say that they probably will do, trace metals and trace organic compounds, but not adding pathogens and not adding dioxins. And most of paper mill sludge is dioxin, we are maxed out in dioxin as a nation right now. The EPA does not even know what to do with the dioxin reassessment that they have done. They have not released the results, because they don't know what to do with it. I know that it is expensive to test for it, but why keep testing for something that is cheap to test for, but is not truly an indication of how dangerous this substance is? We are the only state that is allowed to reclaim our gravel pits with sludge. The amendment at least puts in a control that we would try reclaiming with something other than sludge. In New Hampshire, the paper mill sludge has never gone under a risk assessment, but yet $\frac{3}{4}$ of the materials used to reclaim gravel pits is paper mill sludge. And yet we are not going to be testing the most hazardous part of that. So I think that the research, itself, is useless as far as protecting us from the dangers in sludge, and helping us understand that we truly don't want to keep reclaiming our gravel pits with sludge. It is bias research, and I would urge that if we cannot correct through the amendment, that we defeat the bill. Thank you.

SENATOR F. KING: Senator Wheeler, I thought I heard you say that you are opposed to research paid for by companies or private industry that might benefit from the research?

SENATOR WHEELER: Senator F. King, I hope what I said was that there are some problems inherent in industry research funded by private industry where the outcome is predetermined.

SENATOR F. KING: Do you think that the research done by Pfizer and Viagra was a bad thing, or other types of drugs that we have?

SENATOR WHEELER: Truly that is not what we are discussing here, Senator F. King.

SENATOR F. KING: Well it is private industry supporting research, and that is what we are talking about.

SENATOR FERNALD: Senator Wheeler, isn't it true that SB 214, which you co-sponsored, would have allowed the continued application of class A sludge to reclamation of gravel pits?

SENATOR WHEELER: As I recall, Senator Fernald, the sludge bill that we did work on did not refer to class A sludge, it was class B sludge that we were limiting as far as gravel pits were concerned.

SENATOR FERNALD: Thank you. Your concerned about bias with this study, do I understand you correctly, if we change the study to include "additional testing" you would believe the results. But if we leave it as originally proposed, you disbelieve the results. Is that what I hear you saying?

SENATOR WHEELER: I am saying that when you test for only one thing or for certain things, instead of allowing the research to expand over the natural things that you might want to test for. When you have limited it and you don't have a control, I think you are influencing the outcome.

SENATOR FERNALD: Do you feel that the people at UNH who are conducting this study should be insulted that you are questioning their academic freedom?

SENATOR WHEELER: The people who are conducting the study as far as I know, are plant nutritionists, and they are conducting it perfectly well, according to their likes. I am just saying that we need to expand the study.

SENATOR BELOW: We all have a vested interest in getting rid of sludge. It is a problem that is not going away. We make it every day. I rise in opposition to the proposed amendment, because I think that it jeopardizes moving ahead with valuable research that is going to help inform us about how to safely get rid of sludge. We all have a vested interest in making sure that we don't contaminate our groundwater. That we don't create problems by spreading sludge in inappropriate places, gravel pits may be one of those places. The concept of finding what the best management practices might include possible some gravel pits should not have certain sludges spread on them. That might be the best management practice. But we don't really know entirely the situation; this is a five-year research program, and it cost, money. The state other DES has not been willing to fund it completely, so private industry group, New England Biosolids Residual Association has been funding it at the rate of \$30,000 a year. They are asking the legislature to contribute \$20,000 from this year's money. This money will be lapsed and lost if we do not pass this bill and make it law by June 30, 1999. There will be additional requests next year and the following year to do this. I think that there is some merit to some of the points in the amendment, and I think we can address this next year, and I think we simply put at risk this funding for this research to con-

tinue. The bill does mandate things that are problematic. If you look at page 5, on section 21A, the last sentence requires the office to sponsor research to "continue to monitor soil, water for evidence of leaching of heavy metals for ten years after the initial application of sludges". There is no funding in here to support them doing that testing for ten more years. There is nobody that has been identified to anybody on the committee of the Senate who has agreed to do the pilot program this bill mandates and requires. It may be a good idea, but we need to know that someone is going to do the research before we require UNH by law to do the pilot program. Finally, I would note that in a memo to the committee, and testimony to the committee on June 10, 1999, we did have a representation in writing, that as a result of the concerns raised expanding the research, there has been a commitment by the chief researcher Professor McDowell, to collect blind samples and submit them, along with certified blanks to ensure quality and objectivity for testing of heavy metals, trace heavy metals, and chemicals in this whole research program. The problem with it in the starting case is that it costs money to do that and they have obtained a donation of \$70,000 that Senator Krueger mentioned from an EPA certified testing lab to do these tests. I think not moving ahead with this bill puts in jeopardy, our ability to move ahead and start to collect that valuable information. We certainly need to look at and try to refine the criteria in the next legislative session.

Question is on the adoption of the amendment.

A roll call was requested by Senator Krueger.

Seconded by Senator Trombly.

The following Senators voted Yes: Disnard, Pignatelli, Larsen, Russman, Wheeler, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Below, McCarley, Trombly, Roberge, Fernald, Squires, Francoeur, Krueger, Brown, D'Allesandro, Klemm, Hollingworth.

Yeas: 6 - Nays: 16

Senator J. King (Rule #42).

Amendment failed.

Question is on the motion of ordering to third reading.

A roll call was requested by Senator Krueger.

Seconded by Senator Trombly.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, McCarley, Trombly, Disnard, Roberge, Blaisdell, Fernald, Squires, Pignatelli, Francoeur, Larsen, Krueger, Brown, Russman, D'Allesandro, Klemm, Hollingworth, Cohen.

The following Senators voted No: Wheeler.

Yeas: 22 - Nays: 1

Senator J. King (Rule #42).

Adopted.

Ordered to third reading.

HB 596, making technical corrections to certain laws administered by the department of revenue administration and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001. Ways and Means Committee.

MINORITY REPORT: Ought to Pass, Senator D'Allesandro for the committee. Vote 3-5

MAJORITY REPORT: Ought to pass with amendment, Senator Below for the committee. Vote 5-3

1999-1618s

09/10

Amendment to HB 596

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

AN ACT making technical corrections to certain laws administered by the department of revenue administration, making the temporary rate of the meals and rooms tax permanent, and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.

Amend the bill by replacing section 7 with the following:

7 Temporary Rate of Meals and Rooms Tax Made Permanent. RSA 78-A:6, I and II are repealed and reenacted to read as follows:

I. A tax of 8 percent of the rent is imposed upon each occupancy.

II. A tax is imposed on taxable meals based upon the charge therefor as follows:

(a) Three cents for a charge between \$.36 and \$.37 inclusive;

(b) Four cents for a charge between \$.38 and \$.50 inclusive;

(c) Five cents for a charge between \$.51 and \$.62 inclusive;

(d) Six cents for a charge between \$.63 and \$.75 inclusive;

(e) Seven cents for a charge between \$.76 and \$.87 inclusive;

(f) Eight cents for a charge between \$.88 and \$1.00 inclusive;

(g) Eight percent of the charge for taxable meals over \$1.00, provided that fractions of cents shall be rounded up to the next whole cent.

1999-1618s

AMENDED ANALYSIS

This bill makes technical corrections to certain laws administered by the department of revenue administration. This bill extends the temporary tax rate of the communications services tax through the biennium ending June 30, 2001. The bill makes permanent the current temporary rate of the meals and rooms tax.

SENATOR D'ALLESANDRO: I rise to speak in opposition to the amendment as proposed by the majority. The amendment eliminates the local property tax exemption for wooden poles and conduits of telephone poles. I would like to give you a number of reasons why this policy is not appropriate at this time. This legislature enacted HB 117 that funds a tax equity commission to take a comprehensive look at taxation and tax policy. The House has rereferred HB 641 Municipal and County Government committee to study the whole issue of local taxation of utilities, and including valuation issues. I think that it is imperative that we look at both of those things and examine them because they will create policy as we move forward. We should utilize these existing procedures to thoroughly examine these tax policy issues and let those committees make policy recommendations to us for further action. Let's not take a piecemeal approach by changing one tax without looking at the bigger picture. We should wait for the determination of the various policy studies that will be prepared over the next few months. The trend in the country, is way taxing telephone infrastructure, and toward taxing actual services. This creates a

fairer competitive environment between wireline and wireless service providers. Eliminating the exemption would create a chilling effect on competition by favoring wireless **TAPE CHANGE** the new wireline company's like cable to come into this state and compete against the incumbent telephone companies. A Committee of Conference enacted the current legislation in the last session of the legislature. It is my intention to propose that we extend that decision for two years, and in light of the fact that we have extensive opportunities via the tax equity commission and the House Bill that has been referred, to look at this issue in its entire context, and let's look at taxation across the board. That is really imperative and we have a mechanism to do that, and we have mechanism to create policy and suggest that we do that. Thank you very much, Mr. President.

SENATOR BELOW: I am here to deliver the majority report, the 5-3 vote for the committee of ought to pass with amendment. House Bill 596 makes technical corrections to certain laws administered by the Department of Revenue Administration. The technical changes include reference to general tax provisions regarding penalties referenced to the United States Internal Revenue code, clarification of an existing exemption from the Real Estate transfer tax, correction of a reference regarding the legacies and successions tax, and the repeal of a certain limitation on the commissioner's authority to waive or abate penalties which was enacted for the sole purpose of the tax amnesty program in the last biennium. This bill also provides that the five point five percent communication services tax rate is continued for the next biennium. The underlying permanent rate is 3 percent, and a temporary extension of it at 5.5 percent, yielding a total of over \$45 million during FY 2000-2001. Finally, the bill passed by the House, also extends the prospective repeal for the exemption of wooden poles used for communication purposes from real estate taxes, the exemption from real estate taxes. The Ways and Means Committee amendment to this bill, makes two changes. First, it makes permanent the current temporary rate of the rooms and meals tax, which I believe that is 7 percent, and it sets it at 8 percent that is important to do as we go into the next biennium to sustain the revenue as we projected it as we are accustomed to it. That is not addressed in the budget. The amendment places that provision in substitution of the provision that extends a prospective repeal date in the bill. This is an issue that has been studied and discussed extensively as anybody who has been in the House with the Senate in the last two years will recall. And I don't want to belabor it too long, but I think that this merits some explanation, because it does not, in fact, the committee amendment does not in fact eliminate the exemption so much as it does not do anything about what is set to happen in law as it is now. Let me back up a second and give a little bit of history to this, because it is history.

Recess.

Out of Recess.

I was just going to speak briefly about the history of taxation of telephone poles. This all began back in the last century with the emergence of telecommunications, which is the telegraph. The telegraph line originally ran from train station to train station along the railroad quarters and often owned by the railroads. As such, the taxation of railroads, and the taxation of telegraphs, and eventually telephone lines parallel each other, which they were, they're by the state, and the state taxed everything. The wires, the poles, the trucks, the switching equipment, and so

forth. Well in 1990, the legislature repealed that state tax and enacted the telecommunications services tax. You will probably hear some arguments that there was a deal at the time, and the deal was the repeal of the state tax, not let the local towns tax what the state used to tax, and instead we have the communications services tax. But I would note that the then chairman of the House Ways and Means Committee was Representative Donna Sytek, and in a letter dated April 19, 1990 addressed to commissioner DRA Stan Arnold. She wrote that the legislature "did not address the issue of whether or not the property formally taxed at the state level could be or should be taxed by the local municipalities". So the issue came back a couple of years ago with SB 73 and HB 707. Without going into that whole history, because there was litigation involved and questions about what would happen to the taxation of the electric utilities poles. The long and short of it, was there was a Committee of Conference last year that adopted a compromise, and that compromise subjected telecommunication poles and conduits, and conduits are underground pipelines, to taxation by the municipalities, the local property tax. But specifically stated that other devices and equipment including wires and fiber optics and switching equipment should not be taxable as real estate. And then there was an exemption that provided for as long as the communications service tax rate imposed at a rate greater than the statutory rate, then there would be an exemption for wooden poles and conduit from that tax. But that exemption terminates on June 30 1999, of this year. The Committee of Conference last year agreed to provide that exemption, but only until June 30, 1999. The question came up, what happens after June 30, 1999? and I recall the clear answer being that this is for this legislature to decide whether to continue that exemption or not. So that is the choice that we make as a Senate today, whether to continue that exemption or not. For many of us, the issue seems simple, a pole, is a pole, is a pole, and a conduit, is a conduit. Back a couple of years ago when the Senate had an advisory opinion from the Supreme Court on this issue, the Court noted that the basic underlying criteria is that the constitutionality of a taxation classification depends upon the physical and functional characteristics of the property itself. Meaning if property is physically and functionally the same, it should be taxed in a like manner. I think it is hard to argue that half an interest in a pole is physically or functionally different than the other half interest, or a pole that happens to be entirely owned by the electric utility is fundamentally different than a pole owned by a telecommunication company, when both poles, both hold up, both companies wires. The difference was made in the compromise last year, which was to not subject the wires, the telecommunication wires which are physically and functionally different than electric utility wires...they're not subject to the property tax. That is in fact, where most of the value is, so this simply...when the committee heard this bill, there was no argument made for why this exemption should continue. The bill as amended, as proposed by the committee, simply does not address the continuation of that exemption. There is an argument that has been made that if we don't continue that exemption, it is somehow going to have a chilling effect on investment by new wirelines and new companies in telecommunication. I do not see the foundation for that argument, because all it is, is the poles and conduits. If competitive providers put in wires or fiber optics, they're not subject to the property tax. Nobody is going to go around and take out the poles that already serve along the streets, or the conduits that provide fiber optic connections between major

switching stations. I am not going to go on too much longer, but I would note that I think all of us received a letter from AT&T, perhaps yesterday. One thing that stuck out that really concerned me in the statement. The opposition was based on the concern that noted that poles and conduit structures themselves, have limited tax exposure for the companies...there is not that much value in them compared to the wires and fiber optics. The note was that "I can assure you that municipalities will attempt to tax the value of services traveling through the conduit as the city of Lebanon attempted to do to AT&T, greatly increasing the tax liability associated with these facilities". I find that a very misleading statement, and I want to for the record, clarify what the city of Lebanon did, and as a Senator for the city of Lebanon and as a resident of the city of Lebanon. Back a few years ago the state of New Hampshire required the Northern Rail quarter between Lebanon and Boscawen...when the railroad owned company on that quarter was subject to railroad tax, and when it was conveyed to the state, it was conveyed with exception of an easement for telecommunications fiber optics. A private company retained the easement, and when that easement was in the railroad quarter, it was accounted for in the railroad companies, taxation. Now that it is no longer in the quarter, the city of Lebanon asserted that the easement, as a part of real estate, was subject to local property tax. They asserted that, and they also tried to tax the cable itself, the fiber optics and the conduit. That is how they arrived of a value of that easement in the cable and conduit. AT&T appealed that, the Board of Assessors accepted the argument that under the current legal situation they could not tax the cable or the conduit. But they kept the assessment in place, feeling that if the assessment was too great for the easement, the value of the interest in real estate that exist in that quarter, that AT&T could appeal that. AT&T chose not to appeal that, but what Lebanon is taxing is a land easement and interest in real estate. Not the conduit, not the fiber graphic, not the services traveling in that quarter. In fact, I would like to point out that part of the Committee of Conference enacted into statute a statement that the valuation of such property, meaning the poles and conduits, shall, based on its value as real estate, not on its value for the services that it carries. I don't think that we need to take this and study it further with a study committee, and I would simply urge your adoption of the committee amendment, which will finally allow equal taxation for property that is physically and functionally the same.

SENATOR F. KING: Senator D'Allesandro, I heard you say very clearly on more than one occasion, that we should not make any tax decisions until this committee has been set up to study taxation through the summer does its work. That causes me some distress, because my guess is that before we solve the school funding issue, we may have to talk about taxes. Would you clarify your position please?

SENATOR D'ALLESANDRO: Thank you very much for giving me an opportunity to do that, sir. What I said was that the Tax Equity Commission is going to look at taxation and tax policy. That is really what I meant, knowing full well that things have to be done. I think if you look at it in the global context, there will be something that will be recommended, and I hope very beneficial, to this state and very beneficial to our policy.

SENATOR BROWN: Thank you, Mr. President, I oppose this amendment and I stand up here to speak to that issue, about eliminating the

local property tax exemption on wooden poles and conduits on telephone companies. There is currently a case in New Hampshire Supreme Court entitled NHEC versus Allenstown, Docket number 99-146. It raises questions about the constitutionality of the exemption. This is a case in which an electric utility is challenged the exemption for a telephone company's, interest in wooden poles. We should let the court decide whether it is valid to treat electric and telephone companies personal property differently for local tax property tax purposes. If we eliminate the exemption for telephone poles and conduits, we will create a new tax at the local level, create a disincentive to future infrastructure investment in this state, and create valuation controversy at the local level. We will not resolve the issue with the Supreme Court. I would also like to address the statement that "a pole is a pole, is a pole". I think that there is a legitimate reason to exempt telephone poles used by telephone companies. As a practical matter and for the foreseeable future, electricity cannot be transmitted or distributed without using utility poles or wires. That is not true for telephones. Telephones and other telecommunications services on the other hand, generally can presently be provided without using poles and wires. Under present law, most telecommunications services are taxed under the communications services tax. There were changes that were made in 1990, and the purpose of these changes, other than raising revenues, was to level the playing field between pole and wire telecommunications in various wireless telecommunications. For those reasons I do oppose this amendment. Thank you.

SENATOR FRASER: Mr. President and my colleagues in the Senate, at the risk of repeating what has already been said, I would like to give you just a little bit of history that brought us to this day today. Back in 1990, and I was here, the legislature repealed the statewide property tax on telephone personal property in exchange for the communications service tax. The communication services tax had two objectives, one, leveling the playing field on telecommunications industry; secondly, increasing revenue for the state. These two objectives have long since been met. The communications services tax achieved tax equity and it enhanced revenues in a way which has not in anyway affected the cities and towns. Imposing a new tax in contrary to the legislative purpose in repealing the statewide personal property tax in 1990, and replacing it with the communications services tax, an action that leveled the playing field in a very competitive industry. Eliminating the exemption amounts to a new local tax on the personal property of telephone companies that have poles and conduits. This tax is unfair because it creates a newly minted tax liability for the companies with poles and conduits, but not for competing telecommunications companies. Allowing municipalities to impose a new personal property tax on telephone companies, therefore on levels of the playing field in the telecommunications market that is extremely competitive. So, Mr. President, I stand before you in strong opposition to the amendment to 596.

SENATOR FERNALD: The only way that we really allow towns to raise the money in this state is to tax real estate. And yet, we have towns that can tax poles because the public electric utility owns them and the other towns that can tax the poles because they are owned by the telephone company. That distinction makes no sense to me. This amendment from Ways & Means Committee will change that current state of law that makes no sense. As Senator Below said more accurately, "the distinction will go away if we do not extend it". One question that may come up, which I think I hear in the last two sets of testimony, is that these

additional are going to have an effect on the industry that is incredibly competitive, and obviously someone is going to have to pay the real estate tax, and who does it get passed on to? We did discuss that in committee. I think that it is important to note that, to the extent that this expense falls on Bell Atlantic. What we heard in committee is that Bell Atlantic has not had a rate case in ten years. The reason for that is, as a regulated monopoly, they are really making too much money. In fact, in recent years, they have been required to make some changes to the rate structure to in fact, give money back to the telephone customers. Most recently, they have had to expand the local calling areas, the local free calling areas because they were making too much money on their current rates. The expectation that we heard in committee is, that Bell Atlantic pays this real estate tax in those towns where it owns the poles. It will make no difference in local rates. To the extent, this tax falls on interstate long distance, conduits that are owned by AT&T and others. First of all, the tax is going to be paid by the entire AT&T rates base, if you will. So it is people across the country that are going to pay this tax. Again, as a competitive market, I don't see that we are going to see any change in rates in New Hampshire anymore than this is going to cost people in Iowa or New Mexico more money on their long distance. This does away with a crazy inequity in our tax law, and I support the amendment. Thank you.

SENATOR MCCARLEY: Certainly, two years ago, I believe that Senator Whipple and I sponsored this original piece of legislation. I was supportive of it at the time, and I appreciated the work done by the Conference Committee last year, and I know that Senator Gordon put in a lot of hours on that. I would have anticipated that I would support this today. But frankly, I think that we have done about all we can do on changes in property taxes this year. I am simply not prepared at this time to add one more change to what we have already done. I will not be supporting the amendment. Thank you.

SENATOR GORDON: I do not support the amendment. I just don't agree with Senator Below in that "a pole is a pole is a pole". What I have already learned this morning is a seed, is not a seed, and is not a seed. I have learned that a pile of sludge is not a pile of sludge, is not a pile of sludge. I stand and say a pole, is not a pole, is not a pole. I would say that simply deciding that all wooden poles would be taxed in the same way is not going to make property taxation equitable and fair in the state of New Hampshire. I am sure that Senator Below knows, and many of the other Senators know, our tax system in this state is so convoluted, that we find ourselves all the time making amendments, as we already have prior to this bill today. I am going to vote...and I happen to think that this is an extremely uncertain environment. Before I vote to simply decide that we are going to tax telephone poles, I would like to extend the exemption that we have provided, and then as this property tax issue shakes out in relationship to the education issue, then I would certainly like to revisit this in the future.

SENATOR BELOW: Senator Gordon, would you believe that the wireless companies are now paying property taxes on their towers?

SENATOR GORDON: I certainly do believe that Senator Below, but I also know that they don't have the same history as the telephone poles which you have given us a long description of the history of how our current circumstances have evolved. We have a certain DNA here, okay? We have heritage in terms of the way we have taxed telephone poles in

the past, unlike with what is taken place with wireless communications - so to the extent that they are treated differently, that does not bother me at all.

SENATOR LARSEN: In the past I have supported this bill. I think that we have a crazy patchwork of taxation, and I have the reliance in the past and hopefully, we are moving away from it. Reliance on overreliance on our property tax. I do believe that this is not the year to be shifting. We have already done a great many of changes, and we have changed the way that we tax utility property. I believe that the tax equity commission needs to look at this, and we need to continue to make our tax system fair.

Question is on the adoption of the amendment.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: F. King, Below, Disnard, Fernald, J. King, Hollingworth, Cohen.

The following Senators voted No: Gordon, Johnson, Fraser, McCarley, Trombly, Roberge, Blaisdell, Squires, Pignatelli, Francoeur, Larsen, Krueger, Brown, Russman, D'Allesandro, Wheeler, Klemm.

Yeas: 7 - Nays: 17

Amendment failed.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

Sen. Fraser, Dist. 4

June 21, 1999

1999-1736s

09/01

Amendment to HB 596

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

AN ACT making technical corrections to certain laws administered by the department of revenue administration, making the temporary rate of the meals and rooms tax permanent, and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.

Amend the bill by inserting after section 8 the following and renumbering the original section 8 to read as 9:

8 Temporary Rate of Meals and Rooms Tax Made Permanent. RSA 78-A:6, I and II are repealed and reenacted to read as follows:

I. A tax of 8 percent of the rent is imposed upon each occupancy.

II. A tax is imposed on taxable meals based upon the charge therefor as follows:

(a) Three cents for a charge between \$.36 and \$.37 inclusive;

(b) Four cents for a charge between \$.38 and \$.50 inclusive;

(c) Five cents for a charge between \$.51 and \$.62 inclusive;

(d) Six cents for a charge between \$.63 and \$.75 inclusive;

(e) Seven cents for a charge between \$.76 and \$.87 inclusive;

(f) Eight cents for a charge between \$.88 and \$1.00 inclusive;

(g) Eight percent of the charge for taxable meals over \$1.00, provided that fractions of cents shall be rounded up to the next whole cent.

1999-1736s

AMENDED ANALYSIS

This bill makes technical corrections to certain laws administered by the department of revenue administration. This bill extends the temporary tax rate of the communications services tax through the biennium ending June 30, 2001. The bill makes permanent the current temporary rate of the meals and rooms tax.

SENATOR D'ALLESANDRO: My amendment would follow the thinking of the House in extending the exemption through the year 2001 and taking the other taxes that were mentioned and putting them in place as suggested by the Department of Revenue and Administration. So all of the item integrated by Senator Below would be put in place, and the exemption for the poles would be extended for a two-year period. The amendment is currently before you.

SENATOR TROMBLY: Senator D'Allesandro, in your amendment, there says there is a three cent charge for three cents tax on a charge between thirty six and thirty seven cents inclusive. What might that be in between?

SENATOR D'ALLESANDRO: There is nothing in between.

SENATOR FRANCOUER: Senator D'Allesandro, I am lost here, where we go from the pole tax to the rooms and meals tax, could you enlighten me?

SENATOR D'ALLESANDRO: The rooms and meals tax was inadvertently left out of the budget, the extension. So the Department of Revenue came to us and asked us to put it in this piece of legislation in the technical corrections bill. It was in both bills. Both Senator Below's and my amendment, and makes this tax permanent.

SENATOR FRANCOUER: The calendar does not talk about an amendment, it just says an ought to pass.

SENATOR D'ALLESANDRO: This is a floor amendment

SENATOR FRANCOUER: Okay, so the House forgot to put it in?

SENATOR D'ALLESANDRO: That is correct. The House forgot to put it in. It was Stan Arnold that brought forth that to the Committee on Ways and Means.

SENATOR BROWN: I have a two-part question, but the first part is real easy. My name is on this amendment, and I think that you did not intend to do that.

SENATOR D'ALLESANDRO: That is correct.

SENATOR BROWN: That is clear. The second part is that, just so that everyone understands, that in the past, we have made this tax temporarily increase for two-year periods, is that correct? And now we are making it a permanent tax rather than simply extending it temporarily for two more years?

SENATOR D'ALLESANDRO: Yes.

SENATOR GORDON: There is no change in tax rates on this and the only effect of this amendment is to change what has been a temporary tax to a permanent tax?

SENATOR D'ALLESANDRO: That is correct.

SENATOR GORDON: The reason that we do that is because we don't want to have to vote on that every two years?

SENATOR D'ALLESANDRO: That is correct.

SENATOR FRANCOUER: Senator Gordon, isn't the rooms and meals tax at 7%, and we moved it up to 8%? Is this going to make it permanent at 8?

SENATOR GORDON: I do not know the answer to that question. You might want to ask someone that has the answer.

SENATOR D'ALLESANDRO: That is correct this makes it permanent at 8.

SENATOR FRANCOUER: It is not statutory going to be at 7%, it is going to make it statutory permanent at 8%?

SENATOR D'ALLESANDRO: That is correct, where it's temporarily now.

Recess.

Out of Recess.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: F. King, Fraser, Below, McCarley, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: Gordon, Johnson, Trombly, Roberge, Francoeur, Krueger, Brown, Klemm.

Yeas: 16 - Nays: 8

Floor Amendment adopted.

Ordered to third reading.

HJR 7, supporting the continued management of the White Mountain National Forest for multiple uses as a part of the National Forest System. Wildlife and Recreation Committee. Vote 4-0. Ought to Pass, Senator Krueger for the committee.

SENATOR KRUGER: This resolution is designed to forestall efforts to designate all or part of the White Mountain National Forest as a National Park. Designation as a National Park will lead to restrictions on the activities that could be pursued in the Forest. It will eliminate timber harvesting, hunting, and restrict many other recreational activities. The management of the forest has been a great success. It is a major tourist attraction of this state. The policy of reconciling multiple recreational and commercial uses has succeeded. The resolution is supported by both the New Hampshire Society for the Protection of the Forest and the Audubon Society. The entire congressional delegation opposes any change in the status of the forest, and both the governor and DRED support the resolution. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 225, relative to the definitions of the terms "farm," "agriculture," and "farming." Wildlife and Recreation Committee. Vote 5-0. Ought to Pass, Senator Disnard for the committee.

SENATOR DISNARD: This bill adjusts and refines the terms "farm" and "agriculture" and "farming", which appears throughout the statute. The commissioner of education spoke during the executive session and de-

sires this bill. This bill does not authorize, or legitimize, any practices or operations that are prohibited by current statutes. It does not in any way, change or alter, the regulation of any particular farming practice or agricultural operation. Thus for example, a bill does not affect the issues like the regulation of sludge. The adjustments to the definitions are an effort to make the statutes consistent with the character or contemporary agriculture that has become very diverse today. The definition ranges from fish farming, to riding instruction, to raising creatures like yaks, emus and ostriches. The bill is a product of a study committee and supported by the Department of Education. The committee unanimously recommends ought to pass. I would like to indicate that this is not the bill that you received a letter on yesterday from the realtors. Thank you.

Adopted.

Ordered to third reading.

HB 364, relative to expenditure of funds received from the United States on account of national forest lands in this state. Wildlife and Recreation Committee. Vote 4-0. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: House Bill 364 is a housekeeping bill requested by the state treasurer. The funds in question are distributed to municipalities with National Forest Land within their boundaries. The funds are applied to the public school system. These funds have been handled by the state treasurer. The state treasurer has neither the administrative apparatus nor the auditing capacity to manage and apportion these funds efficiently. House Bill 364 would transfer responsibilities from managing and distributing these funds to the Department of Education. The committee unanimously recommends ought to pass.

Adopted.

Ordered to third reading.

HB 574-FN-A, establishing a fisheries habitat fee required for persons obtaining a fishing license and continually appropriating the funds for fisheries habitats. Wildlife and Recreation Committee. Vote 4-0. Ought to Pass, Senator Disnard for the committee.

SENATOR DISNARD: Off the side, I do know the difference between a commissioner of Education and the commissioner of Agriculture. This bill requires persons obtaining a fishing license to pay a \$1 fee, which would be collected into a fund to acquire, develop, maintain and promote fishing habitat. This is a dedicated fund. The fund could be used to restore, protect, and manage habitat, which include acquiring properties or easements. The fund could be used to purchase property or easements to ensure access to fisheries habitat. Anyone buying a hunting or fishing license would not be buying or paying twice for this fishing habitat dollar. The Fish and Game Department supports the bill. The sportsmen, although we did not have anyone speaking against this bill, the sportsmen were willing to pay \$3 to \$5. The committee agreed that it should be \$1, the Senate and House Committee. This will attract more than double the amount of money in federal matching funds.

Adopted.

Ordered to third reading.

HB 333, relative to contracts between participating providers and managed care entities. Insurance Committee. Vote 4-1. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: House Bill 333 requires health carriers to allow the contracting participating provider 60 days from the postmarked date to review the proposed contract or modifications to an existing contract. The bill simply provides for a reasonable period of time during which providers can review for post contracts and have them reviewed by legal counsel. Contracts can be extremely complex, and 60 days seems like a reasonable amount of time for a review. The committee recommends this bill as ought to pass. It is my understanding, that Senator Fraser will be offering a floor amendment, and I am in full support of the floor amendment. I regret that we were unable to discuss it fully in committee.

SENATOR SQUIRES: I rise, and I was the one vote in the committee, and I would like to speak to this bill because it introduces a new element in the statutory regulation of managed care. It has been an interesting morning. We have spent a lot of time striking at bigness. We have criticized Monsanto, we have talked about sludge companies, and we have talked about Bell Atlantic, and now we are talking about another industry. The difference between an HMO industry and the three or four mentioned branches, is that the HMO industry is losing money. Kaiser is retreating from the Northeast, because it can't survive. The state employees this month, received a 27% premium increase. This is going to have to be somehow negotiated. Plans are falling, and rates as high as 35% and somewhere along the line we have acknowledged that we have played a part in this. This bill sets up a new way to play. Right now, there are roughly four ways that the legislature rules the HMO industry. First of all we have legislatively specific benefits, bone marrow transplants may a case imply, wigs and so on and so forth. Then we have regulated provider relations as for example, the prohibition of gag rules. Then we have defined statutorily specific benefits, i.e. a 48 hour stay, after delivery, and a overnight stay after a mastectomy, and finally, we have mandated that certain providers, notably mental health providers enter the field. What this bill does, is it adds a fifth way. It enters directly into contracts, not their content, but the circumstances by which the contract is negotiated. The premise of the bill, which I heard, and the committee members heard, that these contracts are complex. And they are. But a rational response would be "make them less complex". No, we don't do that, we say that we are going to settle for complexity, and then string out the time to deal with the complexity, which is not what we ought to be doing. We are going to see a continued escalation of health care costs along the lines that I have previously mentioned to you. This bill is not going to fix that. It is going to make it worse. Somewhere along the line we are going to have to let the market work here. If you think that this would have fixed the problem in the Seacoast, you are wrong. That dispute is not going to go away because of this bill or any other bill. That is a marketplace bill. What I am doing is standing here and saying that we need to look at ourselves, and we need to ask ourselves, we are in the security of attacking bigness. Are we in fact interfering with public policy with the marketplace? I think that we are. I think that this bill does that and I cannot support it.

SENATOR FERNALD: Senator Squires has gotten my attention. I have said before that I believe in the market, and I do not think that we should get in the middle of it when we have grownups that are negotiating with each other. It looks like this bill is putting the legislature in the middle of a negotiation between a provider, like a hospital, and an HMO. Unless someone can get up and tell me why we should be in the middle of that negotiation, then I am going to vote no.

SENATOR WHEELER: I do not believe that saying that a provider needs some time to look over a contract is getting in the middle of a contractual arrangement. We are talking about a postmark date on an envelope for a contract. We got a lot of material with contracts and they are complex. This is all, I think, one contract, it could be more than one, but believe me, they're complex, and it requires lawyers to go over the contract. Every contract is different. There are innumerable different clauses in each contract, and a responsible health care provider must look over the contract carefully. They owe it to the consumer, to those of us that are purchasers, to patient's consumers, whatever you want to call us. The people who are paying through our employer, or however it is being paid for our healthcare insurance. Those contracts must be carefully examined. This bill did not meet with opposition in the House, that I was aware of. It had bipartisan support. It strikes me as a small bill that nobody is saying it is going to change the situation on the Seacoast, or improve or lower the cost of healthcare. It won't make any dramatic changes, it is just saying, give us some time to do a careful job that is what we are suppose to do. We are suppose to understand our contracts. If we had a hospital with 700 contracts, each one of those 700 contracts can be different, and we need time to look them over. This is talking about 60 days from a postmarked date. It is not saying what needs to be inside that contract. I do not feel that we are interfering with anything. I feel that it has nothing to do with the free market. We are just talking about allowing time for careful consideration of a contract.

SENATOR F. KING: If this is just a case of willing buyer and willing seller transactions taking place and why should we impose that on them? Presumably, if someone wants to sell a process and someone wants to buy it, and they make their own determination of when they make their decision. I don't understand why we have to do this?

SENATOR WHEELER: I would hate to think, Senator F. King, that our healthcare was going to be jeopardized by the fact that the people who are signing the contracts don't have time to review them. We are talking about a little time here. I think that we have a responsibility as a legislature, to make sure things are done carefully when they are as important as this.

SENATOR FERNALD: This change seems to apply to existing providers who are having a contract that is modified and potentially new providers. I guess, what I see is that new providers, if they want to take the time to review the proposed contract, they can delay signing up and becoming a provider until they have had a chance to read it. As far as modifying the existing contract that is at concern, I guess, my question to you is, what is happening now without the law as you propose it? If I am an existing provider and my HMO says they are modifying the contract, what happens without your change?

SENATOR WHEELER: Well, one of the examples that we were given was a renewal contract from Blue Cross/Blue Shield of New Hampshire. It was 30 pages long and completely different in content and payment methodology from the current contract. There was a lot of time elapsed before they could find out what was going on, and find out about the contract, and then they got a letter stating that the contract was nonnegotiable and then there was never any time to get any clarification of the elements in the contract. I am just alerting you to the fact that these contracts are complex. Whether they are new contracts or whether they are modifications of contracts, and

I don't see why we are unwilling to allow an appropriate amount of time for review. I think that is something that we have a right and even an obligation to do. It is a cautious approach.

SENATOR SQUIRES: Senator Wheeler, in the course of negotiation in the present situation, I don't understand...could you explain why a provider can't say "I would respond to you in 60 days"? Because despite what we think, the power is in the provider. The plan cannot do anything without a provider. Secondly, what prevents the provider from obtaining advice on this contract? If you buy a house, if you enter into a significant contract in your life, and you don't get some advice on that, you proceed at your peril. If you are going to be away, then you probably ought to get someone to look at it for you, like an attorney who understands this language. But to say that this does not enter into contractual negotiations, how can you explain the very title "an act relative to contracts"? Thank you.

SENATOR WHEELER: I would say that we don't assign titles to the bills and perhaps the title is not totally accurate. But it is an act relative to timelines for contracts. Not for the content for the contract. What the Senate needs to know is that this bill is requested by the medical community, and that the Medical Society wants it, and doctors have come and testified in favor for it. The Hospital Association feels that it is necessary. I am neither a provider nor an insurer. I don't enter into these contracts. They do indeed have lawyers review the contracts and they want to make sure that their attorneys have an appropriate amount of time to go through the contracts. I really fail to see why we are so concerned about allowing some time for contract review.

Question is on the motion of ought to pass.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: Below, McCarley, Trombly, Disnard, Blaisdell, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Fernald, Squires, Francoeur, Krueger, Brown, Klemm.

Yeas: 12 - Nays: 11

Adopted.

Senator Russman is excused.

Senator Fraser offered a floor amendment.

1999-1740s

01/09

Floor Amendment to HB 333

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

1 New Paragraph; Review Required. Amend RSA 420-J:8 by inserting after paragraph VI the following new paragraph:

VII. A health carrier shall allow a participating provider 60 days from the postmarked date to review any proposed contract and any modifications to an existing contract, excluding those modifications that are expressly permitted under the existing contract.

2 Effective Date. This act shall take effect January 1, 2000.

1999-1740s

AMENDED ANALYSIS

This bill requires health carriers to allow the contracting participating provider 60 days from the postmarked date to review the proposed contract or any modification to an existing contract, excluding those modifications that are expressly permitted under the existing contract.

SENATOR FRASER: What the amendment 1740s does to HB 333 is just allows that those modifications are that already permissible within the contract be exempted from this bill. The bill says "health carriers to allow the contracting participating provider 60 days from the postmarked date to review the proposed contract or any modification to an existing contract". What my amendment says is "excluding those modifications that are expressly permitted under the existing contract".

SENATOR WHEELER: I just wanted to reaffirm my commitment to supporting the floor amendment, although Senator Fraser did not vote for the bill. On the other hand, I am still willing to support the floor amendment.

Floor Amendment adopted.

Ordered to third reading.

HB 741, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs. Insurance Committee. Vote 6-0. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1716s

01/09

Amendment to HB 741

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

1 Apprenticeship Programs; Minimum Standards for Apprenticeship Agreements; Journeymen-Apprentice Ratio. Amend RSA 278:8, IX to read as follows:

IX. A statement as to the ratio of apprentices to journeymen or number of apprentices to be employed during any year under the program. *Where the apprenticeship standards provide for a workforce ratio of one apprentice for one journeyman for the first 5 apprentices and 3 additional journeymen for each additional apprentice thereafter; no standard shall have the effect of requiring the employment of any greater number of journeymen per apprentice;*

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

1999-1716s

AMENDED ANALYSIS

This bill clarifies the minimum standards for the ratio of apprentices to journeymen in trade or industry apprenticeship programs.

SENATOR WHEELER: House Bill 741 clarifies the ratio of journeymen to apprentices in an apprenticeship program. The bill details that the first five apprentices the work force ratio shall be one apprentice to one journeyman. After the first five apprentices, there should be one apprentice to three journeymen. And that there shall be no requirement for a higher ratio. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HCR 12, urging the United States Congress to enact legislation which prohibits the federal government from recouping state tobacco settlement funds. Internal Affairs Committee. Vote 2-0. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: This bill is important because the Congress needs to realize that it was the states, not the federal government, that sued the tobacco companies and that it's the states that should receive the money from that suit.

Adopted.

Ordered to third reading.

HB 301, relative to burials and funerals at the New Hampshire state veterans cemetery. Internal Affairs Committee. Vote 1-0. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: This bill establishes procedures relative to the burials and funeral services at the State Veterans Cemetery. This bill establishes that the service may contain customs and practices usual at military funerals, but that the state will not be liable for the cost of any service that is not offered by a federal cemetery. The committee recommends this bill as ought to pass.

SENATOR JOHNSON: I just want to say that I echo your sentiments, and as a veteran of World War II, and I appreciate the strong vote that came out of Internal Affairs.

SENATOR FRANCOEUR: I was glad to be a co-sponsor on this bill with Representative Klegg. About a year ago we had a veteran in the town of Hudson that needed to be buried at the veterans cemetery, and they gave us about two or three weeks before it could be done. I really appreciate the committee passing this and helping us to expedite those at the time of sorrow. Thank you.

Adopted.

Ordered to third reading.

HB 414-FN, establishing a committee to study the unclassified salary structure for state officers. Internal Affairs Committee. Vote 2-0. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this is probably one of the most important pieces of legislation that we are going to embrace this year beyond the budget. Over the past several years, several pieces of legislation have been introduced dealing with specific salary issues. This bill would look at the salary structure as a whole. The salaries of unclassified state officers need to be examined, because they are not competitive, and New Hampshire may not be able to compete in the future. There are directors that are being paid less than the people in comparable positions in the private sector. The committee was unanimous in believing that this study should be pursued.

SENATOR F. KING: I rise in support of this legislation, but then I will follow that by saying I think it will be ineffective. For this bill to work, it needs to have money attached to it. **TAPE CHANGE** I will vote for the bill, but just tell you that the bill won't work.

SENATOR D'ALLESANDRO: I rise in support of this piece of legislation, and I might say that the last time this study was done, and I was a member of the committee that did the study. We did it in 1976, the late councilor Jim Hayes, councilor Bernie Streeter and myself were a three person committee that did the last effective classification and movement of

people into that system. That was some 25 years ago. I think that this study is certainly warranted. I would hope that support does come because you need support in order to make it happen. I think we have to put it out there in order to begin the process.

Adopted.

Ordered to third reading.

HB 606-FN, relative to managed care programs under workers' compensation and relative to certain members of the compensation appeals board. Internal Affairs Committee. Vote 2-0. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President and members of the Senate, this bill gives the labor commissioner more of a role in determining that managed care providers are doing a good job in the workers' compensation area. The bill also increases the per diem rate for the members of the workers' compensation appeal board who are attorneys. These attorneys give up their valuable time and bring much needed expertise to the board, and should be compensated appropriately. The money to compensate the board members comes from the workers' compensation assessments, and not from the general fund. The bill also allows the Labor Department to fine insurance companies when they do not comply promptly with the boards orders. The committee recommends this bill as ought to pass.

SENATOR FRANCOUER: Senator Fraser was with me there last Thursday so that we would not have a 1-0 committee report on this bill.

Adopted.

Ordered to third reading.

HB 670, establishing an advisory board to study the future of the New Hampshire automated information system's "Webster" Internet site. Internal Affairs Committee. Vote 2-0. Ought to Pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: This bill establishes boards to oversee the continuing of the development of the state's Internet web site "Webster". The state's web site currently has a wide array of information available to the public including state statutes, rules, information relative to various boards and commissions, departments, pending legislation, as well as other information. This board would help to oversee the development of "Webster" to help ensure that the development is orderly and that the best use is made of this site. The committee recommends this bill ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 729, adding social clubs recognized by the Internal Revenue Service to the definition of "charitable organization" for purposes of the laws governing raffles. Internal Affairs Committee. Vote 1-0. Ought to pass with amendment, Senator D'Allesandro for the committee.

1999-1513s

08/10

Amendment to HB 729

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

AN ACT redefining "charitable organization" for purposes of the laws governing raffles.

Amend the bill by replacing section 1 with the following:

1 Raffles; Definitions; Charitable Organizations. RSA 287-A:1, II is repealed and reenacted to read as follows:

II. "Charitable organization" means the following:

(a) Any person or entity that is determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code, as that section now exists or may hereafter be amended; or

(b) Any other person or entity that is or holds itself out to be established, in whole or in part, for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, social, sporting, recreational, or other charitable purpose which has been in existence for at least 2 years, or political committee or political party which has been in existence for at least 2 years, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation. "Charitable organization" is not limited to those organizations to which contributions are tax deductible under section 170 of the Internal Revenue Code.

1999-1513s

AMENDED ANALYSIS

This bill:

I. Defines "charitable organization" for purposes of the laws governing raffles as:

(a) Any person or entity that is determined by the Internal Revenue Service to be a tax exempt organization; or

(b) Any person or entity established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, social, sporting, recreational, or other charitable purpose which has been in existence for at least 2 years, or political committee or political party which has been in existence for at least 2 years, or any person who solicits for a charitable purpose.

Senator Trombly moved to have **HB 729**, adding social clubs recognized by the Internal Revenue Service to the definition of "charitable organization" for purposes of the laws governing raffles, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 729, adding social clubs recognized by the Internal Revenue Service to the definition of "charitable organization" for purposes of the laws governing raffles.

TAKEN OFF THE TABLE

Senator Francoeur moved to have **HB 562**, relative to the date of decision for appeals of zoning matters, taken off the table.

Adopted.

HB 562, relative to the date of decision for appeals of zoning matters. Ought to pass.

Adopted.

Senator Francoeur offered a floor amendment.

1999-1527s

08/09

Floor Amendment to HB 562

Amend RSA 677:2 as inserted by section 2 of the bill by replacing it with the following:

677:2 Motion for Rehearing of Board of Adjustment, Board of Appeals, and Local Legislative Body Decisions. Within [20] **30** days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning [~~has been filed and first becomes available for public inspection in the office of the respective board or body or of its clerk or secretary~~], the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion. This [20] **30**-day time period shall be counted in calendar days beginning with the [~~next working day during which the office of the board is open to the public following the day on which the decision is rendered~~] **date upon which the board voted to approve or disapprove the application; provided however, that if the petitioner shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 144 hours of the vote pursuant to RSA 676:3, II, the petition shall be timely if filed within 36 days of the date of the decision.** If the decision complained against is that made by a town meeting, the application for rehearing shall be made to the board of selectmen, and, upon receipt of such application, the board of selectmen shall hold a rehearing within 30 days after receipt of the petition. Following the rehearing, if in the judgment of the selectmen the protest warrants action, the selectmen shall call a special town meeting.

Amend RSA 677:4 as inserted by section 3 of the bill by replacing it with the following:

677:4 Appeal from Decision on Motion for Rehearing. Any person aggrieved by any order or decision of the zoning board of adjustment or any decision of the local legislative body may apply, by petition, to the superior court within 30 days after the [~~action complained of has been filed and first becomes available for public inspection in the office of the respective board or body or of its clerk or secretary, setting~~] **date upon which the board voted to deny the motion for rehearing; provided however, that if the petitioner shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 144 hours of the vote pursuant to RSA 676:3, II, the petition shall be timely if filed within 36 days of the date of the decision. The petition shall set forth that such decision or order is illegal or unreasonable, in whole or in part, and specifying the grounds upon which the decision or order is claimed to be illegal or unreasonable. [The date of filing shall be considered to be the next working day during which the office of the board is open to the public following the day on which the order or decision is rendered.]** For purposes of this section, "person aggrieved" includes any party entitled to request a rehearing under RSA 677:2.

Amend RSA 677:15, I as inserted by section 4 of the bill by replacing it with the following:

I. Any persons aggrieved by any decision of the planning board concerning a plat or subdivision may present to the superior court a petition, duly verified, setting forth that such decision is illegal or unreasonable in whole or in part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within 30 days after the [decision of the planning board has been filed and first becomes available for public inspection in the office of the planning board or of its clerk or secretary] *date upon which the board voted to approve or disapprove the application; provided however, that if the petitioner shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 144 hours of the vote pursuant to RSA 676:3, II, the petition shall be timely if filed within 36 days of the date of the decision.* This paragraph shall not apply to planning board decisions appealable to the board of adjustment pursuant to RSA 676:5, III.

1999-1527s

AMENDED ANALYSIS

This bill provides that there is a 30-day time period for an affected person to file for a rehearing regarding any zoning decision or order of a zoning board of adjustment, local legislative body, board of appeals, or planning board. This bill also provides that this period begins with the date of the decision, unless the minutes of the meeting were not filed within 144 hours of the vote, in which case the rehearing petition shall be timely if filed within 36 days of the decision.

SENATOR FRANCOEUR: I asked Senator Trombly, I think it was a couple of weeks ago, to table this bill so that we could work on it. It had left open that if you had a deck or a swimming pool that you wanted to put on your house and you went to the zoning board because you were too close to the property line and got passed, it kind of left it an open end that how long someone could appeal the decision. I went to them and asked if we could extend the amount of time, which the bill did currently in the statute, to 144 hours, and you could include that into the time period so that would bring it to 36 days, so that when you go in and get a decision, a homeowner is not sitting around for up to two to three months wondering what is going on so that they can start with their pool or put up their fence. I would ask the Senate to support the amendment.

SENATOR TROMBLY: I urge passage and adoption of Senator Francoeur's amendment.

Floor Amendment adopted.

Ordered to third reading.

Recess.

Out of Recess.

MOTION OF RECONSIDERATION

Senator Hollingworth having voted on the prevailing side, moved reconsideration on **HB 745**, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, whereby we ordered it to third reading and final passage.

Adopted.

HB 745, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit.

Senator Hollingworth offered a floor amendment.

Sen. Hollingworth, Dist. 23

Sen. Gordon, Dist. 2

June 22, 1999

1999-1757s

08/03

Floor Amendment to HB 745-LOCAL

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

AN ACT authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, and relative to the excess education property tax payment for certain municipalities.

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

1 Authorization of 1999 Ashland Special Meeting to Address General Fund Deficit. Notwithstanding any law to the contrary, the town of Ashland is hereby authorized to call a special meeting in 1999, without seeking court permission, for the sole purpose of raising money to address a general fund deficit. The town is authorized to raise an amount from taxation, from the sale of assets, or by incurring long term debt, not to exceed five years, or to vote a combination of the foregoing. No other purposes shall be addressed at such meeting.

2 New Paragraph; Excess Education Property Tax Payment; Phased In Collection of Education Property Tax. Amend RSA 198:46 by inserting after paragraph IV the following new paragraph:

V. Any municipality in which the equalized value of utility property taxed under RSA 83-F comprises more than 66 2/3 percent of the municipality's equalized assessed valuation, which would have had an excess education property tax obligation under this section had utility property been subject to taxation under RSA 76:3, shall phase in the collection of the education property tax on the schedule stated in paragraph IV. For each of the tax years 1999 through 2004, the amount phased in shall be the difference between the amount required to provide an adequate education in that municipality as calculated under RSA 198:40, I(a) and (b), and the total amount that would be assessed if utility property were subject to taxation under RSA 76:3. The department of education shall increase the adequate education grant paid to the school district or districts educating the children of such a municipality to ensure that the district or districts receive the amounts required to provide an adequate education as calculated in this chapter.

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

1999-1757s

AMENDED ANALYSIS

This bill allows the town of Ashland to call a special meeting, without seeking court permission, to raise money to address a general fund deficit. Such money may be raised from taxation, or incurring long term debt, or both. No other purposes shall be addressed at such meeting.

This bill also provides that municipalities with equalized value of utility property taxed under RSA 83-F comprising more than 66 2/3

percent of their equalized assessed valuation, which would have had an excess education property tax obligation had utility property been subject to taxation under RSA 76:3, shall phase in the collection of the education property tax based on the schedule in RSA 198:46. From 1999 through 2004 the amount phased in shall be the difference between the amount required to provide an adequate education and the total amount that would be assessed if utility property were subject to taxation under RSA 76:3.

SENATOR HOLLINGWORTH: I would like to offer an amendment. There was a small change that needed to be made where it says "50%". That has been changed to "66 & 2/3" this appeared to be a slight problem which we heard after, and Senator Gordon has said that he agrees with that amendment.

Floor Amendment adopted.

Ordered to third reading.

June 10, 1999

1999-1550-EBA

03/10

Enrolled Bill Amendment to SB 112

The Committee on Enrolled Bills to which was referred SB 112

AN ACT relative to the guardianship of minors.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

Explanation to Enrolled Bill Amendment to SB 112

This enrolled bill amendment clarifies a reference by replacing "the" with "this."

Enrolled Bill Amendment to SB 112

Amend RSA 463:4, I as inserted by section 2 of the bill by replacing line 2 with the following:

the person or of the estate or of both of any minor. *The jurisdiction of the court in this chapter*

Senator Trombly moved adoption.

Adopted.

June 14, 1999

1999-1593-EBA

08/09

Enrolled Bill Amendment to SB 150

The Committee on Enrolled Bills to which was referred SB 150

AN ACT making certain reference changes to the department of youth development services.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 150

This enrolled bill amendment adds a missing section heading.

Enrolled Bill Amendment to SB 150

Amend section 6 of the bill by replacing line 3 with the following:

170-H:5 Administrative Release. The [administrator] *commissioner*, if he *or she* determines it is in the best interests of a delinquent

Senator Trombly moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 140, relative to ear and body piercing.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 140, relative to ear and body piercing.

Senator Wheeler moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Squires, McCarley

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 47, relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 47, relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.

Senator Disnard moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Disnard, Trombly, F. King

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 70, changing the safe drinking water standard for MTBE.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 70, changing the safe drinking water standard for MTBE.

Senator Russman moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Cohen, Russman

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 220-FN, relative to the disclosure of child abuse and neglect information.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 220-FN, relative to the disclosure of child abuse and neglect information.

Senator Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 168, adopting a model statute included in the tobacco litigation master settlement agreement.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 168, adopting a model statute included in the tobacco litigation master settlement agreement.

Senator Below moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 164, relative to persons exempted from the registration of ophthalmic dispensers.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 164, relative to persons exempted from the registration of ophthalmic dispensers.

Senator Wheeler moved to concur.

Adopted.

Recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed a Bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 1-A, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 2000 and June 30, 2001.

SUSPENSION OF THE RULES

Senator Klemm moved that **HB 1**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2000 and June 30, 2001, be introduced into the Senate at the present time.

Adopted by the necessary 2/3 vote.

SUSPENSION OF THE RULES

Senator F. King moved that the Rules of the Senate be so far suspended, references to committee, report of committee and the notice and reports in the calendar, and the requirement of a five-day notice for a hearing, and move to further suspend the rules as to allow **HB 1** to be before the Senate at the present time.

Adopted by the necessary 2/3 vote.

HB 1, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2000 and June 30, 2001.

Senator Hollingworth moved ought to pass.

SENATOR HOLLINGWORTH: Let me begin by thanking the members of the Finance Committee for all their hard work and putting this budget together. This was genuinely a team effort. I feel very privileged and proud to have been part of that team. I particularly want to thank Senator F. King who kept me focused and often reminded me to look at the big picture. On behalf of the Finance Committee, I also want to recognize... and they have gone, they have left us, the LBA, I see Jeff over there, Jack, I want to recognize them for an extraordinary contribution made by the Legislative Budget Assistant and his staff. These people seem to work endlessly, between the House and the Senate. Finally, I want to thank the agencies, particularly the commissioner of Department of Health and Human Services and his staff who also worked long hours and late nights answering questions and gathering information. I hope that tomorrow they can go back to serve the people that need them even more than we do. This is a good sound budget. The Finance Committee has adjusted the governor's budget to meet the contingencies that she could not have foreseen. The most important feature of this budget is that it does not meet our new obligations for public education by shrinking our long-standing responsibilities. It does not put federal dollars at risk by skimming out on required matched funds contributing to the state. With this budget, the state will not pass its responsibilities on to cities and towns and property taxpayers. Measures in dollars, the difference between the Senate and the House was small. For the biennium, this Senate's general fund is all together \$87 million more than the House. It is \$29 million in the fiscal year 2000 and \$48 million in fiscal year 2001. This is an \$87 million out of a total general fund budget of \$2.1 billion, in other words, the difference amounts to about 4 percent of the general fund budget. Most of the difference represents the different treatment of the Department of Health and Human Services and the University System and the state employee's pay raise. This is a prudent and a very conservative budget. The budget limits the

growth of government spending for everything, but for required obligations, debt service, pension contributions, revenue sharing and so on, an annual rate of 1.2 adjusted for inflation. Let us be clear, departments, programs and services simply cannot be maintained at the current level by level funding, because the same dollar appropriated in 1999 will have less buying power in the year 2000-2001. This is also a prudent budget, because it invests in the public assistance and it produces the greatest returns and spares the greatest cost. The University System, environmental protection, economic development, preventive medicine, and public safety. If we did not invest in the University System, another double digit tuition increase will place higher education beyond the reach of more working families, more of our talented young people will pursue their education in other states, and many will never return. The Senate has invested in programs and services like disaster testing, baby screening, newborn screening, dental care, and child protection, mental health, and development services. We have invested in funded programs to serve to protect and support the home and community based options for long-term care. This offered by SB 409, this legislature, we passed it this last year. These investments enable the least fortunate, more venerable among us to live in security and dignity. They also spare the state ever-greater costs incurred by neglecting their needs. The Senate has also funded the education of our children and improvement of their schools. We funded the reading recovery program. The best schools initiative, and the statewide testing program and the local assessment programs. Finally the Senate has funded the pay increase negotiated with the state employees. We have not balanced our budget on the backs of state employees of whom some expect more and more efficient and greater and greater sacrifice. I believe that this is a responsible and an effective budget that the Senate can be proud of. I will hope that the Senate will endorse the work of its Finance Committee by supporting the budget we have brought to you. The Senate Finance Committee voted on this amendment that was brought to your door, this blue book, I hope you all received it. We voted on it, and it was an 18-0 vote. The Senate Finance is hoping that this day would come. I hardly believe that it is here. Thank you all for your support and help and I am very proud to be here today.

Question is on the motion of ought to pass.

A roll call was requested by Senator Francoeur.

Seconded by Senator Pignatelli.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, McCarley, Trombly, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No: Roberge, Francoeur, Krueger, Brown.

Yeas: 20 - Nays: 4

Adopted.

Ordered to third reading.

SENATOR BLAISDELL: I have a few words that I would like to say as Senate President. I remember the words that I expressed the first day that I stepped up here, and that was that we would work in a nonpartisan way. I think that we have. This is a historic thing for this Senate.

The 29 years that I have been here, I have never seen anything like this. The Senate Finance Committee...we owe you a great debt for the dedication and the hard work, and I know I missed it very much, although, I was pretty much in touch, but yet I was kind of on the side. Senator McCarley gave me a rough time most of the time, but I got through it all right, I guess. I want to tell you how proud I am to be the Senate President of this body. We got together in a nonpartisan way and passed something that I believe is in the best interest of the people of this state. I personally thank you from the Senator from District 10, I personally thank you very much.

ANNOUNCEMENTS RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the purpose of House Messages, introduction of bills, Enrolled Bills Reports and amendments, and that when we adjourn, we adjourn until Thursday, June 24, 1999 at 9:30 a.m.

Adopted.

Third Reading and Final Passage

HB 1-A, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 2000 and June 30, 2001.

HB 225, relative to the definitions of the terms "farm," "agriculture," and "farming."

HB 263, repealing the Northern New England Low-Level Radioactive Waste Management Compact.

HB 291, establishing a study committee for seed sterilization technology or "terminator" technology.

HB 301, relative to burials and funerals at the New Hampshire state veterans cemetery.

HB 333, relative to contracts between participating providers and managed care entities.

HB 364, relative to expenditure of funds received from the United States on account of national forest lands in this state.

HB 379, setting up a study committee to study issues pertaining to the Sullivan county regional refuse disposal district.

HB 410, relative to enforcement authority of the department of environmental services.

HB 414-FN, establishing a committee to study the unclassified salary structure for state officers.

HB 421, relative to penalty provisions for the law regarding control of marine pollution, exotic aquatic weeds and other aquatic growth.

HB 546, providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied.

HB 562, relative to the date of decision for appeals of zoning matters.

HB 574-FN-A, establishing a fisheries habitat fee required for persons obtaining a fishing license and continually appropriating the funds for fisheries habitats.

HB 596, making technical corrections to certain laws administered by the department of revenue administration and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.

HB 606-FN, relative to managed care programs under workers' compensation and relative to certain members of the compensation appeals board.

HB 670, establishing an advisory board to study the future of the New Hampshire automated information system's "Webster" Internet site.

HB 741, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs.

HB 745, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit.

HJR 2, urging that federal air pollution programs not punish early adopters of air pollution control technology.

HJR 7, supporting the continued management of the White Mountain National Forest for multiple uses as a part of the National Forest System.

HCR 12, urging the United States Congress to enact legislation which prohibits the federal government from recouping state tobacco settlement funds.

In recess.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 1, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 2000, and June 30, 2001.

HB 325, prohibiting "cramming" in telecommunications billing.

HB 438, relative to certain changes to the membership of the advisory committee on child care.

Senator D'Allesandro moved adoption.

Adopted.

SENATOR BLAISDELL: With the governor being in Washington, I am not allowed to stay in the Chair. Chair recognizes Senator Cohen to come up and sit in for me.

Senator Cohen in the Chair.

LATE SESSION

Senator Blaisdell moved that the business of the day being complete that the Senate now adjourn until Thursday, June 24, 1999 at 9:30 a.m.

Adopted.

Adjournment.

June 24, 1999

The Senate met at 9:30 a.m.

A quorum was present.

The prayer was offered by Father David P. Jones, Senate Chaplain.

It appears that you have succeeded in setting the expense side of the budget. Congratulations. That was the easy part. As you turn your energy now to the harder part of finding the fiscal balance, please keep in mind that doing the right thing only becomes the right thing when you figure out how to do it in the right way. The value of your decisions about where to give will be determined by your decisions about how to get it. Let us pray:

Gracious God, help us each and help us all to see that righteousness – that is, doing the right thing – must include both the right itinerary as well as the right destination. Reveal to these twenty-four the road map of Your desires for them and for us, and give them the humility to ask for directions whenever the need arises. Amen.

Senator Johnson led the Pledge of Allegiance.

Senator Disnard is excused for the day.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

HCR 9, encouraging greater health care choices for Medicare eligible citizens throughout New Hampshire. Public Institutions, Health and Human Services Committee. Vote 4-0. Ought to Pass, Senator Krueger for the committee.

SENATOR KRUEGER: I rise in support of HCR 9. This House Concurrent Resolution urges the federal government to review Medicare policies and procedures to ensure that our New Hampshire senior citizens retain all Medicare options. More specifically, this resolution urges the federal government to evaluate the Medicare environment in New Hampshire to ensure, that first, existing policies and procedures provide for citizens to have a choice of Medicare options. Secondly, Medicare reimbursement rates for physicians, hospitals and home healthcare providers are sufficient to allow for access to needed care statewide and greater product choice in our rural areas. Third, Medicare premium rates for New Hampshire managed care products be set at a level that allows attractive benefit coverage to citizens. Next, applications for Medicare insurance product introductions or expansions in New Hampshire receive high priority status by the federal government. Lastly, that Congress reviews the impact of the balanced budget act of 1997 on the ability of Medicare health maintenance organizations and home healthcare providers to continue to operate in New Hampshire. This is a very important resolution. I urge that you vote HCR 9 ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 369, establishing a committee on educational programs on tobacco use for minors. Public Institutions, Health and Human Services Committee. Vote 5-0. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1732s

01/09

Amendment to HB 369

Amend subparagraph I(b) as inserted by section 2 of the bill by replacing it with the following:

(b) Four members of the senate, one from the senate public affairs committee, one from the senate judiciary committee, one from the senate education committee, and one from the senate public institutions, health and human services committee, appointed by the president of the senate.

SENATOR WHEELER: I rise in support of HB 369, a bill which will establish a committee to study prevention and early intervention of teen tobacco use. The Public Institutions, Health and Human Services Committee chose to amend this bill to include a member to represent an education committee as that was left out of the initial bill. So we have amended it to include a member of the Senate Education Committee. Recent statistics reveal that 70 percent of young people begin using tobacco before the age of 14, and many are addicted to nicotine by the average age of 14.5. In fact, New Hampshire has the fourth highest female teenage smoking rate in the United States. Testimony was heard stressing the importance of beginning educational programs at an early age so that young people will have a better chance of avoiding other types of substance abuse. Many people are in place to help us with this study committee. We know that tobacco use among New Hampshire youth is a serious issue, and we urge you to vote ought to pass with amendment on HB 369.

Amendment adopted.

Ordered to third reading.

HB 408, relative to drug formularies under managed care entities. Public Institutions, Health and Human Services Committee. Vote 4-0. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1735s

01/09

Amendment to HB 408

Amend RSA 420-J:7-b, III as inserted by section 1 of the bill by replacing it with the following:

III. Every health plan that provides prescription drug benefits shall notify covered persons of changes to the plan list or plan formulary, provide an explanation of the exception process by which a covered person can access nonformulary medically necessary prescription drugs, and provide a toll-free telephone number through which a covered person can request additional information. Upon notification to covered persons, the health benefit plan shall allow at least 45 days before implementation of any formulary change; provided, however, that advance notice shall not be required if the federal food and drug administration has determined that a prescription drug on the health benefit plan's formulary is unsafe.

SENATOR WHEELER: I rise in support of HB 408, a bill which addresses one of the vexing problems for healthcare consumers who are insured under managed care. It is the rising cost of pharmaceuticals. Prescription drugs are the fastest rising component of healthcare costs. For pharmacy benefits, health plans paid 34 percent more monthly for each member in 1996 than in 1993. There are strategies in place to control costs, but many consumers don't understand the process of closed formularies or why co-

pays for name brand drugs or other prescribed medicines increase. The formularies, which are health plans, preferred prescription drug lists, should be flexible and allow for the most appropriate prescription medication to be prescribed. No list of formularies, regardless of how well developed, can address all of the medical situations that occur, and there is always ambiguities and extenuating circumstances in treatment that requires special considerations. We know that each person is different, and each body reacts differently to drugs. House Bill 408 provides consumer protection and information dissemination without creating a new bureaucracy. It does not require health plans to incur additional administrative costs, and it does not burden the consumer with volumes of information that is not required unless they need it. At the same time, it does require timely notice to health plan members when significant changes are made. Furthermore, in response to consumer and provider concerns, the managed care companies in New Hampshire have been working towards a better way to disseminate prescription drug information. The committee amendment that is printed in the calendar says something that is pretty obvious, that 45 day advance notice to members if a drug is being dropped from the formulary, is not necessary, if the FDA has determined that a prescription drug on the health plans formulary is unsafe. So that is the bill as amended in the calendar. Senator Squires and I have a floor amendment. I recommend ought to pass with amendment of HB 408 as is in the calendar.

Amendment adopted.

Senator Squires offered a floor amendment.

Sen. Squires, Dist. 12

Sen. Wheeler, Dist. 21

June 23, 1999

1999-1783s

01/10

Floor Amendment to HB 408

Amend RSA 420-J:7-b as inserted by section 1 of the bill by replacing it with the following:

420-J:7-b Prescription Drugs.

I.(a) Every health carrier that provides prescription drug benefits through the use of a formulary is required to provide prospective enrollees, and annually to covered persons, a description of the prescription drug benefit plan. Among the specific items that shall be included in the description are:

(1) The procedure a covered person must follow to obtain drugs and medications that are subject to a plan list or plan formulary.

(2) A description of the drug formulary and the plan's exception process.

(3) A description of the extent to which a covered person will be reimbursed for the cost of a drug that is not on a plan list or formulary.

(b) Health carriers shall provide upon request the current, updated preferred drug list. This shall include a list of the prescription drugs considered to be formulary drugs by major therapeutic category with an indication of whether and in what manner any drugs on the list are preferred over other listed drugs or are subject to targeted drug use management provisions. The current, updated preferred drug list shall also be provided upon request to all participating providers with prescription privileges.

II. Every health carrier that provides prescription drug benefits through the use of a formulary shall maintain an expeditious exception process, not to exceed 48 hours, by which covered persons may obtain, without penalty or additional cost sharing beyond that provided for formulary drugs under the covered person's benefit plan, coverage for a medically necessary nonformulary prescription drug. The exception process shall begin when the prescribing provider has provided the health benefit plan with the clinical rationale for the exception.

III. Every health carrier that provides prescription drug benefits through use of a formulary shall notify covered persons of changes to the plan list or plan formulary, provide an explanation of the exception process by which a covered person can access nonformulary medically necessary prescription drugs, and provide a toll-free telephone number through which a covered person can request additional information. Upon notification to covered persons, the health benefit plan shall allow at least 45 days before implementation of any formulary change; provided, however, that advance notice shall not be required if the federal food and drug administration has determined that a prescription drug on the health benefit plan's formulary is unsafe.

IV. The formulary shall be developed by a pharmacy and therapeutics committee composed of health care professionals with recognized knowledge and expertise in clinically appropriate prescribing, dispensing, and monitoring of outpatient drugs or drug use review, evaluation, and intervention. Mechanisms shall be established for ongoing peer review of formulary policy. If the health carrier contracts with a third party to develop the formulary, the carrier shall be responsible for guaranteeing that the third party complies with all requirements relating to formularies as set forth in this section.

V. Every health carrier that provides prescription drug benefits through the use of a formulary shall maintain, as part of its records, all of the following information, which shall be made available to the commissioner upon request: the complete drug formulary or formularies of the plan, including a list of prescription drugs on the formulary of the plan by major therapeutic category with an indication of whether and in what manner any drugs are preferred over the other drugs and records developed by the pharmacy and therapeutics committee of the health carrier that fully describe the reasoning behind formulary decisions.

1999-1783s

AMENDED ANALYSIS

This bill requires managed care entities that provide prescription drug benefits and maintain one or more drug formularies to provide to enrollees a description of the prescription drug benefit plan.

The bill also requires every managed care entity that provides prescription drug benefits through the use of a formulary to maintain an expeditious exception process by which providers may obtain authorization for a medically necessary nonformulary prescription drug.

SENATOR SQUIRES: This amendment makes substantive changes to the bill by way of a preamble, it is supported by the Insurance Department, the sponsor of the bill, Representative Kathleen Taylor, Blue Cross/Blue Shield, and Senator Wheeler, as well as myself. It does four things. It requires the carrier to provide a copy of the preferred drug list upon request to the covered person as well as to the provider, which means that if you are a patient, and you want to know what your plan is covering, you write

to the company and they will send you a list. It discusses the issue of what to do with a nonformulary drug and how that is dealt with by the company. It requires that the formulary be developed by people with expertise in the field. That is common policy today, but it puts it into statute. Finally, it gives the Insurance Department access to records about how the formulary was developed, and so on and so forth. So these changes, although substantive, are in fact in keeping with much current policy. I urge you to adopt this floor amendment. Thank you.

Floor Amendment adopted.

Ordered to third reading.

HB 486-FN-A, relative to the physician effectiveness program. Public Institutions, Health and Human Services Committee. Vote 4-0. Ought to Pass, Senator Squires for the committee.

SENATOR SQUIRES: House Bill 486 is similar to an effort in 49 other states. Simply put, it is a voluntary effort on behalf of the Medical Association and the Medical Society to assist physicians who develop some sort of problems, specifically with drugs and/or alcohol. It is supported by increased payments by the providers in the form of \$10 of their licensing fee, which is \$150. The program is voluntary and self funded. It certainly is in the interest of the public and in the interest of those who may be so afflicted. Thank you.

Adopted.

Ordered to third reading.

HB 545-FN, establishing a committee to study ambulatory surgical facilities. Public Institutions, Health and Human Services Committee. Vote 5-0. Ought to Pass, Senator Squires for the committee.

SENATOR SQUIRES: Nothing has consumed the lives of some of us for this session except ambulatory surgical centers, and then there is education and the budget, but boy this issue goes on and on. One of the outcomes of this struggle has been the realization that there are some difficulties in the procedures and the processes of the Certificate of Need Board. What this bill does is establish a study committee to evaluate that. Fundamental questions, should we have a Certificate of Need Board in 1999 given all of the changes that have occurred? If we are to have it, what should be the degree by which it becomes involved in commercial enterprises and so on and so forth. This is a study bill, and it is an area that cries out for study, and I hope that you will pass it.

Adopted.

Ordered to third reading.

HB 650-FN-A, establishing a committee to study the structure of alcohol and drug abuse prevention services. Public Institutions, Health and Human Services Committee. Vote 4-0. Ought to Pass, Senator Gordon for the committee.

SENATOR GORDON: I rise in support of HB 650. The intent of this legislation is to focus on prevention and strengthen prevention efforts in New Hampshire. This committee will study the structure and delivery of alcohol and drug abuse services in the state, and the feasibility of giving such efforts of priority by placing the office of Substance Abuse Services directly within the office of the governor. In addition, the committee will make recommendations for legislation and devise the meth-

odology to measure the results of existing substance abuse prevention programs. This is an opportunity for the state to take a leadership role in establishing a program for drug abuse prevention. I urge you to vote HB 650 as ought to pass.

Adopted.

Ordered to third reading.

HB 657, relative to the health services planning and review board and the certificate of need process. Public Institutions, Health and Human Services Committee. Vote 5-0. Inexpedient to Legislate, Senator Squires for the committee.

SENATOR SQUIRES: This bill needs to disappear because it was dealt with in the bill that you just passed to create a study committee. That is why it is reported out as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 720-FN, relative to the practice of midwifery. Public Institutions, Health and Human Services Committee. Vote 5-0. Ought to Pass, Senator Squires for the committee.

SENATOR SQUIRES: I made a little journey on this bill. I began with some skepticism frankly, I am not, was not convinced, that home deliveries represents a step forward. I think that my view in that matter was biased. I met with the people involved in this bill. I reviewed their statistics, and I listened to them, and I tried to understand their viewpoint, and they are right. What this involves is a change in the bureaucracy but not a change in the practice. This practice has been going on in New Hampshire...that is a so-called...it is an unfortunate term...but "lay-midwife" could voluntarily agree to be certified by the Department of Health and Human Services under rulemaking. What the bill does is codify this in a specific statute. The record here is admirable. There has never been a maternal death in New Hampshire, and I don't think that there has been a fetal death in New Hampshire because these patients are selected. This has the support of the obstetrical community. Each of these practitioners works in liaison with an obstetrician. It has been a very successful program and it is worthy of our support. Thank you.

Adopted.

Senator Trombly requested a roll call.

Senator McCarley seconded the roll call.

Senator Trombly withdrew his motion for a roll call.

Senator McCarley withdrew her motion to second the roll call.

Ordered to third reading.

HB 231, relative to approval of applications in the charter schools pilot program. Education Committee. Vote 6-0. Ought to Pass, Senator Johnson for the committee.

SENATOR JOHNSON: House Bill 231 removes one sentence from RSA 194-B: 20 concerning charter school applications. As the statute is currently written, no more than two charter schools can be approved within an executive council district in a one-year period. The restriction was placed in the statute before the legislature could form conclusions regarding the volume of charter school applications. In order to ensure an

even geographic distribution of charter schools in New Hampshire, since the number of applicants have been fairly modest relative to initial expectations, the restriction is no longer necessary. This bill had no opposition at the public hearing, and the Education Committee voted unanimously, ought to pass.

Adopted.

Ordered to third reading.

HB 311-FN-A, relative to grants made under the New Hampshire incentive program. Education Committee. Vote 5-1. Rereferred to Committee, Senator McCarley for the committee.

SENATOR MCCARLEY: Currently grants made under the New Hampshire Incentive Program can be made only to New Hampshire citizens who are full-time, day students pursuing higher education. These are needs based grants funded with some federal and state money. Of the 50 states, New Hampshire's current level of support under this program is among the lowest in the country. As originally introduced in the House, this bill would have extended eligibility for education grants to part-time students, and would have included additional funding to cover the part-time student's grants and enhance the program overall, and ensure that current grant recipients will not see their funding levels reduced. Although the House Finance Committee kept the policy language extending eligibility to part-time students, House Finance stripped the bill of any additional funding. There was an effort in the Senate Finance Committee to include at least enough additional funding to extend grants to part-time students without reducing the amount currently available to full-time students, but we were unable to reach an agreement to add back in, any increased funding. Therefore, passing this bill as it now stands, would actually hurt those students who are currently eligible for and receiving grants under the New Hampshire Incentive Program. The Senate Education Committee voted to rerefer this bill so that perhaps next year we can figure out a way to include part-time students without decreasing the current grant level. The Education Committee therefore, recommends HB 311 be rereferred.

Adopted.

HB 311-FN-A is rereferred to the Education Committee.

HB 503-FN-L, relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas. Education Committee. Vote 7-0. Ought to Pass, Senator McCarley for the committee.

Senator McCarley moved to have **HB 503-FN-L**, relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas, laid on the table.

Adopted.

LAID ON THE TABLE

HB 503-FN-L, relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas.

HB 581-L, relative to deposits on utility meters. Executive Departments and Administration Committee. Vote 3-1. Inexpedient to Legislate, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill would have allowed public water utilities to obtain security deposits from tenants with separate meters. This provision would create an administrative logistical nightmare because of the number of new water meters that would need to be installed. Smaller water utilities have a much smaller cash flow, and the added administration would be an enormous burden on them compared to gas and electric companies. Additionally, small municipalities with their own water utilities would face burdens under this proposal. The majority of the committee recommends that this bill be voted inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 658-FN, relative to certification, registration, and insurance requirements for recovery agents who assist bail agents and sureties. Executive Departments and Administration Committee. Vote 4-0. Ought to pass with amendment, Senator Francoeur for the committee.

1999-1778s

09/03

Amendment to HB 658-FN

Amend RSA 597:7-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Any person who operates as a recovery agent in this state, excluding licensed private detectives, shall be trained and certified through a program approved by the Professional Bail Agents of the United States and shall register annually with the secretary of state. The secretary of state shall issue to each registered recovery agent proof of such registration. Effective July 1, 2000, each bail agency operating in this state shall annually provide to the secretary of state proof of liability insurance coverage in the amount of \$300,000 for bail recovery activities of the agency's bail agents and bail recovery agents. This proof of insurance coverage shall be provided before the agency's bail agents are licensed or relicensed, and before the agency's bail recovery agents are registered or reregistered. Bail recovery agents acting as independent contractors shall provide proof of liability insurance coverage in the amount of \$300,000 to the secretary of state before registration or reregistration. Any person who operates as a recovery agent in this state without meeting such certification, insurance, and registration requirements shall be guilty of a class A misdemeanor.

SENATOR FRANCOEUR: This bill requires recovery agents to be trained and certified through a program approved by the Professional Bail Agents of the United States. The agents shall also register with the secretary of state's office annually. These provisions will ensure that these agents have the proper training, and that there will be a mechanism for confirming that the agents are actually recovery agents. Recovery agents would be required to notify a municipality's chief law enforcement officer prior to conducting a search in the municipality. The amendment exempts licensed private detectives from the training provision. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 665, relative to the New Hampshire emergency management compact with other jurisdictions. Executive Departments and Administration Committee. Vote 4-0. Ought to Pass, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill is a request from the office of Emergency Management. The bill facilitates New Hampshire's ability to participate in emergency management compacts with other jurisdictions, including a compact with the Canadian Provinces as well as other states in the U.S. These mutual aid agreements are beneficial to New Hampshire when dealing with natural disasters. The emergency management compacts help to ensure that when there is a natural disaster, all of the necessary resources will be available to react to the disaster. The committee voted unanimously, ought to pass.

Adopted.

Ordered to third reading.

HB 94, relative to enforcement of the child passenger restraint law. Judiciary Committee. Vote 6-0. Ought to Pass, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: We had this hearing yesterday before the Senate Judiciary Committee. This bill would repeal the secondary offense provision for child passenger restraint law for drivers under the age of 18. Right now it is a secondary offense, and law enforcement officers are not able to stop young drivers when they are not wearing their seat belts because they are not breaking any other laws at the time. So this would make it a primary offense. We heard statistics about states that have it as a secondary offense and as a primary offense. The use of seat belts goes up dramatically when it is a primary offense. It is not often that we have...with one piece of legislation, the chance to save our children's lives and their bodies from injury. With this bill we can stop some of the killing on our highways. I urge passage of this bill as does the Senate Judiciary Committee by a unanimous vote.

Adopted.

Ordered to third reading.

HB 113, affirming sovereign immunity as it relates to the Claremont ruling. Judiciary Committee. Vote 5-0. Rereferred to Committee, Senator Brown for the committee.

SENATOR BROWN: Mr. President, I rise to recommend rereferral on HB 113. This bill reaffirms that sovereign immunity applies to cases arising out of the duty to provide an adequate education. It was the Judiciary Committee's interpretation that this bill could act for instance, to reassert immunity for lawsuits in which students claim that they did not receive an adequate education in this state. The committee heard conflicting legal interpretations of the impact of this bill. A representative of the attorney general's office testified that this bill would not change the law in sovereign immunity. The attorney general's office takes no position on this bill. In contrast, another well-respected member of the bar, submitted testimony that passage of this bill will reassert the state's position that it is immune from legal liability for claims arising out of the state's duty to provide an adequate education. As you can see, the issues are complex. The Judiciary Committee felt that it would be worthwhile to give further study to this bill. The Judiciary Committee voted 5-0 to rerefer this bill. I recommend that the Senate also vote to rerefer HB 113.

Adopted.

HB 113 is rereferred to the Judiciary Committee.

HB 216, relative to release conditions pending trial for defendants in domestic violence, stalking, or protective order violation cases. Judiciary Committee. Vote 6-0. Ought to pass with amendment, Senator Wheeler for the committee.

1999-1782s

05/10

Amendment to HB 216

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

1 New Paragraph; Release of Defendant Pending Trial. Amend RSA 597:2 by inserting after paragraph III the following new paragraph:

III-a. If a person is charged with any of the offenses listed in RSA 173-B:1, I or with violation of a protective order issued under RSA 458:16, III or RSA 173-B, the court or justice may order preventive detention without bail, or, in the alternative, restrictive conditions including but not limited to electronic monitoring and supervision, if there is clear and convincing evidence that the person poses a danger to another. The court or justice may consider, but shall not be limited to considering, any of the following conduct as evidence of posing a danger:

- (a) Threats of suicide.
- (b) Acute depression.
- (c) History of violating protective orders.
- (d) Possessing or attempting to possess a deadly weapon in violation of an order.
- (e) Death threats or threats of possessiveness toward another.
- (f) Stalking, as defined in RSA 633:3-a.
- (g) Cruelty to or violence directed toward pets.

2 Review and Appeal of Release or Detention Order. Amend RSA 597:6-e, II to read as follows:

II. The person or the state may file with the superior court a motion for revocation of the order or amendment of the conditions of release set by a municipal or district court, by a justice or by a bail commissioner. The motion shall be determined promptly. *In cases where a district court justice has made a finding, pursuant to RSA 597:2, III-a that the person poses a danger to another, the superior court shall, after notification to both parties, the police department that brought the charges in district court, and the victim, conduct a hearing and make written findings supporting any modifications and reasons for new conditions or changes from the district court order. The reviewing court shall take into consideration the district court's written findings, orders, pleadings, or transcript when making a modification.*

SENATOR WHEELER: House Bill 216 is an example of the kind of bill that we sometimes get in response to a tragedy where the parents who have lost their children to tragic circumstances want to do their best to make sure that it doesn't happen to anyone else and try to correct a situation so that no other parents will have to go through the tragedy of losing their children unnecessarily. This bill is in response of the murder of Traci Winship who was shot to death by her ex-boyfriend just days after he was released from the Strafford County House of Corrections. The bill has two distinct parts, first, if a person is charged with a domestic violence related crime, stalking or violation of a protective order, the court or justice may order preventive detention without bail

or alternative restrictive conditions, such as electronic monitoring and supervision if there is clear and convincing evidence that the person poses a danger to another. The court may consider threats of suicide, acute depression, history of violating protective orders, possessing or attempting to possess a deadly weapon in violation of an order, death threats or threats of possessiveness towards another, stalking behavior and cruelty to or violence directed towards pets, as evidence of posing danger to another. The second part of the bill requires that in cases where a district court justice has made findings of dangerousness in a domestic violence related crime, the superior court must notify both parties, and the victim, conduct a hearing and make written findings supporting any modifications and reasons for new conditions or changes from the district court order. The bill ensures that the review in court will take into consideration the district court's written findings, orders, pleadings, or transcripts, when making a modification. The intent of the legislation is to protect an individual from another person who poses a real threat or danger. It provides protection for victims by informing them of any change or reconsideration of a court order, such as an individual's bail. The amendment adopted by the committee and printed in the Senate Calendar, does not change the substance of the bill, but clarifies it and makes it much easier to understand. We feel that it is a very important piece of legislation, and on behalf of all of those who mourn the death of Traci Winship, and hope that it will never happen to anyone else, we urge its passage. Thank you.

Amendment adopted.

Ordered to third reading.

HB 270, relative to persons not competent to stand trial. Judiciary Committee. Vote 6-0. Ought to Pass, Senator Fernald for the committee.

SENATOR FERNALD: I rise in support of HB 270. This bill reduces the amount of time from 90 days to 60 days in which the state may hold an individual after hearing to be evaluated for an involuntary admission to the state mental health services system. The purpose of this law is to require speedier determinations of whether a person is in need of mental health treatment. Additionally, the bill creates a new paragraph, which provides that once a petition is filed, the court must act within 30 days. The bill is intended to clarify the timeframes and the process by which someone can be held and examined for mental health treatment. This was a bill that was requested by the department. It is a good bill, and I urge your support. Thank you.

Adopted.

Ordered to third reading.

HB 324, repealing certain grounds for granting a divorce for cause. Judiciary Committee. Vote 4-1. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: Mr. President, I rise to recommend that the Senate vote ought to pass on HB 324. The sponsor of the bill testified that this legislation would repeal the following grounds for granting a divorce. I won't give you the RSA numbers...well maybe I should. RSA 458:7, X relative to a husband willingly absenting himself from his wife. RSA 458:7, XI relative to a wife willingly absenting herself from her husband. RSA 458:7, XII relative to a wife residing outside of the state and 458:7, XIII

relative to a husband intending to become a citizen of a foreign country. The sponsor maintained that these statutes are already covered in RSA 458:7, IX, which provides that when either part, without sufficient cause and without the consent of the other, has abandoned and refused for two years together to cohabit with the other. The sponsor also suggested that these provisions are outdated in these days when divorces are granted on the grounds of irreconcilable differences. The sponsor also recommended that these provisions need to be cleaned up to make the paragraph gender neutral. The majority of the Judiciary Committee supports this bill and I urge your support of the ought to pass motion.

Adopted.

Ordered to third reading.

HB 470, relative to settlement of personal actions. Judiciary Committee. Vote 6-0. Inexpedient to Legislate, Senator Brown for the committee.

SENATOR BROWN: I rise to recommend that HB 470 should be voted inexpedient to legislate. This bill has the purpose of permitting plaintiffs and personal injury or wrongful death actions where parties have agreed to structured settlements to designate a structured settlement broker and an entity to receive the structured payments. While the bill appears to have a good purpose, opponents of the bill testified that this bill would eliminate the tax-free status of structured settlement plans. Additionally, members of the Bar Association who testified were in conflict over whether this bill would be beneficial to injured parties who may receive structured settlements. There was also a question as to why the choice of broker and financial institution to receive the structured settlement payment should not be a subject of settlement negotiations. Because of the uncertainty over the beneficial nature of this bill, the Judiciary Committee voted 6-0 that HB 470 be inexpedient to legislate. I recommend that the Senate also vote this bill inexpedient to legislate.

Recess.

Out of Recess.

SUBSTITUTE MOTION

Senator Fernald moved to substitute rereferred for inexpedient to legislate.

SENATOR FERNALD: I rise to speak briefly to my motion. We already have two bills on structured settlements that we have rereferred, and we will rerefer this one and take the whole business up for next year.

A division vote was requested.

Yeas: 9 – Nays: 7

Adopted.

HB 470 is rereferred to the Judiciary Committee.

HB 576-FN, establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor. Judiciary Committee. Vote 6-0. Ought to Pass, Senator Brown for the committee.

SENATOR BROWN: I rise in support of HB 576. This bill authorizes and appropriates funds for the establishment of additional positions within the child impact program for the purpose of managing statewide child custody and support impact seminars. Supporters of this bill testified

that child custody and support impact seminars have been overwhelmingly successful in courts, which have held them. These seminars are court ordered parenting classes for those couples getting a divorce. The objective of the seminars is to help parents to recognize that separations and/or divorce may have serious effects on children. The programs teach parents how to identify children's emotional and developmental needs and how to resolve conflicts or disputes, how to recognize their own changes and behavior, and gives parents guidelines for co-parenting. The seminars also serve to make parents aware of available community resources that may be helpful. Four New Hampshire counties have introduced these programs with great success. The sponsors testified that parents that have enrolled in these seminars have experienced less conflict within their family and are able to help their children through the divorce process. The committee voted 6-0 that this bill ought to pass. No one testified against the bill. I urge the Senate to vote ought to pass. Thank you.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 687-FN, establishing the criminal offense of identity fraud. Judiciary Committee. Vote 6-0. Ought to pass with amendment, Senator Fernald for the committee.

1999-1781s

05/10

Amendment to HB 687-FN

Amend RSA 638:25, III as inserted by section 1 of the bill by replacing it with the following:

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

Amend RSA 638:26, I and II as inserted by section 1 of the bill by replacing it with the following:

638:26 Identity Fraud.

I. A person is guilty of identity fraud when the person:

(a) Poses as another person with the purpose to defraud in order to obtain money, credit, goods, services, or anything else of value.

(b) Obtains or records personal identifying information about another person without the express authorization of such person, with the intent to pose as such person;

(c) Obtains or records personal identifying information about a person without the express authorization of such person in order to assist another to pose as such person; or

(d) Poses as another person, without the express authorization of such person, with the purpose of obtaining confidential information about such person that is not available to the general public.

II.(a) Identity fraud is:

(1) A class A felony if the value of the property or services obtained exceeds \$1,000.

(2) A class B felony in all other cases.

(b) The value may be determined according to the provisions of RSA 637:2, V.

SENATOR FERNALD: This is a bill that creates the offense of identity fraud. The concern is that there are people who go around posing as other people for purposes of either getting their money, or getting confidential information about them. The purpose of the amendment was to clarify the acts that constitute identity fraud. As originally drafted, it was entirely a monetary matter. The amendment makes clear that if you pose as someone else for non-monetary reasons - to get their mental health records for example, that that is equally a crime. The committee approved it and we urge your support. Thank you.

Amendment adopted.

Ordered to third reading.

HB 715-FN-A-L, granting responsibility for court security to the county sheriff and abolishing certain court security officer positions. Judiciary Committee. Vote 6-0. Inexpedient to Legislate, Senator Wheeler for the committee.

SENATOR WHEELER: I rise in opposition...but in support of the committee report of inexpedient to legislate for HB 715. The Supreme Court struck down 204 last year stating that it was unconstitutional. This bill is also unconstitutional, because it violates the separation of powers. The legislature cannot dictate to the court who will provide court security. Were we to be so misguided as to pass this, the Supreme Court would probably strike it down all over again. I say let's not give them the business, let's just vote inexpedient to legislate on HB 715.

A roll call was requested by Senator Roberge.

Seconded by Senator Francoeur.

Recess.

Out of Recess.

Senator Roberge withdrew her request for a roll call.

Senator Francoeur withdrew his motion to second the roll call.

Committee report of inexpedient to legislate is adopted.

Senator Roberge in opposition to the motion of inexpedient to legislate on HB 715-FN-L.

HB 722-FN, revising the law relative to protection of persons from domestic violence. Judiciary Committee. Vote 6-0. Ought to Pass, Senator Fernald for the committee.

SENATOR FERNALD: I rise in support of this bill. This is a re-write, I should say, of the existing domestic violence law. Over the years there have been a number of minor problems that have troubled the law. A lot of work over several years has gone into this bill, and this is the result of those many years of effort, not only by legislators, but by interested people in the community. One part of this bill that has gotten a lot of publicity is the provision in here that if someone has a domestic restraining order against them that they must turn their firearms over to either a licensed firearm dealer, or in some other way, put them into storage. This New Hampshire provision is going to be a duplication of what the federal law already requires, so it is not something new. This is a well-drafted law. It has been vetoed time after time and we urge your support.

SENATOR SQUIRES: I want to speak to some of the medical aspects of this issue that are not, I think, often said. Domestic violence is the leading cause, the leading cause, of injury to women between the age

of 15 and 44 in the United States. It exceeds car accidents, muggings and rapes combined. Secondly, in one study, about 1/4 of the victims here were children. If you have been reading the paper, you will know that a father involved in a divorce action, killed their son, who was 11 years old. Finally, in a statement that goes along with my own experience, at least a 1/3 of emergency room visits are as a result of these issues. So it is time that the issue comes repeatedly to the public's attention. We can recognize this as it is, a major problem in our society, and in this bill as Senator Fernald said, after an enormous amount of work, moves us in the right direction. Thank you.

SENATOR GORDON: I am going to rise in support of the committee report and for those who were here in the Senate last year, you know that we had a very contentious debate over a very similar bill, and that bill had to do, as this bill does, with establishing a new domestic violence protocol. It was clear last year that the bill that was presented initially, didn't properly balance the rights of all of the parties and interest, and in particular, those individuals who had an interest in possessing firearms. There was an effort last year, at least an effort which I intended to initiate, to amend the bill last year and to make it work. I didn't succeed in that effort, and I took my beating here on the floor of the Senate chamber doing it. I am pleased this year that the House took the initiative and worked out many of the issues that were so contentious last year and passed out a bill that is more acceptable and more in-balanced with the interest of the parties. I am going to support the committee report this year and I am pleased to see that the legislation has finally succeeded.

SENATOR TROMBLY: Mr. President, I think that the issue of domestic violence is very important. I think that it is very important that the people in the state of New Hampshire know that the Senate considers this to be a very serious issue, and the rework of this bill is a result of a tremendous amount of work. I personally feel that it is very important that we have a roll call on this, but recognizing that we have some Senators who aren't here, but given my strong personal feeling that we should be recorded on this issue, I would ask for a roll call vote on this. I would ask that you recognize Senator Fernald who is now up in the gallery, I see, for the purpose of tabling this legislation, so that we can take it off the table when more Senators are in the room and could vote on this issue. Thank you, Mr. President.

Senator Fernald moved to have **HB 722-FN**, revising the law relative to protection of persons from domestic violence, laid on the table.

A division vote is requested.

Yeas: 6 - Nays: 9

Motion failed.

Question is on the motion of ought to pass.

Adopted.

Ordered to third reading.

HB 723-FN, relative to standby and emergency guardianship proxies. Judiciary Committee. Vote 6-0. Rereferred to Committee, Senator Trombly for the committee.

SENATOR TROMBLY: The intent of this bill is very laudable, but the condition of the bill when it came over to the House was such that it

really needs study and needs to be put back together again. The committee is requesting that you vote to allow us to give us the summer to work with the House sponsors to do that. I would ask your support of rerefer.

Adopted.

HB 723-FN is rereferred to the Judiciary Committee.

HB 213, relative to voting by prisoners. Public Affairs Committee. Vote 6-0. Ought to pass with amendment, Senator Trombly for the committee.

1999-1789s

03/09

Amendment to HB 213

Amend RSA 654:2-a as inserted by section 1 of the bill by replacing it with the following:

654:2-a Voters Confined in Penal Institutions.

I. The domicile for voting purposes of a person confined in a penal institution shall be the town or city in New Hampshire in which such person had his or her domicile immediately prior to such confinement, even though such person no longer maintains a domicile in said town or city and even though his or her intent to return thereto is uncertain. The domicile for voting purposes of a person confined in a penal institution shall not include the municipality where the person is confined unless the person was domiciled in that municipality prior to confinement. If the person was domiciled immediately prior to confinement in the municipality where the person is confined, the person shall be considered absent for purposes of voter registration and absentee voting during the period of confinement.

II. A person confined in a penal institution whose domicile is in a town or city in New Hampshire shall be eligible to vote in state elections and shall exercise that right by absentee ballot provided:

(a) The person complies with all other applicable requirements and qualifications of the state of New Hampshire, including, but not limited to, the requirement that an absentee voter take the steps necessary to have his or her name placed on the voter checklist no later than 10 days before an election and the requirement that the absentee voter take the steps necessary to make sure that his or her ballot is received by the town or city clerk from whom it was sent by 5:00 p.m. on election day. A person confined in a penal institution shall use the mail to comply with all applicable requirements and qualifications.

(b) The person is not registered to vote or eligible to vote in any other state or election district of a state or in any territory or possession of the United States.

(c) The person is not a citizen of another state.

III. In completing a voter registration card, as specified in RSA 654:7, a person confined in a penal institution shall list the address of his or her domicile in the address section, and the address of the penal institution in the mailing address section.

1999-1789s

AMENDED ANALYSIS

This bill defines the domicile for voting purposes of a person confined in a penal institution as the domicile preceding confinement and specifies the voting procedures for such persons.

SENATOR TROMBLY: Pursuant to a Superior Court case, prisoners now have a right to vote, and this bill states that prisoners have to vote in the town where they resided at the time of their sentencing, thus eliminating the problem of having a tremendously huge voting block in Concord, Laconia and Berlin. So the amendment sets up a procedure by which they vote by absentee ballot. Mr. President, we ask that you pass this very important bill. It is a special interest to Concord and Laconia now, perhaps even with the women's prison and soon to be Berlin.

Amendment adopted.

Ordered to third reading.

HB 228, clarifying permissible political expenditures. Public Affairs Committee. Vote 6-0. Rereferred to Committee, Senator Trombly for the committee.

SENATOR TROMBLY: This bill attempted to correct an ambiguity in the law currently relative to when you count against a cap, the expenditure of funds by candidates for campaigns. Again, it was confusing and the committee wants to look at this bill. We would ask that you would rerefer it to committee. Thank you.

Adopted.

HB 228 is rereferred to the Public Affairs Committee.

HB 252, establishing a committee to study all aspects of the condominium act established under RSA 356-B. Public Affairs Committee. Vote 3-0. Ought to pass with amendment, Senator Krueger for the committee.

1999-1799s

05/09

Amendment to HB 252

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

AN ACT relative to establishing a procedure for the separation of condominium units known as "London Court" from the Commons at Merrimack, and establishing a committee to study all aspects of the condominium act established under RSA 356-B.

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

1 Procedure for Separation of Condominium Units at the Commons at Merrimack Condominium. Notwithstanding the provisions of RSA 356-B:26., the Commons at Merrimack Condominium located in the town of Merrimack, county of Hillsborough, state of New Hampshire, may be contracted to remove the 144 condominium units known as "London Court," which is presently part of the Commons at Merrimack Condominium, by a 4/5 affirmative vote of all unit owners.

2 Committee Established. There is established a committee to study all aspects of the condominium act established under RSA 356-B.

3 Membership and Compensation.

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

(a) Three members of the house of representatives, at least one of whom shall be a member of the house commerce committee, appointed by the speaker of the house.

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

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

4 Duties. The committee shall study all aspects of the condominium act established under RSA 356-B, soliciting input from organizations including but not limited to the attorney general's office and the Community Associations Institute-New Hampshire (C.A.I). Measures to be considered shall include, but not be limited to, enabling legislation to allow condominium associations to adopt provisions in their bylaws to provide for contraction or division by an 80 percent affirmative vote by condominium owners.

5 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.

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the attorney general, the speaker of the house of representatives, the house clerk, the senate president, the senate clerk, the governor, and the state library on or before November 1, 1999.

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

1999-1799s

AMENDED ANALYSIS

This bill establishes a procedure for the separation of condominium units known as "London Court" from the Commons at Merrimack, and establishes a committee to study all aspects of the condominium act established under RSA 356-B.

SENATOR KRUEGER: This bill establishes the committee to study the condominium act which is over 20 years old. What the committee also did was ...the original intent of the bill was to rectify a very specific particular problem, which was at the Commons in Merrimack. When we heard what these poor people were being subjected to there, we just felt that where they could not receive financing for their places and they couldn't do a lot of things, all relative to this, we felt very strongly that this amendment, which again was the original intent of the bill, be added on as printed in your calendar here. We would like to move forward and rectify a very serious economic problem. These people cannot sell or get financing for their condominiums, all because we have something in our law and statute which says 100 percent of the people must agree to something...and this is a situation where you have condominiums separated by a road. On one side every solitary condominium is under rental, and the other side are privately owned. I really urge your support of the bill as amended by the committee and in your calendar. It rectifies a very difficult, economically depressing situation for those people. I really recommend that you support the ought to pass with amendment motion. Thank you.

Amendment adopted.

Ordered to third reading.

HB 366, repealing the requirement that persons filing for a primary on the last day of the filing period do so in person. Public Affairs Committee. Vote 6-0. Rereferred to Committee, Senator Wheeler for the committee.

SENATOR WHEELER: Because of questions surrounding this legislation, the Public Affairs Committee requests that HB 366 be rereferred to committee. Thank you for your support.

Adopted.

HB 366 is rereferred to the Public Affairs Committee.

HB 381, prohibiting any candidate from receiving the nomination of more than one party. Public Affairs Committee. Vote 6-0. Ought to Pass, Senator Trombly for the committee.

SENATOR TROMBLY: New Hampshire currently allows people to serve both as democrats and republicans or vice versa, or however you want to cut the party affiliation. This bill has passed the Senate before and it has never made it through the House. It is the first time that it has made it through the House. This law had much more significance when the party candidates were lined up side-by-side on the ballot. Now that everyone is listed just once and we have the block form, I can't remember the name of the type of the ballot, the need for this is mooted out. The effectiveness is now there and quite frankly, there is an issue where, if you file as one party, you should serve as that party. There was opposition to this bill at the hearing, but it was generally agreed that the requirement that currently exists in law that you would see ten votes of the party for which you would receive the write-in nomination is simply not a threshold that is high enough to demonstrate any particular support for that party, by that party. We would ask that you pass this legislation. This was voted unanimous out of committee. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 399, allowing the secretary of state to have flexibility in moving the date of New Hampshire's presidential primary and changing the filing period for declarations of candidacy for candidates for president and vice-president at the presidential primary. Public Affairs Committee. Vote 6-0. Ought to pass with amendment, Senator Krueger for the committee.

1999-1786s

03/09

Amendment to HB 399

Amend the bill by replacing section 4 with the following:

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

SENATOR KRUEGER: Here we are with the primary not too far away and what we want to do as a Senate and as the Committee on Public Affairs, is to let the nation know to let the leadership in both Republican and Democratic parties know, how strongly that we feel that New Hampshire should be first in the nation, as we sit here today, knowing that we are advertising that down on the square for the Smithsonian, let's be true to our principles and let's help the economic development of the state of New Hampshire. So what this bill does is that it gives us the flexibility to move the date of the New Hampshire presidential primary, as well as to change the filing dates for the office of President and Vice President. House Bill 399, which passed the House, I might add, almost unanimously. It is important to let other states know that we are quite serious about preserving and protecting our 80-year old tradition of "First in the Nation." The proposed committee amendment makes the bill effective upon passage. This is important because of the rule of the republican national committee, which could prohibit the seating of New Hampshire's delegate should any action be taken after July 1. Time is of the essence. House Bill 399 has the support of Governor Shaheen, former Governor Gregg, the secretary of state's office and the New Hampshire Republican and Democratic state committee. Mr. President, in order to send the strongest message possible to states which are

thinking of usurping New Hampshire's status, I ask for a roll call and that the members of the Senate vote unanimously in support of HB 399 in the committee report of ought to pass as amended. Thank you. By the way, the amendment is relative to the timeframe.

Recess.

Out of Recess.

SENATOR TROMBLY: I think to clarify Senator Russman, there is a major problem with the Republican National Committee Rules. If we don't have this bill adopted and enacted by July 1, then there is a very real probability that some states that are jealous of New Hampshire's position of First in the Nation could refuse to seat the Republican delegates chosen at the primary. That was one part of it. The second part of it is that former, Governor Hugh Gregg, then felt that they would be able to...because of some of the language in the Republican Party rules, they would then be able to...because this wasn't enacted by July of 1999, could then piggyback that refusal into 2004, and then that could be piggybacked into 2008 and so that this could be an ongoing problem for the seating of the Republican delegates. I think that it is crucial that we have to pass this now. What the request for the roll call comes from, is that the sponsors and former Governor, Hugh Gregg, felt that if the Republican National Committee men and women, could go to the Republican National Committee saying that we passed this and this is the type of support that we have within the New Hampshire House and Senate...only five people voted against it in the House. They wanted us to do a roll call to show the will of the Senate affirming this as to this is what we want to do, thus strengthening the hands of the Republican National Committee.. Am I getting this right, Senator Krueger?

SENATOR KRUEGER: You are absolutely correct.

SENATOR TROMBLY: Okay, that would strengthen the hand of the Republican National Committee Members. So we felt that it was very important to help out on the Democratic side, to help our Republican colleague's, because we know that if we had this problem that they would help us. I think that we must maintain the presidential primary as a unified primary. It does no good to have the Democrats voting and the Republicans not voting quite frankly. That is why there was a request for the roll call. It was to help the Republican National Committee members show the resolve the legislature. I guess that I could have said that and you would have been all set, right?

SENATOR RUSSMAN: I know what a mentor Hugh Gregg has been for all of us, and I am sure yourself included, and I respect what he said, but my suggestion would be that given the numbers that we have here, that we do a voice vote on it, and then we ask the record to show that it was passed unanimously by the Senate. I think that would take care of the issue rather than have lesser numbers here. I would ask that you concur with that?

SENATOR TROMBLY: Oh, definitely.

SENATOR KRUEGER: I concur with that as well.

Recess.

Out of Recess.

Amendment adopted unanimously.

Ordered to third reading.

Recess.

Out of Recess.

HB 732, relative to nonpayment of member dues and fees and access to financial records of condominium associations. Public Affairs Committee. Vote 6-0. Inexpedient to Legislate, Senator Wheeler for the committee.

SENATOR WHEELER: House Bill 732 would have required that in order for a condominium association to take someone's property for nonpayment for condominium dues, they would have to obtain a court order. House Bill 732 also would have allowed access to condominium association financial records. Significant testimony was received in opposition to this legislation. The attorney general's office testified that this legislation offers the potential for abuse by some condominium associations as well as the potential criminal sanction. The Public Affairs Committee listened to all of this and felt that we would be much better off addressing these issues in a study committee established under HB 252; therefore, we recommend that HB 732 be inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 411, requiring voters to present identification. Public Affairs Committee. Vote 6-0. Ought to pass with amendment, Senator Trombly for the committee.

1999-1791s

03/01

Amendment to HB 411

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

AN ACT requiring voters to present identification and eliminating straight ticket voting.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 Removing Instructions to Voters on Ballot for Straight Ticket Voting. RSA 659:17 is repealed and reenacted to read as follows:

659:17 Instructions to Voters.

I. The secretary of state shall provide on the top of the general election ballot the following voting instructions: "Vote for the candidate of your choice for each office by making the appropriate mark. Follow directions as to the number of candidates to be elected to each office."

II. A voter may vote for a candidate in a state general election, or in a state or presidential primary election, by making the appropriate mark for the name of each candidate for whom the voter wishes to vote. A voter desiring to vote for a candidate whose name is not printed on the ballot shall write in the name of the person for whom the voter desires to vote in the space provided for that purpose.

3 Repeal. The following are repealed:

I. RSA 656:10, relative to straight ticket voting.

II. RSA 656:11, relative to party emblem.

III. RSA 659:66, relative to counting straight party votes.

1999-1791s

AMENDED ANALYSIS

This bill requires that voters present identification or sign an affidavit to obtain a ballot. This bill also eliminates strait ticket voting. TAPE INAUDIBLE

Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Trombly moved to have **HB 294**, relative to state aid to municipalities for closure of certain municipal incinerators, taken off the table.

Adopted.

HB 294, relative to state aid to municipalities for closure of certain municipal incinerators.

SENATOR TROMBLY: Mr. President, I would just request that the Senate support the committee report of ought to pass.

Question is on the committee report of ought to pass.

Adopted.

Senator Trombly offered a floor amendment.

1999-1798s

10/09

Floor Amendment to HB 294-FN-LOCAL

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

AN ACT relative to state aid to municipalities for closure of certain municipal incinerators and establishing a study committee to consider options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway.

Amend the bill by replacing section 14 with the following:

14 Study Committee Established. There is hereby established a legislative study committee to review regulatory options for addressing the development of major projects, such as the New Hampshire International Speedway, which have statewide or significant regional impacts.

15 Membership and Compensation.

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

(a) Three members 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.

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

16 Duties. The committee shall review the regulatory options for addressing the development of major projects, such as the New Hampshire International Speedway, which have statewide or significant regional impacts. The committee shall determine if current regulatory processes included in RSA 36:54 adequately address the development of major projects of statewide or significant regional impact. Further, the committee shall recommend regulatory options for addressing the impacts of major development projects, such as the New Hampshire International Speedway.

17 Chairperson. 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 senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

18 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 1999.

19 Effective Date.

I. Sections 14-18 of this act shall take effect upon its passage.

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

1999-1798s

AMENDED ANALYSIS

This bill expands the landfill closure program in the solid waste management act to include certain municipal incinerators.

This bill also establishes a committee to study options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway.

SENATOR TROMBLY: Mr. President and members of the Senate, you will remember that on a previous bill from the Transportation Committee, relative to the speedway and the town of Canterbury, Senator Gordon had proposed an amendment which was adopted by the Transportation Committee, which worked such that the speedway would be able to construct their road immediately, and that there would be a study committee to study the statewide impact of regional development. We passed that unanimously, and it was a good compromise on that bill. Unfortunately, what happened was that the speedway then went to the town of Canterbury, and the town of Canterbury approved the road, so the construction of the road will go forward, but the House killed the study committee. I don't create any inferences by that, because quite frankly, I don't know if we can read anything into it other than that is what happened. I don't think that there is anything nefarious, but most certainly, we expected on the people of Canterbury and the state on reason for development, was that there would be the study to look at these issues over the summer. This amendment adds the study committee portion of the bill that was killed in the House. I hope that you will adopt this. I think that all of the reasons as to why this study committee was necessary is a good thing, a month ago, exists today. Mr. President, I would ask that the Senate adopt the amendment that I am now offering. Thank you, Mr. President.

Floor Amendment adopted.

Referred to the Finance Committee (Rule #24).

TAKEN OFF THE TABLE

Senator Trombly moved to have **HB 64**, relative to changes of registration for undeclared voters, taken off the table.

Adopted.

HB 64, relative to changes of registration for undeclared voters.

SENATOR TROMBLY: Public Affairs is just trying to clean up the table and its unfinished business, mainly because I am hoping to go on vacation this Saturday, and I want to make sure that we have everything lined up. This was reported out as inexpedient to legislate and I would just ask you to adopt the committee report at this time. Thank you.

Question is on the committee report of inexpedient to legislate.

Recess.

Out of Recess.

Committee report of inexpedient to legislate is adopted.

SENATOR RUSSMAN (Rule #44): A couple of people have asked me why I don't have a necktie on today, and perhaps it is against the decorum. Yes, Senator John King, it may have blown off from the fan behind us. As a practical matter, it is called the Sawhill look. In Gerry Fords' first secretary of energy, who was John Sawhill, and John Sawhill is now

president of the Nature Conservancy, and he started this thing in Washington, in the summer, where he never wore a necktie to work. He even went to the cocktail parties and very fancy blacktie events with a very nice gesture and slacks, no tie though, because he found that as the secretary of the energy department, that you could actually keep the air conditioning down a little lower and save energy that way by having an open neck, and so on and so forth. So that is why I don't have a necktie on today, I want to be comfortable and we are trying to conserve some energy as well. Thank you.

SENATOR D'ALLESANDRO: Senator Russman, do you use this as a legal defense?

SENATOR RUSSMAN: I haven't dared to do it in the courtroom yet.

Senator Trombly moved that the rest of the Senate Bills on the Calendar be made a Special Order to 10:01 on Tuesday, June 29, 1999.

Adopted.

SPECIAL ORDERED BILLS TO JUNE 29

HB 640, relative to grievance procedures of managed care organizations. Public Institutions, Health and Human Services Committee.

HB 341, relative to the process for nonrenewal of teacher contracts. Education Committee. Vote 6-2. Ought to pass with amendment, Senator Larsen for the committee.

HB 633-FN-L, establishing parental choice scholarships. Education Committee. Vote 6-0. Inexpedient to Legislate, Senator D'Allesandro for the committee.

HB 690-FN-L, relative to charter schools and open enrollment districts. Education Committee. Vote 7-0. Rereferred to Committee, Senator McCarley for the committee.

HB 626-FN, relative to revising the laws regulating accountancy. Executive Departments and Administration Committee.

HB 360-FN, clarifying that any person convicted of a felony in this state is prohibited from owning or possessing firearms and other dangerous weapons. Judiciary Committee.

CACR 6, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law. Public Affairs Committee. Vote 5-0. Ought to Pass, Senator Trombly for the committee.

HB 468, relative to the home rule powers of municipalities. Public Affairs Committee. Vote 3-2. Ought to Pass, Senator Trombly for the committee.

TAKEN OFF THE TABLE

Senator Below moved to have **HB 112-FN-A**, increasing the tobacco tax and imposing the tax on all types of tobacco products, taken off the table.

Adopted.

HB 112-FN-A, increasing the tobacco tax and imposing the tax on all types of tobacco products.

Senator Below moved to rerefer to Finance.

Adopted.

Referred to the Finance Committee (Rule #24).**June 23, 1999****1999-1797-EBA****03/09****Enrolled Bill Amendment to HJR 8**

The Committee on Enrolled Bills to which was referred HJR 8

A RESOLUTION urging the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO).

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HJR 8**

This enrolled bill amendment changes a reference from the Commissioner of the Federal Energy Regulatory Commission to the Commissioners of the Federal Energy Regulatory Commission. This enrolled bill amendment also makes punctuation and capitalization corrections.

Enrolled Bill Amendment to HJR 8

Amend the first paragraph after the resolving clause of the resolution by replacing lines 4-13 with the following:

- I. Four representatives from investor-owned utilities;
- II. Two representatives from municipally or cooperatively owned utilities;
- III. One representative of industrial consumers;
- IV. One representative of commercial consumers;
- V. One representative of residential consumers;
- VI. One representative from an environmental public interest group;
- VII. One representative from a public utility commission;
- VIII. One representative from a non-utility organization which markets energy products; and
- IX. One representative of a consumer advocate's office;

Amend the third paragraph after the resolving clause of the resolution by replacing lines 2-4 with the following:

be forwarded by the house clerk to the Commissioners of the Federal Energy Regulatory Commission, and the congressional delegations, house and senate leaders and governors of all the New England states.

Senator Trombly moved adoption.

Adopted.**June 23, 1999****1999-1796-EBA****08/09****Enrolled Bill Amendment to HB 245-FN**

The Committee on Enrolled Bills to which was referred HB 245-FN

AN ACT relative to fees and appropriations to the division of safety services.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 245-FN

This enrolled bill amendment corrects a typographical error.

Enrolled Bill Amendment to HB 245-FN

Amend section 4 of the bill by replacing line 14 with the following: ~~powers of arrest.~~] The report of an auxiliary

Senator Trombly moved adoption.

Adopted.

June 24, 1999

1999-1811-EBA

08/10

Enrolled Bill Amendment to HB 485-FN

The Committee on Enrolled Bills to which was referred HB 485-FN

AN ACT relative to the calculation of unemployment compensation benefits.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 485-FN

This enrolled bill amendment makes a technical correction to the amending language of a bill section.

Enrolled Bill Amendment to HB 485-FN

Amend section 2 of the bill by replacing lines 1 and 2 with the following: 2 New Subparagraph; State-Federal Extended Benefit Program; Definitions. Amend RSA 282-A:30, I by inserting after subparagraph (k) the following new subparagraph:

Senator Trombly moved adoption.

Adopted.

June 22, 1999

1999-1753-EBA

04/09

Enrolled Bill Amendment to HB 56

The Committee on Enrolled Bills to which was referred HB 56

AN ACT establishing a procedure for reinstating corporations that have been administratively dissolved for more than 3 years.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 56

This enrolled bill amendment makes a gender neutral change to a reference in section

Enrolled Bill Amendment to HB 56

Amend section 2 of the bill by replacing line 4 with the following:

A:14.20 for dissolving a corporation, [he] *the secretary of state* shall administratively dissolve the corporation by signing and

Senator Trombly moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 70, changing the safe drinking water standard for MTBE.

And the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Jeb Bradley
 Teri Norelli
 Roy Maxfield
 Jessica Densmore.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 67, limiting liability resulting from the use of automatic external defibrillation.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 67, limiting liability resulting from the use of automatic external defibrillation.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 163, establishing a commission to study methods for reducing violent incidents involving children and guns.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 163, establishing a commission to study methods for reducing violent incidents involving children and guns.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 172, relative to representation by a citizen in a court proceeding.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 172, relative to representation by a citizen in a court proceeding.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 217-FN, relative to real estate brokers of other jurisdictions doing business in this state.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 217-FN, relative to real estate brokers of other jurisdictions doing business in this state.

Senator Cohen moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 69, relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees.

And requests a Committee of Conference.

The Speaker, on the part of the House Representatives, has appointed as members of said Committee of Conference:

- REPRESENTATIVES:** Gary Daniels
- Michael Gilman
- Robert Clegg
- Jane Kelley

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 69, relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees.

Senator Wheeler moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as said members of Committee of Conference:

- SENATORS:** Wheeler, J. King, Fraser

Recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has Re-Referred to Committee the following entitled Senate Bills sent down from the Senate:

SB 36-FN-A, relative to salary increases for care providers for persons with developmental and acquired disabilities and making an appropriation therefore.

SB 52, requiring insurance coverage for infertility treatments.

SB 85, including the judiciary as a public employer under the public employee labor relations act.

SB 134-FN, relative to medicaid reimbursement rates and dental care.

SB 135-FN, relative to water supply land protection grants.

SB 147, relative to self-referrals for chiropractic care under managed care organizations.

SB 162, providing for the license and regulatory oversight of voluntary small employer health insurance purchasing alliances.

SB 205-FN, expanding medical coverage to pay dental assistance for adults on medicaid.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 356, relative to the issuance of summons and notice in CHINS petitions.

HB 473, establishing a committee to study the non-group health insurance market.

HB 675-FN, extending the applicability of postsecondary educational assistance for New Hampshire National Guard members and requiring an annual reporting from state-supported postsecondary institutions.

HB 742, defining "domestic employee" for purposes of workers' compensation.

HJR 2, urging that federal air pollution programs not punish early adopters of air pollution control technology.

HB 745, authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, and relative to the excess education property tax payment for certain municipalities.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 73, relative to eligibility for off-premise liquor licenses.

SB 82, relative to the termination of employees.

SB 90, establishing a committee to study and investigate the needs for small business loans to pay for technical improvements for persons working at home.

SB 108, relative to the co-management of patients with primary open-angle glaucoma and establishing a glaucoma co-management committee.

SB 115, relative to participation by certain judges in the state employee group health and dental insurance programs.

SB 122, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence.

SB 145-FN-A, relative to state financial aid for state fairs, and making an appropriation therefor.

SB 166, establishing a committee to study insurance coverage for certain physical, occupational, and speech therapies.

SB 174, relative to the regulation of telemarketers.

SB 212-FN, requiring the insurance department to develop a plan to address the needs of persons with chronic illnesses and disabilities.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 12-FN-A, relative to the World War II memorial campaign and making an appropriation therefor.

- SB 37-FN**, relative to fees for testing of domestic animals for disease.
- SB 99**, allowing the same interest rates and charges on small loans under \$1,500 as is allowed on small loans over \$1,500.
- SB 103**, making certain changes in the insurance laws.
- SB 104**, making a variety of changes in certain insurance laws.
- SB 107**, relative to fees for examination of domestic societies and foreign societies.
- SB 110**, allowing for discharges of mortgages by affidavit of a New Hampshire attorney.
- SB 118**, relative to requirements for retail installment contracts for motor vehicle sales.
- SB 230**, relative to interstate school districts.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 189-FN, relative to the establishment of civil rights act.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 189-FN, relative to the establishment of a civil rights act.

Senator Pignatelli moved to concur.

Adopted.

SUSPENSION OF THE RULES

Senator Larsen moved that **HB 25**, making appropriations for capital improvements, be introduced into the Senate at the present time.

Adopted by the necessary 2/3 votes.

SUSPENSION OF THE RULES

Senator Larsen moved that the Rules of the Senate be so far suspended, reference the referral to committee, report of committee and the notice and report in the Calendar, and the requirement of a five-day notice for a hearing, and moved to further suspend the rules as to allow **HB 25** to be before the Senate at the present time.

Adopted by the necessary 2/3 votes.

HB 25, making appropriations for capital improvements.

Senator Larsen moved ought to pass.

SENATOR LARSEN: The Senate Capital Budget Committee has been meeting for many weeks. We have adopted an amendment, which we will see as a floor amendment to **HB 25**. That represents the work of the Capital Budget Committee. That amendment is summarized for the members in the Capital Budget Compare Sheet, which all of you should have in front of you. The Senate Capital Budget Committee met its obligation to come at \$50 million or under. Our total approved capital budget represents \$49,932,365 slightly less than the House approved version. It is as Georgie Thomas has indicated, within the bonding authority of the state and keeps our bond rating secure. It represents, I think, the priorities of the Senate, putting further emphasis on some of the renovations that have been long delayed at the University of New Hampshire cam-

pus. It changes some of the language. It includes the renovations at the Veterans Home Alzheimer's Wing, allowing for matching funds to come in from the federal government Veterans Administration. The language that we were able to find was agreeable with the Veteran's Administration. The language includes that 50 percent be appropriated immediately and that 50 percent will be released upon notification from the Veteran's Administration that such monies have been approved from the federal government, and they require a state match. We have notification from the Veteran's Administration, with some discussion still going on, regarding that language, but we felt that it was wise to set our priorities, although the committee believed that the Veteran's Home Alzheimer's Wing was important to get on the priority list for matching money. So that is included. As you go through the rest of the budget, you will see that we have made what we believe are responsible choices, important to continuing the capital needs of this state. I think that there are members here that would like to speak to some of the details of that, so I urge your adoption of the floor amendment to HB 25.

SENATOR TROMBLY: Senator Larsen, I heard it reported on the radio that the House version of the Capital Budget allowed for repairs to the Veteran's Home, the construction there without the federal matching money to which you referenced...are we treating the Veteran's Home the same way in our budget as the House treated the Veteran's Home?

SENATOR LARSEN: We have, through talking with the Veteran's Administration and the commandant at the Veteran's Home, we have had communications with Washington regarding how much of directive immediate appropriation needs to go to the Veteran's Home to secure our priority listing in Washington for matching funds. We received a fax that we need to put 50 percent of the appropriation in an immediate line, requiring no further action by the legislature. That is what this floor amendment will do. The remainder is subject to the state treasurer receiving notification that the federal match is there. The treasurer has indicated that she has to release the additional 50 percent matching funds. It keeps from all of the language that we have...it keeps us in a priority one listing, and it meets the need of the Veteran's Administration to make that possible.

SENATOR TROMBLY: Just the impression left in this news report was that the Senate somehow, was delaying action and requiring this 50 percent before anything would be done. But what the Senate is doing, is in agreement with the Veteran's Administration in Washington and the Veterans here in New Hampshire. Is that correct?

SENATOR LARSEN: There is no intent to delay. It meets the needs of the Veteran's Administration. We have heard from the commandant that we need the 50 percent to make the match and that is what is in our budget.

SENATOR TROMBLY: Thank you.

SENATOR FRANCOEUR: Senator Larsen, there is rumor around here today that New Hampshire's bond rating is slipping based on the budget we passed last week. Could you comment on that or bring us up to date. Have you heard anything regarding what is happening with New Hampshire's bond rating?

SENATOR LARSEN: All indications are that it is fine. Our state treasurer indicated that our bond rating is totally secure at a \$50 million issuance that this requires. The operating budget has no effect, that I understand, on our bond rating at this point. It is my understanding, that we continue to have discussions on the tobacco tax.

SENATOR FRANCOEUR: I understand that they are secure, but it is secure at the present rating that we currently have today?

SENATOR LARSEN: The capital budget will not affect our bond rating, nor was it my understanding that our operating budget would. Somehow the operating budget that we passed just a few days ago put our bond rating at risk. I am sure that our Finance chairman would like to speak to that as well.

SENATOR HOLLINGWORTH: We have requested that Georgie Thomas come and speak to the Senate Finance Committee tomorrow so that we can get a clear picture of exactly what is being said.

SENATOR FRANCOEUR: Senator Hollingworth, if the bond rating is possibly at stake, and we add another \$50 million worth of bonding to it, does that possibly push New Hampshire into jeopardizing our position even worse?

SENATOR HOLLINGWORTH: I don't believe so. We heard from the state treasurer that \$50 million was something that we could sustain and was what we would expect to pass in the capital budget, but not to go above that. In fact, that was a conservative number.

SENATOR FRANCOEUR: Isn't all of state bonding kind of lumped together by Moody's and a lot of the investment firms, that they take a look at the total indebtedness of the state of New Hampshire as one lump and not as piece-meal?

SENATOR HOLLINGWORTH: I think that what they have expressed more is that the concern of the ability of the state of New Hampshire to take and deal with the cost and to have a solid and stable great base. We are a very rich state and they recognize that. They have said so in the past. What has disturbed them in recent months or actually the last two years, has been the fact that we do not address the need that the school ordered funding by the courts, and that is still the problem that is causing them concern.

SENATOR FRANCOEUR: If these bonds were not issued until sometime...probably the next couple of months, if the rating changes wouldn't the cost of these bonds increase also?

SENATOR HOLLINGWORTH: I think that is a question that you will have to ask Georgie Thomas tomorrow when she comes before Finance, but I don't believe that she indicated anything of the sort.

SENATOR FRASER: Senator Larsen, you addressed 61 South Spring Street. Is that the building formerly occupied by the Department of Revenue Administration?

SENATOR LARSEN: Yes. Sixty-one South Spring Street, which is item 12 on page one, is the former Department of Revenue Administration Building which is currently vacant. They have indicated that they can save significant amounts of rental monies now going into rented space if it is renovated. It has a substandard elevator. It is a former hospital, as you might know, so the actual outside of the building is very sturdy and in a good neighborhood. It has about 100 possible sites for employees and it is in good shape. The Department of Administrative Services commissioner indicated to me that this was one of his top priorities. He didn't want it to sit vacant for the biennium. We did look closely at it, but his feeling was that it was important to renovate that building, and that we would have money in the long run in

moving currently rented space employees into a state-owned facility, and that we would be making the reinvestment in the neighborhood that is important to their surroundings.

SENATOR FRASER: So once the building is renovated, that building will be used by the state for other agencies to move into?

SENATOR LARSEN: Yes.

SENATOR BROWN: Senator Larsen, in view of the possible potential jeopardy of our bond rating, wouldn't it be more prudent to wait until after tomorrow, after we ask Georgie Thomas these questions before we vote on this?

SENATOR LARSEN: I think that the capital budget is much like the home repair budget in a person's home. If you don't make the reinvestments in your property over time...these are items that we believe are reinvestments for the most part in our own property that are the maintenance needs to keep the state's buildings operating useful and productive with employees. If we delay this vote today, we make it more difficult for construction to start, because construction season obviously is already underway. We make it more difficult in terms of people knowing what construction can occur. There is also the issue about getting into a Committee of Conference. If, as we are working in a Committee of Conference, we do hear some new information, obviously the conferees will be responsible for taking that into account. For us to delay would mean to add more days, and it greatly enhances the possibility that we here in mid-July, with no capital budget. I have been working very hard, and the committee has been working very hard to get this done by July 1. I think that there is a lot of similarity between the House and Senate capital budget and the governor's. If we can get into a Committee of Conference, we can adjust if we need to.

SENATOR GORDON: I just wanted to address that particular issue in regard to the dynamic between the capital budget and the operating budget. Georgie Thomas came in and she gave us a very good overview of how the two relate. Basically what the agencies look at, the bonding agencies look at, is the amount of money that the state is paying to pay off its debt in relationship to its total expenditures. Historically, this state has been well within the acceptable margin that the rating companies use. In fact, maintaining this level of under \$50 million will keep us well below that index, and keep our performance as stable as it has been in the past. Speaking of the past, in the past, we have had as many of you know, capital budgets which are substantially greater than this one and in many ways, we are still paying for those through outstanding indebtedness that we have. In the last few biennium's, we have had relatively small capital budgets, although we have supplemented those capital budgets, as we did last year, with the expenditure for the prison of \$33 million. So I guess the answer to the question, is that I think that in terms of the rating agencies, as far as they are concerned, this budget is well within our means and will maintain our sound financial position in terms of our capital improvements and bonded indebtedness. Even if in fact our rating were to change for some reason, I believe that there is still a substantial play to allow that to happen, if in fact, something like that did occur.

Recess.

Out of Recess.

A roll call was requested by Senator Francoeur.

Seconded by Senator Pignatelli.

Request for the roll call was withdrawn.

Question is on the motion of ought to pass.

Adopted.

Senator Larsen offered a floor amendment.

1999-1812s

10/09

Floor Amendment to HB 25-FN-A

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

1 Capital Appropriations. The sums hereinafter detailed are hereby appropriated for the projects specified to the departments, agencies, and branches named:

I. Adjutant General.

A. NHSVC maintenance building and equipment completion	\$ 423,000
Less federal	<u>-423,000</u>
Net state appropriation subparagraph A	\$ 0
B. Replacement of information technology hardware systems & applications *	62,000
C. Renovation of state armories	<u>\$500,000</u>
Total state appropriation paragraph I	<u>\$562,000</u>

II. Department of Administrative Services, Division of Plant and Property Management.

A. Bureau of General Services.

1. Life safety code compliance – Johnson Hall building	\$ 170,000
2. Defective elec. wiring & panel replacement, health and human services building	148,500
3. Replace defective cooling tower legislative office building	66,000
4. Flash & coat (2) stair towers – health and human services building	88,000
5. Repair building foundation – Storrs St. warehouse	52,000
6. Renovate existing facility – 61 South Spring St.	1,580,800
7. Communications equipment upgrade *	200,000
8. Executive/legislative budget system *	294,000
9. Information technology plan consultants *	250,000
10. Equipment upgrade-DASD *	200,000
11. Business continuity plan *	250,000
12. VSE to MSV Conversion *	200,000
13. Bridges House roof and structural rehabilitation	125,000
14. Health and human services building roof	<u>368,000</u>
Net state appropriation subparagraph A	<u>\$3,992,300</u>

B. Bureau of Court Facilities.

1. Jaffrey-Peterborough courthouse construction	<u>\$2,100,000</u>
Net state appropriation subparagraph B	<u>\$2,100,000</u>
Total state appropriation paragraph II	<u>\$6,092,300</u>

III. Department of Agriculture, Markets, and Food.		
A. Laboratory equipment		\$ 172,000
Total state appropriation paragraph III		\$ 172,000
IV. Community-technical college system.		
A. Alan B. Shepard memorial wing development, Christa McAuliffe planetarium – Concord	\$	100,000
B. Library accreditation compliance		4,700,000
C. Maintenance/critical repairs		1,365,000
D. General science laboratory upgrade		600,000
E. Computer systems/hardware *		132,500
Total state appropriation paragraph IV	\$	6,897,500
V. Department of Corrections.		
A. Replace boiler plant – women’s prison	\$	200,000
B. Year 2000 equipment replacement/upgrade *		146,000
C. Expansion of department WAN *		126,000
Total state appropriation paragraph V	\$	472,000
VI. Department of Education.		
A. Computer applications expansion/replacement *	\$	650,000
Total state appropriation paragraph VI	\$	650,000
VII. Department of Environmental Services.		
A. Drinking water state revolving fund matching funds	\$	2,946,780
B. Wastewater state revolving fund matching funds		270,314
C. Hazardous waste superfund match		3,140,000
D. Storage building for emergency response equipment		540,000
Less federal		<u>-432,000</u>
Net state appropriation subparagraph D		108,000
E. Equipment/furniture office consolidation		208,550
F. Bedrock aquifer program		215,515
G. Implementation of information technology plan *		317,104
H. Winnepesaukee operations model		<u>257,000</u>
Total state appropriation paragraph VII	\$	7,463,263
VIII. Department of Health and Human Services Commissioner’s Office.		
A. Laboratory safety improvements	\$	242,000
B. Laundry and bathing equipment – Glencliff		80,000
C. APS kitchen floor & window repairs – N.H. Hospital		100,000
D. Laundry equipment replacement – N.H. Hospital		180,000
E. Main Bldg./Annex 1 roof replacement – behavioral health		1,210,000
F. Laconia developmental services campus – designated receiving facility renovations – developmental services		250,000
G. Philbrook fire safety improvements – N.H. Hospital		115,000
H. Information technology *	\$	17,400,000
Less federal		<u>-12,225,000</u>
Net state appropriation subparagraph H		5,175,000
Total state appropriation paragraph VIII	\$	7,352,000

The funds appropriated in subparagraph VIII, H for information technology programs shall not be committed, contracted for, or expended, without the prior written approval of the governor.

IX. Legislative Branch	
A. Legislative budget assistant – tax policy revenue forecasting and modeling software	\$ <u>1,000,000</u>
Total state appropriation paragraph IX	\$ 1,000,000
X. Office of Emergency Management.	
A. Telephone system replacement	\$ <u>218,800</u>
Total state appropriation paragraph X	\$ 218,800
XI. Port Authority.	
A. Building improvements	<u>320,000</u>
Total state appropriation paragraph XI	\$ 320,000
XII. Department of Resources and Economic Development.	
A. ADA compliance for parks facilities	\$ 150,000
B. Statewide radio system	650,000
Less federal	<u>-150,000</u>
Net state appropriation subparagraph B	500,000
C. New toilet facilities - Hampton	125,000
D. Septic gray water system – Mount Washington	150,000
E. Install power – Crawford Notch	<u>150,000</u>
Total state appropriation paragraph XII	\$ 1,075,000
XIII. Department of Transportation.	
A. Match for FAA projects	\$ 500,000
B. Match for public transit bus replacement	290,000
C. Acquisition for abandoned railroads & airports	1,450,000
D. Concord rail bridge	650,000
E. Compliance, governor's commission on disability – All general fund agencies	<u>1,000,000</u>
Total state appropriation paragraph XIII	\$ 3,890,000
XIV. Youth Development Services.	
A. King cottage renovations – design only – YDC	\$ 27,000
B. Safe rooms for Tobey building – construction – YDC	245,000
C. Purchase 4 generators *	210,000
D. Phase I – preparation for agency networking *	<u>225,000</u>
Total state appropriation paragraph XIV	\$ <u>707,000</u>
Total state appropriation section 1	\$36,871,863

* The bonds issued for these projects shall be 5-year bonds.

2 Appropriation; University System of New Hampshire. The sums hereinafter detailed are hereby appropriated for the projects specified:

A. Pettee Hall general renovation	\$ 4,300,000
B. New Hampshire public television equipment	2,000,000
C. Murkland Hall general renovation	5,000,000
D. Kingsbury Hall design	600,000
E. Boyd Hall design	600,000
F. Mason Library general renovation	<u>\$ 1</u>
Total state appropriation section 2	\$12,500,001

3 Appropriation; Department of Fish and Game. The sums hereinafter detailed are hereby appropriated for the projects specified:

A. Broodfish facility – Milford	\$ 180,000
B. Repair & replacement of fish rearing containers	350,000
C. Water line repair/replacement	200,000
D. Central boat/equipment storage – Concord	210,000
E. Barry conservation camp building replacement	100,000
F. Headquarters exhibit refurbishment	<u>75,000</u>
Total state appropriation section 3	<u>\$1,115,000</u>

4 Appropriation; Department of Transportation and Department of Safety. The sums hereinafter detailed are hereby appropriated for the projects specified:

I. Department of Transportation.	
A. Paint storage & transfer building	\$ 415,000
B. Roof repair/Stickney Ave.	630,000
C. Patrol shed – Exeter	600,000
D. Additions & modifications to building B – traffic	325,000
E. Energy & environmental renovations – statewide	1,000,000
F. Conway rest area	500,000
G. Morton building	3,000,000
H. CAD/D transition *	552,000
I. PC & Server & Software Upgrade *	<u>603,000</u>
Total state appropriation paragraph I	<u>\$7,625,000</u>

II. Department of Safety.

A. Design and construct Troop D barracks/DMC training	\$ 910,000
B. Paving and roof replacement at troop stations	80,000
C. Video surveillance system – troop stations/Hayes bldg.	50,000
D. Carpeting at 10 Hazen Drive – Concord	<u>154,000</u>
Total state appropriation paragraph II	<u>\$1,194,000</u>
Total state appropriation section 4	<u>\$8,819,000</u>

* The bonds issued for these projects shall be 5-year bonds.

5 Expenditures; General. The appropriations made for the purposes mentioned in sections 1, 3, and 4 and the sums available for those projects shall be expended by the trustees, commissions, commissioner, or department head of the institutions and departments referred to herein; provided that all contracts and projects and plans and specifications therefor shall be awarded in accordance with the provisions of RSA 228.

6 Expenditures; University System of New Hampshire.

I. The appropriations for the purposes mentioned in section 2 and the sums available for these projects shall be expended by the trustees of the university system of New Hampshire. All contracts for the construction of all or any part of said buildings or facilities shall be let only after competitive sealed bids have been received and only after an advertisement calling for such bids has been published at least once in each 2 successive calendar weeks in a newspaper of general circulation in New Hampshire or in a trade journal known to be circulated among the contractors from whom bids will be sought with the state of New Hampshire or elsewhere in the area. The first publication of such advertisement shall be not less 30 days prior to the date the bids will be re-

ceived. All conditions considered, wherever possible, it is recommended that the services of New Hampshire architectural and construction firms be considered within the discretion of the trustees.

II. The appropriations made in section 2 are available for all costs incidental to the completion of the projects enumerated including the costs of the services of architects, engineers, and other consultants of such kind and capacity as the university system board of trustees, in its discretion, may wish to employ on such terms and conditions as the board determines. These moneys shall be spent under the direction of the university system board of trustees.

III. If, in the judgment of the trustees of the university system, just cause exists indicating the lowest bid should be rejected, then the contract may be awarded to the next lowest bidder; or, if the next lowest bid should be rejected, the contract may be awarded to the third lowest bidder.

IV. The board of trustees of the university system has the right to reject any and all bids and, if the lowest bid is in excess of the appropriation, the board has the right to negotiate with the low bidder or with the 3 lowest bidders for a contract for the construction upon terms considered most advantageous to the university. If only one bid is received, the board of trustees may negotiate a contract for the construction on terms considered most advantageous to the university system and to the state. Any authorization contained in this act which is at variance with the requirements of applicable federal law and regulations shall be controlled by the terms of the federal law and regulations.

V. Notwithstanding paragraphs I, III, and IV, the sums appropriated by section 2, paragraph A of this act for the Pettee Hall general renovation, may be expended and awarded by the trustees of the university system; provided that all contracts for all or any part of the building or facilities shall follow construction management procurement procedures and guidelines. If the trustees select construction management pursuant to this paragraph, paragraphs I, III, and IV shall not apply and the trustees shall retain the right to reject or negotiate following accepted construction management practices.

7 Land Acquisition. Any land acquired under the appropriations made in sections 1, 3, and 4 of this act, except such land, if any, as may be acquired under the appropriation for the department of environmental services, shall be purchased by the commissioner of the department of transportation with the approval of governor and council.

8 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, and 4 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$59,305,864 and for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

9 Payments.

I. The payment of principal and interest on bonds and notes issued for the projects in sections 1 and 2 shall be made when due from the general funds in the state.

II. The payment of principal and interest on bonds issued for the projects in:

(a) Section 3 shall be made when due from the fish and game fund.

(b) Section 4 shall be made when due from the highway fund.

10 Liquidation. The state treasurer is authorized to deduct from the fund accruing to the university under RSA 187-A:7, or appropriation in

lieu therefor, for each fiscal year such sum as may be necessary to meet interest and principal payments in accordance with the terms and conditions of bonds and notes issued for the purpose of section 2.

11 Powers of Governor and Council. The governor and council are hereby authorized and empowered:

I. To cooperate with and enter into such agreements with the federal government, or any agency thereof, as they may deem advisable, to secure federal funds for the purposes of this act.

II. To accept any federal funds which are, or become available for any project under sections 1, 3, and 4 beyond the estimated amounts. The net appropriation of state funds for any project for which such additional federal funds are accepted shall be reduced by the amount of such additional funds, and the amount of bonding authorized by section 8 shall be reduced by the same amount.

12 Transfers. The individual project appropriations provided in sections 1, 2, 3, and 4 of this act shall not be transferred or expended for any other purposes; provided that if there is a balance remaining after an individual project, which is fully funded by state funds, is completed, accepted, and final payment made, said balance or any part thereof may be transferred by governor and council, or for expenditures made pursuant to section 6 by the trustees of the university system, to any other individual project or projects, which are also fully funded by state funds, within the same section and from the same funding source, provided that prior approval of the capital budget overview committee is obtained.

13 Reduction of Appropriation and Bonding Authority. If the net appropriation of state funds for any project provided for by sections 1, 3, and 4 is determined on the basis of an estimate of anticipated federal, local, or other funds, and if the amount of such funds actually received or available is less than said estimate, then the total authorized cost for such projects and the net appropriation of state funds thereof shall be reduced by the same proportion as the proportion by which federal, local, or other funds are reduced. The amount of bonding authorized by section 8 shall be reduced by the amount that the appropriation of state funds is reduced pursuant to this section.

14 Information Technology Equipment and Software. Individual project appropriations for information technology equipment provided for by sections 1, 3, or 4, or for any other agency in any budget bill enacted during the 1999 legislative session, shall not be spent, obligated, or encumbered until such time as the agency's information technology plans are reviewed by the division of information technology management pursuant to RSA 21-1:67 and approved by the capital budget overview committee. The division of information technology management shall review any such agency technology plans within 90 days. An agency may request an extension of time from the capital budget overview committee.

15 Youth Development Services; Capital Budget Overview Committee Approval. Amend 1997, 351:68, as amended by 1998, 372:2, to read as follows:

351:68 Expenditure of Funds Appropriated for Construction and Renovations - YDC in HB 25-A. The appropriation for construction and renovations - YDC made to the department of youth development services in section 1, paragraph XVI, D of HB 25-A of the 1997 legislative session shall be set aside for a match for any federal funds which are now or may be made available for the construction or renovation costs of facilities for juvenile offenders and shall not be spent, obligated, or encumbered until

such time as *the department receives approval from* the capital budget overview committee [~~approves the consultant's survey authorized under section 67 of this act~~].

16 Regional Community-Technical Colleges; Early Childhood Laboratory School Fund Established. Amend RSA 188-F by inserting after section 20 the following new section:

188-F:20-a Early Childhood Laboratory School Fund. There is established the early childhood laboratory school fund which shall be administered by the department of regional community-technical colleges. Moneys received from private donations or from federal or other sources shall be deposited into the fund. The purpose of the fund is to provide for payment of the cost of bonds and notes on the early childhood laboratory school on the Concord campus, and to enhance academic programs in parent education. The fund shall be continually appropriated to the department of regional community-technical colleges and shall be nonlapsing.

17 Appropriation; Payment of Bonds and Notes; Regional Community-Technical Colleges; Early Childhood Laboratory School.

I. The sum of \$427,400 is appropriated to the regional community-technical colleges for the purpose of the construction of the early childhood laboratory school on the Concord campus.

II. To provide funds for the appropriation made in paragraph I the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$427,400 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the early childhood laboratory school fund established in RSA 188-F:20-a.

18 New Hampshire Veterans' Home; Construction of 100 Bed Addition; Contingent Appropriation; Bonds Authorized.

I. In order to provide the 35 percent required state match to receive 65 percent federal participation of the total cost of construction of a 100-bed addition, 50 of which shall be for residents with dementia, a sum not exceeding \$3,500,000 is hereby appropriated to the New Hampshire veterans' home.

II. The appropriation made in paragraph I shall be contingent upon a determination by the state treasurer that federal approval of the 65 percent federal participation has been granted.

III. The authorization of appropriation of funds under this section shall be nonlapsing.

IV. To provide funds for the appropriation made in paragraph I, the state treasurer, upon receiving notice from the New Hampshire veterans' home that federal approval of the 65 percent federal participation has been granted, is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$3,500,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made when due from the general funds of the state.

19 Fire Standards and Training; Aircraft Rescue and Fire Fighting Training Facility Fund Established. Amend RSA 21-P by inserting after section 12-a the following new section:

21-P:12-b Aircraft Rescue and Fire Fighting Training Facility Fund. There is established the aircraft rescue and fire fighting training facility fund which shall be administered by the division of fire standards and training, department of safety. Moneys collected by the division as fees

and tuition for firefighter training programs shall be deposited into the fund. The purpose of the fund is to provide for payment of the cost of bonds and notes on the aircraft rescue and fire fighting training facility adjacent to the department of safety fire academy, and to enhance the existing fire academy's benefit to the state. The fund shall be continually appropriated to the division of fire standards and training and shall be nonlapsing.

20 Appropriation; Payment of Bonds and Notes; Fire Standards and Training; Aircraft Rescue and Fire Fighting Training Facility.

I. The sum of \$700,000 is appropriated to the division of fire standards and training for the purpose of the construction of the aircraft rescue and fire fighting training facility adjacent to the department of safety fire academy.

II. To provide funds for the appropriation made in paragraph I the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$700,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the aircraft rescue and firefighting training facility fund established in RSA 21-P:12-b.

21 Appropriation Purpose Amended; Resources and Economic Development; Cannon Ski rea. Amend 1995, 309:1, XII, A, 2 to read as follows:

2. ~~[Sunapee]~~ Cannon lift and ski area repairs \$ 527,000

22 Lapse Date Eliminated; Resources and Economic Development; New Hampshire Economic Development Fund. Amend 1991, 4:22 as amended by 1992, 289:26, 1993, 358:18 and 1995, 285:1, and as amended by 1997, 349:34, II to read as follows:

4:22 Appropriation. The sum of \$5,750,000 is hereby appropriated to the department of resources and economic development for the purpose of carrying out the provisions of section 21 of this act. These funds shall be in addition to any other funds appropriated to the department and ~~[on June 30, 1997, all unexpended and unencumbered balances]~~ shall *not* lapse.

23 Lapse Date Eliminated; Resources and Economic Development; New Hampshire Economic Development Fund. Amend 1993, 349:18, III as inserted by 1995, 285:2 and as amended by 1997, 349:18 to read as follows:

III. The appropriation contained in paragraph I shall not lapse ~~[until June 30, 1999]~~. Any balances remaining ~~[as of June 30, 1997,]~~ shall be allocated by the review committee or budgeted within the state operating budget for the purposes of paragraph I or other economic initiatives and programs.

24 Capital Appropriation to Department of Safety; Amount Increased. Amend 1997, 349:4, II, A as amended by 1998, 226:2 and 1998, 276:4 to read as follows:

A. Dover Point substation addition, ~~[\$390,000]~~ \$460,000
Warehouse/Epping station

25 Capital Budget; 1997 HB 25-A; Total Appropriation Increased; Highway Funds. Amend 1997, 349:4, total state appropriation section 4 to read as follows:

Total state appropriation section 4 ~~[\$4,790,000]~~ \$4,860,000

26 Capital Budget; 1997 HB 25-A; Total Increased. Amend 1997, 349:8 to read as follows:

349:8 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, and 4 of this act, the

state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~\$67,998,437~~] **\$68,178,937** and for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

27 Capital Budget; 1997 HB 25-A; Lapse Date Extended; Amounts Increased; Department of Administrative Services; Parking Garage Repairs. Amend 1997, 349:1, II, A, 10 and 11 to read as follows:

10. Parking garage repairs – legislative office building [~~\$60,000~~] **\$ 68,565**

11. Parking garage repairs – Storrs Street [~~\$160,000~~] **\$261,935**

28 Capital Budget; 1997 HB 25-A; Total Appropriation Section 1 Subparagraph A Increased. Amend the total state appropriation for 1997, 349:1, II, A to read as follows:

Total state appropriation subparagraph A [~~\$2,075,000~~] **\$2,185,500**

29 Capital Budget; 1997 HB 25-A; Total Appropriation Section 1 Increased. Amend 1997, 349:1, total state appropriation section 4 to read as follows:

Total state appropriation section 1 [~~\$52,208,437~~] **\$52,318,937**

30 Lapse Dates Extended to June 30, 2001. The following appropriations are hereby extended to June 30, 2001.

I. The appropriation made to the department of transportation in 1989, 367:1, XII, A, 1, as amended by 1991, 351:27, II(1) and 1992, 289:60, as extended by 1993, 359:20, V, 1995, 309:32, VII, 1996, 215:3, I, and 1997, 349:34, I for improvements at the Keene Dillant-Hopkins airport.

II. The appropriation made to the department of transportation in 1997, 349:1, XIV, B for statewide fuel tank program.

III. The appropriation made to the department of environmental services in 1993, 359:1, IV, B for the state revolving fund match.

IV. The appropriation made to the department of transportation in 1993, 359:1, XII, A, 1, as extended by 1994, 171:1, 1996, 215:3, III, and 1997, 349:34, X for land acquisition for navigation beacons.

V. The appropriation made to the department of administrative services in 1995, 309:1, II, A, 1, as extended by 1997, 349:34, XI for the health and human services building and laboratory HVAC renovations.

VI. The appropriation made to the department of administrative services in 1995, 309:1, II, B, 3, as extended by 1997, 349:34, XIV for the study and design of court facility on county donated land – Carroll County Superior Court.

VII. The appropriations made to the department of administrative services in 1997, 349:1, II, A, 10 and 11 for parking garage repairs at the legislative office building and Storrs Street garages.

VIII. The appropriation made to the department of corrections in 1995, 309:1, IV, K, as amended by 1997, 349:29, and as extended by 1997, 349:34, XVII for preliminary design of expanded correctional facilities, including land acquisition, in accordance with federal crime bill grants.

IX. The appropriation made to the department of corrections in 1995, 309:1, IV, L and as amended by 1997, 349:34, XVIII for the construction of boilers, N.H. state prison for women, Goffstown.

X. The appropriation made to the department of environmental services in 1995, 309:1, VI, A as extended by 1997, 349:34, XIX for the state revolving fund program – wastewater.

XI. The appropriation made to the department of health and human services in 1995, 309:1, VII, B, I as extended by 1997, 349:34, XXIII for RSA 171-B mentally retarded criminal offenders.

XII. The appropriation made to the department of health and human services in 1995, 309:1, VII, C, 1 as extended by 1997, 349:34, XXIV for life and safety renovations – Glencliff.

XIII. The appropriation made to the department of health and human services commissioner's office in 1997, 349:1, VII, B as amended by 1998, 276:1, for acute psychiatric service building parking improvement – NH hospital.

XIV. The appropriation made to the department of health and human services commissioner's office in 1997, 349:1, VII, E, as amended by 1998, 276:1, for repair tunnel retaining walls – Glencliff.

XV. The appropriation made to the department of health and human services commissioner's office in 1997, 349:1, VII, J for additional renovations – Brown building – NH hospital.

XVI. The appropriation made to the department of resources and economic development in 1995, 309:1, XII, A, 2 as amended by section 19 of this act and as extended by 1997, 349:34, XXVIII for Cannon lift and ski area repairs.

XVII. The appropriation made to the department of resources and economic development in 1997, 335:3 for the purchase and development of property in Piermont, New Hampshire on Lake Tarleton.

XVIII. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 3 and 4 for roof repairs – supreme court and health and human services building.

XIX. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 9 for repair of drainage system – state library.

XX. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 12 for the emergency repairs, contingency fund.

XXI. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 13 for the life safety, renovations – health and human services building.

XXII. The appropriation made to the department of administrative services in 1997, 349:1, II, B, 1-3 for LAN hardware and site preparation, year 2000 financial support system, and check processing and mailing system.

XXIII. The appropriation made to the department of administrative services in 1997, 349:1, II, C, 1 for the bureau of court facilities Dover/Durham/Somersworth District Court.

XXIV. The appropriation made to the community technical college system in 1997, 349:1, IV, A for telephone systems and roof projects-Manchester, Claremont, Nashua, and Concord.

XXV. The appropriation made to the community technical college system in 1997, 349:1, IV, C for critical laboratory support for N.H. industries.

XXVI. The appropriation made to the community technical college system in 1997, 349:1, IV, E for upgrade of general science laboratories.

XXVII. The appropriation made to the department of environmental services in 1997, 349:1, VI, A for the waste water state revolving fund match.

XXVIII. The appropriation made to the department of environmental services in 1997, 349:1, VI, B for the drinking water state revolving fund match.

XXIX. The appropriation made to the department of environmental services in 1997, 349:1, VI, D for the bedrock aquifer assessment.

XXX. The appropriation made to the department of environmental services in 1997, 349:1, VI, F for dam removal.

XXXI. The appropriation made to the department of health and human services commissioner's office in 1997, 349:1, VII, F and as amended in 1998, 276:1 for the Brown Building addition and renovation – Glencliff.

XXXII. The appropriation made to the port authority in 1997, 349:1, IX, D for the maintenance dredging Hampton/Seabrook harbor.

XXXIII. The appropriation made to the port authority in 1997, 349:1, IX, C for dredging Little Harbor.

XXXIV. The appropriations made to the department of resources and economic development in 1997, 349:1, X, B-D for repair Rocky Bend seawall, replace bath house – Sunapee, and replace bridge – Lafayette campground.

XXXV. The appropriation made to the department of transportation in 1997, 349:1, XIV, A for 5-10 percent match FAA airport projects.

XXXVI. The appropriation made to youth development services in 1997, 349:1, XVI, D as amended by 1997, 351:68 and 1998, 372:2, 3 and as amended by section 15 of this act for construction and renovations – YDC.

XXXVII. The appropriation made to the department of transportation in 1997, 349:4, I, A for John O. Morton building renovation.

XXXVIII. The appropriation made to the department of safety in 1997, 349:4, II, A as amended by 1998, 226:2 and 1998, 276:4 and as amended by section 24 of this act for warehouse/Epping station.

XXXIX. The appropriation made to the department of safety in 1997, 349:4, II, B as amended by 1998, 276:4 for microwave system upgrade.

XL. The appropriation made to the department of corrections in 1998, 223:2 for the design and construction of the new medium security prison and for furnishings and equipment for inmates of the new prison.

XLI. The appropriation made to the university system in 1992, 260:16 as amended by 1997, 351:51 for site planning and design of a research facility on the university of New Hampshire campus to enable the university to develop an entrepreneurial campus concept.

XLII. The appropriations made to the department of fish and game in 1995, 309:3, A and B as extended by 1997, 349:34, XXXV for roof repairs and concrete repair/replacement – hatcheries.

XLIII. The appropriation made to the department of fish and game in 1997, 349:3, I for headquarters building modification.

XLIV. The appropriation made to the liquor commission in 1997, 349:1, VIII, B for point of sale registers.

XLV. The appropriation made to the department of education in 1997, 349:1, V, A for phase II computer implementation.

31 Effective Date.

I. Section 30 of this act shall take effect June 30, 1999.

II. The remainder of this act shall take effect July 1, 1999.

SENATOR LARSEN: This floor amendment represents the main body of the Capital Budget recommendation from the Senate as summarized in your summary. There is one portion which is the changes that we made just a few minutes ago that allow for us to meet the Veteran's Home requirement of \$1.75 million. So this first floor amendment does not include the new language on the Veteran's Home, that will be in a subsequent floor amendment immediately following.

A roll call was requested by Senator Francoeur.

Seconded by Senator Pignatelli.

The request for a roll call was withdrawn.

Question is on the adoption of the floor amendment.

Adopted.

Senator Larsen offered a floor amendment.

1999-1818s

10/09

Floor Amendment to HB 25-FN-A

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

IX. Legislative Branch

A. Legislative budget assistant – tax policy revenue forecasting and modeling software	\$ _____ 1
Total state appropriation paragraph IX	\$ _____ 1

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

XII. Department of Resources and Economic Development.

A. ADA compliance for parks facilities	\$ 150,000
B. Statewide radio system	650,000
Less federal	<u>-150,000</u>
Net state appropriation subparagraph B	500,000
C. New toilet facilities - Hampton	<u>125,000</u>
Total state appropriation paragraph XII	\$ 775,000

Amend section 1 of the bill by inserting after paragraph XIII the following new paragraph and renumbering the original paragraph XIV to read as XV.

XIV. N.H. Veterans Home.

A. Design and build new facility, one-half of state share	\$ 1,750,000
---	--------------

Amend the total state appropriation section 1 by replacing it with the following:

Total state appropriation section 1	\$37,321,864
-------------------------------------	--------------

Amend the bill by replacing section 8 with the following:

8 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, and 4 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$59,755,865 and for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

Amend the bill by replacing section 18 with the following:

18 New Hampshire Veterans' Home; Construction of 100 Bed Addition; Contingent Appropriation for One-Half of State Share; Bonds Authorized.

I. In order to provide the 35 percent required state match, in addition to those sums appropriated in section 1 of this act, to receive 65 percent federal participation of the total cost of construction of a 100-bed addition, 50 of which shall be for residents with dementia, a sum not exceeding \$1,750,000 is hereby appropriated to the New Hampshire veterans' home.

II. The appropriation made in paragraph I shall be contingent upon a determination by the state treasurer that federal approval of the 65 percent federal participation has been granted.

III. The authorization of appropriation of funds under this section shall be nonlapsing.

IV. To provide funds for the appropriation made in paragraph I, the state treasurer, upon receiving notice from the New Hampshire veterans' home that federal approval of the 65 percent federal participation has been granted, is hereby authorized to borrow upon the credit of the

state not exceeding the sum of \$1,750,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made when due from the general funds of the state.

Amend paragraphs XXXVIII and XXXIV of section 30 of the bill by replacing them with the following:

XXXVIII. The appropriation made to the department of safety in 1997, 349:4, II, A as amended by 1998, 226:2 and as amended by section 24 of this act for warehouse/Epping station.

XXXIX. The appropriation made to the department of safety in 1997, 349:4, II, B as amended by 1998, 226:2 for microwave system upgrade.

SENATOR LARSEN: I rise to offer a further floor amendment. As I explained earlier, that includes in essence the funding for the New Hampshire Veteran's Home which was accomplished by shifting some of the funding for the tax policy revenue forecasting software and two projects including DRED.

Recess.

Out of Recess.

SENATOR LARSEN: I have had the office of Legislative Services explain that the floor amendment that you have before you represents the DRED budget in lines 10-17. That represents what remains in the capital budget for DRED projects. The amendment further goes on to authorize the \$1.75 million for the New Hampshire Veteran's Home, and it includes a technical correction on the back final page of two of correcting a statute that had been repealed. Lines 23-29 are technical corrections to reflect the deletion of a statutory reference that no longer exists.

Floor Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator Pignatelli.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, McCarley, Trombly, Fernald, Squires, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No: Francoeur, Krueger, Brown, Russman.

Yeas: 17 - Nays: 4

Paired Votes: Senators Blaisdell and Roberge

Adopted.

Ordered to third reading.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 88, relative to purchasing credit for prior service for certain employees in the New Hampshire retirement system.

HB 236, relative to felonious disarming of a law enforcement officer.

HB 274, relative to the office of the consumer advocate.

HB 443, allowing certain beverage manufacturers to distribute products directly to retailers.

HB 469, raising the medical payments coverage under automobile insurance policies.

HB 495, relative to reauthorizing the motor oil discharge cleanup fund and increasing the fuel oil discharge cleanup fund fee, allowing coverage for discharge prevention, and allowing reimbursement for replacing substandard tanks.

HB 519, requiring law enforcement agencies to adopt written policies regarding emergency responses and vehicular pursuits.

HB 561, reducing lab analysis fees of chemical analyses of water.

HB 586, relative to rulemaking authority of the board of chiropractic examiners and unlawful practice of chiropractic.

HB 604, relative to filling a vacancy in the office of county commissioner.

HB 609, relative to construction of a sewer force main through a state land conservation easement.

HB 667, relative to the quorum required for sessions of the supreme court.

HB 706, relative to the definition of "sexual contact" under the sexual assault laws and relative to the registration of certain criminal offenders.

HB 726, relative to the credentialing of personnel in early care and education programs, establishing a fee for such credential, and making an appropriation therefor.

SB 45, allowing a waiver of interest for the time period of an extension of the date of payment of the legacies and succession tax.

SB 74, relative to the rulemaking authority of the real estate commission concerning practices relating to certain dwellings.

SB 129, requiring school districts to disclose any reimbursements received to offset special education expenditures.

SB 173, relative to optional allowances for beneficiaries of New Hampshire retirement system members.

SB 193, relative to holiday pay for certain state employees.

Senator D'Allesandro moved adoption.

Adopted.

ANNOUNCEMENTS

RESOLUTION

Senator J. King moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

SENATOR LARSEN (Rule #44): Senator Klemm and I just returned from the Smithsonian Commission's wonderful exhibit on the mall in Washington. We were there for a very brief time, but I think that he and I both came away feeling that there was a huge amount of energy. We heard that this state had produced the highest number of volunteers working on the projects than any state in the union have seen. People who had seen other state's exhibits had been incredibly impressed with New Hampshire's enthusiasm, energy and creativity of the projects. Last night included the range, a range of different music. We saw covered bridges of New Hampshire wood next to steeple chapels from Romanian woods. We saw incredible international cooperation as well, and we both came away, and I know everyone here feels a great sense of pride, that our state has done such a fabulous job in presenting ourselves to the people of this nation and internationally. So I just want to encourage all of you to go down to see the exhibit and be supportive when it comes back to be shared with our state at the Hopkinton Fair-Grounds next year. So thank you for this moment.

LATE SESSION

Senator J. King moved that the Senate be in recess for the purpose of House Messages, introduction of bills, referring bills to committee, scheduling of hearings, Enrolled Bills Reports and amendments, and that when we adjourn we adjourn until Tuesday, June 29, 1999 at 10:00 a.m.

Adopted.

Third Reading and Final Passage

HB 25, making appropriations for capital improvements.

HB 94, relative to enforcement of the child passenger restraint law.

HB 213, relative to voting by prisoners.

HB 216, relative to release conditions pending trial for defendants in domestic violence, stalking, or protective order violation cases.

HB 231, relative to approval of applications in the charter schools pilot program.

HB 252, establishing a committee to study all aspects of the condominium act established under RSA 356-B.

HB 270, relative to persons not competent to stand trial.

HB 324, repealing certain grounds for granting a divorce for cause.

HB 369, establishing a committee on educational programs on tobacco use for minors.

HB 381, prohibiting any candidate from receiving the nomination of more than one party.

HB 399, allowing the secretary of state to have flexibility in moving the date of New Hampshire's presidential primary and changing the filing period for declarations of candidacy for candidates for president and vice-president at the presidential primary.

HB 408, relative to drug formularies under managed care entities.

HB 411, requiring voters to present identification.

HB 486-FN-A, relative to the physician effectiveness program.

HB 545-FN, establishing a committee to study ambulatory surgical facilities.

HB 650-FN-A, establishing a committee to study the structure of alcohol and drug abuse prevention services.

HB 658-FN, relative to certification, registration, and insurance requirements for recovery agents who assist bail agents and sureties.

HB 665, relative to the New Hampshire emergency management compact with other jurisdictions.

HB 687-FN, establishing the criminal offense of identity fraud.

HB 720-FN, relative to the practice of midwifery.

HB 722-FN, revising the law relative to protection of persons from domestic violence.

HCR 9, encouraging greater health care choices for Medicare eligible citizens throughout New Hampshire.

In recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 47-FN, relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.

And the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Merton Dyer
Ray Langer
Nancy Stickney
Frank Reidy

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 140, relative to ear and body piercing.

And the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Janeen Dalrymple
Joe Manning
Gloria Seldin
Peter Batula

LATE SESSION

Senator Cohen moved that the business of the day being complete that the Senate now adjourn until Tuesday, June 29, 1999 at 10:00 a.m.

Adopted.

Adjournment.

June 29, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rabbi Richard L. Klein, Senate Guest Rabbi.

This past weekend, as part of our annual cycle of reading the Five Books of Moses, Jews around the world read the story of Balak and Balaam. Balak was an ancient Moabite king who attempts to lure, bribe and coerce the prophet Balaam to curse the king's enemies. Balaam knows that this is not God's will. Ultimately, Balaam blesses the enemies rather than curses. He is able to resist the lure of money and the coercion of power. Whatever we do in life, there are times when we need the courage of Balaam to avoid the lures of power, fame, glory, social status or wealth, in order to do what we know is right. May we be blessed with such strength as we strive to do our best to make this world a better place for all.

Amen.

Senator Gordon led the Pledge of Allegiance.

Senator Below is excused for the day.

INTRODUCTION OF GUESTS**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 83, relative to the regulation of the practice of veterinary medicine.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 83, relative to the regulation of the practice of veterinary medicine.

Senator Cohen moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 191, relative to the New Hampshire higher educational and health facilities authority.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 191, relative to the New Hampshire higher educational and health facilities authority.

Senator McCarley moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 131-FN-A, updating the name of the office of vacation travel to the office of travel and tourism in nonconforming RSA sections.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 131-FN-A, updating the name of the office of vacation travel to the office of travel and tourism in nonconforming RSA sections.

Senator Hollingworth moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 58, allowing clinical mental health counselors to obtain third party payment for services rendered which would otherwise qualify for such payments.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 58, allowing clinical mental health counselors to obtain third party payment for services rendered which would otherwise qualify for such payments.

Senator Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 32, relative to an employer exemption under the unemployment compensation laws.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 32, relative to an employer exemption under the unemployment compensation laws.

Senator Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 198-FN, relative to certification of persons installing and servicing propane gas and heating oil equipment.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 198-FN, relative to certification of persons installing and servicing propane gas and heating oil equipment.

Senator Cohen moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 177, allowing marriage and family therapists to obtain third party payment for services rendered which would otherwise qualify for such payments.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 177, allowing marriage and family therapists to obtain third party payment for services rendered which would otherwise qualify for such payments.

Senator Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 53-FN, relative to licensure of physicians providing teleradiology services in this state.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 53-FN, relative to licensure of physicians providing teleradiology services in this state.

Senator Squires moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 200, relative to child care licensing procedures.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 200, relative to child care licensing procedures.

Senator Squires moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 20, relative to the sale or resale of tickets to motor sports events at the New Hampshire International Speedway.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 20, relative to the sale or resale of tickets to motor sports events at the New Hampshire International Speedway.

Senator F. King moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 28, relative to food production and distribution and food service licensure.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 28, relative to food production and distribution and food service licensure.

Senator Squires moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 197-FN-A, establishing a pilot program for opioid agonist therapy of addiction and making an appropriation therefor.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 197-FN-A, establishing a pilot program for opioid agonist therapy of addiction and making an appropriation therefor.

Senator Squires moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 223-FN-A, establishing a wellness and primary prevention council and making an appropriation therefor.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 223-FN-A, establishing a wellness and primary prevention council and making an appropriation therefor.

Senator Squires moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 69-L, relative to health care charitable trusts and community benefits.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 69-L, relative to health care charitable trusts and community benefits.

Senator Squires moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 175-FN, requiring insurance coverage for prescription contraceptive drugs and devices and for contraceptive services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 175-FN, requiring insurance coverage for prescription contraceptive drugs and devices and for contraceptive services.

Senator Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 78, relative to contract requirements between a paid solicitor and a charitable trust.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 78, relative to contract requirements between a paid solicitor and a charitable trust.

Senator Cohen moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 27, relative to assessment fee schedules for trust companies and banks.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 27, relative to assessment fee schedules for trust companies and banks.

Senator Fraser moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 214-FN, relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

SENATE NON CONCURS AND REQUESTS COMMITTEE OF CONFERENCE

SB 214-FN, relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

Senator Squires moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Fernald, Gordon.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 183-FN-A, establishing a New Hampshire health access corporation and continually appropriating a special fund and making an appropriation therefor, requiring the department of health and human services to make a biennial report on the health status of New Hampshire residents, relative to certain transfers to the health care fund, and relative to the rates for pharmaceutical services.

SENATE NON CONCURS AND REQUESTS COMMITTEE OF CONFERENCE

SB 183-FN-A, establishing a New Hampshire health access corporation and continually appropriating a special fund and making an appropriation therefor, requiring the department of health and human services to make a biennial report on the health status of New Hampshire residents, relative to certain transfers to the health care fund, and relative to the rates for pharmaceutical services.

Senator Squires moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Squires, Fernald, Pignatelli.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 224, relative to stenographic records and availability of transcripts of adjudicative hearings before licensing boards.

**SENATE NON CONCURS AND REQUESTS COMMITTEE
OF CONFERENCE**

SB 224, relative to stenographic records and availability of transcripts of adjudicative hearings before licensing boards.

Senator Cohen moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Pignatelli, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 369, establishing a committee on educational programs on tobacco use for minors.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Tim McGough
Jane Langley
Sheila Francoeur
Linda Garrish

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 369, establishing a committee on educational programs on tobacco use for minors.

Senator Squires moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, McCarley, Johnson

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 408, relative to drug formularies under managed care entities.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Keith Herman
Sheila Francoeur
Tim McGough
Kathleen Taylor

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 408, relative to drug formularies under managed care entities.

Senator Squires moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Squires, Roberge

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 291, establishing a study committee for seed sterilization technology or "terminator" technology.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: David Babson
Gene Chandler
Hobart Harmon
Harold Melcher

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 291, establishing a study committee for seed sterilization technology or "terminator" technology.

Senator Russman moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Cohen, Wheeler, Russman

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 265, relative to the student trustees on the university system of New Hampshire board of trustees.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Gene Chandler
David Hess
Neal Kurk
Clair Snyder

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 265, relative to the student trustees on the university system of New Hampshire board of trustees.

Senator McCarley moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: McCarley, Gordon, D'Allesandro

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 333, relative to contracts between participating providers and managed care entities.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Keith Herman
John Hunt
Sheila Francoeur
Kathleen Taylor

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 333, relative to contracts between participating providers and managed care entities.

Senator Wheeler moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, McCarley, J. King

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 463, relative to local regulation of junkyards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Leon Calawa
William Leber
Winston McCarty
Candace Bouchard

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 463, relative to local regulation of junkyards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations.

Senator Gordon moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Pignatelli, Below

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 25-FN-A, making appropriations for capital improvements.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Edwin Smith
Gene Chandler
Leon Calawa
Charles Vaughn
Alternate: William Leber

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 25-FN-A, making appropriations for capital improvements.

Senator Larsen moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Larsen, D'Allesandro, J. King, Gordon
Alternates: Wheeler, Blaisdell

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 167, relative to off-label prescription drugs.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 167, relative to off-label prescription drugs.

Senator Wheeler moved to concur.

Adopted.

SPECIAL ORDERED BILLS

HB 341, relative to the process for nonrenewal of teacher contracts. Education Committee. Vote 6-2. Ought to pass with amendment, Senator Larsen for the committee.

1999-1772s

04/09

Amendment to HB 341

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

1 School Boards, Teachers; Teacher Renewal; References Amended. Amend RSA 189:14-a to read as follows:

189:14-a Failure to be Renominated or Reelected.

I.(a) Any teacher who has a professional standards certificate from the state board of education and who has taught for one or more years in the same school district shall be notified in writing on or before April 15 if that teacher is not to be renominated or reelected.

(b) Any such teacher who has taught for 3 consecutive years or more in the same school district and who has been so notified may request in writing within 10 days of receipt of said notice a hearing before the school board and may in said request ask for reasons for failure to be renominated or reelected. For purposes of this section only, a leave of absence shall not interrupt the consecutive nature of a teacher's service, but neither shall such a leave be included in the computation of a teacher's service. Computation of a teacher's service for any other purposes shall not be affected by this section. The notice shall advise the teacher of all of the teacher's rights under this section. The school board, upon receipt of said request, shall provide for a hearing on the request to be held within 15 days. The school board shall issue its decision in writing within 15 days of the close of the hearing.

II. Any teacher who has a professional standards certificate from the state board of education and who has taught for 3 consecutive years or more in any school district in the state shall, after having taught for 2 consecutive years in any other school district in the state, be entitled to all of the rights for notification and hearing in ~~[paragraph I(b)]~~ **paragraphs I(b), III, and IV of this section.**

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

IV. In all proceedings before the school board under this section, the burden of proof for nonrenewal of a teacher shall be on the superintendent of the local school district by a preponderance of the evidence.

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

189:14-b Review by State Board.

*I. A teacher aggrieved by such decision may request the [state board of education] **teacher appeals board** for review thereof. Such request must be in writing and filed with the [state] **teacher appeals** board within 10 days after the issuance of the decision to be reviewed. Upon receipt of such request, the [state] **teacher appeals** board shall notify the school board of the request for review, and shall forthwith proceed to a consideration of the matter. Such consideration shall include a hearing if either party shall request it. The [state] **teacher appeals** board shall issue its decision within [15] 60 days after the request for review is filed, and the decision of the [state] **teacher appeals** board shall be final and binding upon both parties. **A request for review under this section shall constitute the exclusive remedy available to a teacher on the issue of the nonrenewal of such teacher for unsatisfactory performance.***

4 New Subdivision; Teacher Appeals Board. Amend RSA 189 by inserting after section 58 the following new subdivision:

Teacher Appeals Board

189:59 Teacher Appeals Board Established; Membership.

I. There is hereby established a teacher appeals board consisting of 3 members appointed by the governor and council. One member shall have extensive experience representing the interests of teachers. One member shall have extensive experience representing the interests of school districts. One member, who shall be the chairperson, shall have no current affiliation with any organization representing the interests of teachers or school districts and shall have not been an employee, representative, or agent of any organization representing the interests of teachers or school districts within 5 years of the date of appointment to the board. The chairperson shall possess a minimum of 10 years experience in the adjudication or resolution of disputes.

II. In addition to the members appointed to the board under paragraph I of this section, the governor and council shall appoint 3 alternate board members. One alternate member shall have extensive experience representing the interests of teachers. One alternate member shall have extensive experience representing the interests of school districts. One alternate member, shall have no current affiliation with any organization representing the interests of teachers or school districts and shall have not been an employee, representative, or agent of any organization representing the interests of teachers or school districts within 5 years of the date of appointment to the board.

III. Each member and alternate member of the board shall serve for a term of 6 years, except for the terms of the members and alternate members initially appointed of whom one member and one alternate shall be appointed for a term of 2 years, one member and one alternate shall be appointed for a term of 4 years, and one member and one alternate shall be appointed for a term of 6 years. Each board member shall serve until a successor is appointed and qualified. Vacancies on the board shall be filled by appointment by the governor and council for the duration of the unexpired term.

IV. The board members and alternate members shall serve without compensation. Board members and alternate members may, at the recommendation of the governor and council, be reimbursed for their necessary expenses while engaged in the performance of their duties to the board.

V. The board shall be administratively attached to the department of education.

189:60 Nonrenewal of Teacher Contracts; Review.

I. The teacher appeals board shall have exclusive jurisdiction to review decisions of the local school boards to nonrenew a teacher's contract.

II. The teacher appeals board shall uphold a decision of the local school board to nonrenew a teacher's contract based on unsatisfactory performance unless the decision is unjust, unreasonable, or unlawful.

III. The record before the teacher appeals board shall consist of the entire record compiled at the local school board hearing.

IV. The teacher appeals board shall have the power to compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and to take testimony under oath, as provided in RSA 516, and may delegate such powers to any persons it may appoint.

V. Formal rules of evidence shall not apply in proceedings before the board.

4 Public Employee Labor Relations; Grievance Procedures; Nonrenewal of Teacher Contract Not Subject to Binding Arbitration. Amend RSA 273-A:4 to read as follows:

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

5 Effective Date. This act shall take effect January 1, 2000.

1999-1772s

AMENDED ANALYSIS

This bill clarifies the process for conducting hearings before a local school board on the issue of nonrenewal of teacher contracts, and for the appeal of such nonrenewal decisions to a newly created teacher appeals board.

SENATOR LARSEN: In 1998 a task force was established to examine the problem of arbitration procedures for nonrenewal of teacher contracts. It was clear to the task force that the system of arbitration needed some changes. They heard the evidence that it was difficult to nonrenew a post-probationary teacher. There were concerns to the cost to the school districts, and believe that these resources should be put to making schools better and more effective places of learning. House Bill 341 came to the Senate as a recommendation of the 1998 task force. There was agreement overall that the current teacher nonrenewal needed to be streamlined. The Senate Education Committee believed that it was important to discuss this and ended up making amendments to HB 341, which would, in fact, streamline the process, eliminate teacher arbitration procedures and replace them with a three-member panel for review of teacher nonrenewal so that the local decision, would in fact, be reviewed at the state level, replacing the state Board of Education with a three-panel member believed to be a fairer process. The committee urges that the bill be ought to pass as amended.

SENATOR JOHNSON: Relative to HB 341, I really am quite disappointed because I thought that the bill as it came over from the House, which was worked on by the committee that brought this forward, I thought, was a much better bill and a bill that the governor could support. I think that the language that is in there now is very vague. I think that the three-

member teacher renewal committee that will be established, in my opinion, is a Minnie Pearl board, and I can see nothing but problems. I am going to vote against the amendment.

Question is on the adoption of the amendment.

A roll call was requested by Senator Francoeur.

Seconded by Senator Roberge.

The following Senators voted Yes: McCarley, Trombly, Disnard, Blaisdell, Fernald, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Roberge, Squires, Francoeur, Krueger, Brown, Russman, Klemm.

Yeas: 12 - Nays: 10

Paired votes: Senators Below and Fraser.

Amendment adopted.

Senator Larsen offered a floor amendment.

1999-1801s

04/09

Floor Amendment to HB 341

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

AN ACT relative to the process for nonrenewal of teacher contracts and relative to authorizing bonds for the construction and renovation of regional vocational education centers.

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

5 Regional Vocational Education Centers; Bonding Authority Amended. RSA 188-E:10 is repealed and reenacted to read as follows:

188-E:10 Renovation and Construction of Regional Vocational Education Centers; Bonds Authorized.

I. To provide funds for the renovation and construction of regional vocational education centers, the state treasurer, as may be requested by the department of education, is authorized to borrow upon the credit of the state such amounts so that the total state obligation shall at no time exceed \$85,000,000.

II. To provide funds in paragraph I, the commissioner of administrative services is hereby authorized to transfer authorizations to borrow in accordance with RSA 6-A from existing chapter laws that in the opinion of the commissioner of administrative services in consultation with the state treasurer are deemed to not be eventually issued for the originally intended project. This transfer shall not exceed \$6,000,000 per biennium.

6 Effective Date.

I. Section 5 of this act shall take effect July 1, 1999.

II. The remainder of this act shall take effect January 1, 2000.

1999-1801s

AMENDED ANALYSIS

This bill clarifies the process for conducting hearings before a local school board on the issue of nonrenewal of teacher contracts, and for the appeal of such nonrenewal decisions to the state board of education.

This bill also authorizes the commissioner of administrative services, in consultation with the state treasurer, to issue bonds in such amounts

not to exceed \$85,000,000 for the purpose of construction and renovation of regional vocational education centers, provided that no more than \$6,000,000 in such bonds shall be issued per biennium.

SENATOR LARSEN: Mr. President, I rise to offer an amendment which may in fact look familiar to many members of this Senate. That amendment which you will receive, addresses the issue of regional vocational centers at the high schools. The Senate passed SB 207 believing that it was important to reinvest in education. The bill passed the Senate and went to the House where it was rereferred. This amendment brings back into the discussions the issues of when are we going to renovate our seriously antiquated vocational centers at the high schools? The quality of education depends upon our ability to attract and keep students in our high schools through a variety of ways, both the academic process and the process of training for vocational skills have to be there, because some students are captured by the academic process and some students are better captured and kept in high school through the vocational process. I believe that this is important that this bill be addressed this session. It is part of the school aid section of the budget, it is not part of the capital budget, and that is why you see this as a floor amendment, so that it will continue to be a focus of this session that we address, and that we begin to renovate the high schools and bring them up to date and make the reinvestment that we must in order to start the process. There are quite a few high schools in New Hampshire waiting for the beginning of these renovation monies. They include Nashua, Keene, Berlin, Conway, Concord, Kingston, Plymouth, Jaffery/Rindge is in fact, awaiting construction funds, if we don't begin on this process this session, we delay what is in the inevitable, and we increase the likelihood that we lose students through a lack of appealing processes and an antiquated vocational centers. I urge you to vote for this floor amendment, and it will allow for us to go to a Committee of Conference on it.

SENATOR F. KING: Mr. President, I oppose the amendment. I was a sponsor of this legislation originally. The ink isn't dry in the budget yet, and already we are starting to spend more money. There was a big conversation going on yesterday around the State House about the issue of how much we could bond, how high our bonding is going to get. The Capital Budget Committee hasn't finished its work yet, and now we are putting more bonds in for the state. I think that a more appropriate action for this bill would be to rerefer it and deal with it in January when we have time to deal with it. I would recommend that we kill this amendment.

SENATOR PIGNATELLI: This bill will have a great effect on the vocational center in Nashua. It is woefully inadequate. It was the first vocational center built and it needs this improvement badly. The House has already rereferred their bill. I would urge passage of this so that we can get started and not incur more charges upon waiting.

Floor Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator F. King.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Gordon, Johnson, McCarley, Trombly, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: Roberge, Francoeur, Krueger, Brown, Klemm.

Yeas: 17 - Nays: 5

Paired Votes: Senators Below and Fraser.

Adopted.

Ordered to third reading.

HB 633-FN-L, establishing parental choice scholarships. Education Committee. Vote 6-0. Inexpedient to Legislate, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: The intent of HB 633 is to offer school choice for students of parents who meet certain income criteria and who attend a school that performs in the lowest third of all schools statewide. While school choice is an allowable goal, there are a number of questions in which this bill does not adequately address. It basically authors the unworkable situation of diverting state adequacy grant money from public schools to sustain or even create nonpublic schools. Although ideally, students and parents should have some choice available to them in the realm of education, it is not reasonable to draw from the adequacy grant pool to send children to private schools. Fundamentally, this is not part of the state's responsibility. Given our current situation in regard to financial resources for public education, HB 633 is imprudent at best and fundamentally unworkable. There were several specific issues in the bill that the committee tried to come to terms with, but which we decided were beyond fixing at this point. One of these was the lack of apples to apples testing that would allow comparisons between public schools and the nonpublic alternative. Another was the provision that a student could remain in the alternative school even if his or her public school improved in performance and rose out of the bottom third statewide. Another was our certainty that while taking money out of the public school system would be harmful to our public schools, it would be inadequate to support viable alternative schools. The committee was told that educational alternatives like school vouchers are meeting some success in other states and that may well be true; however, while we can see some merit in the notion that choice is ideally beneficial, this bill leaves too many unanswered questions and ultimately, is not the way to get us a viable system of school choice. I ask that you support the Education Committee's recommendation of inexpedient to legislate.

SENATOR JOHNSON: As a member of the Senate Education Committee I note that the vote is recorded here as 6-0. I believe in committee that I voted the other way on this bill. I think that should be duly noted, 5-1. I think that my statement before the committee was that I think that parental choice in education is certainly not only a thing of the future, but it is here now. Many states have adopted it. I think that we recognize that there are some problems with this bill, but I think that even with those problems, that we should be moving forward and allowing those parents in that category to have the ability to send their children to a school and get that scholarship and make that happen. With that, I would vote for this bill as ought to pass and not inexpedient to legislate.

SENATOR KRUEGER: What a horrible notion. Parents should have the choice. After all, they are paying the bills and from what I can see they are going to be paying a lot more. What a horrible notion when I heard

the story of a black woman who had a gifted child who lived in her city...and we all know the stories out of Washington, D.C...and all she wanted was the ability to choose a school that specifically helped the gifted and talented. I can't imagine anyone in this room saying no. I also can't believe that the public schools wouldn't welcome competition. Doesn't that sound strange? God forbid that we should ever have the schools that were forced into supporting...whose standards have been lowered to the point where we don't even recognize education as it is today, and compare it to the education that many of the people in this room knew when we were younger. You know the joke... "reading, writing and arithmetic right now, and in the fall, well, maybe we will get rid of one of those". Why wouldn't we want the power to choose in the hands of the parents who bore these children, and in the hands of the people who are paying for it? It certainly in my mind would do public education very much...it would help them in setting up competition. As far as the fact that little Johnny Jones leaves the school system, which is totally inadequate, because they scored so badly on standardized tests and go to another one, and maybe doesn't run right back the next year, but stays where he is striving, I don't see that as a disadvantage. I don't see that as a disadvantage at all. I wholeheartedly support parental choice. If this bill is not perfect and if the opponents of this bill even cared one iota about choice, they would have rereferred it.

Senator Gordon moved to rerefer.

SENATOR GORDON: I guess that I do this after listening to the speakers including Senator D'Allesandro, and that is that there may be some merit to this bill, but this bill is not in a shape where a sufficient number of people feel that it ought to pass. It deals with a particular issue and that is what do you do with schools that are not performing at a high level? We already had another bill that addressed a similar issue. That was, as you all know, SB 219. In that particular bill we made a decision, I think, as a courtesy to everyone, simply to rerefer it, and to deal with it in our next session when we had more time to address that particular issue. This bill does exactly the same thing. It addresses the very simple issue of what do you do with schools who are not performing? It would seem to me that we would want to take up this bill and discuss this subject matter at the same time that we would be discussing the subject matter in SB 219. As for the issue of choice, I know that as I travel throughout my district, I have people who express concerns. They express concerns about cookie-cutter education. The fact that in many of our public schools we are providing cookie-cutter education, and that many of my constituents would like to have educational alternatives. To the extent that I am able to provide my constituents with those alternatives, I would like to be able to do that. I think that many of my constituents would appreciate that. Whether this bill is in proper form or not, I guess is a question, but if those people who are here today would simply extend the courtesy, I think that we could rerefer this bill and address the subject matter, along with the subject matter in SB 219, and deal with this as we have time. As Senator D'Allesandro said, when we have more time to deal with the important issues in this bill during the next session.

SENATOR LARSEN: Mr. President and members of the Senate, I think of all of the bills that we debated this session, this one stands the strongest to threaten what is our democracy. What we have is a democracy based on an educated populace, that is the way our democracy was es-

tablished. It was established on the firm belief that a public system of education would improve and the populace would allow for opportunities to people who otherwise would not have those opportunities. If we begin the demise of public education by drawing monies apart from that, we begin the demise of the very basis of our society. What we have in our public schools is a melting pot, an opportunity for people from all walks of life to sit together in their early years to get a greater understanding of each other's backgrounds, of the diversity of cultures that is America, and an understanding that results in people being more tolerant, more believing in a togetherness of our society. If we allow this beginning, this opening of the door, ever so slightly or ever so broad, we begin the demise of what has made this country strong. Yes we need choice, but we need choice to improve our public school system. We have spent many, many months this session trying to improve our public school system, we are not done. It would be a dramatic mistake for us to even give the indication that it would be allowable to consider to begin to pull monies off through choice through voucher systems, to begin to subject the very monies which we know our public schools need to improve. I urge you to vote against this motion and to vote with the committee. Thank you.

SENATOR F. KING: Senator Larsen, I was struck by your strong statements. What is your fear of exploring new issues, and isn't that part of the education process? You heard Senator D'Allesandro mention some good parts about this bill. What is your fear of looking into this? Are you so against that cause you are afraid of it?

SENATOR LARSEN: We have rereferred the bill on charter schools because there is the option to improve through establishing magna schools, charter schools within our public system, but this is not an attempt to improve our public system. This is in fact an attempt to destroy the very monies, which will be needed to allow for the development of an improved public education system. It draws monies away. It does not strengthen our commitment to public education. It does not strengthen what we believe is important to strengthen the system. My fear is that it begins the demise of our public education system, and I believe that through our rereferral of the charter school bill, that we have indicated that we will in fact, look towards improving our choices within our public system and that is the area to look at if many of us believe that there are opportunities there, but not to begin to draw the very monies in which we need and which are so critical to public education.

SENATOR KRUEGER: Senator Larsen, I am also struck by the vehemence that you argue against school choice; however, my question to you is would you agree that education has generally the quality of which has generally declined? And would you further agree that in fact, where school choice and parental choice has been implemented, I am sure that you have researched this, that in fact public schools have improved?

SENATOR LARSEN: I don't agree that the quality of schools has declined. I think that you will find New Hampshire's test scores continuing to be high. I believe that you have some disciplinary issues in the schools, but I do not believe that our quality has declined. Some of our quality declines when people continue to attack the public school system instead of working to improve it.

SENATOR KRUEGER: As a person who has spent a great many years, both administratively and from a teaching perspective in public schools, and has raised eight children over the course of many decades, I feel

sometimes, I would also be curious...and I would like your opinion, on the fact that sometimes we lower the standards so that it might appear that children are performing well on standardized tests, i.e. the lowering of the SAT criteria, but in fact, do kids know more now?

SENATOR LARSEN: I think that kids have to know a whole lot more now than they did when we were growing up. There is a lot more that the kids have to be educated in and I believe that in fact, kids are learning more. It is not a problem. I believe that kids ought to come out of the public schools with a basic knowledge of education, all the reading, writing and arithmetic, but I think that there is so much more. We are also putting an entire burden of social training in our schools, because parents are working so hard. Our schools are working hard to do a lot more with a lot less money and a lot more divisiveness about our public education system. Years ago parents used to be in there working to improve the system. Now we have the kind of divisiveness that breaks us apart, instead of moving us towards a common goal, and I think that it is a mistake.

SENATOR KRUEGER: I thought that I heard you say that less money was being spent in education, although all current charts would reveal that far more money is being spent. I hate to use this term for less of a product. I think that you would be hard press, and I wonder if you would believe this, to find that anyone who is teaching in public education now, feels that if the product that comes out of the door, when what 33 percent of people who graduate are not even reading at seventh grade level?

SENATOR LARSEN: I would agree with you.

SENATOR BROWN: Senator Larsen, I think that you protest too much. I am a cosponsor of this bill and this bill is not an attempt to destroy public education. It is an attempt to improve it. We may disagree on how to do that. My main concern, and I think the sponsors of this bill main concern is the welfare of the students, not necessarily preserving something that may need to be fixed? I will be very brief. I am going to ask you, what are you so afraid of? This bill has income limits. It says that schools that are not even producing up to the basic standards, and we are saying to these children, tough luck you have to stay there. I think that we ought to be willing to at least look at this issue, and I would support rerefer. Thank you.

SENATOR J. KING: I rise in opposition to rereferral. We are living in the best country in the world. The most educated country in the world. We have the best industry in the world. We have the best of everything. Everyone is trying to come here, but now we are telling ourselves that we have the lousiest education system, and that we can't do it. What do they want to do? They want to take them out of the public schools and set them up in another school. Where is that money going to come from? They are going to take it from the public schools and send it over here, which means that they don't have enough to begin with, and we are going to be taking it away from them and they are going to have even less. It is a crazy situation. We have the best country and let's keep going the same way that we got there with our present school system.

SENATOR COHEN: I certainly am in agreement. I can't speak with the same fervor that my esteem colleague from Manchester does, but one of the great things about this country, and it is a great country, we have tremendous strength...is our democracy and our common wealth. We cannot forget about our common wealth. What keeps us strong is our educated public participating in the democratic system...participating in

the economic system. We need educated people to have a common wealth. We cannot have that if we defund public education. Make no mistake about it, this bill is not a pro-education bill, and this is seeking to destroy and take away from public education. It is seeking to take away from public education, to subtract from public education. This at a time when we are recognizing that our state commitment to education has to improve. We have gone from being last in the nation to being 15 out of 50 states, to dramatically increasing our commitment to education because we recognize how important public education is to our democratic system. How important public education is to our economy here. Now is not the time to be giving a message that we even want to rerefer this. We need to give a message that we are committed to public education. We are not going to defund public education. I strongly ask my colleagues to vote against the rereferral.

SENATOR F. KING: Senator Cohen, I thought one of the strong things about a democracy is the willingness for the two different view points to debate in a civil manner and not close the door. Do you only believe in the democratic thing that you believe in yourself? You don't want to talk about the other issues?

SENATOR COHEN: I am failing to see your connection here. This has been debated and discussed substantially. I don't see any need to discuss it any further.

SENATOR F. KING: I will tell you what the comparison is. I am not taking a position on the bill at all, but we have 219 that is on the table that deals with this type of an issue and we have this also, and maybe a melding of the two is something that ought to be discussed. I am not drawing a conclusion like you have that this is bad. I am saying shouldn't we discuss it? That is all that I am saying. I don't understand that we don't do that in a democracy. I thought that is what we did?

SENATOR COHEN: Well we certainly do that, and we have done that and there is a reason that 219 needs some work. People are ready to do that to see what we can do, to increase our public education, to improve our public education. It is not about defunding or taking away from public education. It is a very different question.

SENATOR BROWN: Senator Cohen, why is it that New Hampshire can lead the way when it comes to term of sea of technology, but we cannot even catch up with the leg when it comes to school reform?

SENATOR COHEN: Well I hope that we can lead the way with the term of sea of technology, but I am concerned about the Committee of Conference I have to tell you.

SENATOR JOHNSON: Senator Cohen, you talk about democracy, If you look on page two, line one, "the governing body or legislative body of the school district to which the child has been assigned has voted to authorize parental choice scholarships" isn't that local control in democracy?

SENATOR COHEN: I suppose that one could see it that way; however, we also have a statewide commitment. The discussion this year to a large extent, has been about a statewide commitment to children everywhere in New Hampshire. We need to continue that state commitment.

SENATOR GORDON: Senator Cohen, you talked about the common wealth and how we should use our funds, but don't you think that our objectors should be to give every kid the best possible education and not simply to use the money to perpetuate a system?

SENATOR COHEN: I couldn't agree more and the way to do that is certainly not to defund public education, but to continue and strengthen our support for public education.

SENATOR PIGNATELLI: **TAPE CHANGE** and I would like to quote and paraphrase from a letter that I received from Barry W. Linde, the Executive Director of Americans United For Separation of Church and State. "School voucher proposals raise several legal and policy concerns involving the diversion of public money from public schools. Vouchers funnel public taxpayer money to private schools; thereby decreasing the amount of public money that can be spent on public education, which is where the majority of our children go to school. I oppose such attempts to shortchange the American public education system and increase the coffers of private schools with public money. There is no hard evidence that private schools out perform public schools, nor is there any evidence that a voucher system creates a positive competition that motivates public schools to improve. Even if such evidence existed, a voucher plan can never benefit more than the limited number of children; thereby leaving a majority to be educated in an under-funded public school system. This is not educational reform." Also as a comment to one of Senator Krueger's comments when she asked Senator Larsen about the education that our children receive today in public schools versus the education that we received...as a product of public schools in the 1950's and 60's, I can tell you that my children, who, for the large majority of their time, are a product of their public schools, are much better able to live in a world after graduating from high school than I was when I graduated public school in 1965. I believe that our public schools are doing a good job. Of course they can use improvement. Some of us are trying, through legislation, to improve them, but this is not the way. I urge my colleagues to vote against the motion to rerefer. Thank you very much, Mr. President.

SENATOR WHEELER: Senator Pignatelli, am I correct in thinking that vouchers only benefit those parents who can afford to pay the difference between the voucher and the tuition?

SENATOR PIGNATELLI: Yes.

SENATOR WHEELER: Thank you.

SENATOR KRUEGER: Senator Pignatelli, would you believe that taxpayer money is already going to support private schools through loan programs granted to students at the college level? In fact, without government subsidies, I doubt very much that private colleges would exist? Thank you.

SENATOR MCCARLEY: Very briefly. I don't think that this bill has anything to do with SB 219. But I do desperately need to offer the observation that individuals who, on the policy vote on school improvement and accountability, SB 219, the very people who want us to vote for this to rerefer it, voted against SB 219. So I find it interesting that when we want to talk about public school accountability and improvement, there were no votes on it. It did indeed finally get to a rerefer, but I want to remind everyone that on the early policy vote on that bill, the individuals supporting it voted no on that bill several weeks ago. So instead, we want to talk about improving accountability in a bill that is about private schools, to which there is no accountability in this bill that we are talking about, nor is there any language about school improvement in this bill. I think that the issue of the funding associated with it... we have

not even finished dealing with the idea of public funds in public schools in New Hampshire and we are already talking about diverting some of those dollars. Frankly, the amount of money that you are diverting, based on the income levels of the parents in this bill that could access those, probably would not possibly make it possible for those parents to make any choices. The bill is seriously flawed and it should not be rereferred, and we should support the motion of inexpedient to legislate.

SENATOR FERNALD: It was asked earlier...aren't our schools worse off than they have been? I would like to give a personal answer to that, because my children are going to the same elementary school that I went to, so I have at least some ability to observe the school system over time. I believe that the schools are better, at least in my community than they were when I was there thirty something years ago. They are better in several respects that I can observe without actually being in the classroom myself. The most important change is special education. When I was a kid, there were regular kids, and there were the "special class". You had two choices, you could be with...I will use the term of the day and pardon me for saying this...you could be a "retard" or you could be a regular kid, and that is what you got from the school district. Today we recognize dyslexia and learning disabilities, and we do a lot more for kids who were in the past, were treated as just a regular kid, and they stayed back and they stayed back and they stayed back and then they dropped out. I also know that from what I see, our school district offers advance placement courses, which was never done before. There is a lot more in the way of enrichment than was done before. I think that those are two tangible indications that the system is better than it was before. One question that was asked was what are you afraid of with vouchers? Here is what we are afraid of. Money will be drained out of the public schools and they will not be able to improve themselves in the face of this competition. I am a believer in competition, and I believe that competition is a good thing, but competition in my experience only, works if it is fair competition, if you are on a level playing field. The problem with this voucher proposal, is that people can take their kid and their money out of the school system and then go to another school and pay tuition to go to it to make up the difference. So they pick a \$7,000, a year school and they get a \$3,000 to \$4,000 voucher and they make up the difference and they spend \$7,000. The local school district isn't spending \$7,000 and they can't hope to compete with a \$7,000 a year school district. How can they compete on that basis? I am not completely opposed to the idea of vouchers, but it should be a level playing field, which means if you give a kid or parent a voucher, the school that accepts that has to do it on a same basis as a public school, which means that you take all comers and there is no selectivity. If there are too many kids, then you have a lottery, and you can't charge any tuition beyond the voucher. That way the schools are competing on a level playing field and the teachers are playing on a level playing field against teachers in a private school. This bill is wrong. I would say that there is one other observation of this bill, is that if choice is a good idea as we have heard many people say today, why are we limiting it to poorer families and lower middle class families? I think that this is some sort of Trojan horse to get the camel's nose under the tent...sorry, too many metaphors...and try to expand this in future years without keeping to the American principle of fair competition. This is unfair competition. This type of voucher program I cannot support. Thank you.

Senator Russman moved the question.

Adopted.

Question is on the motion to rerefer.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Roberge, Squires, Francoeur, Krueger, Brown, Russman, Klemm.

The following Senators voted No: McCarley, Trombly, Disnard, Blaisdell, Fernald, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler, Hollingworth, Cohen.

Yeas: 11 - Nays: 12

Motion failed.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: McCarley, Trombly, Disnard, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Roberge, Francoeur, Krueger, Brown, Klemm.

Yeas: 14 - Nays: 9

Committee report of inexpedient to legislate is adopted.

HB 690-FN-L, relative to charter schools and open enrollment districts. Education Committee. Vote 7-0. Rereferred to Committee, Senator McCarley for the committee.

SENATOR MCCARLEY: House Bill 690 is an attempt to address an important area of educational improvement, charter schools. I think that most of feel that there is merit in the notion that one size may not fit all in our public school system, and that charter schools could play an important roll in providing our kids with an educational environment that will encourage them to excel. The Education Committee voted unanimously to rerefer this bill because we were not satisfied with the way that it handled issues of local control versus state authority to approve charter schools, and rereferring this bill will give us an opportunity to continue to look at the issue of how charter schools can complement established public schools.

Senator Russman moved the question.

Adopted.

Question is on the committee report of rereferred.

Adopted.

HB 690-FN-L is rereferred to the Education Committee.

HB 626-FN, relative to revising the laws regulating accountancy. Executive Departments and Administration Committee.

MINORITY REPORT: Rereferred to Committee, Senator Brown for the committee. Vote 3-4

MAJORITY REPORT: Ought to Pass, Senator Cohen for the committee. Vote 4-3.

SENATOR COHEN: This bill establishes the New Hampshire accountancy act. The bill does not change the scope of practice of non-CPA accountants. The bill establishes the concept of substantial equivalency, a form reciprocity enabling out-of-state accountants to practice in New Hampshire and allowing New Hampshire accountants to practice in other states that have adopted this practice. This bill would modify the Accountancy Board if the number of public accountants in this state drops below 25. The educational requirement, candidate to be a CPA, has also been increased from 120 to 150 hours. The restriction on ownership of CPA firms had been reduced from all owners being CPAs to only two-thirds of the ownership registered, as CPAs to encourage a more diverse business base. The bill also allows CPAs and PAs to collect commissions from clients after adequate disclosure, though not from those clients that they audit. The bill expands the board's authority to regulate CPAs by expanding the authority to all actions by CPAs when they use their title. This bill brings the New Hampshire accountancy law into compliance with the model Uniform Accountancy Act. The majority of this committee recommends this bill ought to pass.

SENATOR BROWN: Originally when I came out of this committee I was opposing this bill and asked for it to be rereferred; however, I have done some work in the interim, and have a floor amendment to offer to this bill. Mr. President, is this the time to offer the amendment?

SENATOR D'ALLESANDRO: In the process of trying to change the criteria for accounting degrees, it was found that the 120 credit program that is now offered at most post-secondary education institutions for accounting, does not include courses that give the accountant a wider range in terms of their education. As a person who has been involved in post-secondary education for the last 30 years, and worked with a number of accounting majors, both at New Hampshire College, Daniel Webster College and Franklin Pierce, I spent a lot of time working with the certified accountants in the state of New Hampshire to develop the process by which our accountants would have a better view and would be in a better position to service their clients. What happens now is that when you are an accountant major, you tend to focus exclusively on accounting courses. You take your basic accounting course, you take your cost, you may take financial management and things of that nature. But what you forget to do, is to take some of the courses that broaden your educational experience and give you an opportunity to work better with your client base. This particular piece of legislation calls for the expanding of the number of courses that you take, so that you will be in a better position to serve your client base. You will be able to take your full curriculum of accounting courses, and then enhance your education with these additional courses. I think that it is very important. It is a trend that is rapidly moving across the country. There are many states that have accepted this provision. I might say the provision of increasing the baccalaureate number of credits required is something that is in place all over the country. It was 120 and it is now up to 128 in some institutions. This would make it 150. By the same token, you would be getting more, and you would be delivering more to your practice and to your client base. This does nothing to in any way negatively affect people who are in the accounting practice now. So I think that it is a good piece of legislation and it is a forward thinking piece of legislation, and it is something that we should support. Thank you, Mr. President.

Question is on the motion of rereferred.

Motion failed.

Question is on the motion of ought to pass.

Adopted.

Senator Brown offered a floor amendment.

1999-1865s

08/09

Floor Amendment to HB 626-FN

Amend RSA 309-B:2 as inserted by section 1 of the bill by replacing it with the following:

309-B:2 Purpose. It is the policy of the state of New Hampshire and the purpose of this chapter, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises.

Amend RSA 309-B:5, III(b) as inserted by section 1 of the bill by replacing it with the following:

(b) After January 1, 2005, at least 120 semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate; provided however, that candidates for a certificate may sit for the examination described in paragraph IV if they have at least 120 semester hours of college education including a baccalaureate degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate.

SENATOR BROWN: House Bill 626 is a 27-page bill chock-full of all kinds of things. When I served in the House on Executive Departments and Administration, I dealt quite extensively with a very similar bill. At that time the CPA Board came in and said that they needed 150 hours of education. The reasons were so that people could communicate better, they could take extra courses, they were not about their jobs as accountants. The amendment that you will be looking at is very simple. It does two things. I sat down with the House Executive Departments and Administration Committee, and we went through this bill and they completely concurred and agreed with me on this amendment. The first one is the statement of purpose. The House amended the original bill extensively, but they never changed the statement of purpose, so what got left in there were parts of the bill that they wanted changed. So I sat down with them and we changed the statement to what they agreed to, which makes me feel a lot better about this bill. The second thing that I did, was to change the hour requirement back to what it currently is, 120 hours. Now you are probably saying to yourself, why are we worried about this extra 30 hours? You can pass the CPA exam, but you cannot become certified until you have another year of college. What does this do in the marketplace? It limits the number of people who can afford that extra year of college. It limits the number of people who become certified public accountants. It increases the costs to the consumer, and not one person from the public came in and said that they had a problem with CPAs. Not one person said that this was necessary to protect the public. I appreciate my colleague's love for additional schooling, I hope that I get to go back and do some more, but when I took my accounting courses in college and received my accountant degree, I also took English and humanities and all kinds of other courses, so I don't think that I lost out in

that area. So I have the complete agreement with the House subcommittee. They agreed that these were good changes. There are more things that I would like to see done with this bill, but we don't have time to do it, and I don't believe that I could get a rerefer done, so I hope that you will support the amendment. Thank you.

SENATOR D'ALLESANDRO: I certainly respect the opinion of Senator Brown who is an accountant and probably an excellent accountant. I wouldn't think anything less of you than that. But I think that the key element is the fact that when you go from 120 to 150 hours, you really embellish the educational process. With the demands that are made on people to interact with one another, I think that it is very important that these other courses be taken. They enhance your ability to do the job and to do it well. There is nothing in this world that I think, enhances you like more education, and as a result of it, by accepting this amendment, you go right back to the 120 hours, and those 120 hours are what is in place right now. So there is no change. The incident of more education is in the 30 additional hours. Without the 30 additional hours we don't really have a meaningful piece of legislation. Thank you.

SENATOR FERNALD: Senator D'Allesandro, I just want to make sure that I understand this 150 - 120 thing. You only need the extra 30 hours if what?

SENATOR D'ALLESANDRO: What they are trying to do is to put the extra 30 hours in the baccalaureate program for accounting, specifically for accounting. Now there are many institutions that are going from 120 to 128 in terms of graduation. That is across the broad spectrum for a baccalaureate education. But in the area of accounting, they are saying 150, because they want you to take additional embellishment courses, humanities courses, that will help you be a more well-rounded person going into the accounting profession. What we have found is that the accounting majors funnel all of their courses into accounting. As I said, they start with the basic courses and they get into costs, they get into fund accounting, and they get into financial management. They take all of those courses and they leave out the liberal arts courses that I think, gives them a much better rounded education. This 150 allows them to do that, to take all of those courses and to take the additional courses.

SENATOR FERNALD: If this passes, can some people still sit for the exam with 120 hours? I am looking at page six and I am trying to understand it. I thought that I heard you say something about you don't have to always do 150?

SENATOR D'ALLESANDRO: After 2005 you will need to have 150 semester hours.

SENATOR FERNALD: What is line 9-12 mean where it says "they may sit if they have 120 hours from a college that is acceptable to the board and so on...?"

SENATOR D'ALLESANDRO: I guess that is an exception. The way that I read it, it is an acceptance granted by the board. If you have at least the 120 hours.

SENATOR SQUIRES: Senator D'Allesandro, in the bill as written, is there anything that requires the accounting person to take, I hate this word, "embellishment courses"? Why wouldn't they just take another 30 hours of advance, cost accounting or something, and make the problem even worse?

SENATOR D'ALLESANDRO: That is a good question. I think that in the process, the idea is for them to take the other courses, and the other courses to be cut to be part of the accounting degree program, so that they would have to take those.

SENATOR HOLLINGWORTH: Senator Brown, I have heard the debate and I have heard Senator D'Allesandro mention several times about that they need a more rounded education in regard to their courses. It seems to me that the same thing that those students in accounting do is the same thing that the students in law and medicine do. Because of that technical part of that degree, and they need to spend more time on those kinds of things and therefore, they don't take those other embellishment kind of courses. Is that true?

SENATOR BROWN: That is true. I think that it is fair to say that if you want to improve yourself, there is nothing that stops you from improving your ability to communicate. I heard this all of the time that accountants are pretty dead, they are not very lively. Communication skills, I think, you can develop on your own. I don't think that you should be required to take those to be licensed or certified, which is the equivalent with a CPA. It is only going to increase the cost and narrow the field.

SENATOR HOLLINGWORTH: It seems to me that this is a bill...in fact, I think that you are correct in what you just stated as far as people acquiring or developing personalities in other ways, in fact, one of my dear friends happens to be an accountant, and I don't find him in the least bit dull. But this sounds a little bit like I have mine and let's make it a little bit tougher to get in...pull up the drawbridge kind of legislation. Isn't that what this is?

SENATOR BROWN: Well it is interesting that you say that. I had a call last night from a CPA here in New Hampshire whom I have known for 25 years, and he opposes this bill. I was surprised and I asked him why he opposes this? "He said that it protects the top five companies." It really does do that. There are some good things in this bill which is why I am not fighting it, but these two amendments make me feel a little better about the whole bill. Thank you.

SENATOR FRANCOEUR: As I sat listening to testimony on this HB 626, it became apparent that I didn't get a chance to look through this bill which is 27 pages long, so I began reading through it. One of the items that did come out were the 120 hours and increasing it to 150 hours. If you go back and look at the statute a few years ago, it was only two-years of college education required. Upon asking those in the accountancy, the accountants that testified and those that were there, we found out that currently, only about 5 percent of the people that take the accountancy test the first time, even pass it. It is a very hard test to pass. Talking to a lot of people we asked them what problems have arisen from it? Are we getting bad accountants? Are we getting bad financial information from them? The answer to both was no. Currently there is also a peer review, which goes over what an accountant does in a year to make sure that they pick out certain criteria, and they check it to make sure that it is done right. There has been no outcry of any problems with the accountants. I have always felt that if an individual can pass a test, especially a test that has been as hard as this, then why are we burdening them with a requirement for more hours? Is it only to close the door for those others that don't have it so that we drive the cost up for those that do? I would ask you at this time to support Senator Brown's amendment on HB 626.

SENATOR TROMBLY: Senator D'Allesandro, I just went and spoke with Representative Whalley from the House, and he told me that if you don't have 150 hours, that there will be a problem with the crossing over the states, that New Hampshire accountants normally see and that as one of the major intents of the bill. Is that true?

SENATOR D'ALLESANDRO: Yes. It is a very significant issue yes.

SENATOR BROWN: Senator D'Allesandro, I met with the House Executive Departments and Administration Committee and the 46 states that have passed...every state that these folks go to, they say that all of the other states are doing this, that is why you have to do it. Understand that they have not passed this in 46 states. They have passed whatever they can get of this, and then they keep coming back and saying that we won't have this, and you won't have this unless you do what we tell you, but that is not what **TAPE CHANGE**

SENATOR D'ALLESANDRO: **TAPE CHANGE** I think the rationale for doing something should be that it makes sense and it provides a better product and it serves the public better. That is why I think that this is the right thing to do.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Klemm.

Seconded by Senator Roberge.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Roberge, Fernald, Squires, Pignatelli, Francoeur, Krueger, Brown, Russman, Klemm, Hollingworth.

The following Senators voted No: McCarley, Trombly, Disnard, Larsen, J. King, D'Allesandro, Wheeler, Cohen.

Yeas: 14 - Nays: 8

Floor Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, McCarley, Trombly, Disnard, Roberge, Blaisdell, Fernald, Squires, Pignatelli, Francoeur, Larsen, Krueger, Brown, J. King, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No:

Yeas: 23 - Nays: 0

Adopted.

Ordered to third reading.

Recess.

Out of Recess.

HB 360-FN, clarifying that any person convicted of a felony in this state is prohibited from owning or possessing firearms and other dangerous weapons. Judiciary Committee.

MAJORITY REPORT: Ought to pass with amendment, Senator Pignatelli for the committee. Vote 4-2

MINORITY REPORT: Inexpedient to Legislate, Senator Brown for the committee. Vote 2-4

1999-1780s

05/10

Amendment to HB 360-FN

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

AN ACT clarifying that any person convicted of a crime punishable by imprisonment for a term exceeding one year is prohibited from owning or possessing firearms and other dangerous weapons.

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

1 Convicted Felons; Prohibition on Owning or Possessing Firearms and Other Dangerous Weapons. Amend RSA 159:3, I to read as follows:

I. A person is guilty of a class B felony if [he] **such person:**

(a) Owns or has in [his] **such person's** possession or under [his] **such person's** control, a pistol, revolver, or other firearm, or slungshot, metallic knuckles, billies, stiletto, switchblade knife, sword cane, pistol cane, blackjack, dagger, dirk-knife, or any other dangerous weapon; and

(b) Has been convicted in either a state or federal court in this or any other state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States of[-

(1) A felony against the person or property of another; or

(2) A felony under RSA 318-B; or

(3) A felony violation of the laws of any other state, the District of Columbia, the United States, the Commonwealth of Puerto Rico or any territory or possession of the United States relating to controlled drugs as defined in RSA 318-B] **a crime punishable by imprisonment for a term exceeding one year.**

2 Effective Date. This act shall take effect January 1, 2000.

1999-1780s

AMENDED ANALYSIS

This bill clarifies that any person convicted of a crime punishable for a term exceeding one year is prohibited from owning or possessing firearms and other dangerous weapons.

SENATOR BROWN: I rise in opposition to the committee report of ought to pass for this bill. This is one of those bills that is truly unnecessary. When we listened to the testimony in the committee, there was no evidence that we have a problem with New Hampshire's current statute. One person who had been convicted of a crime, purchased a gun, but he was prosecuted under federal law and no harm ever came of it. What this bill does is, it says that anyone who is convicted of a felony, that is, anyone who serves one-year or more in jail for a crime that they have committed can never ever again, own a firearm or possess a firearm. That is fine and I completely agree with that when it comes to violent crimes or crimes against a person. But if you are convicted of three DWI's or embezzlement or some other crime that does not threaten anybody, when you do your time, you ought to be able to have your constitutional rights restored to you. The right to own a firearm. So I hope that you will oppose the committee report and support inexpedient to legislate. Thank you.

SENATOR PIGNATELLI: I rise in support of HB 360 as amended. The bill as amended will prohibit a person who has been convicted of a crime punishable by imprisonment for a term exceeding one-year from own-

ing or possessing firearms and other dangerous weapons. The attorney general's office is in favor of this bill. A representative from the attorney general's office testified that the amended language will prevent dangerous felons from possessing or owning guns and will provide greater protection for citizens of New Hampshire. New Hampshire has defined a felony as "a crime punishable by imprisonment for more than a term exceeding one-year." This bill if passed, will act to prohibit people who New Hampshire has defined to be felons, from possessing or owning guns. It provides clarification for a more efficient and uniform application of the law for our police officers, prosecutors and courts. It will also act as a deterrent to prevent people from committing felonies. More importantly, it will save lives. There are some that would and will object to this bill and claim that the language is too broad. They will claim that someone who is convicted of for instance, tax fraud, should not be prohibited from carrying a gun; however, we must consider the policy that this bill is intended to accomplish, and that is to prevent citizens from being harmed by people who this state considers to be felons. This bill strikes a balance between offering greater protection to New Hampshire citizens and prohibiting a discreet number of people from possessing guns. The scales of justice weigh heavier in favor of the public. The committee voted 4-2 to pass this bill as amended. I recommend that the Senate vote that HB 360 ought to pass as amended. In next year's session, I would consider introducing a bill that, after a certain number of years has passed, a convicted felon might be able to apply to a board to get their rights to carry a weapon reinstated.

SENATOR BROWN: Senator Pignatelli, I am wondering in light of your comments, if you would consider rereferring this bill so that we might do what you just talked about?

SENATOR PIGNATELLI: I would be happy to do that.

SENATOR FRANCOEUR: Senator Pignatelli, a couple of weeks ago I had a constituent that asked me...that had a felon record when he was young, that if they wanted to go hunting today, what the process would be? Would you believe that when I talked to the Department of Safety, we already have a process in statute currently in which they can go to the courts and they can get it annulled? There is one other method also, but we currently already have a process for dealing with that.

SENATOR PIGNATELLI: I didn't realize that, and certainly it is something that I support, because I don't believe that if you are convicted on a nonviolent felony that you ought to have your rights to carry a weapon suspended for life, but I do believe that if you want to pack a pistol you better pay your child support. Thanks.

SENATOR COHEN: I know that everyone who knows me here can certainly not suggest that I am in the pocket of the gun lobby. But I stand with Senator Brown on this issue. I think that we need reasonable gun control. I don't believe that this is it. If some of this may have been covered, I apologize, I can't hear everything with the fans going on this side of the room. If somebody may be convicted of a child support violation or extortion, that is not good, but that doesn't mean that for the rest of their lives that they should not be permitted to go hunting. If it is a violent crime that is one thing, but not all of these felonies are violent crimes. I think that this bill goes too far. I think that we need to keep guns away from dangerous people, and guns away from kids certainly, but I don't think that this bill is the best tool to protect New Hampshire

from dangerous people. This goes too far, too broad a net. I am in agreement with Senator Brown on this and I hope that you will support the minority report. Thank you.

SENATOR FERNALD: I voted for this bill in committee and I am inclined to vote against it now. I think that the intent here was that there are people who should not be owning guns under the way that the law is drafted, but I am not sure that this bill intends, although we wanted it to intend, I think that it intends more than we want to intend, and I will vote against it, though I will also support rerefer so that we could work on it further.

Senator Gordon moved to rerefer.

Adopted.

HB 360-FN is rereferred to the Judiciary Committee.

CACR 6, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law. Public Affairs Committee. Vote 5-0. Ought to Pass, Senator Trombly for the committee.

SENATOR TROMBLY: One of the great fallacies in the state of New Hampshire is that the people enjoy the right of self governance through a home-rule. It is clearly evident now that the municipalities don't have home rule and this constitutional amendment would put that question to voters as to whether or not they trust themselves to exercise home-rule. The constitutional amendment and the companion, HB 468, which is a statutory scheme by which the CACR if adopted, would be worked in this state, are modeled after a procedure used in Maine. Many of the concerns of people who oppose home-rule went to Maine and studied its implementation and studied how it worked and were satisfied that it worked, and came before the committee and suggested that we put this constitutional amendment before the voters. It is a good idea. It is an idea where people thought that the time had come 200 years ago, well as we enter the new millennium, we ought to do and give the people of the state what they think that they have, and that is home rule. Thank you, Mr. President.

SENATOR GORDON: I just want to speak briefly. I rise in opposition to the CACR. I think that we are going to hear the arguments that we hear on every CACR, that we are going to have some people stand up and say that it is just a question to give to the voters, and why shouldn't we just give it to the voters? That seems to be a convenient argument depending on what side of the issue that you are on. There will be other people who say, you know it is important for the legislature to exercise its decision-making capacity in determining whether it is an appropriate issue to present to the voters. I have given this a lot of thought, and in fact I have opposed home rule in the past. The reason that I do that is because I like the system that we have today. Nobody has convinced me that the system that we have today is broken. We have since the beginning of this state, we frequently stand up here and refer to the founding fathers of this state, and we have referred to the New Hampshire Constitution and what good judgements our founding fathers had in putting words in the constitution like "cherish" and other words like that, but we believe that the people who created that constitution knew what they were doing. They established a government that works for us. We have gone on for 200 years, abiding by the constitution. Part of that

provision is that we have one state, and the communities of this state are but political subdivisions of the state. They only have those powers, which the state accords to them, just like corporations. To be a corporation in this state, you have to be chartered by the state. The municipalities have to be chartered by the state. People say, well you know, we want to have home rule. I have not had one single independent citizen of the state of New Hampshire other than a municipal official, say to me that we ought to change the law to give the towns more powers. The one thing that I am impressed with is government, is government, is government. Whether it is the federal government, the state government, or the local government. What this is, if you vote for this, this is an opportunity for more government. It may be government at the local level, but what you are voting for is more government. I know that people refer to Maine and say that they went through this process. Well thank God that we are not Maine, ok? I pray every day that New Hampshire will maintain its independence and continue to be New Hampshire, not Massachusetts, Maine, Vermont or New York. I think that we should do what is right here in the state of New Hampshire and we should do what is right for the people in the state of New Hampshire. We have a system that works. The people in the state like the system. I don't hear discontent in the state about the system that we have. From my point of view, the most oppressive level of government is that government which is closest to the people. That has been my experience. I think that the state deals even-handedly with issues that face our communities, because we can deal with it objectively. We sit in here, in this body, with 24 people, 24 different opinions from 24 different types of communities. I know that many of you have been involved with town government. I have been a selectman, and I continue to be the town moderator, and I have been involved in town government and town politics for years. But I know that town politics is a lot different than state politics. Have you ever had an elected official who had a particular gripe or a particular issue and made it difficult for somebody else in your town? I think that the state deals with these issues even-handedly. I represent 32 towns, one is unincorporated, but I have 31 boards of selectmen. I have 93 selectmen that I have to answer to. I am not sure that they are all going to be very happy with me standing up here saying the things that I am saying today, but despite what they think, I believe that the system of government we have plays in place...it works well and it works best for the people of this state. Giving them more power to enact rules and regulations isn't in the best interest of the state. I look at the North Country, the woodcutters in the North Country. What they have to do is go from town to town to decide how they are going to cut trees, how they are going to harvest timber and when they are going to do that. Now they are going to have to check with every single town to see if they have special rules or special regulations that they are going to have to abide by. They oppose this regulation. I can't see how that is going to help this state advance in the future. One of the great things about America, the United States of America, is the Interstate Commerce Act. We have Interstate Commerce. What it said was that we were not going to let individual states interfere with commerce by a virtue of state lines. That is so important. It is the same type of concept here. We don't want individual freedoms, we want continuous movement between our communities. People understand when they do business in one community that they can do that same business in another. So I am going to oppose this CACR just because I don't think that it is good for the state in the long

run. I would hope that other people would take the same position and understand that home rule is good in concept, we all agree that we want to have home rule, and in fact, we do have home rule, but there needs to be limits to that too, because we know that complete democracy...we have all accepted the fact that a complete democracy, a simple rule by the majority in all cases, isn't best. Sometimes there are better ways to govern, because we discriminate when we do that in many cases. I hope that you will vote against the CACR, and that you will vote to continue the good government that we have had in the past and in this state.

SENATOR FERNALD: Senator Trombly, I think that I understood Senator Gordon to be saying that "it ain't broken, don't fix it." Can you tell me, since I am trying to listen to the debate here and learn, what is broken, and what do the town administrators, the ones who really have been pushing it with me as well...what do they hope to gain, what do they want to be able to do that they can't do now?

SENATOR TROMBLY: That is a very good question. Let me begin answering it by saying this. The only thing that the towns and the cities will be able to do will occur, 1) through their legislative body. So most of the cities and towns, if you have a fear of big government at the local level, that big government is going to be the town meeting. It is not going to be some abstract bureaucracy over which the people have no control. The home rule will be exercised, literally, by the people in their town meeting. There are different governmental arrangements through cities in some towns. I had the Municipal Association run the number for me... and I know that I am going to misquote the number. I think that it is only about nine or twelve municipalities that this wouldn't cover. But please don't quote me on that number. It is that small. If the state has a regulatory scheme already in place, or if the state grants unto itself, by passing legislation jurisdiction over certain matters, then the towns will not be able to enact statutes. Why have it? Simply put, right now, in order for a city or a town to do anything, if they are facing an emergency, or they want to do something good, maybe they want to do something good for the way that their fire department is run, or the way that they run...let me give you an example. In the town of Boscawen, we have a police commission, but it is not set up under any authority granted by the state. It is really an advisory. But if the people of Boscawen wanted to give the authority to their police commission to have some role over the budget or the hiring or firing of police officers or establishing a police policy so that policemen don't drink alcohol in the police station, they would be able to do that. They can't do that now because they don't have the grant of authority from the state to do those things. So what this simply says is that if the state doesn't have some regulatory scheme or has not preempted the field, the cities and towns will be able to do it. That allows the flexibility and the maneuverability for the towns to do things. Now there is one example, Senator Fernald, you remember way back in the 70's when I think Durham was fighting an oil refinery. The only thing that they could do was to turn to the state for help. Well you know, Senator Gordon is right on some things, which the state deals with things uneven handedly, but sometimes the scales are tipped at the state level in favor of those who have the bucks. Sometimes there are appeals to the legislature to trample the rights of the people in the towns that haven't got the bucks. Well this simply says that given all of these conditions being absent, the people in the towns will be able to do it. I didn't make the argument that it is only a constitutional amendment and let the people decide, because I agree with Senator Gordon on that, that is

made too often on constitutional amendments... and let's pass it off to the people. This is something that the people can use to improve the type of government that they have to respond to those types of things that quite frankly, we should ought not to be dealing with at the state level.

SENATOR FERNALD: I think on the Durham situation on the refinery, they used zoning to keep it out and they were fighting an attempt by the legislature to override local zoning to put the refinery in.

SENATOR TROMBLY: I agree with you there, but the only reason that the municipalities have zoning is because we gave it to them, would you agree with me? We gave them the authority to enact it? Why does the legislature need to get involved in those types of decisions, Senator Fernald? If the state hasn't preempted it, if the state doesn't have a regulatory scheme, you are not going to have a patchwork of individual authorities. Take a perfect example...the regulation of pesticides. Because the state regulates pesticides at the state level, that field is preempted from this provision. The cities and towns won't be able to act on that, but it is all of those extremities, so it is just a question of the chicken or the egg, or the cart and the horse? Do you want the cities and towns to have to keep coming to the state to regulate their truly local affairs? I happen to believe no. If the selectmen are elected at town meeting, for heaven's sake let them do it. Let them run their town. If the state has preempted an area, and I think that a significant portion of regulation is preempted by the state, Senator Fernald. If it is preempted, they cannot do it.

SENATOR FERNALD: So my follow-up question is, would this allow a town to adopt for example, a ban on clear cutting or rent control?

SENATOR TROMBLY: It allows the cities and towns to do whatever the state hasn't done. If the state has a regulatory process, or has preempted the field by passing some statute, then the cities and towns couldn't do it. Also, Senator Fernald, so you know, there is a 60-day cooling off period of any regulation passed by the legislative body that is not effective for 60-days until after it is enacted.

SENATOR FERNALD: Is that in the bill or in the amendment?

SENATOR TROMBLY: I know that it is in the bill. I do believe...just let me check quickly...no it is not in the amendment, but it is in the statute part.

SENATOR F. KING: I was sort of torn on this particular issue, but listening to the debate it suddenly struck me that I served as a selectman in my town for 12 years. Nine years, a long time ago, and three years just most recently. I don't remember ever a time in my town that we wanted to do something that we weren't able to do it. I don't remember an occasion. I do remember many times asking the state for help and asking them for assistance, but I don't remember in any of the zoning issues or any of those other issues that come before selectmen on a daily, weekly basis, ever wanting to do something that we weren't able to do. So I don't really think that this is necessary.

SENATOR SQUIRES: I would like to speak briefly, Mr. President. It is interesting in listening to these debates how in some measures we think that the local voters are pretty smart, I mean they voted for us. How in the school debates in the teacher tenure bill there is a group that says that the local voters know what to do. Then there is another group that says no, let's go to some other place. I have come to think that the people

that are closest to the voters are probably going to be right more often than not. They are the local officials, there is us, then there are the U.S. Congress people. I think that probably a town somewhere will pass a statute, pass an ordinance that is not well founded, and they made a mistake, so do we, in which case it can be corrected. But the idea of having local voters in town meetings get up and say what they would like to have happen in their town, is an important principle. I think that by and large, the voters will do the right thing. For that reason, I am going to support sending this amendment out and see what happens.

SENATOR D'ALLESANDRO: I echo the sentiments of Senator Squires. Let me give you the graphic illustration of how home rule would have played a significant part in the city of Manchester. In 1973 as a member of the legislature, we passed a bill allowing the city of Manchester to have its own pension system in place. Subsequently, the people of the city of Manchester voted on numerous occasions by a referendum to enhance that policy to include more people and to provide better benefits. What we found out in 1999, was that none of that could have taken place, because we didn't have permission of the state of New Hampshire to make the lives of the people in the city of Manchester better. So what did we have to do? We had to come to the state of New Hampshire, Senator Krueger and myself, and we had to put in a special piece of legislation that allowed for all of these things that have taken place over the last 25 years to be right. The people of the city of Manchester thought that they were right. We have a 100,000 people in Manchester, a pretty good representation. We vote every two years. They voted on these referendums, but it meant nothing, because we didn't have the power given to us by the state. We had to come back to the state. In the meantime, 400 retirees are hanging out there worrying if they are going to get paid. More retirees who wanted to retire in the first of January **TAPE CHANGE** local politics is where politics is really the best. If we don't have enough faith in our local constituents, then we have to rethink our governmental structure. That is why it is a good piece of legislation, and that is why I am going to support it, and the voters of the state of New Hampshire are going to be given an opportunity to do likewise. Thank you very much.

SENATOR FRANCOEUR: Senator D'Allesandro, I heard you say that you have faith in your constituents. Would your constituents be voting on these changes, or would it be a council that is elected that would vote on them?

SENATOR D'ALLESANDRO: Every one of those changes was acted on by the council, and then brought to referendum in the city.

SENATOR FRANCOEUR: I am talking about the bill that is in front of us right now. Would this bill need a referendum to enact any changes?

SENATOR D'ALLESANDRO: It would go out and be voted on by the people. Correct.

SENATOR WHEELER: I hadn't planned to speak, but since we have talked about Durham and Onasis and home-rule, I wanted to clarify the record on that. It wasn't a question of zoning. In Durham, we thought that we had home rule, we just assumed that. I think that we invoke home rule as the ethos's of the state and assume that it actually exists. So when Onasis, through subterfuge bought up a lot of land on Great Bay, and then we found out that he was going to put a refinery in Durham, we were fortunate enough to have an active state Representative, Dudley Dudley from Durham, who worked with Senator D'Allesandro, well then, Repre-

sentative D'Allesandro, and others, to pass a state law to allow Durham to have home rule in this matter. We wouldn't have been able to have it otherwise. So we were able to have a town meeting, and through a town meeting, a small town in New Hampshire was able to say no to one of the most powerful men in the world. So home rule is powerful. We think that we have it already, but we don't. This is the time to make sure that we actually have one of the principles upon which we think the state was founded. Thank you.

SENATOR LARSEN: I only rise to give a couple examples of where home rule would have affected the city of Concord. A couple that come to mind immediately and I know over the history of Concord which I don't have in my head, there have been many, many more. One issue that the city of Concord found was that if we could enact quarterly tax payments of property taxes that the city could in fact, avoid tax anticipation notes, and save the taxpayers a million dollars. In looking at moving towards a quarterly tax payment, we realized that we could not do that without legislative approval. As it turned out, I believe that the city of Concord is in fact the only town that has chosen to do that, but it takes a separate act of every community to come in and ask that permission to go to quarterly tax payments. The same way a couple of years ago, you may recall, most of you remember that Concord has no conference centers. Concord has no meeting centers. A couple of years ago, in order to promote a conference center, I had to bring in a bill asking to create a commission that would allow us to move forward on the conference center. In fact, the city council had voted for that, and we got the bill through the Senate and the House Commerce Committee began to be whiplashed by the very forces that the city council had been whiplashed by, but what you had, instead of local officials making decisions on that bill, it was people from all over the state who were not sitting in this city making decisions on what the city of Concord could do to try and make meeting spaces available for this legislature and all of the other meetings that a capital city should have. So those are just two examples in my tenure of immediate problems caused by not having home rule. I think those are the kinds of things that we have to consider as we look at this. Thank you.

SENATOR GORDON: Senator Larsen, would you believe that I have been heartened today to hear of so many success stories, including the refinery, your tax bills, the affirmation of the retirement system and all of these success stories for the current system which seems to be working extremely well?

SENATOR LARSEN: I believe that it adds considerable time to a local decision to do what is best for their community.

SENATOR BROWN: Senator Larsen, you made the statement that the city of Concord had to ask permission to go to quarterly tax payments. Under home-rule is it conceivable or possible that the city of Concord, or any other community, could go to monthly tax payments without asking the legislature?

SENATOR LARSEN: I am being informed by the chair that that is not possible under the situation, because the state laws would preempt monthly payments.

SENATOR J. KING: I rise in support of the bill. How many times have we heard those words in this chamber, "home rule" or "leave it at local

control"? Well this is the test. It is asking you the question. Do you believe in home-rule or local control? If you do, you vote yes. If you don't, you vote no.

Recess.

Out of Recess.

A 3/5 vote is necessary.

A roll call was requested by Senator McCarley.

Seconded by Senator Cohen.

The following Senators voted Yes: F. King, Fraser, McCarley, Trombly, Disnard, Roberge, Blaisdell, Fernald, Squires, Pignatelli, Larsen, Krueger, J. King, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No: Gordon, Johnson, Francoeur.

Yeas: 19 - Nays: 3

Paired Votes: Senators Below and Brown.

Adopted by the necessary 3/5 vote.

HB 468, relative to the home rule powers of municipalities. Public Affairs Committee. Vote 3-2. Ought to Pass, Senator Trombly for the committee.

SENATOR TROMBLY: This simply is a companion statute that would devise the system through which the CACR, if adopted, would operate. This does provide the 60-day cooling off period. If the constitutional amendment is not adopted by the people, then this statute is null and void.

SENATOR RUSSMAN: This will be brief. We have all made a lot of comments today and they have all been wonderful. I would urge us to try to vote as much as we can vote. I realize that it is important to have something said on the record, and those need to be said, but judging by the last vote, we are not going to change a lot of minds on some of these issues, so perhaps we could try and move it along as best we can. We have a lot of work to do.

Adopted.

Ordered to third reading.

Recess.

Out of Recess.

HB 640, relative to grievance procedures of managed care organizations. Public Institutions, Health and Human Services Committee.

MINORITY REPORT: Ought to Pass, Senator Krueger for the committee. Vote 2-4

MAJORITY REPORT: Ought to pass with amendment, Senator Wheeler for the committee. Vote 4-2

1999-1730s

01/09

Amendment to HB 640-FN

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

AN ACT establishing certain standards of accountability for health maintenance organizations and other entities providing health insurance through a managed care system.

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

1 Statement of Purpose. The purpose and intent of this act is to strengthen protections for New Hampshire families who receive their medical care from managed care organizations by providing consumers with the information and tools consumers need to hold managed care organizations accountable for the health care treatment decisions they make.

2 Practice of Medicine; Medical Directors. Amend RSA 329:1 to read as follows:

329:1 Practice. Any person shall be regarded as practicing medicine under the meaning of this chapter who shall diagnose, treat, perform surgery, or prescribe any treatment of medicine for any disease or human ailment. "Surgery" means any procedure, including but not limited to laser, in which human tissue is cut, shaped, burned, vaporized, or otherwise structurally altered, except that this section shall not apply to any person to whom authority is given by any other statute to perform acts which might otherwise be deemed the practice of medicine. "Laser" means light amplification by stimulated emission of radiation. *A medical director, as defined in RSA 420-J:3, XXV-a, shall be regarded as practicing medicine under the meaning of this chapter whenever:*

I. A medical necessity determination is made for which he or she is responsible under RSA 420-J:6, V or RSA 420-E:2-a;

II. The medical necessity determination denies authorization or payment for a covered health care service, supply or drug that the treating health care provider has prescribed; and

III. Such denial causes the covered person not to receive the health care service, supply or drug that the treating health care provider has prescribed.

3 New Section; Medical Directors Required. Amend RSA 420-E by inserting after section 2 the following new section:

420-E:2-a Medical Director. Every medical utilization review entity licensed by the department under this chapter shall employ a medical director licensed under RSA 329, who shall have final responsibility for the utilization system and its administration and implementation, including utilization review decisions affecting health care services provided to beneficiaries.

4 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXV the following new paragraph:

XXV-a. "Medical director" means a physician licensed under RSA 329 and employed by a health carrier or medical utilization review entity who is responsible for the utilization review techniques and methods of the health carrier or medical utilization review entity and their administration and implementation, including utilization review decisions affecting health care services provided to covered persons under a health benefit plan.

5 New Paragraph; Medical Director Required. Amend RSA 420-J:6 by inserting after paragraph IV the following new paragraph:

V. Each health carrier that conducts utilization review shall employ a medical director who shall have final responsibility for all utilization review techniques and methods and their administration and implementation, including utilization review decisions affecting health care services provided to covered persons under a health benefit plan.

6 Information Provided to Covered Persons. Amend RSA 420-J:5, II to read as follows:

II. A health carrier shall provide to consumers:

(a) A description of the *internal* grievance procedure *required under RSA 420-J:5* for adverse determinations and other matters [which] *and a description of the process for obtaining external review under RSA 420-J:5-a. These descriptions* shall be set forth in or attached to the policy, certificate, membership booklet, or other evidence of coverage provided to covered persons.

(b) A statement of a covered person's right to contact the commissioner's office for assistance at any time. The statement shall include the toll-free telephone number and address of the commissioner.

(c) Upon written denial of a requested medical service or claim by the health carrier, a statement of the covered person's right to access the internal grievance process. *This statement shall also include a written explanation of any adverse determination, with the name and credentials of the health carrier medical director, including board status and the state or states where the person is currently licensed, and the relevant clinical rationale used to make the adverse determination. If the person making the adverse determination is not the medical director but a designee, then the name, credentials, board status, and state or states of current license shall also be provided for that person. Nothing in this section shall be construed to require a health carrier to provide proprietary information protected by third party contracts.*

(d) Staff assistance in filing a grievance.

(e) [If requested by the consumer or health care provider acting on behalf of the consumer, a written explanation of any adverse determination, with the name and credentials of the health carrier medical director or designee, including board status and the state or states where the person is currently licensed, and the relevant clinical rationale used to make the adverse determination. Nothing in this section shall be construed to require a health carrier to provide proprietary information protected by third party contracts] *Upon exhausting the second level grievance review process, a statement of the covered person's right to obtain an independent external review of the health carrier's determination. This shall include a description of the process for obtaining external review, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.*

7 First Level Grievance; Names Required. Amend RSA 420-J:5, III(b)(1) to read as follows:

(1) The *names*, titles and qualifying credentials of the persons participating in the first level grievance review process.

8 Second Level Grievance; Names Required. Amend RSA 420-J:5, V(a)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. Upon concurrence of the covered person, a copy of the decision shall be forwarded to the insurance department. The decision shall include the *names and* titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance, including issues raised by the covered person, and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used

to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA [420-J:5, VIII] **420-J:5-a. The statement of appeal rights shall include a description of the process for obtaining external review of a determination, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.**

9 Review Panel; Names Required. Amend RSA 420-J:5, V(b)(3) to read as follows:

(3) The review panel shall issue a written decision to the covered person within 5 business days of completing the review meeting. The decision shall include the **names and** titles of the members of the review panel; a statement of the review panel's understanding of the nature of the grievance and all pertinent facts; the rationale for the review panel's decision; reference to evidence or documentation considered by the review panel in making the decision; if an adverse decision is made, the instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and a statement of the covered person's right to file an external appeal as provided in RSA [420-J:5, VIII] **420-J:5-a. The statement of appeal rights shall include a description of the process for obtaining external review of a determination, a copy of the written procedures governing external review, including the required time frames for requesting external review, and notice of the conditions under which expedited external review is available.**

10 Expedited Internal Grievance Review. Amend RSA 420-J:5, VI(e) to read as follows:

(e) In any case where the expedited review process does not resolve a difference of opinion between the health carrier and the covered person or the provider acting on behalf of the covered person, the covered person or the provider acting on behalf of the covered person may submit a written grievance, unless the provider is prohibited from filing a grievance by federal or other state law. A health carrier shall review it as a second level grievance. In conducting the review, the health carrier shall [~~adhere to time frames that are reasonable under the circumstances~~] **make a decision and notify the covered person as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the grievance is submitted.**

11 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph III the following new paragraph:

III-a. "Authorized representative" means any person who has obtained express written consent to represent the covered person in an external review from:

(a) The covered person;

(b) A person authorized by law to provide substituted consent for a covered person; or

(c) A family member of the covered person when adherence to the requirement of express written consent is impracticable or would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

12 New Paragraph; Definition Added. Amend RSA 420-J:3 by inserting after paragraph XXIII the following new paragraph:

XXIII-a. "Independent review organization" means an entity that employs or contracts with clinical peers to conduct independent external reviews of health carrier determinations.

13 New Section; External Review. Amend RSA 420-J by inserting after section 5 the following new section:

420-J:5-a External Review Process. The insurance department shall arrange for independent external review of certain health carrier determinations as follows:

1. A covered person shall have the right to independent external review of a health carrier determination when the following conditions apply:

(a) The subject of the request for external review is:

(1) An adverse determination; or

(2) A determination by the health carrier that a service, supply or drug is not a covered benefit, when the covered person is asserting that the service, supply or drug should be considered covered for medical reasons. This shall include, but not be limited to, the following circumstances:

(A) a service, supply or drug is denied, reduced or terminated by the carrier because the health benefit plan does not cover experimental or investigational treatment, but the covered person asserts that the treatment in question should not be considered experimental or investigational.

(B) a service is denied, reduced or terminated by the carrier because the health benefit plan does not cover procedures that are performed for cosmetic reasons or for reasons of convenience, but the covered person asserts that the service is required for medical reasons rather than cosmetics or convenience.

(C) a referral is denied by the carrier because treatment by out-of-network providers is not covered unless the service in question cannot be provided within the carrier's network, and the covered person asserts that the network does not have providers with the appropriate clinical expertise for the service in question.

(D) a drug is denied by the carrier because it is not on the formulary list, but the covered person asserts that the drug is covered under the medical exception criteria.

(E) a service, supply or drug is denied because of a medically-based decision that a condition is preexisting, and the covered person disputes this.

(b) The covered person has completed the internal review procedures provided by the health carrier pursuant to RSA 420-J:5, III through VI, or the health carrier has agreed to submit the determination to independent external review prior to completion of internal review, or the covered person has requested first or second level, standard or expedited review and has not received a decision from the health carrier within the required time frames.

(c) The covered person or the covered person's authorized representative has submitted the request for external review in writing to the commissioner within 12 months of the date of the health carrier's second level denial decision provided pursuant to RSA 420-J:5, V or VI, or if the health carrier has failed to make a first or second level, standard or expedited review decision that is past due, within 12 months of the date the decision was due.

(d) Except in the case of a request for expedited review, the covered person or the covered person's authorized representative has paid to the commissioner a filing fee of \$25 at the time of submitting the request for external review. However, the commissioner may waive the filing fee upon a showing of financial hardship.

(e) The health carrier determination does not relate to any category of health care services that is excluded from the external review provisions of this section pursuant to paragraph II.

(f) The request for external review is not based on a claim or allegation of provider malpractice, professional negligence, or other professional fault excluded from the external review provisions of this section pursuant to paragraph III.

II. Determinations relating to the following health care services shall not be reviewed under this section, but shall be reviewed pursuant to the review processes provided by applicable federal or state law:

(a) Health care services provided through medicaid, the state Children's Health Insurance Program (Title XXI of the Social Security Act), medicare or services provided under these programs but through a contracted health carrier.

(b) Health care services provided to inmates by the department of corrections.

(c) Health care services provided pursuant to a health plan not regulated by the state, such as self-funded plans administered by an administrative services organization or third-party administrator or federal employee benefit programs.

III. The external review procedures set forth in this section shall not be utilized to adjudicate claims or allegations of health care provider malpractice, professional negligence, or other professional fault against participating providers.

IV. Standard external review shall be conducted as follows:

(a) Within 7 days after the date of receipt of a request for external review, the commissioner shall complete a preliminary review of the request in order to determine whether:

(1) The individual is or was a covered person under the health benefit plan;

(2) The determination that is the subject of the request for external review meets the conditions of eligibility for external review stated in paragraph I; and

(3) The covered person has provided all the information and forms required by the commissioner that are necessary to process an external review.

(b) Upon completion of the preliminary review pursuant to subparagraph IV(a), the commissioner shall immediately notify the covered person or the covered person's authorized representative in writing:

(1) Whether the request is complete; and

(2) Whether the request has been accepted for external review.

(c) If the request for external review is accepted, the commissioner shall:

(1) Include in the notice provided to the covered person pursuant to subparagraph IV(b) a statement that if the covered person wishes to submit new or additional information or to present oral testimony via teleconference, such information shall be submitted, and the oral testimony must be scheduled and presented, within 20 days of the date of issuance of the notice.

(2) Immediately notify the health carrier in writing of the request for external review and its acceptance.

(d) If the request is not complete, the commissioner shall inform the covered person or the covered person's authorized representative what information or documents are needed to make the request complete.

(e) If the request for external review is not accepted, the commissioner shall inform the covered person or the covered person's authorized representative and the health carrier in writing of the reason for its non-acceptance.

(f) At the time a request for external review is accepted, the commissioner may select an independent review organization that is certified pursuant to paragraph VI to conduct the external review. If an independent review organization is not selected to conduct the review, then the policies and procedures established by the commissioner for selecting clinical peer reviewers and conducting the review shall meet the minimum qualifications established under paragraph VII for certification of independent review organizations.

(g) Within 10 days after the date of issuance of the notice provided pursuant to subparagraph IV(c)(2), the health carrier or its designated utilization review organization shall provide to the commissioner or the selected independent review organization and to the covered person all information in its possession that is relevant to the adjudication of the matter in dispute, including but not limited to:

(1) The terms of agreement of the health benefit plan, including the evidence of coverage, benefit summary or other similar document;

(2) All relevant medical records, including records submitted to the carrier by the covered person, the covered person's authorized representative, or the covered person's treating provider;

(3) A summary description of the applicable issues, including a statement of the health carrier's final determination;

(4) The clinical review criteria used and the clinical reasons for the determination;

(5) The relevant portions of the carrier's utilization management plan;

(6) Any communications between the covered person and the health carrier regarding the internal or external review; and

(7) All other documents, information, or criteria relied upon by the carrier in making its determination.

(h) In providing the information required in subparagraph IV(g), the health carrier may not present different reasons than those the health carrier or its designated utilization review organization communicated to the covered person upon internal review, unless the reasons relate to new information presented by the covered person or the covered person's authorized representative or treating provider subsequent to the internal review.

(i) Failure by the health carrier to provide the documents and information required in subparagraph IV(g) within the specified time frame shall not delay the conduct of the external review.

(j) The commissioner or the selected independent review organization shall review all of the information and documents received from the carrier pursuant to subparagraph IV(g) and any other information submitted by the covered person or the covered person's authorized representative or treating provider pursuant to subparagraph IV(c)(1) and any testimony provided. The commissioner or the independent review organization shall consider anew all previously determined facts, allow the introduction of new information, and make a decision that is not bound by decisions or conclusions made by the health carrier during internal review. In addition to the information provided by the health carrier and the covered person or the covered person's authorized representative or treating provider, the commissioner or the independent review organization may consider the following in reaching a decision:

(1) The covered person's pertinent medical records;

(2) The treating health care professional's recommendation;

(3) Consulting reports from appropriate health care professionals and other similar documents submitted by the health carrier, covered person, or the covered person's authorized representative or treating provider;

(4) Any applicable, generally accepted clinical practice guidelines, including those developed by the federal government, national or professional medical societies, boards and associations;

(5) Any applicable clinical review criteria developed and used by the health carrier or its designated utilization review organization;

(6) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts;

(7) Peer-reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institute of Health's Library of Medicine for indexing or that are recognized by the Secretary of Health and Human Services under section 1861(t)(2) of the Social Security Act;

(8) Standard reference compendia; and

(9) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes.

(k) The commissioner or the selected independent review organization shall render a decision upholding or reversing the determination of the health carrier and notify the covered person or the covered person's authorized representative and the health carrier in writing within 20 days of the date that any new or additional information from the covered person is due pursuant to subparagraph IV(c)(1). This notice shall include a written review decision that contains a statement of the nature of the grievance, references to evidence or documentation considered in making the decision, findings of fact, and the clinical and legal rationale for the decision, including, as applicable, clinical review criteria and rulings of law. The decision shall have the same force and effect as a final order of the commissioner and shall be enforceable pursuant to the penalty provisions of RSA 420-J:14.

V. Expedited external review shall be conducted as follows:

(a) Expedited external review shall be available when the covered person's treating health care provider certifies to the commissioner that adherence to the time frames specified in paragraph IV would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

(b) Except to the extent that it is inconsistent with the provisions of this subsection, all requirements for the conduct of standard external review specified in paragraph IV shall apply to expedited external review.

(c) At the time the commissioner receives a request for an expedited external review, the commissioner shall immediately make a determination whether the request meets the standard set forth in subparagraph V(a) for expedited external review, as well as the reviewability requirements set forth in subparagraph IV(a). If these conditions are met, the commissioner shall immediately notify the health carrier. If the request is not complete, the commissioner shall immediately contact the covered person or the covered person's authorized representative and attempt to obtain the information or documents that are needed to make the request complete.

(d) The commissioner may select an independent review organization that is certified pursuant to paragraph VI to conduct the expedited

external review. If an independent review organization is not selected to conduct the review, then the policies and procedures established by the commissioner for selecting clinical peer reviewers and conducting the review shall meet the minimum qualifications established under paragraph VII for certification of independent review organizations.

(e) The health carrier or its designated utilization review organization shall provide or transmit the documents and information specified in subparagraph IV(g) to the commissioner or the selected independent review organization by telephone, facsimile or any other available expeditious method within one day of receiving the commissioner's notice of the request for expedited external review pursuant to subparagraph V(c).

(f) When handling a review on an expedited basis, the commissioner or the selected independent review organization shall make a decision and notify the carrier and the covered person as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the expedited external review is requested. The decision shall have the same force and effect as a final order of the commissioner and shall be enforceable pursuant to the penalty provisions of RSA 420-J:14.

(g) If the notice provided pursuant to subparagraph V(f) was not in writing, within 2 days after the date of providing that notice, the commissioner or the selected independent review organization shall:

(1) Provide written confirmation of the decision to the covered person or the covered person's authorized representative and the health carrier; and

(2) Include the information set forth in subparagraph IV(k).

(h) Reviews that the health carrier handled on an expedited basis in its internal review process shall be handled on an expedited basis in the external review process.

(i) An expedited external review shall not be provided for determinations made by the health carrier on a retrospective basis.

(j) Continuation of benefits pending expedited external review shall be provided when appropriate and as determined by the commissioner.

VI. The certification of independent review organizations shall be conducted as follows:

(a) The commissioner shall certify independent review organizations eligible to be selected to conduct external reviews under this section to ensure that an independent review organization satisfies the minimum qualifications established under paragraph VII.

(b) The commissioner shall develop an application form for initially certifying and recertifying independent review organizations to conduct external reviews.

(c) Independent review organizations wishing to be certified shall submit the application form and include all documentation and information necessary for the commissioner to determine whether the independent review organization satisfies the minimum qualifications established under paragraph VII.

(d) The commissioner may determine that accreditation by a nationally recognized private accrediting entity with established and maintained standards for independent review organizations that meet or exceed the minimum qualifications established under paragraph VII is sufficient for certification under this paragraph.

(e) The commissioner shall maintain and periodically update a list of certified independent review organizations.

VII. To be certified under paragraph VI to conduct external reviews, an independent review organization shall meet the following minimum qualifications:

(a) It shall develop and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process.

(b) It shall establish and maintain a quality assurance program that:

(1) Ensures that external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(2) Ensures the selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the independent review organization with suitable matching of reviewers to specific cases;

(3) Ensures the confidentiality of medical and treatment records; and

(4) Ensures that any person employed by or under contract with the independent review organization adheres to the requirements of this section.

(c) It shall maintain a toll-free telephone service on a 24-hour, 7-day-a-week basis related to external reviews that is capable of accepting or recording information from, and providing appropriate instruction to callers.

(d) It shall agree to maintain and provide to the commissioner such information as may be required to fulfill the provisions and purposes of this section.

(e) It shall assign clinical peer reviewers to conduct external reviews who are physicians or other appropriate health care providers and who:

(1) Are experts in the treatment of the covered person's medical condition that is the subject of the external review;

(2) Are knowledgeable about the recommended health care service or treatment through actual clinical experience;

(3) Hold a non-restricted license in a state of the United States and, for physicians, a current certification by a specialty board recognized by the American Board of Medical Specialties in the area or areas appropriate to the subject of the external review;

(4) Have no history or disciplinary actions or sanctions that have been taken or are pending by any hospital, governmental agency, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental or professional competence or moral character; and

(5) Have agreed to disclose any potential conflict of interest.

(f) It shall be free of any conflict of interest. To meet this qualification, an independent review organization may not own or control or in any way be owned or controlled by a health carrier, a national, state or local trade association of health carriers, or a national state or local trade association of health care providers. In addition, in order to qualify to conduct an external review of a specific case, neither the independent review organization selected to conduct the external review nor any clinical peer reviewer assigned by the independent organization to conduct the external review may have a material professional, familial or financial interest in any of the following:

(1) The health carrier that is the subject of the external review;

(2) Any officer, director or management employee of the health carrier that is the subject of the external review;

(3) The health care provider or the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;

(4) The facility at which the recommended health care service or treatment would be provided;

(5) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review; or

(6) The covered person or the covered person's authorized representative.

(g) For the purpose of allowing in-state health care providers to act as clinical peer reviewers in the conduct of external reviews, the commissioner may determine, in specific cases, that an affiliation with a hospital, an institution, an academic medical center, or a health carrier provider network does not in and of itself constitute a conflict of interest which is sufficient to preclude that provider from acting as a clinical peer reviewer, so long as the affiliation is disclosed to the covered person and the covered person has given his or her prior written consent.

(h) The following organizations shall not be eligible for certification to conduct external reviews:

(1) Professional or trade associations of health care providers;

(2) Subsidiaries or affiliates of such provider associations;

(3) Health carrier or health plan associations; and

(4) Subsidiaries or affiliates of health plan or health carrier associations.

VIII. A covered person shall:

(a) Be provided with timely and adequate notice of his or her rights with respect to external review.

(b) Have the right to be represented by any person, including the covered person's treating provider, and to otherwise make use of outside assistance during the review process, to receive a copy of all documents, all information, and all clinical review criteria or other standards relied upon by the health carrier in making its determination, and to present to the commissioner or the selected independent review organization any information, including new information not previously considered by the health carrier, which the covered person believes to be relevant to the adjudication of the matter in dispute, provided that such information is simultaneously provided to the health carrier.

(c) Be provided the opportunity, under standard external review, to present oral testimony to the independent review organization via teleconference. At any such hearing, the health carrier shall also have the opportunity to present oral testimony and to respond to issues raised.

(d) Be protected from retaliation for exercising the right to an independent external review under this section:

IX. The health carrier against which a request for external review is filed shall pay the cost of the external review. The commissioner shall ensure that such costs assessed to the health carrier are at all times reasonable in relation to the services provided. If the covered person is the prevailing party in the external review, the health carrier shall pay to the covered person the amount of any filing fee paid by the covered person.

X. The confidentiality of any health care information acquired or provided to the commissioner or an independent review organization shall be maintained, and the records, and internal materials prepared for specific reviews by the commissioner or an independent review organization under this section shall be exempt from public disclosure under RSA 91-A.

XI. No independent review organization or clinical peer reviewer working on behalf of an independent review organization shall be liable for damages to any person for any opinions rendered during or upon

completion of an external review conducted pursuant to this section, unless the opinion was rendered in bad faith or involved gross negligence.

XII. The right to external review under this section shall not be construed to change the terms of coverage under a health benefit plan.

XIII. When requested by the covered person, the commissioner shall provide consumer assistance in pursuing the internal grievance procedures and the external review process under RSA 420-J:5 and this section.

XIV. The commissioner shall report annually to the governor and the legislature on the number of grievances subjected to external review, the number of decisions resolved wholly or partially in favor of the covered person, the number of decisions resolved wholly or partially in favor of the health carrier, and any common themes or issues that may require legislative action.

XV. The commissioner shall report annually to the New Hampshire board of medicine the names of the medical directors responsible for determinations that resulted in external review and the outcomes of such external reviews.

14 New Paragraphs; Provider Contract Standards. Amend RSA 420-J:8 by inserting after paragraph VI the following new paragraphs:

VII. No contract between a health carrier and a participating provider shall contain any payment or reimbursement provision the terms of which create incentives for the provider to limit medically necessary care to covered persons. Nothing in this section shall be construed to prohibit the use of payment arrangements between a health carrier and a participating provider or provider group which involve capitation or withholds.

VIII. A health carrier shall provide to consumers, upon request, a description, in general terms, of the types of payment and reimbursement provisions contained in its contracts with participating providers. Such descriptions shall be set forth in clear, understandable language and shall, at a minimum, convey basic information about any financial incentives to providers that may directly or indirectly have the effect of reducing or limiting services to covered persons.

IX. Every contract between a health carrier and a participating provider shall provide that the health carrier may not remove a health care provider from its network or refuse to renew the health care provider with its network for advocating on behalf of a covered person for medically necessary care for the covered person.

15 Repeal. RSA 420-J:5, VIII and IX, relative to an external process and annual report, are hereby repealed.

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

1999-1730s

AMENDED ANALYSIS

This bill creates an independent external consumer appeal process to review certain determinations made by managed care entities. The bill requires health carriers that conduct utilization review and licensed utilization review entities to employ a medical director and amends the definition of the practice of medicine to include the making of certain medical necessity determinations. The bill prohibits contracts between health carriers and participating providers from including provisions that create financial incentives to deny medically necessary care. The bill also requires that health insurers disclose certain information necessary for consumers to hold managed care entities accountable for health care treatment decisions.

SENATOR KRUEGER: This is a very, very important piece of legislation, so I rise in support of HB 640-FN. This is relative to grievance procedures of managed care organizations. This legislation allows for a very extensive review process and ensures that a patient will have their grievance addressed expeditiously. According to the legislation, a covered person must first exhaust the internal appeals process, or the plan for a covered benefit, and then the outcome must result in an adverse determination before they have the right for an external review. In addition, the covered person's cost for the amount in controversy must be, or must be anticipated, to be equal to an excess of \$500. The person must submit a request in writing for such a review to the plan within 90 days from the day of receipt of the final internal appeals determination by the managed care plan. Now, this bill allows the managed care plan to select a certified external review organization to review the grievance. The amendment, as we are going to see, allows the commission of insurance to choose. Back to this bill, the selection of the external review organization must occur within 3 business days of the carrier's receipt of notification by the covered person who is requesting the review. Within only 10 business days, the plan shall submit to the external review organization, all of the information that was submitted to the plan by the person or the health care provider in support of the person's request of coverage under the plan's internal appeals procedure, and all other evidence relied upon by the carrier in making its determination. No cost to the patient. The amendment requires a fee of \$25. House Bill 640 requires the managed care plans be responsible for the reasonable fees and costs of the external review organization, and such fees and costs of the review shall not exceed \$1500. Also, this bill requires the external review organization to submit the determination of the grievance within only 30 business days of the receipt of the request for review. For an expedited external review, the review agent shall issue a determination within three business days, and the determination must be in written form and must state the reasons, the requested service or treatment should or should not be covered. The determination must specifically cite the relevant provisions in the evidence of coverage. The covered person's specific medical condition, the relevant documentation to support the determination. Finally, ample notification is required to covered persons of their right to access the external review process, including information on how to initiate the process, and the availability of the expedited external review. I believe that this external review process is more than adequate. It ensures extensive review, and most importantly, it allows the determination to be made quickly within only 30 business days for a regular grievance, and only three business days for expedited grievance. I hope that you would vote for what I consider to be the better grievance for managed care, and vote HB 640-FN without the amendment and ought to pass. Thank you.

SENATOR WHEELER: I rise in strong support of HB 640 as amended by the committee. The amendment replaces the body of HB 640 with the text of SB 199, the HMO accountability act, which was passed by the Senate with a vote of 20-4. Just as a quick refresher, this amendment creates an independent external grievance appeal process for treatment and coverage decisions made by managed care entities. It requires that health care carriers to conduct utilization reviews and licensed utilization reviews, and entities to employ a medical director. It also expands the definition of practice of medicine to include making utilization re-

view decisions. It prohibits contracts between health carriers and participating providers from including provisions, creating certain financial incentives for the provider to limit care. It also requires the health insurers to disclose certain information necessary for consumers to hold managed care entities accountable for health treatment decisions. That is enough of our review. We did debate it once at length, and the outcome was 20-4 in favor, just to refresh your memories on that. I feel strongly that HB 640 in its original form is inadequate. The amendment supported by the majority of the committee clearly improves the bill, and I would urge you to vote in favor of HB 640 as amended. Thank you.

Senator Wheeler moved to rerefer.

Adopted.

HB 640-FN is rereferred to the Public Institutions, Health and Human Services Committee.

COMMITTEE REPORTS

HCR 7, urging the federal government not to adopt rules requiring financial institutions to monitor their customer's banking habits. Banks Committee. Vote 5-0. Inexpedient to Legislate, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill would have urged the federal government not to adopt rules requiring financial institutions to monitor their customer's banking habits. There was testimony before the Banks Committee that the proposed federal rules were made available for public comment, and the response was overwhelmingly in opposition to such an idea. In March, the regulatory agency withdrew the rules from consideration; therefore, this resolution is unnecessary. The committee was unanimous in recommending this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 451, establishing a committee to study first and second mortgage home loans. Banks Committee. Vote 5-0. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 451 creates a committee to study the way that interest is calculated for first and second mortgage loans. The bill in its original form, reforms the way that interest is calculated, but the issue is a complex one. It needs study before any new calculating method is considered. The legislature also needs to address issues regarding predatory lending for both the first and second mortgages. There are nonsufficient laws in place to deal with these predatory lenders, and the statutory protections are especially important because the most likely people to be preyed upon are those with the credit problems. This committee would be able to look into all of these issues. The Banks Committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 563, relative to names of limited liability partnerships and companies and cooperative associations. Banks Committee. Vote 5-0. Ought to Pass with Amendment, Senator Fraser for the committee.

1999-1577s

08/09

Amendment to HB 563

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

1 Voluntary Corporations and Associations; Use of Name Regulated. RSA 292:3 is repealed and reenacted to read as follows:

292:3 Name. Any corporate name assumed under this chapter shall not be deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

2 New Hampshire Business Association Act; Corporate Name. Amend RSA 293-A:4.01(b) to read as follows:

(b) Except as authorized by subsections (c) and (d), a corporate name shall not be the same as, or deceptively similar to:

(1) the corporate name of a corporation incorporated or authorized to transact business in this state;

(2) a ~~corporate~~ name reserved or registered under RSA ~~[293-A:4.02 or 293-A:4.03]~~ **293-A, 293-B, 301, 301-A, 304-A, 304-B, 304-C, 305-A, or 349;**

(3) the fictitious name of another foreign corporation authorized to transact business in this state;

(4) the corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state;

(5) ~~[a trade name registered with the secretary of state under RSA 349;~~

~~(6) a domestic or foreign limited partnership name filed pursuant to RSA 304-B;~~

~~(7) the name of a foreign partnership registered pursuant to RSA 305-A;~~

~~(8) the name of a New Hampshire investment trust filed under RSA 293-B;~~

(9) the name of an agency or instrumentality of the United States or this state or a subdivision thereof; and

(6) the name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the respective political organization.

3 Treatment of New Hampshire Investment Trusts; Use of Names Regulated. RSA 293-B:16, I is repealed and reenacted to read as follows:

I. The name of each New Hampshire investment trust as set forth in its certificate of trust shall not be the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

4 New Section; Cooperative Marketing and Rural Electrification Associations; Use of Names Regulated. Amend RSA 301 by inserting after section 43 the following new section:

301:43-a Use of Name Regulated. The secretary of state shall decline to register any cooperative name under this chapter that is the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

5 Uniform Limited Partnership Act; Name. RSA 304-B:2, II is repealed and reenacted to read as follows:

II. The name of each limited partnership as set forth in its certificate of limited partnership shall not be the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

6 Limited Liability Companies; Use of Name Regulated. RSA 304-C:3, III is repealed and reenacted to read as follows:

III. Shall not be the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state; and

7 Registration of Foreign Partnerships; Name. RSA 305-A:1, IV is repealed and reenacted to read as follows:

IV. A foreign partnership may not assume any name which is the same as or deceptively similar to the name of any of those entities listed under RSA 293-A:4.01(b), without the written consent of such entities, which consent shall be filed with the secretary of state.

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

1999-1577s

AMENDED ANALYSIS

This bill:

I. Requires that certain business entities receive written consent from limited liability companies and limited liability partnerships before using names that are the same or deceptively similar.

II. Requires that cooperative marketing and rural electrification associations receive written consent from business entities before using names that are the same or deceptively similar.

III. Requires that the written consent to use similar names received by certain business entities be filed with the secretary of state.

IV. Increases uniformity among the various statutory sections dealing with business entities use of names.

SENATOR FRASER: Mr. President, HB 563 requires that certain business entities receive written consent for limited liability companies and limited liability partnerships before using names that are the same or deceptively similar. This requirement protects the names of the limited liability companies and partnerships, and will help prevent the misuse of limited liability company names. The amendment makes sure that all sections of the bill use consistent language. The committee recommends this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 97, relative to the right to farm. Environment Committee. Vote 6-2. Inexpedient to Legislate, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: Mr. President, I rise in support of the committee recommendation for HB 97 of inexpedient to legislate. This legislation was introduced last session and was rereferred by the House Environment and Agriculture Committee. The purpose of this bill is to preserve agricultural land and buildings for agricultural use. This bill is based on the principle that any agricultural use that was legally established prior to the enactment of restrictive regulations may be reestablished after any period of disuse; therefore, any land that is or ever has been zoned agriculture, can be used and maintained as a working farm

area. The committee felt that this bill would interfere with local zoning ordinances. In addition, the New Hampshire Association of Realtors has testified that they have concerns about preserving the protective covenant that they have with land and home buyers. More specifically, the realtors are unclear as to what type of disclosure would be required to buyers of property next to or near to the land that is, or ever has been previously zoned as agricultural. There is significant concern about the future implications of this bill. It will negate present zoning laws and handicap towns in exercising authority over the land in their communities. Although it is important to maintain open space, especially with the growing impacts of urban sprawl, the committee felt that this bill was inappropriate at this time; therefore, I urge you to vote HB 97 as inexpedient to legislate. Thank you.

SENATOR F. KING: Senator D'Allesandro, wouldn't this now be a home rule issue?

SENATOR D'ALLESANDRO: It certainly could be. If we had home rule in place, they could have worked on it. More reason to vote for home rule.

Senator Russman moved to rerefer.

Adopted.

HB 97 is rereferred to the Environment Committee.

HCR 11, urging Congress and the Internal Revenue Service to modify tax laws to broaden the ability of taxpayers to make tax-deductible contributions to Nuclear Decommissioning Reserve Funds. Environment Committee. Vote 3-0. Ought to Pass, Senator Russman for the committee.

SENATOR RUSSMAN: Thank you very much. The bill does what the clerk says it does. No one came and testified for it or against it, but Jeb, the sponsor, showed up a little late in favor of the bill, and we voted it out as ought to pass.

Adopted.

Ordered to third reading.

HB 576-FN-A, establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor. Finance Committee. Vote: 8-0. Rereferred to Committee, Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: This bill was referred to the Finance Committee by the Senate Judiciary Committee. The Senate Finance Committee recommends changing the original finding referral to an ought to pass with a vote of 8-0. We would ask for your support on the motion of ought to pass.

Question is on the committee report of rerefer.

Motion failed.

Senator Hollingworth moved ought to pass.

Adopted.

Ordered to third reading.

HB 608-FN-A, establishing a New Hampshire emergency management response and recovery fund and making an appropriation therefor. Finance Committee. Vote: 8-0. Ought to Pass, Senator F. King for the committee.

SENATOR F. KING: This bill establishes a New Hampshire Emergency Management Response and Recovery Fund to help alleviate conditions which may arise due to a natural or manmade disaster. An appropriation is made through the governor's office of Emergency Management in the amount of \$100,000 to establish this fund. The Senate Finance Committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 666-FN-A-L, relative to the taxation of sand, gravel, loam, and other similar substances. Finance Committee. Vote: 7-0. Ought to pass with amendment, Senator Klemm for the committee.

1999-1824s

08/10

Amendment to HB 666-FN-A-LOCAL

Amend the bill by replacing section 1 with the following:

1 Findings and Declaration of Purposes. The legislature finds:

I. That there has been a great deal of confusion and uncertainty among taxpayers, assessors and municipalities regarding the applicability of the excavation activity tax imposed by RSA 72-B, and how it should be implemented;

II. That the legislature wishes to clarify that the excavation activity tax as defined in this act applies to the area of land which is being excavated, or has been excavated, and has not been reclaimed as defined in this act, and that the activity tax applies to the area of land which has not been so reclaimed;

III. That the legislature wishes to clarify that the excavation activity tax does not apply to excavation areas on which excavations ceased before August 24, 1977 and have not since reoccurred thereon; and that the excavation activity tax applies to exposed rock ledge area which has been actively worked within the previous tax year;

IV. That the legislature wishes to reiterate its findings and declaration of purpose of 1997, 219:1, that in appraising real property subject to the excavation activity tax, assessors shall not take into consideration the value of any earth contained in the real property;

V. That the legislature wishes to reiterate its original findings and declaration of purpose in enacting RSA 72-B that such tax is expected to be no less than the tax paid in 1994 for the parcel of land on which such exempt earth is situated;

VI. That the legislature wishes to reiterate its original findings and declaration of purpose in enacting RSA 72-B, which provided a means of taxing the value of earth by exempting earth and the real property constituting the area from which earth was being excavated from the real property tax imposed by RSA 72:6 and RSA 72:13, and subjecting it to the excavation tax and excavation activity tax created pursuant to RSA 72-B;

VII. That the legislature wishes to reiterate its original findings and declaration of purpose, which was to avoid the undesirable effects of taxing earth in the ground as real property, which included the premature excavation of such earth to avoid real property taxation; and that in order to ensure that this and other undesirable and unintended consequences of the taxation of earth, and the real property constituting the area from which earth was being excavated, do not occur, the legislature

wishes to make clear that RSA 72-B must be read in conjunction with RSA 155-E, which provides a statewide comprehensive regulatory framework to regulate the excavation of earth;

VIII. That one of the state's fundamental policy goals is to encourage and promote compliance with the statewide comprehensive regulatory framework for the regulation of earth removal and activities associated therewith, as set forth in RSA 155-E; and

IX. That if the real property constituting the excavation area is exempted from the provisions of RSA 72:6 and RSA 72:13, and subjected instead to the excavation activity tax imposed by RSA 72-B, excavation operators will be encouraged to effectively use and manage known earth deposits and reclaim those areas of excavations that have been excavated since August 24, 1977.

Amend the bill by replacing section 20 with the following:

20 Effective Date.

I. RSA 72-B:1, IV(h), as inserted by section 2 of this act, shall take effect April 1, 2000.

II. The remainder of this act shall take effect April 1, 1999.

SENATOR KLEMM: The Senate amendment makes two changes that were suggested by the New Hampshire Municipal Association to the findings and declaration of purpose section of HB 666. First it adds a new section five that restates the legislature's expectation in the 1997 legislation that the excavation tax and the excavation activity tax, are expected to be no less than the tax paid in 1994 for the land on which the exemplar is situated. The New Hampshire Municipal Association thought that this was important to reiterate. Second, it removes the word "reliable" from the language in paragraph six so that it simply refers to RSA 72-B as providing it as a reliable means of taxing earth went beyond the scope of the original findings and declaration of purpose. Finally, this amendment changes the effective date to April 1, 1999 rather than upon passage to reflect the beginning of the tax years as suggested by the Department of Revenue. House Bill 666 was introduced to correct interpretive problems in RSA 72-B enacted in April of 1998. The bill exempts the excavation tax and the excavation activity tax, all small operators, excavations not exceeding a thousand cubic yards in a tax year, now will file a notice of intent with the state but will not be subject to the tax. The bill also makes it clear that cellar holes, septic systems, poles and other excavations ancillary to construction projects are exempt from the tax and from the noticed requirement. The bill, as amended by the House, incorporated technical changes to RSA 72-B suggested by the Department of Revenue and the New Hampshire Municipal Association. Senate Finance Committee recommends HB 666 as amended, ought to pass.

Amendment adopted.

Recess.

Out of Recess.

Ordered to third reading.

HB 684, making adjustments to the fiscal year 1999 budget for the department of health and human services. Finance Committee. Vote: 8-0. Ought to pass with amendment, Senator Squires for the committee.

1999-1836s

04/09

Amendment to HB 684

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

AN ACT creating a position within the long-term care institute.

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

1 New Section; New Position; Long-Term Care Specialist. Amend RSA 126-L by inserting after section 5 the following new section:

126-L:5-a Long-Term Care Specialist. There is hereby established a long-term care specialist within the institute. The long-term care specialist shall be hired by the board. The long-term care specialist shall serve as the executive director of the institute and as a liaison between the institute and the insurance department and shall perform the duties of the institute as provided in RSA 126-L:5.

2 Applicability. The long-term care specialist position, established in section 1 of this act, shall not be a state employee position.

3 Budget Surplus; Transfer to Long-Term Care Institute. Notwithstanding RSA 9:13-e, any general fund undesignated surplus up to the sum of \$49,592 plus a sum equal to 25 percent of the state employee fringe benefits for the fiscal year ending June 30, 2000, and the sum of \$49,592 plus a sum equal to 25 percent of the state employee fringe benefits for the fiscal year ending June 30, 2001, shall be transferred to the long-term care institute established in RSA 126-L:2 for the purposes of paying the annual salary of the position created in section 1 of this act. Any general fund undesignated surplus in excess of the sums referred to in this section shall be transferred in accordance with RSA 9:13-e.

4 Repeal. RSA 126-L:5-a, relative to a long-term care specialist, is hereby repealed.

5 Effective Date.

I. Section 4 of this act shall take effect July 1, 2001.

II. The remainder of this act shall take effect July 1, 1999.

1999-1836s

AMENDED ANALYSIS

This bill creates a 2-year position of long-term care specialist to perform the duties of the long-term care institute. The bill provides for a transfer of general fund undesignated surplus sufficient to pay the annual salary of the long-term care specialist.

Senator Squires moved to rerefer.

Adopted.

HB 684 is rereferred to the Finance Committee.

HB 685-FN-A, relative to the duties of the New Hampshire land and community heritage commission and making an appropriation therefor. Finance Committee. Vote: 6-2. Ought to Pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 685 clarifies the duties of the New Hampshire Land and Community Heritage Commission and makes an appropriation to the Department of Cultural Resources in the amount of \$15,000 to fund the second year of the New Hampshire Land and Community Heritage Commission study. This study is already underway and it is important

for land use in our state and for land preservation. It is in our budget and accounted for. The Senate Finance Committee recommends HB 685 as ought to pass.

Adopted.

Ordered to third reading.

HB 719-FN, relative to procedures regarding children in need of services. Finance Committee. Vote: 8-0. Ought to Pass, Senator F. King for the committee.

SENATOR F. KING: Senate Finance looked at this bill and found that it has no impact on the budget and we recommend ought to pass.

Adopted.

Ordered to third reading.

HB 721-FN, relative to procedures regarding delinquent children under RSA 169-B. Finance Committee. Vote: 8-0. Ought to Pass, Senator McCarley for the committee.

SENATOR MCCARLEY: The Finance Committee looked at this bill and found that it has no fiscal impact and recommends ought to pass.

Adopted.

Ordered to third reading.

HB 738-FN, making an appropriation to the department of administrative services for the purpose of reimbursing counties for providing prisoner custody in courthouses. Finance Committee. Vote: 8-0. Ought to Pass, Senator McCarley for the committee.

SENATOR MCCARLEY: This bill makes an appropriation out of the 1999 fiscal year in order for us to fund the obligation that we voted for in HB 204 in regard to the costs for providing custody in courthouses. We recommended this bill as ought to pass. The cost is \$308,000.

Adopted.

Ordered to third reading.

SB 49-FN-L, relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education, and making an appropriation therefor. Finance Committee. Vote: 8-0. Inexpedient to Legislate, Senator McCarley for the committee.

SENATOR MCCARLEY: Senate Bill 49 is the bill that we took action on much earlier in the session with regard to cost of an adequate education after the passage of HB 117; the bill is no longer needed, so we recommend it as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 72, exempting certain portions of Seabrook Beach Village District and certain portions of Hampton Beach from certain provisions of the excavating, filling, and construction permit laws. Finance Committee. Vote: 8-0. Ought to Pass, Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The Finance Committee wishes to make the motion of rerefer.

Senator Hollingworth moved to rerefer.

Adopted.

SB 72 is rereferred to the Finance Committee.

SB 196, relative to electric rate reduction financing. Finance Committee. Vote: 8-0. Rereferred to Committee, Senator Johnson for the committee.

Adopted.

SENATOR JOHNSON: This bill was referred to Finance by the Senate Energy and Economic Development Committee. The Senate Finance Committee recommends that SB 196 be rereferred for further action.

Adopted.

SB 196 is rereferred to the Energy and Economic Development Committee.

SB 206-FN-A-L, establishing the tobacco use prevention fund and continually appropriating a special fund and relative to the health care fund. Finance Committee. Vote: 8-0. Rereferred to Committee, Senator Squires for the committee.

SENATOR SQUIRES: The Finance Committee wishes to hold this bill just a little bit longer, and thus asks that it be rereferred.

Adopted.

SB 206-FN-A-L is rereferred to the Finance Committee.

SB 210-FN-L, relative to payment by the state for certain court-ordered placements of special education students. Finance Committee. Vote: 8-0. Rereferred to Committee, Senator McCarley for the committee.

SENATOR MCCARLEY: The Finance Committee, after looking at this bill and understanding its importance, and the role that it could play going forward relative to education funding, we recommend that it be referred to the Senate Education Committee.

Adopted.

SB 210-FN-L is rereferred to the Education Committee.

HB 395-FN-A, establishing a program of matching grants to preserve historic agricultural structures in New Hampshire. Internal Affairs Committee. Vote 5-1. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: Mr. President, New Hampshire is losing its historic buildings through neglect, development and even exploration. People are dismantling some of these barns of the state and shipping them to other parts of the country. This bill will establish a program that will help to preserve these structures and provide matching grants to assist in repair and maintenance. The grant money provided would be collected from public and private donations and kept in a special account. There is no appropriation in this bill as amended by the House. The committee recommended this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 551, revising the definition of "employer" under the employment discrimination laws of the state. Internal Affairs Committee. Vote 6-0. Inexpedient to Legislate, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: This bill would have revised the definition of "employee" under the employment discrimination laws of the state. Essentially this would allow for certain nonprofits to discriminate in

their employment based on the employee's race, sex, marital status and national origin among other things. The Internal Affairs Committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 605-FN, affirming sovereign immunity for the state and its political subdivisions as it relates to the "year 2000 problem." Internal Affairs Committee. Vote 4-2. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: This bill addresses forecasted litigation due to the year 2000 problems. The bill exempts the state and the municipal subdivisions from liability arising out of computer or mechanical failures due to the Y2K problem. This bill does not exempt the state from liability resulting from human error, just mechanical or computer problems due to a failure to recognize a date. The bill does not grant liability from gross negligence either. The various state departments are continuing to address any Y2K problems that may arise, but it is not possible at this time to know all possible problems that may arise. The committee recommends this bill ought to pass.

SENATOR GORDON: I stand in opposition to the bill, or continue opposition to the bill, or the concept behind this bill. I know that many of you may say that I stand here because I am a lawyer and don't want to see to exempt liability, but I don't think that that is the case, in fact, I have proposed other legislation just this session in which I felt that immunity should be granted when it is a matter of appropriate public policy. I don't believe that this is appropriate public policy. The fact is that we all went through this debate two years ago. There wasn't one single state agency that wasn't made aware at the time, two years ago, that we had a problem. A Y2K problem, that needed to be addressed and appropriate action should be taken, in order to resolve the circumstance of the situation that would result potentially in its liability. I don't see any distinction between the mechanical failure and people failure. As I read the bill, basically it asserts sovereign immunity in all circumstances arising out of the mechanical concerns, but basically excuses human behavior, or human beings, for failure to doing anything about a known problem. In other words, you could have state employees or municipal employees that knew two years ago that we had a problem with Y2K, and for whatever reasons, decided not to do anything about it, and as a result, people were harmed or injured. Those people who are harmed or injured are going to be denied one of the rights...again, I hate to talk about our constitution, but there is a fundamental right in our constitution, and that right is a right to a remedy, when somebody hurts you, you have a right to redress. You have a right to petition the courts in the state to seek relief. Another part that I don't like about this legislation, is that it is one-sided. The one-sided part is that we are excusing the state, but we are not granting any businesses that are doing business with the state exemption from any claims that the state might make. Why would that be? As I am sure that many of you know, that there is federal legislation which is being adopted at the same time that we are discussing this. I have to say that our federal legislators have much more good sense than we do in addressing this problem. They have good sense because they are looking at all businesses, and not just the government. They are not deciding like we do, in Washington, or have in the past, where we have sexual harassment laws and we decide to exempt government officials from

the sexual harassment laws. They haven't decided to do that, they said that if it is good for government, then it ought to be good for everyone. I agree that that is true here. If the state should be excused from liability in engaging in negligent conduct, then I think that everybody should be relieved from the responsibility from engaging in negligent conduct. Why should the government be treated differently? Again, although this hasn't been the best of days for me, vote wise here. Today, I rise in opposition to the bill because I think that it is bad as a matter of public policy. We gave everyone adequate warning in our government that this problem needed to be addressed. I know personally, because I sit on the Capital Budget Overview Committee, that we have approved millions and millions of dollars in appropriations to address the Y2K problems for those departments that have come forward and said that they needed to address them. To the best of my knowledge, we have not denied one single department who has come to us and asked for money to address the Y2K problem. Again, I just want to reiterate that I just think that this is bad as a matter of public policy.

SENATOR FERNALD: Senator Gordon, I just want to know, does this change sovereign immunity as you understand it, or is it ratifying the current state of sovereign immunity? I guess the different way of asking this question is, if we pass this bill, are the people who could sue now be prevented from suing if we pass this bill?

SENATOR GORDON: Senator Fernald, it is my understanding that there are people right now who would be prevented from suing who would otherwise have recourse, and if in fact, that were not the case, there would be no need for the bill.

SENATOR SQUIRES: I rise in strong support of what Senator Gordon said. I am not a lawyer, but there are two points here that are important. It is a right of every citizen to seek redress for a wrong. But in addition to that, is the asymmetry of this bill that bothers me. The state says that you can't sue us, but we make no promise not to sue a vendor. That is not right. If we are going to exempt ourselves from suits, we ought to at least go on record as saying that we are not going to bring legal action towards any of our vendors or businesses that do or enter into contracts with us. What this bill does is to distort the symmetry of the justice system. I can't support it.

Question is on the motion of ought to pass.

A roll call was requested by Senator Francoeur.

Seconded by Senator Roberge.

The following Senators voted Yes: F. King, Johnson, Fraser, McCarley, Disnard, Blaisdell, Larsen, J. King, D'Allesandro.

The following Senators voted No: Gordon, Trombly, Roberge, Fernald, Squires, Pignatelli, Francoeur, Krueger, Brown, Russman, Wheeler, Klemm, Hollingworth, Cohen.

Yeas: 9 - Nays: 14

Motion failed.

Senator Gordon moved inexpedient to legislate.

Adopted.

HB 605-FN is inexpedient to legislate.

HB 728-FN, establishing a commission to study the compensation of members of the legislature and the reimbursement for expenses. Internal Affairs Committee.

MINORITY REPORT: Ought to Pass, Senator D'Allesandro for the committee. Vote 2-4

MAJORITY REPORT: Inexpedient to Legislate, Senator Fraser for the committee. Vote 4-2

SENATOR FRASER: Mr. President and members of the Senate, 728 would have established a committee to study legislative compensation. The issue has been studied in the past and another study committee, we believe, the majority of the committee believes, is unnecessary. The majority of the committee recommends this bill as inexpedient to legislate. Mr. President, I would just add a personal note that you and I have been around here a long time, and that this is probably the third or fourth time that we have seen this very same issue. I think that it is an exercise in futility to study something that is not going to change. This might even put my \$200 in the biennium at risk by having a study. There are a lot of people out there that think that I am overpaid as it is, so I am going to vote with the majority of the committee.

SENATOR D'ALLESANDRO: I speak for the minority. The issue of legislative salary and other expenses has been one that has been considered and reconsidered. At this point in time it certainly deserves another look. We have been getting \$100 for 100 years. Now a 100 years ago a \$100 was a fairly sufficient amount of money. Legislation has become more complex, and the time spent has been certainly much greater than in the past, and as a result of that, we ought to rethink what our worth is. Obviously 100 years ago, \$100 was a lot of money. The value of the legislature obviously was thought that it was quite high. Since that time we haven't made one movement to change that. I think that it deserves looking at and it might be an exercise in futility, but it deserves to see the light of day. Thank you.

SENATOR PIGNATELLI: I am going to support Senator Fraser on his motion of inexpedient to legislate. One of my real fears about this bill, if it were passed, is that the committee may determine that we are overpaid and may decide to lower my salary. Thank you.

SENATOR GORDON: Senator D'Allesandro, if in fact we were to adopt the provisions of home rule, do you think that there would be anything that would prohibit local communities from paying legislators to come to Concord to represent them?

SENATOR D'ALLESANDRO: That is a November deal. I think that they would still be representing the state, and it would be a state situation. I don't think that home rule would have any jurisdiction over that, it is a state situation.

SENATOR GORDON: I guess I would like to say that as much as I don't want to be on the same side of issue as you are sometimes...

SENATOR D'ALLESANDRO: I love having you on the same side.

SENATOR GORDON: I have to say that if you work for a living, I know how very difficult it is to be here. I know personally, what you have to give up to be here. Would you believe that I agree with you, that a \$100 a year is not adequate compensation, and that there ought to be some move afoot, whether through this study committee or somehow to revisit this issue, and that if people think that simply by paying \$100 a year you get a citizen legislature, would you believe that I think that they are wrong?

SENATOR D'ALLESANDRO: Certainly. Yes. Thank you for those comments.

Question is on the motion of ought to pass.

A roll call was requested by Senator Francoeur.

Seconded by Senator Gordon.

The following Senators voted Yes: Trombly, Disnard, Fernald, J. King, D'Allesandro, Wheeler, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, McCarley, Roberge, Blaisdell, Squires, Pignatelli, Francoeur, Larsen, Krueger, Brown, Russman, Klemm, Hollingworth.

Yeas: 7 - Nays: 16

Motion failed.

Question is on the motion of inexpedient to legislate.

Adopted.

Committee report of inexpedient to legislate is adopted.

HB 652-FN, relative to victims' assistance, penalty assessments on criminal offenses, and establishing a surcharge on items sold at state prison commissaries which is continually appropriated to the victims' assistance fund. Judiciary Committee. Vote 6-0. Ought to Pass, Senator Fernald for the committee.

SENATOR FERNALD: I urge you to support the committee's recommendation. We have a Victims Assistance Fund, we have funds that are available for that and also available for the court modernization fund. The biggest change in here is that we will no longer be putting money into the court modernization, because they are thoroughly modern now. There is also a change in the surcharge that we put on folks who buy stuff at the commissary at the prison, and that money would also go into the Victim's Assistance Fund. I urge you to support the committee's recommendation. Thank you.

Adopted.

Ordered to third reading.

HB 89-FN-A, making an appropriation for a department of transportation study of the state house complex to evaluate space needs. Transportation Committee. Vote 5-0. Ought to pass with amendment, Senator Gordon for the committee.

1999-1830s

05/10

Amendment to HB 89-FN-A

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

AN ACT making an appropriation for a department of transportation study of the state house complex's space needs, and naming the newly constructed state highway bridge on Route 135 between the towns of Haverhill and Bath in honor of Raymond S. Burton.

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

4 Raymond S. Burton Bridge. Pursuant to RSA 4:43, the newly constructed state highway bridge on Route 135 between the towns of Haverhill and Bath is hereby named the Raymond S. Burton Bridge.

1999-1830s**AMENDED ANALYSIS**

This bill requires the department of transportation to hire an architectural consultant to conduct a study of the state house complex's space needs. This bill makes an appropriation to the department of transportation for the purposes of the study from funds authorized by 1991, 355:115 and 1998, 226:1.

The bill also names the newly constructed state highway bridge on Route 135 between the towns of Haverhill and Bath in honor of Raymond S. Burton.

SENATOR GORDON: House Bill 89 makes an appropriation for the Department of Transportation to conduct a study of the State House complex to evaluate future needs. Within the course of the study, the Department of Transportation will evaluate traffic flow and parking issues, future need and growth of the library, state and governmental facilities. The Transportation Committee amended HB 89 to name the Route 135 bridge between the towns of Haverhill and Bath in honor of Raymond S. Burton, Executive Councilor for District 1 and Grafton County Commissioner. This amendment was filed at the request of the towns of Haverhill and Bath and received the support of the committee. While it is somewhat unusual to honor a politician while they are still living, those of us who know and admire Ray feel that it is most appropriate. The Senate Transportation Committee recommends unanimously that HB 89 be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers. Transportation Committee. Vote 5-0. Inexpedient to Legislate, Senator Gordon for the committee.

SENATOR GORDON: House Bill 331 would have voided warranties on leased or purchased motor vehicles where any additional equipment was installed after leaving the factory. No one showed up to testify in support of the bill. The one person who did testify, reported that the language is flawed and does not accomplish the original intent. This legislation seems to be more problematic than helpful; therefore the Senate Transportation recommends that HB 331 be inexpedient to legislate.

Senator Larsen moved to have **HB 331**, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

HB 449-FN, requiring boating safety education. Transportation Committee. Vote 5-0. Rereferred to Committee, Senator Pignatelli for the committee.

SENATOR PIGNATELLI: House Bill 449 would require boat operators in the state, whether visitors or residents, to either take a course in boater safety or pass a test. Controversy arose at the Senate hearing regarding a proposed amendment. Due to the lateness of the session, the Senate Transportation Committee recommends that HB 449 be rereferred to committee in order to allow time for these conflicts to be resolved. Thank you.

Adopted.

HB 449-FN, is rereferred to the Transportation Committee.

HB 525-FN, relative to special number plates for certain veterans. Transportation Committee. Vote 6-1. Ought to pass with amendment, Senator Pignatelli for the committee.

1999-1841s

10/09

Amendment to HB 525

Amend RSA 261:86, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Is a former prisoner of war and was captured and incarcerated for 30 days or more while serving in a qualifying war or armed conflict as defined in RSA 72:28, IV, and who was honorably discharged, provided that such person has furnished the director with satisfactory proof of these circumstances. The plates shall be transferable upon death to the surviving spouse of the prisoner of war. The surviving spouse shall be entitled to the plate as long as he or she lives, unless he or she remarries.

Amend RSA 261:86, I(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Survived Pearl Harbor and was honorably discharged, provided that such person has furnished the director with satisfactory proof of these circumstances. The plates shall be issued upon payment of the regular registration and number plate fees. The plates shall be transferable upon death to the surviving spouse of the Pearl Harbor survivor. The surviving spouse shall be entitled to the plate as long as he or she lives, unless he or she remarries.

SENATOR PIGNATELLI: House Bill 525 deals with special license plates for prisoners of war and Korean War veterans. Currently there are fewer than 125 ex POW's still alive in New Hampshire, and fewer than 75 percent of those still drive. The House legislation allows that only the spouse at the time the veteran was a POW in the Korean War could retain the plates. The Senate amended the legislation to allow the surviving spouse to retain the license plate as long as they do not remarry. The Transportation Committee recommends that HB 525 be ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

HB 559-FN-A, authorizing vanity plates or decals for OHRV registrations. Transportation Committee. Vote 7-0. Ought to Pass, Senator Gordon for the committee.

SENATOR GORDON: House Bill 559 authorizes the Department of Safety to issue vanity plates or decals for off highway recreational vehicles. It will raise additional funds, and this is something that has been requested by recreational users in the state.

Adopted.

Ordered to third reading.

HB 584-FN, relative to administrative license suspensions. Transportation Committee. Vote 6-0. Ought to pass with amendment, Senator Gordon for the committee.

1999-1825s

05/09

Amendment to HB 584-FN

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

1 Administrative Review and Hearings. Amend RSA 265:91-b, III to read as follows:

III. In the case of either an administrative review or a hearing, the hearing ~~officer~~ **examiner** shall issue ~~his ruling~~ **his or her recommendation** on the order of suspension or revocation within 15 days of the request for administrative review or the hearing date. The ~~ruling~~ **recommendation** shall be in writing and a copy shall be provided to the parties. The ~~ruling~~ **recommendation** shall be final unless ~~an~~ **a review or appeal** is filed under RSA 265:91-d **or RSA 265:91-e**.

2 Review. RSA 265:91-d is repealed and reenacted to read as follows:

265:91-d Review. Within 10 days following the examiner's ruling, a person whose license has been suspended or revoked, or the law enforcement officer, may petition the director for a review of the ruling. The filing of the petition shall not stay a suspension or revocation of the person's driver's license or privilege to drive if imposed, or the restoration of the person's driver's license or privilege to drive. The review shall determine whether the ruling is erroneous as a matter of law or cannot be sustained by the facts as presented at the hearing. After a review of the ruling, the director shall issue within 10 days a finding either affirming the ruling or granting a new hearing. Any grant of a new hearing shall be accompanied by a written explanation setting forth the specific error of law or the reason why the ruling cannot be sustained by the facts.

3 New Section; Appeal. Amend RSA 265 by inserting after section 91-d the following new section:

265:91-e Appeal. Any person aggrieved by a decision of the department under this section, after the administrative hearing or review, may appeal the decision as provided in RSA 263:75. The court shall have the full authority to determine whether any license suspension or revocation should be stayed during the pendency of the appeal.

4 Authority to Suspend or Revoke License. Amend RSA 263:56, III(a) to read as follows:

(a) In the case of a person whose license is suspended or revoked pursuant to RSA 263:56, I(g) the director may suspend or revoke a license for not more than ~~3~~ **7** years.

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

SENATOR GORDON: House Bill 584 as amended by the House further expanded and defined the scope of authority to suspend or evoke driv-

ing licenses. This included a relaxation of the .08 statute. The bill also changed ALS hearings and allowed for review by the director of safety. Further, the bill allows for reimbursement for law enforcement officers who must be present at hearings. Lastly, the legislation allows for expansion of loss of license for drivers when a fatality is involved from three years up to seven years. At the Senate Transportation Committee, we amended the bill retaining the current .08 provisions. It also deleted the provisions in regard to witness fees for officers who attend the ALS hearings. The director must report...there is a review by the director, but the director must report in writing, in specific areas of law or the reasons why the ruling cannot be sustained by the facts. The amendment also allows the authority for loss or suspension of license from three to seven years, a provision strongly desired by victims families. The Senate Transportation Committee recommends that HB 584 be ought to pass as amended.

SENATOR DISNARD: Senator Gordon, if an officer is on duty that day, must someone still pay a fee for him to attend a hearing?

SENATOR GORDON: The answer to your question is that the police officers and particularly the Police Chief's Association, had as part of this bill, a provision that would have required anyone who went to an ALS hearing and requested the presence of a police officer, to pay to have the police officer there. That provision came over from the House in their position on the bill. That provision was deleted from the Senate's provision so that there is no provision currently, for reimbursing the police officers.

Amendment adopted.

Ordered to third reading.

HB 616-FN-A, establishing a house study committee to consider issues related to the driver training fund. Transportation Committee. Vote 5-0. Ought to pass with amendment, Senator Gordon for the committee.

1999-1828s

05/09

Amendment to HB 616-FN-A

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

AN ACT establishing a house study committee to consider issues related to the driver training fund and exempting persons covered under the Americans with Disabilities Act from certain driver's license requirements.

Amend paragraph I as inserted by section 2 by replacing it with the following:

I. The membership of the committee shall consist of 3 house members, 2 of whom shall be members of the house transportation committee, and 2 members of the house finance committee, appointed by the speaker of the house.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as section 7:

6 Waiver of Certain License Requirements. Amend RSA 263:19 to read as follows:

263:19 Driver Education.

I. A driver's license may be issued subject to the provisions of this chapter to a person under the age of 18 years who has attained his six-

teenth birthday, if such person shall present a certificate of successful completion of a driver education course given by a public or nonpublic secondary school and approved by the department of education in cooperation with the department of safety or given by a motor vehicle driver's school licensed under the provisions of this chapter. An approved driver education course, whether conducted by a secondary school or by a school licensed under this chapter, shall consist of both classroom instruction and behind the wheel driver training, in accordance with rules adopted pursuant to RSA 541-A, published jointly by the commissioner of education and the commissioner of safety, such standards to be not less than those presently required.

II. Any person wishing to qualify for a driver's license who submits proof that the person has a disability covered by the Americans with Disabilities Act may request a waiver of a requirement of this section from the commissioner. The commissioner or his or her agents may approve such requests at their discretion.

Amend the bill by replacing section 7 with the following:

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

1999-1828s

AMENDED ANALYSIS

This bill establishes a house study committee to consider issues related to the driver training fund, and exempts persons covered under the Americans with Disabilities Act from certain driver's license requirements.

SENATOR GORDON: House Bill 616 establishes a House study committee to study issues related to the driver training fund. Currently the funds are expended only for people who take their driver training in public schools. Because the public school training isn't available to everyone, some people are forced to take it privately, and when they are, they are not reimbursed. As a result, they end up paying twice as much as those who take it through the classrooms. This study committee would look at the possibility of using the driver-training fund to reimburse all students who take the course regardless of whether it is offered in the schools or privately.

Amendment adopted.

Ordered to third reading.

HB 639-FN, relative to motor vehicle registration fees for antique motor vehicles and motorcycles. Transportation Committee. Vote 3-2. Ought to pass with amendment, Senator Roberge for the committee.

1999-1826s

05/09

Amendment to HB 639-FN

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

1 Antique Motorcycle Registration Fees. Amend RSA 261:141, III(f) to read as follows:

(f) For antique motorcycles *manufactured in the calendar year 50 years prior to the current calendar year or earlier* — \$2.40. *Antique motorcycles manufactured in the calendar year 49 years prior to the current calendar year or later shall be charged a registration fee of \$12.*

2 Antique Motor Vehicle Registration Fees. Amend RSA 261:141, III(r) to read as follows:

(r) For antique motor vehicles other than antique motorcycles *manufactured in the calendar year 50 years prior to the current calendar year or earlier* — \$6. *Antique motor vehicles other than antique motorcycles manufactured in the calendar year 49 years prior to the current calendar year or later shall be charged a maximum of \$31.20 (\$2.60 per month) for vehicles weighing over 3000 lbs, and a maximum of \$19.20 (\$1.60 per month) for vehicles weighing less than 3000 lbs.*

3 Effective Date. This act shall take effect July 1, 1999.

1999-1826s

AMENDED ANALYSIS

This bill restricts reduced registration fees for antique motor vehicles and motorcycles to motor vehicles and motorcycles manufactured 50 years prior to the current calendar year or earlier.

SENATOR ROBERGE: Mr. President and members of the Senate, currently antique motor vehicles, those over 25 years old, pay only \$6 in registration fees. The intent of the antique designation and the lower registration fee was aimed at providing a discount to those special old vehicles which are only used on few days of the year at special events such as parades, fairs and shows; however, as technology has improved, a number of vehicles on the road, which are involved in daily commuting, the use has dramatically increased. As amended, this bill creates two classes of motor vehicles. Those over 50 years old, and those which are between 25 and 49 years old. The older antique autos would pay \$6 per year, and the others would pay \$12 a year. Antique motorcycles would be divided into two age categories with registration fees of \$2.40 and \$12 per year. A provision is also made for vehicles other than automobiles and motorcycles, such as World War II jeeps. These fees would be based on weight with a maximum registration charge of \$31.20. The Transportation Committee recommends ought to pass with amendment.

SENATOR JOHNSON: I am going to vote against ought to pass with amendment on this bill because what I heard during the testimony was that the reason that they are jacking up the fees is because of the perception of abuse of the vehicles. It seems to me that they should take care of the abuse as a separate matter and not think that just because raising the fees will satisfy the abuse that is allegedly being used. I would hope that we would not pass this as amended. I would then make a substitute motion of inexpedient to legislate.

Question is on the committee report of ought to pass as amended.

A division vote was requested.

Yeas: 0 - Nays 22

Amendment failed.

Senator Johnson moved inexpedient to legislate.

Adopted.

HB 639 is inexpedient to legislate.

HB 676-FN-A, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor. Transportation Committee. Vote 6-0. Ought to pass with amendment, Senator Gordon for the committee.

1999-1829s**05/10****Amendment to HB 676-FN-A**

Amend RSA 266:1-a, I as inserted by section 1 of the bill by replacing it with the following:

I. The commissioner of safety shall establish a force of motor vehicle inspectors to assist the director in enforcing the motor vehicle inspection laws and rules. A motor vehicle inspector appointed by the commissioner pursuant to this section shall be a peace officer, certified under RSA 188-F:26, and shall be dedicated to enforcement duties related to the inspection process, including inspection station auditing, investigation of alleged inspection station malfeasance, rejected vehicle follow-up, and sticker monitoring. A motor vehicle inspector appointed under this section shall have the authority to enter any motor vehicle inspection station authorized under RSA 266:1, during the station's business hours, to fulfill his or her duties.

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

SENATOR GORDON: House Bill 676 establishes six positions for motor vehicle inspectors who will be directly responsible for monitoring inspection station compliance and enforcing inspection violations. These positions will be funded through the highway fund. Passage of HB 676 is important, as it is integral to the agreement made under the requirements of the Clean Air Act for a comprehensive vehicle emission-testing program. This bill will avoid a much more expensive emission-monitoring program. House Bill 676 has the support of the federal EPA, the NH Department of Environmental Services, and the New Hampshire Traffic Safety Commission. The Transportation Committee recommends that HB 676 be ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 698-FN-L, restricting fees for registration permits for certain vehicles. Transportation Committee. Vote 6-0. Ought to Pass, Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 698 restricts registration permit fees for vehicles which are transported exclusively on a trailer from site to site and are not operated on a public way. The current fee for backhoes and front end loaders is supposed to be \$5; however, there are some town clerks that have been misinterpreting the statute, and have charged up to \$12,000. House Bill 698 cleans up the definition of Highway Building Equipment, and raises the registration permit fee to be based on weight. This legislation has the support of the General Contractors and no one testified in opposition.

Adopted.

Ordered to third reading.

HJR 6, encouraging the revitalization of the northern rail line from Concord to Lebanon. Transportation Committee. Vote 5-2. Rereferred to Committee, Senator McCarley for the committee.

SENATOR MCCARLEY: While there is strong support from the Department of Transportation, the governor and rail enthusiasts around the state for this bill, the committee at this time is recommending that we rerefer the bill, because a couple of the Senators for which this will be

going through... would like the opportunity to spend some time with their towns discussing impacts and what have you, so they are simply asking to have the bill rereferred until January after having that opportunity over the summer to discuss it and expect that it will indeed be supported. We recommend that it be rereferred.

Adopted.

HJR 6 is rereferred to the Transportation Committee.

HOUSE MESSAGE

The House of Representatives has passed a Bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 2-FN-A, relative to state fees, funds, revenues, and expenditures.

SUSPENSION OF THE RULES

Senator Hollingworth moved that **HB 2**, relative to state fees, funds, revenues, and expenditures, be introduced at the present time.

Adopted by the necessary 2/3 votes.

SUSPENSION OF THE RULES

Senator Hollingworth moved that the Rules of the Senate be so far suspended as to allow a committee report not in the calendar, the suspension of a hearing and the five day requirement of the hearing, and notice of said hearing in the calendar and further Rules suspension that the bill be on third reading at the present time.

Adopted by the necessary 2/3 votes.

HB 2, relative to state fees, funds, revenues, and expenditures. Finance Committee. Ought to pass.

SENATOR HOLLINGWORTH: TAPE INAUDIBLE

Adopted.

Ordered to third reading.

Senator Roberge (Rule #42).

Senators Brown and Krueger in opposition to HB 2.

HB 112, relative to state taxes and other sources of revenue for funding an adequate education; relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education and a tax equity and efficiency commission, and making appropriations therefor. Finance Committee. Vote: 6-2. Ought to pass with amendment, Senator Squires for the committee.

1999-1845s

09/10

Amendment to HB 112-FN-A

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

AN ACT increasing the tobacco tax and dedicating a portion of tobacco tax revenues to tobacco use prevention and cessation programs and establishing a tobacco use prevention advisory committee.

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

1 Cigarette Tax. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [37] 52 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

2 New Subdivision Heading; Disposition of Tobacco Tax Revenues; Special Fund. Amend RSA 78 by inserting after section 31 the following new subdivision heading:

Disposition of Revenues

3 Tobacco Tax; Disposition of Revenues. Amend RSA 78:32 to read as follows:

78:32 Distribution of Funds.

I. The commissioner shall determine the additional amount of revenue produced by any additional tax in excess of 37 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state imposed by RSA 78:7 and shall certify such amount to the state treasurer by October 1 of each year. Of this additional amount, \$3,000,000 shall be deposited at the end of each fiscal year beginning June 30, 2000 in the tobacco use prevention and cessation fund established in RSA 78:33 and the remainder shall be for deposit in the education trust fund established by RSA 198:39.

II. The commissioner shall make quarterly estimates of the amount of additional revenues *available for deposit in the education trust fund* that will be produced by such increase in tax rate for the next fiscal year and shall certify such amount to the state treasurer for deposit in the education trust fund established by RSA 198:39. Such estimates shall be certified on June 1, September 1, December 1, and March 1 of each year.

78:33 Tobacco Use Prevention and Cessation Fund. There is established within the office of the state treasurer a nonlapsing, continually appropriated tobacco use prevention and cessation fund. \$3,000,000 annually shall be appropriated to the department of health and human services for tobacco use prevention and cessation programs and shall be allocated as follows:

	<u>Percentage</u>	<u>Amount</u>
I. Tobacco use prevention community programs and grants	25	\$750,000
II. Tobacco use prevention school programs and grants	18	\$540,000
III. Tobacco use prevention state-wide programs and grants	15	\$450,000
IV. Tobacco use cessation programs	15	\$450,000
V. Tobacco use prevention and cessation counter marketing	18	\$540,000
VI. Evaluation	5	\$150,000
VII. Administration and enforcement	4	\$120,000

4 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (vvv) the following new subparagraph:

(www) Three million dollars of the annual gross revenues of the tobacco tax collected under RSA 78, which shall be credited as provided in RSA 78:32 to the tobacco use prevention and cessation fund established under RSA 78:33.

5 Applicability. This act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 1999, shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

6 New Subdivision; Tobacco Use Prevention Advisory Committee. Amend RSA 126-K by inserting after section 14 the following new subdivision:

Tobacco Use Prevention Advisory Committee

126-K:15 Advisory Committee.

I. There is hereby established a tobacco use prevention advisory committee to advise the department of health and human services on the criteria for the expenditure of funds available from the tobacco use prevention and cessation fund and on expenditure proposals submitted to the department.

II. The committee shall consist of the following members:

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

(b) A member of the house of representatives, appointed by the speaker of the house.

(c) One representative of the New England affiliate of the American Heart Association.

(d) One representative of the American Lung Association of New Hampshire.

(e) One representative of the New England division of the American Cancer Society.

(f) One representative of the New Hampshire Medical Society.

(g) One representative of a community law enforcement agency.

(h) One representative of the New Hampshire School Nurses Association.

(i) One representative of the New Hampshire Hospital Association.

(j) One representative of the New Hampshire health educators.

(k) Two representatives of the Smoke Free New Hampshire Alliance, of which one shall be a minor and one shall be a community coalition member.

(l) One representative of the Norris Cotton Cancer Center.

(m) The commissioner of the department of education, or designee.

(n) One representative appointed by the New Hampshire liquor commission.

(o) Three public members, appointed by the governor.

(p) The commissioner of health and human services.

III. The members in subparagraphs II(c)-(l) shall be appointed by the commissioner of health and human services. The commissioner of health and human services shall call the first meeting of the committee and shall serve as chairperson of the committee.

IV. The tobacco use prevention advisory committee shall annually submit a report of its work, findings, and any recommendations for the purpose of legislation or other state policy to the speaker of the house,

president of the senate, house clerk, senate clerk, the governor, the commissioner of education, the commissioner of health and human services, and the state library on or before August 15.

7 Effective Date. This act shall take effect July 1, 1999.

1999-1845s

AMENDED ANALYSIS

This bill increases the tobacco tax by 15 cents. The bill dedicates \$3,000,000 of the increase in annual tobacco tax gross revenues to a tobacco use prevention and cessation fund and the remainder to the education trust fund. The bill establishes a tobacco use prevention advisory committee.

SENATOR SQUIRES: In the late 1930s this legislature transformed the tax structure of New Hampshire by enacting a tax on tobacco products. In so doing, it laid to rest the state's statewide property tax, which as a historical note, remained comatose until this session when it was revised and resuscitated. Now the purpose of this action, that is the enactment of the tax on tobacco products, was to meet the state's need to fund public education at least as perceived in the late 1930s. The state achieved this purpose and it did it by a price structure that encouraged and enticed the public to smoke. The revenues from this tax structure have, since that time, brought the general fund of the state of New Hampshire hundreds of millions of dollars. Regrettably, not one cent of general fund expenditures has ever been appropriated to address the outcome and the problems and the abuse of the use of cigarettes. In fact, we haven't even made any attempt, except for a small amount of money from the CDC, to address this issue. Now this might be forgivable up until the middle part of the 1960s, at which time the Surgeon General's report demonstrated the relationship between cigarette smoking and a host of medical problems. Instead of that in a manner of speaking, our state became addicted to these revenues, while our citizens became addicted to smoking. Especially being afflicted, young people in general, and young women in particular. We have one of the highest rates of smoking among teenage girls of any state in the union. In the meanwhile, and in the meantime, in our nursing homes, languish those who are incapacitated by lung cancer, emphysema and heart disease. So here matters stood until last year, when two significant events occurred. First of all, data from California, Oregon and Massachusetts, demonstrated the effectiveness of the funding of the tobacco programs for cessation and prevention with an increase in the cost of cigarettes results in a reduction in consumption, which is what we ought to be doing. Secondly, New Hampshire stood ready to receive an annual amount of \$40-\$50 million from the National Tobacco Settlement. What did we do? Well we looked backwards. We thought that we would learn something from Medicaid revenues. So as I stand here, we have taken all of the money from the Tobacco Settlement and placed it for the use of nonhealth care related issues. We have ignored the data that shows the effectiveness of tax increases and educational programs. The issue with the Tobacco Settlement Fund, the way that we dealt with it is diametrically opposed to those who brought the suit and the basis upon which it was argued. House Bill 112 is a small attempt, as amended, to correct this shameful policy. For the first time in 60 years, we are going to commit some funds to smoking cessation and prevention. It is not about education funding. We can pass this bill and still have a problem with education funding. What it is about is a public health measure to correct a grievous wrong while offering our youths a chance to escape a terrible and often

malignant future. I urge you to pass this bill in the interest of the public, and let us redeem ourselves in some manner from what we did to the tobacco settlement, which I maintain, is wrong and shameful and not in keeping with the reasons that we received the money in the first place. Thank you.

PRESIDENT BLAISDELL: Senator Squires, you should be commended for your ethics on the part of the people who are really affected by this, and I congratulate you.

SENATOR SQUIRES: Thank you.

SENATOR F. KING: I rise in opposition to the passage of this bill. I think that what Senator Squires intends to do is the right thing. I think that we need to recognize that it has to be done, but I doubt if any of us here in this hot room today, think that by July 1, that we will have completed our work and have gone home. I think that we need to reflect on where the finances in the state of New Hampshire are today. This is the way that I see it. We have passed a budget that requires some \$2 billion in general fund expenditures. When we passed that bill, we had about \$1 million in surplus, into a \$2 billion budget. We have since increased that surplus somewhat due to policy bills that required money that didn't make it through the process, and then we spent some more money. Today, as of this morning, we are looking at \$168,769,500 deficit in the education plan. We picked up a little money because of the utility tax change, but 117 as it was passed, had about a \$90 million deficit, and it assumed \$96 million in cigarette tax revenue and \$5 million in additional cigarette tax revenue. So today we are looking at \$168 million problem. We owe it to ourselves and to those who are going to be in this legislature in the future, to understand what is going to happen in the next biennium 2002-2003. There is \$136 million that we are going to spend now that won't be available then, so we have a major, major problem with funding the education issue. We have to deal with that, and hopefully, we will be able to come back in July and spend some time to try and resolve the issue. There are three choices that I see that we have. One, we can fund education with existing revenue for the first year of the biennium, and come back in January and face a \$100 plus - million problem. We can reduce the amount of money that we are going to spend on education, or we can find a substantial source of revenue to pay the bill. We have to do one of those three things, or we are going to have some serious problems before the summer is over and into the fall with our pondering. **TAPE CHANGE** the motivation for the funding for the health is important and should be taken care of when they make the final decision, that is the appropriate thing to do. When I take a look at the bills that we have available, this is the one unique bill that the Senate has that we can work with for educational funding. If we pass it today and it is gone, I don't know where we will look for a money bill to deal with the problem that we have got. So I think that it would be more prudent if we would simply not pass this bill and keep HB 112 around so that we can come back in two or three weeks and see if we have the courage to really solve the problem. That is what we should do. Senator Squires is absolutely right. We never, never, should have spent \$40 million of the tobacco settlement on education, and leave the issues of health untouched. That was the wrong thing to do, we should have faced the problem that we had. We should have dealt with it like we tried to and done the right thing. To try and do it now and get rid of this bill now, for \$23-26 million or whatever it is, is just a drop in the bucket with the problem that we have. Thank you very much.

SENATOR HOLLINGWORTH: I will only talk briefly. Senator King was accurate on everything. When he gets to the \$168 million as the whole, he is not attributing any money to the cigarette tax. I have done some of the calculations, and I have attributed 13.5 cents to the tobacco tax. If we did do that, the difference between the House's \$48 million each year and our \$23 million that we would derive from the 13.5 cents, leaves us with a \$25 million hole each year, or \$50 million. The House was able to...actually it wasn't the House...it was the Legislative Budget Accountants and others who discovered that we had miscalculated on the nuclear tax. In fact, we have \$22.5 million that can be added as revenue to HB 117. So the hole, as I see it, is not \$168 million, but about \$120 million. Senator King is right, it is not going to be solved by passing the cigarette tax, but, I served, regrettably now...in hindsight sometimes we all think of different things, but I served on the Committee of Conference on HB 117, and during that negotiation of that bill, the cigarette tax came up. While I told them, and said publicly at that time, that I did not believe that the Senate would support the full 25 cents because we had not had a vote on it, but we had discussed it several times. I stated that I felt that there was some amount of money that the Senate would be willing to support and I went as far, I believe, as to say that I thought that it would be somewhere from 12-18 cents. What the consensus of the Finance Committee and talking to other Senators has been, is that the Senate has no tolerance for anything above 15 cents. So that is what you see today, is 15 cents and 1.5 of that goes to the cessation. I agree with Senator Squires, he couldn't be more right, and the same to Senator King. I cannot find fault with either of their statements whatsoever; but I do think that we did in the Committee of Conference, commit to some amount of money coming out of the Senate and going towards the education fund. So at this time I would ask you to support the majority of the Finance Committee. I think that this has been one of the only bills that you haven't seen an 8-0...one of the very few, there have been others, but one of the very few bills that you have seen come out of Finance that we haven't been able to get a consensus of the full committee. So I do ask you to support this. There are a couple of floor amendments that will be brought to you to address a couple of other things that we feel are very important. At this time I would ask you to vote for the bill as it is presented in the calendar.

SENATOR JOHNSON: I rise in opposition to the 15 cent increase in the cigarette tax which would bring us to 52 cents a pack. My reasons, I guess, are as follows. I think that we have an over reliance on tobacco as a source of revenue for education funding. We are looking at \$30 million from the proposed 15-cent increase, \$40 million from the tobacco settlement, \$16 million from the so-called signing bonus, \$8 million from the floor tax. Now that comes to a whopping \$94 million. Cigarette smokers have been singled out to bear a disproportionate burden, which further exacerbates their aggressive nature of the tobacco tax. It is an unreliable source of revenue. The floor tax of \$8 million does not exist in the second year of the biennium. The 12 cent increase last year caused a decrease in anticipated tobacco tax revenues already. Vermont's tax is 44 cents, would be lower than New Hampshire's tax of 52 for the first time ever. This would reduce the incentive of the Vermonters to make their cigarette purchases in New Hampshire, thus eroding New Hampshire tobacco tax revenues. Listen to what others have to say. The *Fos-ters Daily Democrat* said, "We are beginning to think that a cigarette tax is a short-sited approach. New Hampshire is beginning to act as if the

cigarette tax is the bottom of the fifth into which it can thrust its hand whenever it needs additional money." I simply think that it is bad business, negative economic impact on hundreds of small stores in New Hampshire. I believe on the western border, which includes your territory, Mr. President, there are 26 towns that would be affected on the border. I also, in my district, I have a significant part of my territory, which borders Maine. So this sends the wrong message. The New Hampshire health policy is "don't smoke". The New Hampshire tax policy is "smoke more to raise more for education." These policies are confusing and contradicting for New Hampshire, and as far as the revenue for education, I would certainly agree that probably the \$540,000 tobacco use prevention school programs and grants would probably do some good. I think that the rest of that... I just can't see where it would have an impact. I would be willing to vote today for an increase of somewhere between one and three cents, but that is probably not realistic in this body, but I also agree with Senator King that we probably should hold this bill and have it ready for what we may need it for in the future. Thank you.

SENATOR GORDON: I have no objection to voting for increasing the cigarette tax and would do so as long as I knew specifically its purpose. If I were standing here and asked to vote simply for the education and cessation programs, I would be voting for the money to fund those today. However, I am being asked today to increase the cigarette tax 15 cents. Like you, I have received a tremendous number of calls over the last week, and I have gotten calls from both sides of this issue, but I haven't gotten one single call that says that we ought to fund this with 15 cents. I have gotten calls from people who said that we should agree with the House position, and that we should raise the cigarette tax to 25 cents, or as much as we possibly can, to stop people from smoking, and then on the other hand, I have gotten people who have said that we shouldn't be raising this tax at all. But I did not receive any calls that said that we should raise this tax 15 cents. I am trying to figure out why that is, that we are raising it 15 cents. I have to agree with my North Country colleagues that if we are going to be using this money to fund education, we should be coming in with a comprehensive plan to fund the deficit for education, and we should find out what role the cigarette tax is going to play in that, and at that time decide how much tax money that we need and what the tax should be. We shouldn't decide, just because it sounds like a round number, or it just happens to be the number that 13 Senators will vote for, that it ought to be 15 cents. I don't think that is the way that we should make public policy; therefore, I am going to vote against it, and would encourage others to do so as well.

SENATOR HOLLINGWORTH: Senator Johnson, I just wanted to ask you...you do know that Vermont has a sales tax which brings their per pack to 59 cents, and that if we increase it, ours is only raised to 52, so that it is still below Vermont?

SENATOR JOHNSON: Senator Hollingworth, it is my understanding that their sales tax is in the 5 percent area, so if you add that to the 44 cents, that only brings it up to 46.5 cents.

SENATOR HOLLINGWORTH: I believe that there is a sales tax in Vermont at 15 cents.

SENATOR FERNALD: Senator Hollingworth, it was my understanding that the Vermont tax was 59 cents a pack, and the sales tax is on top of that, am I incorrect?

SENATOR HOLLINGWORTH: You are incorrect. I believe that it is at 44 cents per pack and 15 cents on top of that, so it comes to 59 cents.

SENATOR FERNALD: Thank you.

SENATOR DISNARD: I don't smoke cigarettes, and I haven't seen any members of our Senate that smoke cigarettes, but yet, I don't know how many are confirmed non-smokers now and want to punish the people who smoke. I have a concern, I live in the area similar to some of the Senators that will be affected by this. I have heard from some leadership in the Senate that the communities on the western border, the small stores, could lose 4 percent of their income. What does that mean in an area such as Sullivan County where there are low paying jobs? Jobs are going to be lost. **TAPE INAUDIBLE** how much did the federal government raise a carton of cigarettes within the year? A huge amount of money. Who buys cigarettes? I have low-income members in my family, and many of us had low income at one time, but the working man, the man who doesn't make the high salaries, he and she enjoy their cigarettes. Why call it a health issue, therefore we should punish people? Why don't we do as Senator Squires says, and take some money, even a small tax, if it has to be that, to educate our young people who are not confirmed smokers, to the non-benefits of smoking? Can you guarantee me Senators, that the Committee of Conference won't come back and want 25, 30 or 40 cents? Some of us are very concerned about the trade. Now I hear 3, 4 or 5 cents won't make a difference if ours is under Vermont. Well I am telling you that if you live over in that area and you talk to the people, they come over to buy lottery tickets, we get income. They come over and then they buy beer, we get income. The alcohol area can't tell me, the lottery division can't tell me how much loss there will be if they lessen the amount of those tickets that they purchase. There is just too many unknowns. I know that I am shoveling water against the tide in Hampton Harbor, but remember that those people have been hit hard enough. Educate them, not tax and punish them.

SENATOR JOHNSON: Senator Disnard, in your area, would you agree with me that there are some of those small convenience stores like in my area, that 50 percent of their gross income is from cigarette sales?

SENATOR DISNARD: They certainly do and they are full-time and part-time jobs.

SENATOR JOHNSON: Thank you.

SENATOR BROWN: Like Senator Disnard, I have also never smoked, but I oppose this bill. The original tobacco tax was instituted in order to eliminate the statewide property tax. Now we re-institute a statewide property tax and increase the tobacco tax. I don't think that is right. Smokers are essentially, subsidizing nonsmokers in their general tax obligations. Let me ask you this. It may be politically correct to tax smokers, who will it be politically correct to tax next? Thank you.

SENATOR FERNALD: Senator Johnson, I agree with you that a cigarette tax is an unreliable form of taxation to support the schools. Could I assume that you will support the income tax as a reliable source of funding for education that will allow us to eliminate the statewide property tax?

SENATOR JOHNSON: I think that I have said in the past that all my options are open.

SENATOR FERNALD: Thank you.

PRESIDENT BLAISDELL: Senator Johnson, I think that I would like to talk to you next week about that.

SENATOR KLEMM: I rise in opposition to this bill. I agree with almost everything that all of the previous speakers have said, including Senator Squires, on the education part of this bill; however, I feel that we should do this as a whole package and not piece-meal. There are a couple of things in this amendment that I don't agree with. 1) In this amendment there is a floor tax as of July 1. I want to know how the retailers are going to know about this tax that they are supposed to be paying and how they are supposed to inventory their stock without knowing? 2) The ink isn't dry on 117, and already we are making exceptions under this amendment. All of the money from the tobacco tax was supposed to go to education, but now we are making exceptions for Senator Squire's 3 cents. Senator Hollingworth already said that there are going to be more floor amendments offered, so already we are making exceptions. 3) I don't believe that the money that they say this tax will raise will actually come. Originally this bill was supposed to raise \$48 million. Well if you remember in the last budget cycle, the same 25 cents was supposed to raise \$48 million. We already took 12 cents of this raise in the last budget. Since the new tax was instituted last July, our sales have been down...our gross sales have been down 4 percent, and they are only going to go down more. For all of these reasons, I am opposed to HB 112.

Question is on the adoption of the committee amendment.

A roll call was requested by Senator Francoeur.

Seconded by Senator Klemm.

The following Senators voted Yes: Fraser, McCarley, Trombly, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Disnard, Roberge, Francoeur, Krueger, Brown, Klemm.

Yeas: 14 - Nays: 9

Amendment adopted.

Senator McCarley offered a floor amendment.

Sen. McCarley, Dist. 6

Sen. Hollingworth, Dist. 23

Sen. Squires, Dist. 12

June 29, 1999

1999-1885s

09/10

Floor Amendment to HB 112-FN-A

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

AN ACT increasing the tobacco tax and dedicating a portion of tobacco tax revenues to tobacco use prevention and cessation programs, establishing a tobacco use prevention advisory committee, transferring funds to the legislative budget assistant for tax policy simulation software, and authorizing certain transfers within the budget for the department of health and human services.

Amend the bill by replacing section 7 with the following:

7 Legislative Budget Assistant; Budget Surplus Transfer for Tax Policy Simulation Software. Notwithstanding RSA 9:13-e, \$1,000,000 of the surplus remaining at the close of the biennium ending June 30, 1999 shall be transferred for fiscal year 2000 to the legislative budget assistant's PAU 01-02-03-01, class 94, for tax policy simulation software. The funds transferred shall not lapse until June 30, 2001.

8 Transfer of Authority; Department of Health and Human Services. Notwithstanding any provision of law to the contrary, the commissioner of the department of health and human services may make transfers among any and all accounts and program appropriation units of the department of health and human services, with the exception of benefit appropriations which shall be limited to transfers between benefit appropriation accounts, as the commissioner shall deem necessary and appropriate to effect a reorganization of the department, address present or projected deficits, or respond to changes in federal laws, regulations, or programs and otherwise as necessary for the efficient management of the department.

9 Effective Date.

I. Section 7 of this act shall take effect June 30, 1999.

II. The remainder of this act shall take effect July 1, 1999.

1999-1885s

AMENDED ANALYSIS

This bill increases the tobacco tax by 15 cents. The bill dedicates \$3,000,000 of the increase in annual tobacco tax gross revenues to a tobacco use prevention and cessation fund and the remainder to the education trust fund. The bill establishes a tobacco use prevention advisory committee.

The bill transfers \$1,000,000 of the budget surplus for the biennium ending June 30, 1999 to the legislative budget assistant for tax policy simulation software. The funds transferred shall not lapse until June 30, 2001.

The bill also authorizes the commissioner of health and human services to make transfers among any and all accounts and program appropriation units of the department of health and human services.

SENATOR MCCARLEY: There are two parts to the floor amendment. House Bill 2 that we voted on a few moments ago, contained much of the language that we had expected to be in it. There was however, a floor amendment in the House that deleted one sentence from a section that provides the commissioner of Health and Human Services the ability to transfer among lines. When we passed our budget last week, the commissioner had indicated to the Finance Committee that he had some very, very serious concerns with regard to his provider pay line items. We knew that, and we asked him to the very best job that he could; however, his understanding of being able to commit to do that, and try to do it without any sort of a request next for a supplemental, involve the ability to give him some management flexibility relative to transfers within lines. That language has been added to the cigarette tax bill to reinstate what we hope was coming over on HB 2. The other piece that is attached to this is language that will not by the way, have any impact on the cigarette tax. It was referenced earlier that these amendments were going to have an impact on dipping into the cigarette tax increase. That is incorrect. We all experienced over the last six months, what it was like to be able to run simulations and learn information about our tax structure and how it works. The language added in this floor amend-

ment would put in \$1 million to come from the current surplus that is \$8.4 million to allow the legislative Budget Assistant to purchase software that will indeed allow us to do full analysis on any types of alternatives or changes to our tax structure. We have a tax equity commission in place and this will actually allow them to have that kind of support. I would encourage you to vote for the floor amendment. Thank you.

Floor Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: Fraser, McCarley, Trombly, Blaisdell, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Disnard, Roberge, Francoeur, Krueger, Brown, D'Allesandro, Klemm.

Yeas: 13 - Nays: 10

Adopted.

Ordered to third reading.

Senator Wheeler offered the following Resolution:

1999 SESSION

99-1054
10/09

SENATE RESOLUTION 9

A RESOLUTION urging the President and Congress to extend the Older Americans Act for a 3-year period.

SPONSORS: Sen. Wheeler, Dist 21; Sen. J. King, Dist. 18; Sen. McCarley, Dist 6; Sen. Hollingworth, Dist 23; Sen. Blaisdell, Dist 10; Sen. Larsen, Dist 15; Sen. Pignatelli, Dist. 13; Sen. D'Allesandro, Dist 20; Sen. Disnard, Dist 8; Sen. Cohen, Dist 24; Sen. Gordon, Dist 2; Sen. Roberge, Dist 9; Sen. Johnson, Dist 3; Sen. Brown, Dist 17; Sen. Trombly, Dist 7; Sen. Fraser, Dist 4; Sen. Klemm, Dist 22; Sen. Krueger, Dist 16; Sen. Squires, Dist 12; Sen. Fernald, Dist 11; Sen. F. King, Dist 1; Sen. Russman, Dist 19; Sen. Francoeur, Dist 14

COMMITTEE: [committee]

ANALYSIS

This senate resolution urges the President and Congress of the United States to extend the provisions of the Older Americans Act for a 3-year period.

99-1054
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

A RESOLUTION urging the President and Congress to extend the Older Americans Act for a 3-year period.

Whereas there has not been adequate time to complete a comprehensive study of the national goals and policies on aging as dictated by the Older Americans Act; now, therefore, be it

Resolved by the Senate:

That the President and Congress of the United States preserve the national goals and policies on aging as set forth in the Older Americans Act, by extending the Act for a 3-year period, which will provide time for substantive study and debate in Congress on any changes that have been or may be proposed; and

That copies of this resolution, signed by the president of the senate, be forwarded by the senate clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation.

SENATOR WHEELER: This is SR 9 and is being passed out to you. All the Senators that are present have signed onto it. This urges the President and Congress to extend the Older Americans Act for a three-year period. We passed this by a voice vote on March 17, and then it ran into a clerical problem, so it was not introduced into the House. Unless we pass this Senate Resolution today, it will die. We have many constituents who are very interested in having this passed. A very quick reminder, the Older Americans Act provides funding for a wide range of necessary programs, including, but not limited to, funding for nutrition services like Meals on Wheels, state and area agencies on aging, legal assistance, in-home services, such as homemaker and home health aides. That is just a few of the things that it does. I think that it is an important resolution for our older constituents. Since you have all signed onto it, I hope that you will vote yes.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 62-FN-A-L, relative to the acquisition of Umbagog Lake Campground in Cambridge, New Hampshire, and making an appropriation therefor.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 62-FN-A-L, relative to the acquisition of Umbagog Lake Campground in Cambridge, New Hampshire, and making an appropriation therefor.

Senator Disnard moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 113, establishing a division of travel and tourism development within the department of resources and economic development.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 113, establishing a division of travel and tourism development within the department of resources and economic development.

Senator Cohen moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 105, relative to continuation of coverage of health insurance.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 105, relative to continuation of coverage of health insurance.

Senator Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 93, relative to self-storage facility liens.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 93, relative to self-storage facility liens.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 209-FN-L, establishing a study committee on certain matters concerning superior court justices.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 209-FN-L, establishing a study committee on certain matters concerning superior court justices.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 201-FN, reclassifying non-support as a felony under certain circumstances.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 201-FN, reclassifying non-support as a felony under certain circumstances.

Senator Pignatelli moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 199, establishing certain standards of accountability for health maintenance organizations and other entities providing health insurance through a managed care system.

SENATE NON CONCURS WITH HOUSE AMENDMENT

SB 199, establishing certain standards of accountability for health maintenance organizations and other entities providing health insurance through a managed care system.

Senator Wheeler moved to non concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 411, requiring voters to present identification.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Robert Clegg
Mary Lou Nowe
Janet Arndt
Robert Rodrigue

SENATE REFUSES TO ACCEDE TO HOUSE REQUEST

HB 411, requiring voters to present identification.

Senator Trombly moved to refuse to accede to the request for a Committee of Conference.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 252, establishing a committee to study all aspects of the condominium act established under RSA 356-B.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Keith Herman
Steve Avery
Tim McGough
Tara Reardon

**SENATE ACCEDES TO REQUEST FOR A
COMMITTEE OF CONFERENCE**

HB 252, establishing a committee to study all aspects of the condominium act established under RSA 356-B.

Senator Trombly moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Trombly, Disnard, Roberge

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 562, relative to the date of decision for appeals of zoning matters.

And requests a Committee of Conference:

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: David Hess
Priscilla Lockwood
Linda Foster
Anthony Simon

**SENATE ACCEDES TO REQUEST FOR A
COMMITTEE OF CONFERENCE**

HB 562, relative to the date of decision for appeals of zoning matters.

Senator Trombly moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Trombly, Wheeler, Roberge

1999-1859-EBA

03/01

Enrolled Bill Amendment to HJR 2

The Committee on Enrolled Bills to which was referred HJR 2

AN ACT urging that federal air pollution programs not punish early adopters of air pollution control technology.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HJR 2

This enrolled bill amendment inserts a missing word.

Enrolled Bill Amendment to HJR 2

Amend the first paragraph after the resolving clause by replacing line 2 with the following:

allocation of allowances or other items of commercial value, or any future reduction requirements; and

Senator Trombly moved adoption.

Adopted.

TAKEN FROM THE TABLE

Senator Larsen moved to have **HB 331**, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers, taken off the table.

SENATOR LARSEN: I want to explain a floor amendment which is currently being photocopied. It has recently come to our attention that the attorney general's office has been working with commissioner Kenison and commissioner Varney of the Department of Environmental Services. They have reached a memorandum of agreement under this. It is in regard to hazardous waste and surface water quality violations that are attributed to the Department of Transportation's Bureau of Traffic at the Concord facility during the 1996 summer construction season. Because of this violation, it has been documented that they must pay a sum of \$307,250 from the Highway Fund and make that charge payable to the Hazardous Waste Cleanup Fund. This is an agreed upon memorandum of understanding between the three agencies, and disciplinary action has been taken to resolve the actions which caused this environmental hazard. As a result, it is required that we pass this legislation today, which authorizes that payment from the Highway Fund into the Hazardous Waste Cleanup Fund. We are taking a bill, HB 331, which had been inexpedient to legislate, and replacing all of that language with this floor amendment in order to meet the requirements of the attorney general's office and the agreement of understanding. I urge you to vote this floor amendment to HB 331 as ought to pass.

Adopted.

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

Question is on the committee report of inexpedient to legislate.

SUBSTITUTE MOTION

Senator Larsen moved to substitute ought to pass for inexpedient to legislate.

Adopted.

Senator Larsen offered a floor amendment.

1999-1895s

05/01

Floor Amendment to HB 331

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

AN ACT addressing hazardous waste and surface water quality violations incurred by the department of transportation identified by the state department of environmental services, and making an appropriation therefor.

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

1 Hazardous Waste and Surface Water Quality Violations; Department of Transportation. Due to the discovery of hazardous waste and surface water quality violations attributed to the department of transportation's bureau of traffic at its Concord facility during the 1996 summer construction season, the sum of \$307,250 is required to satisfy said violations identified by the state's department of environmental services.

2 Appropriation. There is hereby appropriated the sum of \$307,250 to the department of transportation for the fiscal year ending June 30, 2000, for the purpose of section 1 of this act. The funds appropriated herein shall only be expended in accordance with the memorandum of understanding signed by the attorney general and the commissioners of the departments of environmental services and transportation. The funds hereby appropriated shall be a charge against the highway fund.

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

1999-1895s

AMENDED ANALYSIS

This bill addresses hazardous waste and surface water quality violations incurred by the department of transportation which were identified by the state department of environmental services, and makes an appropriation therefor.

SENATOR LARSEN: This floor amendment does what I previously explained.

Floor Amendment adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator McCarley having voted on the prevailing side moved reconsideration on **HB 684**, making adjustments to the fiscal year 1999 budget for the department of health and human services, whereby we rereferred it to the Finance Committee.

Adopted.

HB 684, making adjustments to the fiscal year 1999 budget for the department of health and human services.

Question is on the motion of rerefer.

Motion failed.

Question is on the motion of ought to pass.

SENATOR SQUIRES: This bill as it came off and amended, had to put in place the position of a specialist in the Insurance Department for long term care. The reason that the circumstances have changed from whenever it was, two hours ago, when we rereferred it, is that the House killed this about ten minutes ago. So the amendment, in our opinion, is no longer appropriate or needed here. The bill is going to be needed, we don't want to kill the bill. At this point, I need some advice. If I want to get rid of the amendment and keep the bill, I guess that I need to ask you to vote against the amendment.

SENATOR MCCARLEY: It seems to me that there is a floor amendment coming to this bill which will replace the entire bill including the title. The recommendation might be to simply have a yes vote on the ought

to pass as amended after which time there will be a floor amendment to replace the whole bill, including the title, so that we can deal with the technical corrections bill needed by DRA to enact HB 117.

Adopted.

Senator McCarley offered a floor amendment.

Sen. McCarley, Dist. 6

Sen. Larsen, Dist. 15

Sen. Hollingworth, Dist. 23

June 29, 1999

1999-1884s

09/01

Floor Amendment to HB 684

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

AN ACT requiring a 2/3 vote of both houses of the general court to increase the rate of the business enterprise tax and making technical corrections to 1999, HB 117.

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

1 Business Enterprise Tax; Super Majority to Increase Rate Added. Amend RSA 77-E:2 to read as follows:

77-E:2 Imposition of Tax. A tax is imposed at the rate of 1/2 of one percent upon the taxable enterprise value tax base of every business enterprise. *A 2/3 majority of those present and voting of each house of the general court shall be necessary to increase the tax rate under this section.*

2 Meals and Rooms Tax; Motor Vehicle Rentals. Amend RSA 78-A:3, XIV to read as follows:

XIV. "Motor vehicle" means a self-propelled vehicle designed to transport persons or property on a public highway that is required by law to be ~~itled and~~ registered for operation on public highways.

3 Utility Property Tax; Definitions. Amend RSA 83-F:1, Iv and V to read as follows:

83-F:1 Definitions. In this chapter:

IV. [~~"Utility property owner" means any person, partnership, limited liability company, association, corporation or other entity, their trustees or receivers appointed by any court, owning utility property.~~] *"Utility" means any person, partnership, limited liability company, association, corporation or other entity, their trustees or receivers appointed by any court, owning or possessing utility property, engaged in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude petroleum and refined petroleum products or combinations thereof, water, or sewage.*

V. "Utility property" means all real estate, buildings and structures, machinery, dynamos, apparatus, poles, wires, fixtures of all kinds and descriptions, and pipe lines located within New Hampshire employed in the generation, production, supply, distribution, transmission, or transportation of electric power or natural gas, crude petroleum and refined petroleum products or combinations thereof, water, or sewage subject to tax under RSA 72:6, 72:7 and 72:8, *but not exempt under RSA 72:23*; provided that no electric power fixtures which would otherwise be taxed under this chapter shall be taxed under this chapter if they are employed solely as an emergency source of electric power. "Utility property" shall not include:

(a) Water and air pollution control facilities exempt from local property taxation under RSA 72:12-a; ~~and~~

(b) *Water and sewer companies exempt from regulation as public utilities by the public utilities commissioner under RSA 362:4; and*

(c) Any other property which is not subject to local property taxation. 4 Utility Property Tax; Persons Liable. Amend RSA 83-F:4 to read as follows:

83-F:4 Persons Liable. The tax imposed by this chapter shall be assessed upon each *utility owning or possessing utility property. If an owner of utility property has filed an election pursuant to RSA 83-F:5, II, the tax imposed by this chapter shall be assessed upon each* person with an ownership interest in utility property, in the proportion that such person's ownership interest bears to the entirety of the ownership in the property.

5 Utility Property Tax; Returns and Declarations. Amend RSA 83-F:5 to read as follows:

83-F:5 Returns and Declarations.

I. On or before January 15 each year, each utility ~~[property owner]~~ *or person liable for the tax* shall file with the commissioner of revenue administration, on a form prescribed by the commissioner, a return based on the valuation for April 1 of the prior year. The return shall be accompanied by the payment of such amount as has not been prepaid in accordance with paragraph III of this section. If the return shows an additional amount to be due, such additional amount is due and payable at the time the return is filed. If such return shows an overpayment of the tax due, a credit against a subsequent payment or payments due, to the extent of the overpayment, shall be allowed.

II. *On or before April 15 of each year, a person with an ownership interest in the utility property, may elect to have the tax assessed in the proportion that such person's ownership interest bears to the entirety of the ownership in the property. If such an election is made,* on or before April 15 of each year, each utility property owner liable to pay the tax imposed by this chapter shall file with the department, on a form prescribed by the commissioner, a statement setting forth the amount of such person's ownership interest as of April 1. The statement shall include such additional information as the commissioner shall require and shall be signed by an authorized representative, subject to the pains and penalties of perjury.

III. For taxable periods ending before April 1, 2000, each utility *or* property owner liable to pay the tax shall, in addition, file a declaration on or before July 1, 1999 of the estimated tax to be assessed as of April 1 in the current taxable period, based on the equalized value of utility property used in the department's equalization report for April 1, 1998 accompanied by payment of 1/3 of the estimated tax due. Additional payments of 1/3 of the estimated tax shall be made on September 15, 1999 and December 15, 1999.

IV. For taxable periods ending after March 31, 2000, at the time the statement required by paragraph II is filed, each person *or utility* liable for the tax shall, in addition, file a declaration of the estimated tax to be assessed as of April 1 in the current taxable period, based on the tax assessed for the preceding taxable year, accompanied by payment of 1/4 of the estimated tax due. Additional payments of 1/4 of the estimated tax shall be made on June 15, September 15, and December 15.

V. As of June 1 of each year the ~~[principal owner of]~~ utility ~~[property]~~ shall file a list of the changes made to the utility property since the prior

April 1 *of the preceding year*. This statement shall include such additional information as the commissioner shall require and shall be signed by an authorized representative, subject to the pains and penalties of perjury.

VI. Taxes and estimated taxes not paid when due shall be subject to appropriate penalties and interest under RSA 21-J.

6 Utility Property Tax; Records. Amend the introductory paragraph of RSA 83-F:6, I to read as follows:

I. Every person *or utility* liable for tax under RSA 83-F:4 shall:

7 Utility Property Tax; Administration. Amend RSA 83-F:7, I to read as follows:

I. The commissioner shall collect the taxes, interest, additions to tax and penalties imposed under this chapter ~~[-The commissioner]~~ *and* shall ~~[determine the expense of administration of this chapter and shall certify and]~~ pay over to the state treasurer for deposit in the education trust fund established by RSA 198:39 the amount of ~~[remaining balance of]~~ the funds collected ~~[under this chapter after the expenses of administration have been deducted]~~.

8 Utility Property Tax; Exemption from State Education Property Tax. Amend RSA 83-F:9 to read as follows:

83-F:9 Exemption from ~~[Local Taxation]~~ *State Education Property Tax*. Persons and property subject to taxation under this chapter shall not be subject to tax under RSA 76:3; provided, however, that nothing in this chapter shall be construed to exempt such persons or property from local school, municipal, district, or county taxation under RSA 76.

9 Reimbursement Anticipation Notes. Amend RSA 198:20-d to read as follows:

198:20-d Reimbursement Anticipation Notes. Notwithstanding any other provision of law to the contrary, a school district *or a city with a dependent school district* may incur debt in anticipation of reimbursement under RSA 186-C:18~~[-]~~ and ~~[a municipality may incur debt in anticipation of reimbursement]~~ under RSA 198:42. The governing body, after notice and public hearing, may elect to borrow such funds and to recognize the proceeds of the borrowing as revenue for property tax rate setting purposes by providing written notification to the commissioner of the department of revenue administration stating the specific amount of borrowing to be recognized as revenue. Any borrowing under this section shall be exempt from the provisions of RSA 33, relative to debt limits.

10 Determination of Per Pupil Adequate Education Cost. Amend RSA 198:40, I(a) to read as follows:

(a) The department of education shall calculate the base expenditure per pupil for each school district that operates an elementary school by subtracting from the total expenditures at the elementary school level, tuition to other school districts or approved educational programs, capital costs and debt service on such costs, special education costs, food service costs, transportation costs, *adult/continuing education and community services costs*, and federal revenues not otherwise deducted. For each school district, this amount shall be divided by the average daily membership in attendance at the elementary school level to attain the base expenditure per pupil.

11 Funding for Adequate Education Grants. Amend RSA 198:42 to read as follows:

198:42 Distribution Schedule of Adequate Education Grant; Appropriation.

I. The adequate education grant determined in RSA 198:41 shall be distributed to each municipality's school district or districts legally re-

sponsible for the education of the pupils who attend approved public schools within the district or in other districts *or who attend approved programs for educationally disabled children*, as the case may be, from the education trust fund in 4 payments of 20 percent on August 1, 20 percent on September 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the grant determined in RSA 198:41 shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department.

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA 198:41 is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education according to the following formula: from the amount calculated in accordance with RSA 198:40, III, subtract the aggregate amount of the education property tax warrants to be issued by the commissioner of revenue administration for municipalities reported pursuant to RSA 76:9 for the next tax year. *The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of adequate education grants.*

III. The department of education shall certify the amount of each grant to the state treasurer and direct the payment thereof to the school district. When a payment of a grant is made to a school district, the municipality on whose behalf the payment is made, shall receive notification from the state treasurer of the amount of the payment made to its school district or districts.

~~[IV. The governor is authorized to draw a warrant from funds not otherwise appropriated to satisfy the state's obligation under this section.]~~

12 Positions Established; Appropriations; Authority of Commissioner of Department of Revenue Administration Clarified. Amend 1999, 17:53, IV to read as follows:

IV. The sum of \$2,700,000 for the biennium ending June 30, 2001, is hereby appropriated to the department of revenue administration to fund the costs necessary to implement this act. *The commissioner is authorized to establish positions necessary to implement this act.* The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

13 Computation of Tax Increments; Current Assessed Value. Amend RSA 162-K:10, III (a) to read as follows:

III.(a) Each subsequent year the assessors shall determine *current* assessed valuation, and tax increments *and shall report them to the commissioner of the department of revenue administration* according to the following method:

(1) If the municipality retains the full excess captured assessed value for the development district the assessors shall certify to the commissioner of revenue administration, for the purposes of the report required by RSA 41:15, ~~[no more than the original assessed value of the real property in the development district]~~ *the current assessed value, as the basis to equalize annually the valuation of property throughout the state, and the full excess captured assessed value, to be de-*

ducted from the current assessed valuation for the calculation of the property tax rate. The assessors shall extend all rates as established by the commissioner of revenue administration under the provisions of RSA 41:15 against the current assessed value, including all captured assessed value. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes paid that year on real property in the district which the captured assessed value bears to the total current assessed value. The amount so remitted each year is referred to in this section as the tax increment for that year.

(2) If the municipality retains only a portion of the excess captured assessed value for the development district and returns the remaining portion to the tax lists, the assessors shall include ~~[the original assessed value and that portion of the captured assessed value which is shared with all the affected taxing district for purposes of determining the assessed value for computing rates. The commissioner of revenue administration shall compute the rates of all taxes levied by the state, county, municipality, school district, and every other taxing district in which the district is located on this aforementioned assessed value]~~ *the current assessed value, to be used as a basis to equalize annually the valuation of property throughout the state, and that portion of the excess captured assessed value which the municipality does not retain, to be deducted from the current assessed valuation for the calculation of the property tax.* The assessors shall extend all rates against the total current assessed value, including that portion of the captured assessed value which the municipality is retaining for the development district only. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes paid on real property in the district that the retained captured assessed value bears to the total current assessed value in the district. The amount so remitted each year is referred to as the tax increment.

(b) The general court finds that municipalities that have authorized and issued tax increment financing plan bonds under this chapter before April 29, 1999, or which have authorized and entered into contracts and incurred liabilities in reliance upon the tax increment authorizations under this chapter before April 29, 1999, have incurred obligations which must be honored. The general court recognizes also that in accordance with the intent of this chapter, such obligations were entered into in order to accomplish a public purpose and for the improvement of development in municipalities. Accordingly, the provisions of subparagraph III(a) shall not apply to tax increment financing plan districts which authorized and issued tax increment bonds under this chapter before April 29, 1999 or which authorized tax increment financing plan bonds under this chapter and entered into contracts and incurred financial liabilities in reliance upon such tax increment bonds before April 29, 1999.

14 Education Trust Fund; Transfer of Appropriations for Fiscal Year 2000. In lieu of the transfers required by RSA 77-A:20-a and 77-E:14, for fiscal year 2000, the state treasurer shall make quarterly transfers of \$19,125,000, based on estimates made by the commissioner of revenue administration, from the general fund into the education trust fund established in RSA 198:39. These transfers shall occur on the following dates: July 1, 1999, October 1, 1999, January 1, 2000, and April 1, 2000.

15 Department of Revenue Administration; Adoption of Temporary Rules.

I. Notwithstanding the provisions of RSA 541-A, the commissioner of the department of revenue administration shall adopt temporary rules relative to the following:

(a) The appraisals of property for ad valorem tax purposes pursuant to RSA 21-J:11.

(b) The utility property tax pursuant to RSA 83-F.

(c) The tax on motor vehicle rentals pursuant to RSA 78-A.

(d) The state education property tax pursuant to RSA 76.

(e) The responsibilities of the department of revenue administration as required in RSA 198:39-49.

II. The temporary rulemaking authority granted in this section shall be in effect for the period commencing April 29, 1999 and ending June 30, 2001.

16 Reimbursement for Vocational Education Transportation Costs. Notwithstanding the provisions of RSA 188-E:8 and RSA 188-E:9 of fiscal year 2001, the state shall reimburse a sending school district for 30 percent of its vocational education transportation cost for the preceding year as calculated in accordance with rules adopted by the state board of education. In the event that the provisions of RSA 198:41, I(b) remain in effect for the biennium beginning July 1, 2002, or any subsequent biennium the rate shall remain at 30 percent.

17 Appropriations. Amend 1999, 17:53, III to read as follows:

III. The sum of \$4,600,000 for the fiscal year ending June 30, 2000, is hereby appropriated to the department of revenue administration to reimburse municipalities for the increased administrative costs necessary to carry out the financial purposes of this act in accordance with part 1, article 28-a of the New Hampshire constitution. The amount to be distributed to each municipality shall be determined according to the proportion of state property tax assessed by such municipality to the total state property tax assessed; ***provided, however, that the percentage be adjusted within the appropriation so that no municipality shall receive less than \$12,000 in reimbursement. The commissioner of the department of revenue administration shall make such reimbursements based on a formula approved by the department of revenue administration, in consultation with the New Hampshire Municipal Association.*** Such amount shall be distributed on or before September 30, 1999. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

18 Appropriation. 1999, 17:53, VI as amended by 1999, 65:8 is repealed and reenacted to read as follows:

VI. Notwithstanding any other provision of law to the contrary, there is hereby appropriated the sum of \$500,000 from the general fund to reimburse municipalities for the actual costs of additional computer hardware and software necessary to implement the provisions of this chapter. The department of revenue administration shall, in consultation with the New Hampshire Municipal Association, prepare and submit, on or before October 1, 1999, a report to the joint legislative fiscal committee on the costs of incremental computer hardware and software needed by municipalities to implement this chapter. The department of revenue administration shall reimburse the municipalities only after the approval of both the fiscal committee and the governor and council. The governor is authorized to draw a warrant for such sums from funds not otherwise appropriated.

19 Effective Date.

I. Section 9 of this act shall take effect July 1, 1999 at 12:01 a.m.

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

1999-1884s

AMENDED ANALYSIS

This bill requires a 2/3 vote of both houses to increase the rate of the business enterprise tax.

The bill makes technical corrections to 1999, HB 117 (1999, 17) as amended by 1999, HB 300 (1999, 65).

SENATOR MCCARLEY: While we are getting the copies, this bill basically makes changes needed by the Department of Revenue Administration and the Department of Education to enact HB 117. It also returns a change in the BET tax to a super majority, which was part of the original discussions, and it was made on the House floor relative to doing that separate from the vote that we took on HB 117. The other material contained in this bill are...because we have repealed the utility property tax and are treating it differently, there needed to be some specific changes to the language to deal with the utility property taxes. There was also minor changes to some language that was literally dropped out of...relative to some DOE changes about adult and continuing education and community services. Finally, the part that probably we have had the most discussion on, relative to the technical questions bill, was to get an understanding of how we were going to be treating this and going forward with the tax increments funding plans. What we have chosen to do with this language is to indicate that because these plans have been something that has been certainly good for public policy in communities where they have adopted them and it has been agreed upon. Communities have entered into obligations, contractual obligations and have done bonding. This language will allow those communities that have done that to see no change in terms of how the education portion of their statewide property tax has an impact. So those changes are what is contained in this bill. At this point in time, the House obviously, is in a situation relative to timing and all, that they were under the impression that we were going to try to get this bill to them today as we were all trying to do as well.

Floor Amendment adopted.

Ordered to third reading.

COMMITTEE OF CONFERENCE REPORT

June 24, 1999

1999-1805-CofC

09/01

Committee of Conference Report on SB 30, an act relative to the cruelty to animals laws.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 644:8, IV-a as inserted by section 1 of the bill by inserting after subparagraph (b) the following new subparagraph:

(c) The provisions of RSA 284 shall not be affected by this section

The signatures below attest to the authenticity of this Report on SB 30, an act relative to the cruelty to animals laws.

*Conferees on the Part
of the Senate*

Sen. Wheeler, Dist. 21
 Sen. Trombly, Dist. 7
 Sen. Disnard, Dist. 8

*Conferees on the Part
of the House*

Rep. Weare, Rock. 21
 Rep. Mikowski, Rock. 29
 Rep. Fesh, Rock. 13
 Rep. Welch, Rock. 18

Senator Wheeler moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled bill: **SB 30**, an act relative to the cruelty to animals laws.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 227-FN, establishing a gambling business felony.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 227-FN, establishing a gambling business felony.

Senator Pignatelli moved to concur.

SENATOR D'ALLESANDRO: I rise in opposition to the motion just offered on the floor. I think that the following items have to be discussed and really gone over. Since that time that that bill went to the House, the United States Congress has enacted legislation. That legislation eliminated many of the features that were in SB 227, particularly the onus nature of forfeiture. The House in its wisdom also eliminated forfeiture, but I still believe that there are items in that bill that aren't consistent, they are more heinous than federal legislation. We have had a number of things happen since that bill passed that I think show quite conclusively that there is ample authority to crack down on the illegal gambling. We had a series of raids in the city of Manchester where gambling implements were taken. At this point, nobody has been charged with a crime. One of the reasons that I spoke out against that bill was that many times these kinds of invasion procedures take place, and nobody gets charged with a crime. What we are doing is further enhancing the situation by putting in the class B felony into effect. I don't think that it is wise legislation. We have ample laws on the books. We have ample laws to crack down on illegal gambling. We have severe penalties, it is class A misdemeanor, that is, a year in jail. We have the ability to fine, and we have the ability to confiscate property. It just seems to me that what we are doing is again, putting another item in place that isn't required, and we are over lawing, and that doesn't do anybody any good. In the long run, innocent people suffer. I brought out numerous occasions where people's property had been seized. People were never charged with a crime, and as a result, they had to go to court to get their materials back. So it was not a good situation, and it still is not a good situation. That bill should be looked at and examined. Yes, I am against illegal gambling, absolutely, but I think that bill is very far reaching. They have taken a portion of it and corrected it, but they haven't corrected the whole situation.

SENATOR JOHNSON: Mr. President this happens to be my bill that I brought forward and I want to speak about Senator D'Allesandro's non-concurrence. I want to stress again that this passed the Senate when the forfeiture issue was in there on a 17-7 vote. It went to the House and I stood outside the House there and I listened to the debate, and they tried to table it in the House, and that was defeated. A floor amendment, which took the forfeiture out, and passed by a good margin. So I think that we are listening to something here as kind of an end run by trying to bring the federal government into this. We like local control, and we like to think that we are independent in some areas, and this is one independent place where we can be independent. So I would say that we should vote this as Senator Pignatelli has brought it to the floor, to concur with the House as amended.

SENATOR PIGNATELLI: The Department of Safety, chiefs of police and the attorney general's office have urged us to consider adopting a felony, illegal gambling law for over two years now. Senate Bill 227 was already voted on by this body which passed it with a strong 17-7 vote. With that vote we send a strong message to organized crime that we will no longer tolerate their activity in this great state. This bill does deal solely with organized crime. Last week the House, on a vote of 177-122 approved a scaled down version of our original bill. The scaled down version took away the forfeiture provision that was voiced as a concern even with this body. It also amended the class B felony to include those who knowingly and unlawfully conduct a gambling activity which grosses more than \$2,000 in any one day, and accepts wagers in excess of \$5,000 in a 30 day period, and is in operation for ten consecutive days on the business premises. Although this may not be everything the Department of Safety, the chiefs of police and the attorney general's office had hoped for, it is an improvement over the present law. A major gambling operator who uses his or her business as a front for such illegal gambling, will not be in the same category as someone who places a bet or who plays a game of illegal poker. There is no one who will or can be charged under this bill with a felony unless they own, manage or supervise the business, and knowingly and unlawfully conduct a gambling activity of this major scale on the premises of the business. This bill is a step in the right direction. The attorney general, the commissioner of safety and the Association of Chiefs of Police, strongly urge that we concur. Do the right thing, please.

SENATOR FERNALD: Senator D'Allesandro said that we have federal law now that is different, but I didn't hear what any of the differences were, so it doesn't appear to be a substantial reason to vote against this scaled down version from the House. We also heard that forfeiture is bad. This bill, as amended by the House, has nothing to do with forfeiture. It simply says that the big wigs and the illegal gambling are subject to felony conviction. I think that it is a good bill, and I urge you to support it again as you did before.

SENATOR GORDON: Just briefly, Mr. President. As you recall and those that were here last year may recall, there was a bill that we were presented with, basically which would have banned video gaming machines in certain institutions, in clubs. That bill was hotly debated here in the Senate, and it was an issue, which generated a huge amount of emotion. I remember speaking in favor of that bill, even the Senate President at the time came down off of the floor and opposed it. The one thing that I remember that was said over and over again, is that we shouldn't ban these machines, this is an issue of enforcement. We should be enforcing

the law, if only we would enforce the law, there wouldn't be a problem. So this year, Senator Johnson comes in with a bill to enforce the law, and now that is a problem. That doesn't make any sense to me. I am going to support this because I think that it is the right thing to do and it is basically what I think that we were instructed to do last year.

Question is on concurring with the House.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Fernald.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Trombly, Roberge, Fernald, Squires, Pignatelli, Francoeur, Larsen, Krueger, Brown, Russman, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No: McCarley, Disnard, Blaisdell, J. King, D'Allesandro.

Yeas: 18 - Nays: 5

Adopted.

June 28, 1999

1999-1860-EBA

03/09

Enrolled Bill Amendment to HB 688

The Committee on Enrolled Bills to which was referred HB 688

AN ACT relative to the custody and escheat of abandoned and unclaimed property.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 688

This enrolled bill amendment inserts language from existing law omitted from the original bill.

Enrolled Bill Amendment to HB 688

Amend RSA 471-C:30, II as inserted by section 5 of the bill by replacing line 4 with the following:

treasurer] as a deduction for any costs and service charges which the state shall incur in escheat proceedings or with respect to reimbursements made pursuant to paragraph [VH] III. The administrator shall deposit this sum in the general fund.

Senator Trombly moved adoption.

Adopted.

CACR 6, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers, which are not prohibited by the state constitution, state statute, or common law.

Question is on the adoption of the final passage.

A 3/5 vote is necessary.

Adopted by the necessary 3/5 votes.

Ordered to third reading.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HJR 7, supporting the continued management of the White Mountain National Forest for multiple uses as a part of the National Forest System.

HJR 8, urging the Federal Regulatory Commission to change the structure of the New England Independent System Operator (ISO).

HB 56, establishing a procedure for reinstating corporations that have been administratively dissolved for more than 3 years.

HB 66, relative to disability retirement benefits for retirement system members permanently incapacitated for duty.

HB 414, establishing a committee to study the unclassified salary structure for state officers.

HB 245, relative to fees and appropriations to the division of safety services.

HB 313, relative to the regulation of the practice of optometry.

HB 379, setting up a study committee to study issues pertaining to the Sullivan county regional refuse disposal district.

HB 745, authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, and relative to the excess education property tax payment for certain municipalities.

SB 112, relative to the guardianship of minors.

SB 150, making certain reference changes to the department of youth development services.

Senator Brown moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 213, relative to voting by prisoners.

HB 272-FN, relative to the use of laser pointing devices.

HB 367, relative to requesting certifying scientists to appear at DWI hearings.

HB 739, eliminating the restrictions on the number of days bingo volunteers may serve.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 216, relative to release conditions pending trial for defendants in domestic violence, stalking or protective order violation cases.

HB 399, allowing the secretary of state to have flexibility in moving the date of New Hampshire's presidential primary and changing the filing period for declarations of candidacy for candidates for president and vice president at the presidential primary.

HB 492-FN-A-L, reducing the state bond guarantee limit for wastewater projects.

HB 596, making technical corrections to certain laws administered by the department of revenue administration, making the temporary rate of the meals and rooms tax permanent, and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.

HB 687-FN, establishing the criminal offense of identity fraud.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 399, allowing the secretary of state to have flexibility in moving the date of New Hampshire's presidential primary and changing the filing period for declarations of candidacy for candidates for president and vice president at the presidential primary.

Senator Brown moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives has passed a bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 707-FN, relative to the family division of the courts.

INTRODUCTION OF HOUSE BILLS

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered 707 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 707-FN, relative to the family division of the courts. **Finance**

HOUSE MESSAGE

The House of Representatives has passed a bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 653-FN-A, increasing the personal needs allowance of nursing home residents and residents of residential care facilities and community residences and making an appropriation therefore.

INTRODUCTION OF HOUSE BILLS

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered 653 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 653-FN-A, increasing the personal needs allowance of nursing home residents and residents of residential care facilities and community residences and making an appropriation therefore. **Finance**

ANNOUNCEMENTS RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the purpose of House Messages, introduction of bills, referring bills to committee, scheduling of hearings, Enrolled Bills Reports and amendments, and that when we adjourn we adjourn until Thursday, July 1 1999 at 10:00 a.m.

Adopted.

Third Reading and Final Passage

HB 2, relative to state fees, funds, revenues, and expenditures.

HB 89-FN-A, making an appropriation for a department of transportation study of the state house complex to evaluate space needs.

HB 112, relative to state taxes and other sources of revenue for funding an adequate education; relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education and a tax equity and efficiency commission, and making appropriations therefor.

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

HB 341, relative to the process for nonrenewal of teacher contracts.

HB 395-FN-A, establishing a program of matching grants to preserve historic agricultural structures in New Hampshire.

HB 451, establishing a committee to study first and second mortgage home loans.

HB 468, relative to the home rule powers of municipalities.

HB 525-FN, relative to special number plates for certain veterans.

HB 559-FN-A, authorizing vanity plates or decals for OHRV registrations.

HB 563, relative to names of limited liability partnerships and companies and cooperative associations.

HB 576-FN-A, establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor.

HB 584-FN, relative to administrative license suspensions.

HB 608-FN-A, establishing a New Hampshire emergency management response and recovery fund and making an appropriation therefor.

HB 616-FN-A, establishing a house study committee to consider issues related to the driver training fund.

HB 626-FN, relative to revising the laws regulating accountancy.

HB 652-FN, relative to victims' assistance, penalty assessments on criminal offenses, and establishing a surcharge on items sold at state prison commissaries which is continually appropriated to the victims' assistance fund.

HB 666-FN-A-L, relative to the taxation of sand, gravel, loam, and other similar substances.

HB 676-FN-A, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

HB 684, making adjustments to the fiscal year 1999 budget for the department of health and human services.

HB 685-FN-A, relative to the duties of the New Hampshire land and community heritage commission and making an appropriation therefor.

HB 698-FN-L, restricting fees for registration permits for certain vehicles.

HB 719-FN, relative to procedures regarding children in need of services.

HB 721-FN, relative to procedures regarding delinquent children under RSA 169-B.

HB 738-FN, making an appropriation to the department of administrative services for the purpose of reimbursing counties for providing prisoner custody in courthouses.

HCR 11, urging Congress and the Internal Revenue Service to modify tax laws to broaden the ability of taxpayers to make tax-deductible contributions to Nuclear Decommissioning Reserve Funds.

In recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has Re-Refered to committee the following entitled Senate Bills sent down from the Senate:

SB 11-FN-A, relative to the filing fee for securities in a combined prospectus offered for sale in New Hampshire by a mutual fund.

SB 29-L, relative to the proper sheltering of dogs.

SB 76-L, allowing certain municipalities to offer tax exemptions to foster commercial and industrial construction.

SB 86, relative to enforcement of the collection and payment of county taxes by the county treasurer.

SB 88-FN, relative to penalties for third driving while intoxicated offenses.

SB 89-L, relative to library trustees.

SB 143, relative to penalties for incest.

SB 153-FN-A, requiring that a percentage of profits derived by the liquor commission be placed into and continually appropriated to a special fund for alcohol education and abuse prevention and treatment programs.

SB 176-FN-A, relative to technology support for individuals and making an appropriation therefor.

SB 186-FN, relative to additional cost of living adjustments and increased minimum allowances for certain retired group II members, and relative to requiring spousal acknowledgement of a member's election of an optional retirement allowance.

SB 222-FN-A-L, relative to guarantee of loans to local development organizations.

SB 228-FN, relative to spousal benefits upon the death of certain retired group II members of the New Hampshire retirement system.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the following entitled Senate Bills sent down from the Senate:

SB 40, relative to the health care fund.

SB 68, establishing minimum 300 foot buffer zones around sensitive areas from application of herbicides, authorizing a study of environmental effects from residual herbicides and making an appropriation therefor.

SB 125, placing restrictions on name changes for certain felons.

SB 188-L, allowing school districts operating under the official ballot form of meeting to have more than one special meeting per year through court petition on an appropriation question or issue.

1999-1858-EBA

03/01

Enrolled Bill Amendment to HB 94

The Committee on Enrolled Bills to which was referred HB 94

AN ACT relative to enforcement of the child passenger restraint law.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 94

This enrolled bill amendment corrects the designation of a new RSA paragraph number.

Enrolled Bill Amendment to HB 94

Amend section 2 of the bill by replacing line 3 with the following:

IV. A driver who is under 18 years of age shall not be subject to license suspension for a

Senator Gordon moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 102, relative to payment of the premium tax.

SB 114, relative to health carrier disclosure of third party liability.

SB 182-FN, relative to eligibility for ordinary death benefits under the New Hampshire retirement system.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 112-FN-A, increasing the tobacco tax and imposing the tax on all types of tobacco products.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Donnalee Lozeau
Gene Chandler
Neal Kurk
Raymond Buckley

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 112-FN-A, increasing the tobacco tax and imposing the tax on all types of tobacco products.

Senator Hollingworth moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Hollingworth, McCarley, Fraser

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 158-FN, relative to indecent exposure.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 158-FN, relative to indecent exposure.

Senator Pignatelli moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Pignatelli, J. King, Gordon

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 187-FN-L, relative to payment of group health insurance premiums for eligible retired teachers in the New Hampshire retirement system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 187-FN-L, relative to payment of group health insurance premiums for eligible retired teachers in the New Hampshire retirement system.

Senator Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 195-FN-A, appropriating funds for sludge testing.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 195-FN-A, appropriating funds for sludge testing.

Senator Russman moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Keith Herman
Gene Chandler
Sheila Francoeur
Marie Hawkinson

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 331, relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

Senator Gordon moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Larsen, Pignatelli, Squires

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 341, relative to the process for nonrenewal of teacher contracts.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Jane O'Hearn
John Alger
Warren Henderson
Clair Synder

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 341, relative to the process for nonrenewal of teacher contracts.

Senator McCarley moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: McCarley, Hollingworth, J. King

1999-1896-EBA

08/09

Enrolled Bill Amendment to HB 410

The Committee on Enrolled Bills to which was referred HB 410

AN ACT relative to the enforcement authority of the department of environmental services.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 410

This enrolled bill amendment adds a missing numeral to an RSA sections reference.

Enrolled Bill Amendment to HB 410

Amend RSA 485-A:22, II as inserted by section 3 of the bill by replacing line 2 with the following:

485-A:4-6, or any lawful regulation of the department issued pursuant to this subdivision or

Senator Gordon moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 563, relative to names of limited liability partnerships and companies and cooperative associations.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: John Hunt
Keith Herman
Sheila Francoeur
Kathleen Taylor

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 563, relative to names of limited liability partnerships and companies and cooperative associations.

Senator Fraser moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Klemm, Wheeler, Fraser

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 584, relative to administrative license suspensions.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Andrew Christie
Donnalee Lozeau
Everett Weare
William Knowles

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 584, relative to administrative license suspensions.

Senator Gordon moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Pignatelli, McCarley

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 596, making technical corrections to certain laws administered by the department of revenue administration, making the temporary rate of the meals and rooms tax permanent, and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.

Senator D'Allesandro moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 616-FN-A, establishing a house study committee to consider issues related to the driver training fund.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Sherman Packard
Neal Kurk
Robert Letourneau
Raymond Buckley

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 616-FN-A, establishing a house study committee to consider issues related to the driver training fund.

Senator Gordon moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Pignatelli, McCarley

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

HB 89-FN-A, making an appropriation for a department of transportation study of the state house complex's space needs, and naming the newly constructed bridge on Route 135 between the towns of Haverhill and Bath in honor of Raymond S. Burton.

HB 525-FN, relative to special number plates for certain veterans.

HB 626-FN, relative to revising the laws regulating accountancy.

HB 658-FN, relative to certification, registration, and insurance requirements for recovery agents who assist bail agents and sureties.

HB 666, relative to taxation of sand, gravel, loam and other similar substances.

HB 721-FN, relative to procedures regarding delinquent children under RSA 169-B.

HB 741, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs.

1999-1913-EBA

04/01

Enrolled Bill Amendment to HB 670

The Committee on Enrolled Bills to which was referred HB 670

AN ACT establishing an advisory board to study the future of the New Hampshire automated information system's "Webster" Internet site.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 670

This enrolled bill amendment makes a technical correction to RSA 201-A:27, III as inserted by section 1 of the bill.

Enrolled Bill Amendment to HB 670

Amend RSA 201-A:27, III as inserted by section 1 of the bill by replacing line 1 with the following:

III. The terms of the members appointed pursuant to subparagraphs II(c), (g), and (h) shall be 3

Senator Gordon moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 676-FN-A, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Sherman Packard
Neal Kurk
Robert Letourneau
Christine Konys

SENATE ACCEDES TO REQUEST FOR A COMMITTEE OF CONFERENCE

HB 676-FN-A, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

Senator Gordon moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Pignatelli, McCarley

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 684, making adjustments to the fiscal year 1999 budget for the department of health and human services.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: David Hess
Warren Henderson
Mike Whalley
Christine Konys

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 684, making adjustments to the fiscal year 1999 budget for the department of health and human services.

Senator Hollingworth moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: McCarley, Hollingworth, Johnson

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 685, relative to the duties of the New Hampshire land and community heritage commission.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: David Hess
Warren Henderson
Mike Whalley
Christine Konys

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

HB 685, relative to the duties of the New Hampshire land and community heritage commission.

Senator D'Allesandro moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Larsen, Hollingworth, Russman

LATE SESSION

Senator Cohen moved that the business of the day being complete that the Senate now adjourn until Thursday, July 1, 1999 at 10:00 a.m.

Adopted.

Adjournment.

July 1, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

Sunday is Independence Day and the questions we always need to be asking is independent for what purposes? Who we are free from is much

less important that what we are free for. It's great for us to celebrate our independence from Britain, but it is so very important to recall that less than 90 years after declaring that independence, we used that freedom to strengthen one another at Gettysburg, start, on this every day, July 1. It's appropriate for this Senate to note and insist on its independence from the House. But it is good that yesterday and today, you and they have used your independence in a very special way. A Committee of Conference is a Declaration of Independence. You have reminded us all that we are free, not so that we can do whatever we want, but so that we can try together to do what is right.

O Lord, You have set us free, and given us each choices to make and responsibility for the results. Protect us from the temptation of trading in that authentic liberty for any counterfeit version that would allow me to do whatever I want, independent of what another might need. Amen.

Senator Fraser led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 225, relative to the definitions of the terms "farm," "agriculture," and "farming."

HB 231, relative to approval of applications in the charter schools pilot program.

HB 263, repealing the Northern New England Low-Level Radioactive Waste Management Compact.

HB 270, relative to persons not competent to stand trial.

HB 301, relative to burials and funerals at the New Hampshire state veterans cemetery.

HB 324, repealing certain grounds for granting a divorce for cause.

HB 356, relative to the issuance of summons and notice in CHINS petitions.

HB 364, relative to expenditure of funds received from the United States on account of national forest lands in this state.

HB 381, prohibiting any candidate from receiving the nomination of more than one party.

HB 421, relative to penalty provisions for the law regarding control of marine pollution, exotic aquatic weeds, and other aquatic growth.

HB 473, establishing a committee to study the non-group health insurance market.

HB 485, relative to the calculation of unemployment compensation benefits.

HB 486, relative to the physician effectiveness program.

HB 546, providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied.

HB 574, establishing a fisheries habitat fee required for persons obtaining a fishing license and continually appropriating the funds for fisheries habitats.

HB 606, relative to managed care programs under workers' compensation and relative to certain members of the compensation appeals board.

HB 675, extending the applicability of postsecondary educational assistance for New Hampshire national guard members and requiring an annual reporting from state-supported postsecondary institutions.

HB 688, relative to the custody and escheat of abandoned and unclaimed property.

HB 720, relative to the practice of midwifery.

HB 742, defining "domestic employee" for the purposes of worker's compensation.

HJR 2, urging that federal air pollution programs not punish early adopters of air pollution control technology.

SB 103, making certain changes in the insurance laws.

SB 107, relative to fees for examination of domestic societies and foreign societies.

SB 110, allowing for discharges of mortgages by affidavit of a New Hampshire attorney.

SB 118, relative to requirements for retail installment contracts for motor vehicle sales.

SB 159, relative to early reduction of greenhouse gases.

SB 164, relative to persons exempted from the registration of ophthalmic dispensers.

SB 168, adopting a model statute included in the tobacco litigation master settlement agreement.

SB 220, relative to the disclosure of child abuse and neglect information.

SB 230, relative to interstate school districts.

Senator D'Allesandro moved adoption.

Adopted.

NOTICE OF RECONSIDERATION

Senator Francoeur served notice of reconsideration on **SB 227**, establishing a gambling felony.

SUSPENSION OF THE RULES

Senator F. King moved that the Rules of the Senate be so far suspended as to allow a committee report not previously advertised in the Senate Calendar.

Adopted by the necessary 2/3 votes.

HB 464, relative to electric reduction financing. Energy and Economic Development Committee.

1999-1939s

03/09

Amendment to HB 464

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

AN ACT relative to electric rate reduction financing and relative to the duties of the public utilities commission.

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

1 Statement of Purpose.

I. The governor of the state of New Hampshire and Public Service Company of New Hampshire (PSNH) are in the process of finalizing a

settlement to resolve the outstanding issues concerning the implementation within PSNH's service territory of electric utility restructuring pursuant to RSA 374-F. The settlement proposal that results from these negotiations will include a component for securitizing a portion of PSNH's stranded costs.

II. It is important that the general court, through the declaration of purpose and findings of RSA 369-A:1, express its understanding of securitization and the criteria that are essential to meet prior to considering the authorization to use securitization. It is also important for the general court to hire a qualified independent consultant to assist it in reviewing any settlement agreement between PSNH and the state of New Hampshire and other matters related to electric utility restructuring.

III. Any legislation enacted in the future that enables the use of securitization will require the review and approval of the public utilities commission prior to a utility being able to issue rate reduction bonds. In order to facilitate the implementation of restructuring, it is important to enable the commission and the utility, under appropriate circumstances, to move forward with the review of utility restructuring plans that contain a securitization component.

2 New Chapter; Electric Rate Reduction Financing. Amend RSA by inserting after chapter 369 the following new chapter:

CHAPTER 369-A

ELECTRIC RATE REDUCTION FINANCING

369-A:1 Declaration of Purpose and Findings. The general court finds that:

I. Restructuring of electric utilities to provide greater competition and more efficient regulation has been found by the general court to be in the public good and New Hampshire is now aggressively pursuing restructuring and increased customer choice in order to provide electric service at lower and more competitive rates.

II. The transition to competitive markets for electricity is a complex endeavor and requires the development of creative and flexible mechanisms to facilitate the movement from monopoly to competition.

III. The establishment of structured financing options for public utilities will enhance and facilitate the expeditious transition to competition, choice for retail electric customers, and reductions in electric rates for all customer classes consistent with the near term rate relief principle of RSA 374-F:3, XI, without creating any debt or obligation of the state or other adverse impacts upon the state's finances or credit rating. Structured financing options may facilitate and help mitigate stranded cost recovery that the commission determines is appropriate, equitable, and balanced pursuant to authority granted in RSA 374-F:3, XII and 374-F:4.

IV. Structured finance options are best pursued in the context of settlement agreements between a utility and the state concerning the implementation of competition.

V. Rate reduction bonds are instruments underwritten for recovery by a guaranteed promise of customer repayment as part of the stranded cost recovery charge on a customer's bill. These bonds' irrevocable guarantee of repayment creates a secure expectation of performance and thus allows for an attractive rate of refinancing of a utility's stranded costs.

VI. Stranded costs are at some risk of not being recovered under traditional rate regulation and market pressures. Electricity prices in New Hampshire are so high as to cause some customers to aggressively consider fuel switching, conservation, or self generation. Technological

innovation may soon allow small scale self generation units to become increasingly viable in the near future. Over time, technological innovation will increasingly threaten the recovery of stranded costs.

VII. Once stranded costs are securitized through rate reduction bonds, a utility immediately recovers through a lump sum payment that portion of its stranded costs underwritten by the bond. As such, the risk of not recovering that portion of a utility's stranded costs is completely removed. The utility may then favorably recapitalize its debt structure taking advantage of its improved risk profile.

VIII. A lump sum payment derived from a rate reduction bond provides a large infusion of cash with which a utility will refinance its higher cost debt and equity, subject to commission approval as to application of proceeds. This infusion of cash may also afford a utility an enhanced opportunity to participate in restructured electric generation, gas, telecommunication, or other markets.

IX. The financial and security advantages that accrue to a utility in the form of improved debt structure, risk reduction, and new cash resources could make such a utility an attractive investment opportunity. Such utility's publicly traded stock value is likely to rise significantly, especially if such a utility had faced significant investor uncertainty.

X. The extraordinary benefits that utilities and their investors will receive through issuance of rate reduction bonds are appropriate and fair, but only to the extent that customers also receive equitable and extraordinary benefits. Unless these customer benefits can be achieved at the same time that utilities receive the extraordinary benefits of securitization, the use of revenue reduction bonds and the irrevocable obligation they create for customers is not in the public interest. The benefits to customers should be substantially consistent with the following principles:

(a) Customers should have the opportunity to choose among a range of competitive suppliers in a manner that promotes public trust in the benefits of competitive options. Public trust is not achieved if a utility uses rate reduction bonds to maintain a commanding presence in all of the traditional utility functions of transmitting, distributing, and generating electricity.

(b) Electricity prices should be consistent with RSA 374-F:3, XI, the near term rate relief principles for all customer classes.

(c) Electricity prices should approach the regional average as soon as practicable.

(d) Electricity prices should narrow rather than widen any rate gap for New Hampshire customers.

(e) There should be risk sharing by the utility of the non securitized portion of the utility's stranded cost should regional average prices not be approached as soon as practicable, and, in any event, substantially before the maturity of the securitization bonds.

(f) Any municipality shall be allowed to continue the process of establishment, acquisition, and expansion of plants according to RSA 38.

(g) Further renegotiations between representatives of the 6 wood-to-energy facilities and the one trash-to-energy facility, Public Service Company of New Hampshire, the public utilities commission, and other interested parties in order to reduce customer cost of this source of electricity should be encouraged.

(h) On or before the date a definitive agreement is filed at the commission, Public Service Company of New Hampshire (PSNH) shall offer to resolve any outstanding litigation and disputes that may exist with the New Hampshire Electric Cooperative (NHEC) on terms which produce rate reductions for NHEC customers which are comparable to rate reduc-

tions obtained by PSNH customers. Prior to legislative consideration of the authorization to use structured finance options, the general court expects that both PSNH and NHEC will resolve all outstanding litigation and disputes. The general court further expects that both PSNH and NHEC will negotiate in good faith to resolve outstanding litigation and disputes.

(i) Any dispute, litigation, or regulatory proceedings concerning any electric restructuring issue, in any forum where the utility's position is adverse to the state of New Hampshire or the commission should cease or be terminated prior to the finalized use of structured financing options.

(j) The commission should retain jurisdiction over any proposed settlement.

(k) Any proposed settlement should be filed at the public utilities commission prior to further legislative consideration of authorization to use structured financing options.

(l) The commission should consider the impact that structured financing options have on today's customers as well as future customers.

XI. End users shall continue to have the opportunity to generate electricity for their own use without an exit fee.

3 Review by the Public Utilities Commission of Utility Restructuring Plans Containing A Securitization Component.

I. The public utilities commission shall hold hearings to review any proposal that includes securitization that is part of a utility's compliance filing under RSA 374-F:4 or a settlement proposal. The commission shall, as part of the order that it issues addressing the compliance filing or settlement proposal, include a determination of whether the implementation of securitization as part of the utility's restructuring plan will result in benefits to customers that are substantially consistent with the principles contained in RSA 374-F:3 and RSA 369-A:1, X and with RSA 369-A:1, XI and the extent to which any rate reduction bonds issued pursuant to the securitization proposal would be successfully traded at favorable rates on the existing securitization market. The commission may issue an order on a settlement proposal which may include a conditional securitization order for legislative review.

II. The commission may not authorize any utility to issue rate reduction bonds without legislative authorization. Further, any commission order regarding securitization shall not create a presumption of legislative consideration of, or approval of the needed legislative authorization to use securitization. Any conditional securitization order shall not become effective unless and until the general court passes future enabling legislation.

4 Other Proceedings Before the Public Utilities Commission. In order to judge whether the settlement proposal between the governor and Public Service Company of New Hampshire is in the public interest it is important to have adequate information. The testimony and exhibits offered in the proceedings before the public utilities commission concerning the Fuel and Power Adjustment Clause, Docket Nos. 97-014, 98-014, 98-197, and 99-044, the Base Rate, Docket No. 97-059, and the Statewide Electric Industry Restructuring, Docket No. 96-150, would contribute to a factual record against which to compare the terms of a settlement. Therefore, participants should file in a settlement proceeding any testimony, exhibits, data requests, and data responses relevant to the cited dockets in order to provide a basis for the commission and legislature to compare the settlement to other possible outcomes.

5 Consultant to Review Settlement Agreement; Appropriation. Upon the filing of a settlement with the public utilities commission that includes a securitization proposal for recovery of a portion of the stranded

costs of Public Service Company of New Hampshire (PSNH), the fiscal committee of the general court, upon recommendation of the legislative oversight committee on electric utility restructuring established in RSA 374-F:5 and after consultation with the house science, technology and energy committee, and the senate energy and economic development committee, shall select and contract for the services of a qualified independent consultant. The consultant shall review, study, and report to the legislative oversight committee on electric utility restructuring, the fiscal committee, the house science, technology and energy committee, and the senate energy and economic development committee on the settlement agreement between PSNH and the state of New Hampshire and other matters related to electric utility restructuring. The consultant shall be paid, with approval of the fiscal committee of the general court, from assessments not to exceed \$50,000 against the state's electric utilities made by the public utilities commission pursuant to the methodology defined in RSA 363-A:2.

6 Public Utilities; Electric Utility Restructuring; Implementation; Stranded Costs; Settlement Proceeding Added. Amend RSA 374-F:4, V to read as follows:

V. The commission is authorized to allow utilities to collect a stranded cost recovery charge, subject to its determination in the context of a rate case *or adjudicated settlement* proceeding that such charge is equitable, appropriate, and balanced, is in the public interest, and is substantially consistent with these interdependent principles. The burden of proof for any stranded cost recovery claim shall be borne by the utility making such claim.

7 Public Utilities; Electric Utility Restructuring; Implementation; Interim Stranded Cost Recovery. Amend RSA 374-F:4, VI(a) to read as follows:

VI.(a) In order to facilitate the rapid transition to full competition, the commission is authorized, in its generic restructuring order as provided in paragraph II, to set, without a formal rate case proceeding, an interim stranded cost recovery charge for each electric utility. Such interim stranded cost recovery charges shall be effective for *not more than* 2 years from the implementation of utility compliance filings and shall be based on the commission's preliminary determination of an equitable, appropriate, and balanced measure of stranded cost recovery that takes into account the near term rate relief principle, is in the public interest, and is substantially consistent with these interdependent principles. The commission shall also consider the potential for future rate impacts due to possible differences between interim stranded cost recovery charges and charges that may finally be approved for stranded cost recovery.

8 Public Utilities; Electric Utility Restructuring; Implementation; System Benefits Charge; Authority Extended. Amend RSA 374-F:4, VIII(c) to read as follows:

(c) The portion of the system benefits charge due to programs for low-income customers shall not exceed 1.5 mills per kilowatt hour. The authority of the commission to impose such a charge shall terminate on June 30, ~~2003~~ 2005.

9 Public Utilities; Electric Utility Restructuring; Implementation; System Benefits Charge; Report; Date Changed. Amend RSA 374-F:4, VIII(f) to read as follows:

(f) Beginning in ~~1999~~ 2000, the commission shall submit a report to the legislative oversight committee on electric utility restructuring by October 1 of each year. The report shall concern the results and effectiveness of the system benefits charge.

10 Trade and Commerce; Combinations and Monopolies; Exemption for Authorized Activity; Exemption Narrowed. Amend RSA 356:8-a to read as follows:

356:8-a Exemption for Authorized Activity. Activities of and arrangements between persons shall be exempt from this chapter if such are permitted, authorized, approved, required, or regulated by a regulatory body acting under a federal or state statutory scheme or otherwise [~~subject to the jurisdiction of~~] **actively supervised by** a regulatory agency.

11 Public Utilities Commission; Support Personnel to Commission; Staff, Separation of Functions; Functional Lines Replaced. Amend RSA 363:27, II to read as follows:

II. The staff of the commission shall be [~~divided along functional lines, as shall be determined from time to time by~~] **organized as** the commission **determines best achieves its statutory responsibilities**.

12 Public Utilities; Issuance of Stock and Other Securities, General Provisions; Foreign Business; Discretion of Commission. RSA 369:8, II is repealed and reenacted to read as follows:

II.(a) To the extent that the approval of the commission is required by any other statute for any corporate restructuring, financing, change in long-term or short-term indebtedness, or issuance of stock involving parent companies of a public utility regulated by the commission, the approval of the commission shall not be required if the public utility files with the commission a detailed representation in writing no less than 60 days prior to the anticipated completion of the transaction that the transaction will not adversely affect rates, terms, service, or operation of the public utility within the state.

(b)(1) To the extent that the approval of the commission is required by any other statute for any corporate merger or acquisition involving parent companies of a public utility whose rates, terms, and conditions of service are regulated by the commission, the approval of the commission shall not be required if the public utility files with the commission a detailed written representation no less than 60 days prior to the anticipated completion of the transaction that the transaction will not have an adverse effect on rates, terms, service, or operation of the public utility within the state.

(2) If the commission does not issue an order within 60 days of the completed filing, the transaction shall be considered approved as filed.

(3) If the commission within 30 days, and after an opportunity for a public hearing, issues a preliminary written determination that such a merger or acquisition will have an adverse effect on rates, terms, service, or operation of the public utility in the state, the commission shall allow the utility at least 30 days to amend its filing in order to address the commission's preliminary determination.

(4) The commission may extend making its preliminary determination of adverse effect on rates, terms, service, or operation of the public utility in the state for 30 days.

(5) Should the commission find within 30 days after receiving the amended filing, the proposed merger or acquisition has an adverse effect, the commission shall review the transaction under the statute which would have otherwise applied but for this section, and, after an opportunity for a public hearing, issue a ruling based upon the other applicable statute or statutes within 60 days of its determination of adverse effect.

13 Public Utilities; General Regulations; Underground Utility Damage Prevention System; Definitions; Excavate, Excavating, or Excavation; Exception Added. Amend RSA 374:48, III to read as follows:

III. "Excavate", "excavating", or "excavation" means any operation conducted in a public way, right-of-way, easement, public street, or other public place, in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosive, and includes but is not limited to drilling, grading, boring, milling, trenching, tunneling, scraping, tree and root removal, cable or pipe plowing, fence or sign post installation, pile driving, wrecking, razing, rending or moving any structure or mass material, but does not include the tilling of soil for agricultural purposes *or replacement of department-of-transportation-installed delineator posts in the same location.*

14 Public Utilities; General Regulations; Underground Utility Damage Prevention System; Notification by Excavator; Premarking. RSA 374:51, IV is repealed and reenacted to read as follows:

IV. Prior to complying with the notification requirements of paragraph II, an excavator must premark the area as provided in this paragraph, which means identifying the perimeter of the proposed site of the excavation by marking the perimeter in an appropriate manner in the color white paint, stakes, or other suitable white markings on non-paved surfaces. No such premarking shall be acceptable if the marks interfere with traffic or pedestrian control, or are misleading to the general public. Premarking shall not be required on any continuous excavation that is over 100 feet in length, or any pole replacement that is within 5 feet of an existing location. If an excavation is over 100 feet in length or a pole replacement is within 5 feet of an existing location, the excavator shall communicate the perimeter of the excavation by means of a description of the area or construction plans, or have an on-site meeting with affected operators or other suitable means acceptable to the parties.

15 Public Utilities; General Regulations; Underground Utility Damage Prevention System; Civil Penalty. RSA 374:55 is repealed and reenacted to read as follows:

374:55 Civil Penalty.

I. Proof that an excavation has been made without compliance with the notice requirement of RSA 374:51 and that damage to an underground facility has occurred shall be prima facie evidence in any court or administrative proceeding that the damage was caused by the negligence of the excavator.

II. Any excavator who does not give notice of or identify the proposed excavation area as required by RSA 374:51 or rules of the commission regarding tolerance zones and marking procedures shall be subject to the penalties in paragraph VIII, in addition to any liability for the actual damages.

III. Any operator which does not mark the location of its underground facilities as required by RSA 374:53 or rules of the commission regarding tolerance zones and marking procedures shall be subject to the penalties in paragraph VIII.

IV. If underground facilities are damaged because an operator does not mark its underground facilities as required by RSA 374:53, the operator shall be subject to the penalties in paragraph VIII, liable for damages sustained to its facilities and, in addition, shall be liable for any damages incurred by the excavator as a result of the operator's failure to mark such facilities.

V. If marked underground facilities are damaged, the excavator shall be subject to the penalties in paragraph VIII and liable for the cost of repairs for the damage.

VI. Any excavator who damages an underground facility and fails to notify the operator, or backfills the excavation without receiving permission, as required by RSA 374:54, shall be subject to the penalties in paragraph VIII.

VII. The commission or any commission employee, involved in the "Dig Safe" program and designated by the commission, may enforce violations of this subdivision. Any excavator or operator that violates this subdivision shall be subject to the penalties in paragraph VIII. In addition, the commission may assess the excavator for expenditures made to collect the civil penalty. Any excavator or operator which suffers damage resulting from violation of this subdivision may petition the commission to initiate an enforcement action.

VIII. Any excavator or operator that does not comply with RSA 374:51-54 shall be required either to complete a "Dig Safe" training program, or to pay a civil penalty of up to \$500. The civil penalty may be up to \$5,000 if the excavator or operator previously violated RSA 374:51-54 within the prior 12 months or if the violation results in bodily injury or property damages exceeding \$50,000, excluding utility costs.

16 Applicability. Sections 10-17 of this act shall not apply to any transaction entered into prior to July 1, 1999.

17 Repeal. RSA 369:5, relative to certificate of issue of securities, is repealed.

18 Effective Date.

I. Sections 1-9 of this act shall take effect upon its passage.

II. Sections 13-15 of this act shall take effect January 1, 2000.

III. The remainder of this act shall take effect July 1, 1999.

1939s

AMENDED ANALYSIS

This bill:

I. Expresses certain legislative purposes and findings relative to electric rate reduction financing and makes certain changes to the law regarding the implementation of electric utility restructuring.

II. Requires the public utilities commission to hold hearings to review securitization proposals.

III. Requires that an independent consultant report on a settlement agreement between the state of New Hampshire and Public Service Company of New Hampshire and other matters related to electric utility restructuring upon the filing of a settlement with the public utilities commission that include a securitization proposal.

IV. Modifies requirements and penalties under the "Dig Safe" law.

V. Clarifies the applicability of certain utility laws.

SENATOR F. KING: The electrical rate reduction financing and the whole issue of electrical rate reduction, probably is the most significant issue that the legislature will be dealing with in January. I believe that if we had not had the issue of the Claremont lawsuit before us this year, the electrical rate reduction would have been the most significant issue this year. For at least three years, there have been negotiations between Public Service of New Hampshire, and the state of New Hampshire relative to how we are going to reduce our rates to our citizens. At the present time, the administration, the governor's office and the people in her office, and the company have reached what appears to be a solution to the problem. There is a lot of work left to be done on it at the Public Utilities Commission, and there is an awful lot of information that needs

to be gathered and be disseminated to the citizens of this state and that process is going to go forward. House Bill 464 will state the legislature position on how we should proceed on our part on the solution of this problem. This bill and a like bill that we have had in the Senate, that we have now referred to committee, will be worked on more and more. What we are trying to do in this bill is recognize those critical issues that we still have to have the answers for before we will be expected to vote on some legislation in January. One of the things that we need to do, we need to establish a benchmark that we can measure the present securitization bill, the present settlement that is being worked on. We need to measure that settlement against other alternatives. We are not able to do that at this present time. It is not to judge whether this settlement is good or bad, we simply do not know the answer to that at this time, and we need to have this information. The very key part of this legislation is to enable us to go forward and to instruct the Public Utilities Commission what the process should be, as they gather additional information for the legislature. Since I have been here in the Senate, I have heard on many occasions, about the deal that was cut in 1989, and how bad it was. I have been told by legislators that were here then, we did not have enough information. Perhaps if we had known what we know now, we probably would not have done that. That may be true. There were some assumptions made, I think that they were made in good faith about the increased use of electricity over time, and that for a variety of reasons, conservation became very popular. Those things did not happen, and we know now that in New Hampshire we pay the highest electric rates in the country. It not only hits us as individuals, it certainly is a deterrent to business growth. So on page four of this bill, starting at line 34, particularly lines 30 and 31, what we are asking of the PUC to do, is to continue to gather information, and they have most of it probably already available to them. To enable them, to provide the legislature with the information that we will be able to compare the settlement, which is being worked out to any other outcomes that there might be. This is not to tell the legislature...the legislature is not telling the PUC that they should continue with the rate setting process. We are not telling them not to do that. We are telling the PUC to do what you think is right, provide the information to the legislature. This bill also appropriates \$50,000 to the committee that will be preparing the legislation, so that the legislature can have a disinterested third party, and that buys us on the facts before we have to make that decision. This bill had a hearing yesterday morning and we did something unusual, we brought in the House Committee and they sat with the Senate. We talked about this legislation that has been worked on over the past week very intensely, with the idea that we needed to vote on something today. Both the Senate and the House agreed that would not require a conference committee, because there is going to be no time for that. The House committee is comfortable with this and they had a good vote, the Senate Committee voted ought to pass unanimously, the members that were there yesterday, and this morning there is a question. A question has arisen that has to do with the issue of exit fees in the case of municipalities if they were to want to go into the business to generate power and selling power. The question is under the language that provides exit fees for end users, does that include municipalities? I believe it does not, I thought, maybe it did. It probably does not because, in fact, municipalities when they go in the business, of being in the electrical business, are really going to be a utility. Now in 1997, we did a lot of work on RSA 38 that establishes how municipali-

ties can go into the business of being in the electrical business. There are six communities in the state, I have one in my district, Littleton, that has had a utility for the last one hundred years. They in fact, buy power wholesale and sell it to their citizens and their businesses. It certainly works very well for them, and they have electric rates half of what the rest of us have. So when we redid RSA 38, of 1997, we made it easier for municipalities to go into the business. We recognized some of the deficiencies in the legislation at that time. It does not deal with the issue of exit fees specifically, this legislation doesn't. But what I think we need to understand, is that this is not a bill that puts in place anything, that legislation will happen in January. If the issue of exit fees of municipalities needs to be addressed, we will do it then. There is another issue that is also very important, and has been talked about, and that is the question of what happens if we go forward with the policy that is being developed, and as a result, the utility profits enormously from that bill? The question is, if that happens, should our ratepayers give some of that money from what some proceeds might be a big profit to apply against stranded costs which would reduce the rates even further. If that becomes an issue in January, we will address with them, but it is important now not to put something in this bill that is going to stop the process that is ongoing. That process seems to be making a lot of headway. I sat on the committee, as Senator Fraser did, two or three summers ago, we sat all summer to try to resolve the issue and we were not successful. There were 30 people sitting around the table about every two to three days all summer long. So there has been tremendous progress made on the issue. This is not designed to solve the problem, it is designed to let the legislature get information that they will need when they make the final decision in January. I would strongly recommend passing the bill. Thank you very much.

SENATOR FRASER: Senator F. King, is it not a fact that we have in our possession the securitization bill, that has been referred, that will be acted on next session?

SENATOR F. KING: We, in the committee, we still have the counterpart to this legislation available to us to work on, yes.

SENATOR JOHNSON: I just want to take this opportunity to thank the members of this body who supported SB 196, which was my bill on deregulation. As a member of the Energy and Economic Development Committee, I am in full support of this legislation, and I want to thank all of the people for coming together and making this happen.

SENATOR D'ALLESANDRO: Senator F. King, if you could please just articulate on the exit fees and how we will be able to deal with those exit fees if this bill goes to PUC and comes back to us? What kind of latitude will we have, and how our deliberations, with regards to exit fees, would impact on this particular piece of legislation?

SENATOR F. KING: At the present time, a business, primarily we are talking about businesses in the contents of this issue. At the present time a business can decide to generate their own power, and they can go to the street and clip the wire, and they can buy a diesel generator, and they can go to natural gas and put in generators and generate their own power, and they won't have to pay exit fees. They don't have to pay the utility for having the power available, they used to call it standby power. If you stay connected to the grid and then you are expected to pay for power that you may use from time to time. Because the utility

has an obligation to have the power available to you. So exit fees mean that you don't have to pay in the future for power that you are not going to use. There are companies...and there is at least one automobile dealer, I believe in Manchester, that has a diesel generator, they generate their own power. The question is under deregulation, and this huge issue of stranded costs, if someone wants to generate their own power, would they have to pay an exit fee? In other words, pay to get off the grid. This legislation on page 4, line 5, is very clear. It says "end users shall continue to have the opportunity to generate electricity for their own use without an exit fee". I have a company in my district, the Wausau Paper Company, a very, very, large user of electrical energy, they are going to take advantage, or probably will take advantage, of the new natural gas line that goes right by their place. If they decide to do that, and they decide to generate their own power, totally, they will not have to pay an exit fee. If they decide to...and they may do this, they may decide to go into business with a partner and build a larger generation system, and they sell power to the town, then they will have to pay an exit fee for that power that they sold. The question this morning that came up, and it was not brought to the committee yesterday even though everyone in the room and it was filled with lobbyists, full of lawyers, and full of people with pinstripe suits on, they were given an opportunity to say if they like the bill or not, and they did not say a word, and we made the assumption that they were happy, now it is said what happens in the case of towns? Would a town have to pay that exit fee? That is an unanswered question. But, before anything happens, relative to this issue, it will require the legislature to have a bill in January, and if that is an issue, and it becomes a big enough issue so that it becomes an amendment to that bill, then that is the time to deal with it. Today we do not have the answers to the question, my guess is, yes, if you are going to be in a power business, you are going to have to pay exit fees. This does not deal with that. Had we known a week ago, had I known a week ago, we would have attempted to do that.

SENATOR D'ALLESANDRO: Just so that I have clarification of what you are saying. The municipalities who are considering generating or obtaining the ability to generate their own power would then be involved with an exit fee?

SENATOR F. KING: The process now would be for a municipality who wants to go into the power business, is all spelled out in RSA 38. What essentially happens, is that the town votes to municipalize, like Littleton has. Any town can do that. They notify their company in town, that is in the business. They say to Public Service if they are the suppliers of the community, "we want to buy your poles and wires, give us a price"? The way I understand the process, the company gives them a price and the town hires someone who makes an assessment, and they say that is too much money, it goes to the PUC, and the PUC determines what the price will be. The PUC will decide if there is going to be a stranded cost and they will decide how much that will be and that is the process now.

SENATOR D'ALLESANDRO: Thank you.

SENATOR DISNARD: Gentlemen, I rise in strong opposition of this bill. I am probably the only one who will vote that way. I apologized to the chairman and the other three members of the Energy Committee this morning. Because I was one of those yesterday who did agree with the House Committee, and I was led down the wrong road. There were other members of the committee that were led down the wrong

road. That is why people did not speak up. I am here today to speak on behalf of the ratepayers. I was here in 1989 and was one of those who voted against the agreement with Public Service. Why? One reason is 100 percent payment to the junk bond holders. Why am I against this? I was concerned about the bill when we first received it and Senator Below had an amendment which became the bill. I went back to Claremont who had been working six years on the municipalization, and I went back to Claremont who had spent hundreds and thousands of dollars on consulting fees and lawyers. I presented yesterday, to the working committee two amendments that the city of Claremont was interested in, that would allow a community not to have to pay an exit fee. I, and members here, who under the agreement, we were told, that when we received the bill, essentially as you have it now, but some of the numbers have been changed and rearranged, that exit fees would not be charged to a municipality and that was included in here. A question was just asked by a Senator, would the municipality have to pay an exit fee if they wish to have their own generation transmission or delivery service. Did you here the answer? That the ratepayers would have to pay? Did you hear that answer? I didn't? The ratepayers in Claremont, if Claremont has to leave Connecticut Valley Electric Company, Claremont is not served by PSNH, some of my communities are. The concern in Claremont is that if the PUC makes an agreement with PSNH, the CEVAC, our supplier, who is one hundred percent owned by Central Power, has no workman and has no trucks, just a deliverer they could piggyback on to any agreement made by the PSNH, and that could cause our ratepayers, estimated by consultants, \$70-\$90 million. The community won't be paying, but the ratepayers will. That could reflect the same thing on the ratepayers of Berlin, Manchester if decided, if Dover is talking about it, it could kill the Dover plan. I am very concerned about this. Now we hear that the present law does not change with this agreement. No, the present law does not change it. But who will tell me, does the present law include \$1.9 billion to the stockholders of PSNH, or money to the stockholders of Connecticut Valley or Claremont municipilization? What will happen to them? What difference does it make if exit fee are in the present law, how can someone tell me, "well nothing is going change \$1.9 billion, ratepayers will be paying, the stockholders will change". A member of the PUC, in the Governor's office this morning said after talking to another Senator, well perhaps if this legislature meets in January, we could pass amendments on it. That member told me that this would be chapter law if passed. I mentioned it to another Senator and that Senator checked with the PUC member, and that individual, the Senator told me well the gentleman indicated that the agreement could always be broken. What percent, on a bet, would it be that this state made an agreement with PSNH through PUC that this legislature would change it? It is all dollars, let someone think of the ratepayer for a change. I know that I am barking up the wrong tree, but thank you for listening to me.

SENATOR HOLLINGWORTH: I share some concerns about in the future if this legislature does not look carefully at the bill when it comes back from the PUC. And I intend to go before the PUC and make sure that when I am speaking with them, that they understand some of the concerns that I have. So as the process moves forward that they hear from us, and I hope that Senator Disnard would do the same, and any of the other Senators. I would hope that when the bill comes back from the PUC, if in fact, there are things that we don't like in it, that we have

the courage to stand up. And while it may break the deal, I hope that we will have the courage to change those things. As one who was around during the other deal of the past, I think a lot of us are going to scrutinize this new deal with a great deal of caution and care. So while I understand George's concerns, I think that we will have the courage, if it is not one that we believe will give long lasting rate relief to the people of this state, we will reject it. So I hope this Senate will pass the bill that is before us today. As I know that you are all concerned about this, that you will make your voices heard in the future.

Amendment adopted.

Ordered to third reading.

HB 75, changing the number required for a quorum on the commission for human rights. Executive Departments and Administration Committee. Vote 6-0. Ought to pass with amendment, Senator Trombly for the committee.

1999-1216s

05/09

Amendment to HB 75

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

AN ACT relative to changes in procedures effecting the state commission for human rights.

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

1 State Commission for Human Rights. Amend RSA 354-A:3, II to read as follows:

II. Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member who is to be succeeded. ~~Three~~ **Four** members of the commission shall constitute a quorum for the purpose of conducting the commission's business, *with the exception of hearings conducted pursuant to RSA 354-A:21, II(b)*. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission. Each member of the commission shall be entitled to ~~his~~ expenses actually and necessarily incurred by ~~him~~ *such member* in the performance of ~~his~~ *such member's* duties.

2 New Paragraph; Fees for Services and Programs. Amend RSA 354-A:5 by inserting after paragraph XIV the following new paragraph:

XV. To charge reasonable fees for educational services, programs, publications and other written materials.

3 Procedure on Complaints. Amend RSA 354-A:21, II(a) to read as follows:

(a) After the filing of any complaint, one of the commissioners designated by the chair shall make, with the assistance of the commission's staff, prompt investigation in connection therewith; during the course of the investigation, the commission shall encourage the parties to resolve their differences through settlement negotiations; and if such commissioner shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, the commissioner shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion. The members of the commission and its staff shall not disclose what has occurred in the course of such endeavors, provided that the commission may publish the facts in the case of any complaint which has been dismissed, and the terms

of conciliation when the complaint has been so disposed of. *When the investigating commissioner finds no probable cause to credit the allegations in the complaint, the complaint shall be dismissed, subject to a right of appeal to superior court. To prevail on appeal, the moving party shall establish that the commission decision is unlawful or unreasonable by a clear preponderance of the evidence. The findings of the investigating commissioner upon questions of fact shall be upheld as long as the record contains credible evidence to support them.*

4 Procedure on Complaints. Amend RSA 354-A:21, II(c) to read as follows:

(c) The case in support of the complaint [~~shall~~] *may* be presented before the commission by [~~one of its attorneys or agents,~~] *the complainant or complainant's representative* and the commissioner who shall have previously made the investigation and caused the notice to be issued shall not participate in the hearing except as a witness, nor shall he participate in the subsequent deliberation of the commission in such case; and the aforesaid endeavors at conciliation shall not be received in evidence. The respondent shall file a written verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. [~~In the discretion of the commission, the complainant may be allowed to intervene and present testimony in person or by counsel.~~] The commission or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend his answer. The commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and transcribed at the request of any party. The cost of transcription shall be borne by the party requesting the transcript.

5 Procedure on Complaints. Amend RSA 354-A:21, IV to read as follows:

IV. In administering this section, the commission shall be exempt from the provisions of RSA 541-A:29, II, but shall close each case or commence adjudicative proceedings on such case under [~~RSA 354-A:22~~] *RSA 354-A:21* within 24 months after the filing date of the complaint.

6 Judicial Review and Enforcement. Amend RSA 354-A:22, I and II to read as follows:

I. Any complainant, respondent or other person aggrieved by such order of the commission may obtain judicial review of the order, and the commission *or any interested person* may obtain an order of court for its enforcement, in a proceeding as provided in this section. Such proceeding shall be brought in the superior court of the state within any county in which the unlawful practice which is the subject of the commission's order occurs or in which any person required in the order to cease and desist from an unlawful practice or to take other affirmative action resides or transacts business.

II. Such proceeding shall be initiated by the filing of a petition in such court, together with a written transcript of the record upon the hearing before the commission *in the case of a petition for judicial review*, and issuance and service of an order of notice as in proceedings in equity. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript an order or decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the commission,

with full power to issue injunctions against any respondent and to punish for contempt of court. No objection that has not been urged before the commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

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

1999-1216s

AMENDED ANALYSIS

This bill changes certain procedures involving complaints brought before the state commission of human rights, and requirements for a quorum vote by the commission.

SENATOR COHEN: Not long ago the membership of the commission for human rights was increased from five to seven members. At the time the membership was five, and the numbers necessary for a quorum were three members. This bill raises the quorum requirement to four to reflect the increased membership on the commission. The amendment allows the commission to charge reasonable fees for materials and programs that they provide. It also allows complainants to appeal to the Superior Court when complaints are dismissed. Further, the amendment allows complainants to represent themselves or have representation. Currently, if an order is not enforce the commission must appeal to the Superior Court to have the order enforced. This amendment allows parties, other than the commission, to go to court to seek the enforcement of order. Additionally, there will be a floor amendment offered by Senator D'Allesandro that straightens up some of the drafting errors in this bill. I urge ought to pass.

Amendment adopted.

Senator D'Allesandro offered a floor amendment.

1999-1919s

05/09

Floor Amendment to HB 75

Amend RSA 354-A:21, II(a) as inserted by section 3 of the bill by replacing it with the following:

(a) After the filing of any complaint, one of the commissioners designated by the chair shall make, with the assistance of the commission's staff, prompt investigation in connection therewith; during the course of the investigation, the commission shall encourage the parties to resolve their differences through settlement negotiations; and if such commissioner shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, the commissioner shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion. The members of the commission and its staff shall not disclose what has occurred in the course of such endeavors, provided that the commission may publish the facts in the case of any complaint which has been dismissed, and the terms of conciliation when the complaint has been so disposed of. *When the investigating commissioner finds no probable cause to credit the allegations in the complaint, the complaint shall be dismissed, subject to a right of appeal to superior court. The complainant is entitled to a trial by jury on any issue of fact in an action for damages, regardless of whether the person seeks equitable relief.*

SENATOR D'ALLESANDRO: What this amendment does, Mr. President, is it adds the following words to HB 75 "when the investigating

commissioner finds no probable cause to credit the allegation and the complaint, the complaint shall be dismissed, subject to the right of appeal to Superior Court. The complainant is entitled to a trial by jury on any issue of fact in action, in damages, regardless of whether the person seeks equitable relief." This verbiage goes into the law and allows for an appeal process for the person filing the complaint.

Recess.

Out of Recess.

Senator Russman moved to rerefer.

Senator Russman withdrew his motion to rerefer.

SENATOR GORDON: Maybe this can be resolved today, I am not necessarily opposed to the rerefer, but what I might suggest is that someone make a motion to table. Maybe we can resolve it today and get it done.

Senator Gordon moved to have **HB 75**, changing the number required for a quorum on the commission for human rights, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 75, changing the number required for a quorum on the commission for human rights.

HB 601, allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, and changing the personnel group status of the warden of the lakes region facility. Executive Departments and Administration Committee. Vote 4-0. Ought to pass with amendment, Senator Roberge for the committee.

1999-1851s

09/10

Amendment to HB 601

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

AN ACT allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, and replacing the superintendent of the lakes region facility with a warden in the salary classification table.

Amend the bill by replacing sections 5 and 6 with the following:

5 Reference Change and Addition to Personnel Group. Amend RSA 94:1-a by:

I. Deleting in group M:

Superintendent, New Hampshire state prison for women

Superintendent, lakes region facility, department of corrections

II. Inserting in group M:

Warden, New Hampshire state prison for women

Warden, lakes region facility, department of corrections

III. Inserting in group N:

Warden, Northern New Hampshire Correctional Facility, department of corrections

6 Applicability of Salary Classifications. The warden of the Northern New Hampshire Correctional Facility (formerly the Berlin prison facility) on the effective date of this act shall become the unclassified warden at the salary step in group N which is not less than the warden's classified salary.

1999-1851s

AMENDED ANALYSIS

This bill allows the assistant commissioner to assume the duties of the commissioner in the event that the commissioner is unable for any reason to perform such duties, corrects certain out-of-date references pertaining to the department of corrections, adds the position of warden of the Northern New Hampshire Correctional Facility to unclassified personnel group N, and replaces the superintendent of the lakes region facility with the warden of the lakes region facility in unclassified personnel group M.

SENATOR ROBERGE: Since the title of the bill is exactly what my speech is going to say I would recommend ought to pass, thank you.

Amendment adopted.

Senator D'Allesandro offered a floor amendment.

Sen. Cohen, Dist. 24

Sen. D'Allesandro, Dist. 20

June 30, 1999

1999-1944s

05/10

Floor Amendment to HB 601

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

AN ACT allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, replacing the superintendent of the lakes region facility with a warden in the salary classification table and replacing the superintendent of the New Hampshire state prison for women with a warden in the salary classification table.

Amend the bill by replacing sections 5 and 6 with the following:

5 Reference Change and Addition to Personnel Group. Amend RSA 94:1-a by:

I. Deleting in group M:

Superintendent, New Hampshire state prison for women

Superintendent, lakes region facility, department of corrections

II. Inserting in group M:

Warden, New Hampshire state prison for women

Warden, lakes region facility, department of corrections

III. Inserting in group O:

Warden, Northern New Hampshire Correctional Facility, department of corrections

6 Applicability of Salary Classifications. The warden of the Northern New Hampshire Correctional Facility (formerly the Berlin prison facility) on the effective date of this act shall become the unclassified warden at the salary step in group O which is not less than the warden's classified salary.

Amend the bill by inserting after section 9 the following and renumbering the original sections 10-12 to read as sections 11-13, respectively:

10 Terminology Correction. Amend RSA 21-H:6, II to read as follows:

II. The commissioner shall nominate for appointment by the governor, with the consent of the council, each division director[;] *and* the [warden] *wardens* of *all* the New Hampshire state [prison for men; the superintendent of the lakes region facility, and the superintendent of the New Hampshire state prison for women] *prisons*. All division directors[;] *and* the [warden] *wardens* of the New Hampshire state [prison for men, the superintendent of the lakes region facility, and the superintendent of the New Hampshire state prison for women] *pris- ons* shall serve at the pleasure of the commissioner.

1999-1944s

AMENDED ANALYSIS

This bill allows the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, corrects out-of-date references and phraseology pertaining to the department of corrections, adds the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, and replaces the superintendent of the lakes region facility with a warden in the salary classification table and replacing the superintendent of the New Hampshire state prison for women with a warden in the salary classification table.

SENATOR D'ALLESANDRO: The floor amendment addresses the warden of the Northern New Hampshire Corrections Facility, formally known as the Berlin Prison. What it does is it sets the salary group in which that warden is placed. The dollars have been allocated in HB 2 and this just sets the salary for the warden of the Northern New England Corrections Facility.

SENATOR ROBERGE: Is it M, N, O P, or what?

SENATOR D'ALLENSANDRO: It is O, group O.

Floor Amendment adopted.

Ordered to third reading.

HB 603, relative to the performance audit and oversight committee. Executive Departments and Administration Committee. Vote 6-1. Ought to pass with amendment, Senator Francoeur for the committee.

1999-1893s

10/09

Amendment to HB 603

Amend RSA 17-N:1, II as inserted by section 1 of the bill by replacing it with the following:

II. The committee shall consist of [10] *12* members, [5] *6* of whom shall be members of the house of representatives, 3 appointed by the speaker of the house, *the chair of the fiscal committee*, and 2 appointed by the house minority leader, and [5] *6* of whom shall be sena-

tors, 3 appointed by the president of the senate, *the chair of the senate finance committee* and 2 appointed by the senate minority leader. Members shall be appointed for their term of office. All members shall be eligible for reappointment so long as they are qualified under this section. Members shall be appointed no later than December 30 of the year of their election to the general court, except that vacancies shall be filled for an unexpired term within 30 days of the creation of such vacancy, and the initial appointments under this section shall be made within 30 days of the effective date of this section. The members shall choose from their number a chairman, provided that the chairmanship shall rotate biennially between the house and senate members.

1999-1893s

AMENDED ANALYSIS

This bill increases the membership of the performance audit and oversight committee to include the chairperson of the joint legislative fiscal committee and the chairperson of the senate finance committee, and establishes certain procedures for the receipt of audit reports and responses from audits.

SENATOR FRANCOEUR: Something has come to our attention at this time...and I would ask everybody to vote down the ought to pass as amendment, and at that time I would move inexpedient to legislate.

Amendment failed.

Question is on the motion of ought to pass.

Motion failed.

Senator Francoeur moved inexpedient to legislate.

Adopted.

HB 603 is inexpedient to legislate.

HB 661-L, relative to the scope of abatement appeals. Executive Departments and Administration Committee. Vote 4-3. Ought to Pass, Senator Cohen for the committee.

SENATOR COHEN: This bill addresses inequities that were brought to life by recent court cases. Currently the Board of Tax and Land Appeals and court upon appeal can only reduce or uphold the assessments upon appeal. This bill would allow the Board of Tax and Land Appeals and the court upon appeal to increase assessments upon appeal as well as those properties that are founder of escape full taxation. The bill also clarifies what is property that has escape taxation. This bill would also allow the Board of Tax and Land Appeals and the court upon appeal to consider the assessments of other property within the same jurisdiction that is owned by the person that appeals the assessment on a piece of property. Testimony indicated that this is an issue of fairness, because when one piece of property is under assessed the rest of the community must make up the difference through their assessments. The majority of the committee recommends this bill ought to pass.

SENATOR FRANCOEUR: After hearing the testimony on HB 661 and listening to constituents, I had a lot of other concerns. If you take a look at the bill, if you want to appeal your tax bill on your house, but you also own a couple of lots or something in the district that is being assessed, then it opens you up to all your property. Currently, it is only allowed to be able to be opened up on the piece that you bring in front of the Tax

and Land Appeals Board, nothing else. This seems to put a real onus on those who feel that they are unjustly overtaxed to be able to have the situation looked at on the specific item that tax bill is on. So it is going to open up and create a lot more trouble for an individual if they own more than one piece of property. Also currently in the statutes, from my experience, if you have a piece of property and you alter it, the city has the right, as in Nashua, to go out and do a reassessment at that time of the alterations. I understand there was a failure in a couple of the municipalities that it did not get done in midterm after they had already submitted the bills. I think we are really at this point, going to hurt more constituents, and we are going to do good even though it's helped as far as on a couple large commercial sites. But overall, I think we are going to hear of a lot of complaints from our constituents if we do pass this. I hope that the municipalities would take the initiative, especially in the areas that this has caused some problems. To make sure that they have appraised their stuff and do a good job the first time around.

SENATOR BROWN: I rise in opposition to the committee report of ought to pass. To put it very clearly, and very succinctly, we passed a state-wide property tax in this session and now we are going to tell homeowners and property owners that if you dare contest the valuation we may not only raise your taxes, and we will look at any other properties that you may have. This increases the cost for those folks who want to appeal, because they will need to get appraisals for all their additional properties should they own others. It will increase cynicism amongst the public who will not be happy with a state-wide property tax. In my opinion, it adds insult to injury, and I really hope you will not pass this bill. Thank you.

SENATOR RUSSMAN: I agree, yes, Mr. President, in what has been said, that certainly it seems a matter of equity that we ought not to be increasing the additional expense and the additional bureaucracy and the additional requirements for lengthy hearings and the whole process. This is really not necessary, and you have a problem with a piece of land, and you are appealing on it, and that is what should be dealt with, and nothing else.

SENATOR ROBERGE: If the bill is defeated now it does not need to be amended, one. Two, I want to say that it will certainly put a chilling affect on anyone who wants to appeal to the Board of Land and Tax Appeals. I don't think that I would want to start that process if I knew my property might be assessed at a higher rate.

Recess.

Out of Recess.

Question is on the motion of ought to pass.

A roll call was requested by Senator Brown.

Seconded by Senator Krueger.

The following Senators voted Yes: Squires, Wheeler, Hollingworth, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, McCarley, Disnard, Roberge, Fernald, Pignatelli, Francoeur, Krueger, Brown, J. King, Russman, D'Allesandro, Klemm.

Yeas: 4 - Nays: 16

Motion failed.

Senator Fernald moved to have **HB 661-L**, relative to the scope of abatement appeals, laid on the table.

Motion failed.

Senator Francoeur moved inexpedient to legislate.

Adopted.

HB 661-L is inexpedient to legislate.

SUSPENSION OF THE RULES

Senator F. King moved that **HB 208**, establishing a coordinated and comprehensive effort by state agencies for economic growths, resource protection, and planning policy to deter sprawl, be introduced into the Senate at the present time.

Adopted by the necessary 2/3 vote.

SUSPENSION OF THE RULES

Senator F. King moved that the Rules of the Senate be so far suspended references to committee, report of committee and the notice and reports in the calendar, and the requirement of a five-day notice for a hearing, and move to further suspend the rules as to allow **HB 208** to be before the Senate at the present time.

Adopted by the necessary 2/3 vote.

HB 208, establishing a coordinated and comprehensive effort by state agencies for economic growths, resource protection, and planning policy to deter sprawl.

SENATOR F. KING: Yes, this is a bill that came before the Energy and Economic Development Committee, and got misplaced when the secretary left. It is a bill that came over from the House and it is a good bill. I am going to ask Senator Russman to speak about the bill, he is one of the sponsors of the bill, and then I have an amendment that I want to speak about.

SENATOR RUSSMAN: This is simply one of those bills that deals with sprawl that the study committee had put together and they studied it all last summer and last fall, and it is another tool that would be able to be used for that. I believe that Senator F. King does have an amendment for that to make it a little better in terms of in a couple of his communities and couple of others. I would urge you to support his amendment and the bill.

1999-1857s

10/01

Amendment to HB 208-FN

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

AN ACT establishing a coordinated and comprehensive effort by state agencies for economic growth, resource protection, and planning policy to deter sprawl and establishing a study committee to consider options for addressing the development of major projects which have statewide or significant regional impacts.

Amend RSA 9-B:4 as inserted by section 6 of the bill by replacing it with the following:

9-B:4 Expenditure of State or Federal Funds. All state agencies shall give due consideration to the state's policy on sprawl under RSA 9-B:2

when providing advice or expending state or federal funds, for their own use or as pass-through grants, for public works, transportation, or major capital improvement projects, and for the rental or lease of facilities. The intent under this section is that new investments be directed toward existing lots, buildings, and existing community centers where that is the practical alternative for the use and community in question.

Amend the bill by replacing section 10 with the following:

10 Study Committee Established. There is hereby established a legislative study committee to review regulatory options for addressing the development of major projects, such as race tracks, shopping centers, utility infrastructure, and casinos, which have statewide or significant regional impacts.

11 Membership and Compensation.

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

(a) Three members 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.

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

12 Duties. The committee shall review the regulatory options for addressing the development of major projects which have statewide or significant regional impacts. The committee shall determine if current regulatory processes included in RSA 36:54 adequately address the development of major projects of statewide or significant regional impact. Further, the committee shall recommend regulatory options for addressing the impacts of major development projects.

13 Chairperson. 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 senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

14 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 1999.

15 Effective Date.

I. Sections 10-15 of this act shall take effect upon its passage.

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

1999-1857s

AMENDED ANALYSIS

This bill establishes a coordinated and comprehensive effort by state agencies for economic growth, resource protection, and planning policy to deter sprawl, and requires the council on resources and development to report on state agency progress.

This bill also establishes a committee to study options for addressing the development of major projects which have statewide or significant regional impacts.

SENATOR F. KING: The amendment that I needed to speak on was the one we just voted on. But I still want to speak about that. The amendment that I offered is one that Senator Trombly had wanted on another bill, and it was on another bill. It had to do with major projects that af-

fect more than one town, and it was on a bill that since has been killed in the House, I found out. I talked to Senator Trombly about it and the bill really appropriately goes on the sprawl bill, because it speaks directly to the issue of sprawl. The amendment that has already been apparently passed out. What it does, it says, in effect, that those large projects like racetracks, shopping centers, utility infrastructure, casinos, and so on and so on. Those type of projects that affect more than one town, we need to take a look at that. So it sets up a committee, three members of the Senate, and three members of the House. The committee will be looking at some legislation passed a few years ago that dealt with this issue. That is the purpose of the amendment. I talked to Senator Trombly about it and he agreed that this is a more appropriate bill for it to be on. I think on this bill it will pass because the bill itself is very much sawed over in the house.

Amendment adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator D'Allesandro moved that **HB 709**, relative to the railroad tax, resource protection, and planning policy to deter sprawl, be introduced into the Senate at the present time.

Adopted by the necessary 2/3 vote.

SUSPENSION OF THE RULES

Senator D'Allesandro moved that the Rules of the Senate be so far suspended, references to committee, report of committee and the notice and reports in the calendar, and the requirement of a five-day notice for a hearing, and move to further suspend the rules as to allow **HB 709** to be before the Senate at the present time.

Adopted by the necessary 2/3 vote.

HB 709, relative to the railroad tax.

Senator D'Allesandro moved ought to pass.

SENATOR D.ALLESANDRO: What this bill does, is exempts from local property taxes, railroad operations, which are taking place on leased state land and subject to the railroad tax. The bill also makes changes in the apportionment and distribution of railroad tax revenues. There is a fiscal note. The Department of Transportation states that the general fund revenues will decrease and state redistricted revenues and expenditures will increase in FY 2000, and each year thereafter. There will be no impact on county revenue or county or local expenditures. The department states that this bill purposes to credit the special railroad fund and not the general fund, a certain percentage of the revenue from the railroad tax. This bill also purposes to change the railroad apportionment to towns, which will decrease revenue to some towns of a total of \$15,200 and increase revenue to some towns \$24,315. The balance of the fund will be made available for purchase, operation and maintenance of railroad properties.

SENATOR F. KING: I just want to say that I think that this a great piece of legislation.

Adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Klemm moved that **HB 653**, increasing the personal needs allowance of nursing home residents and residents of residential care facilities and community residences and making an appropriation therefor, be introduced into the Senate at the present time.

Adopted by the necessary 2/3 vote.

SUSPENSION OF THE RULES

Senator Klemm moved that the Rules of the Senate be so far suspended references to committee, report of committee and the notice and reports in the calendar, and the requirement of a five-day notice for a hearing, and move to further suspend the rules as to allow **HB 653** to be before the Senate at the present time.

Adopted by the necessary 2/3 vote.

HB 653, increasing the personal needs allowance of nursing home residents and residents of residential care facilities and community residences and making an appropriation therefor. Finance Committee. Ought to pass with amendment.

1999-1959s

04/01

Amendment to HB 653

Amend the bill by replacing section 5 with the following:

5 Budget Surplus; Transfer to Long-Term Care Institute. Notwithstanding RSA 9:13-e, any undesignated general fund surplus as of June 30, 1999 up to the sum of \$60,000 for the fiscal year ending June 30, 2000, and the sum of \$60,000 for the fiscal year ending June 30, 2001, shall be transferred to the long-term care institute established in RSA 126-L:2 for the purposes of paying the annual salary of the position created in section 3 of this act and any other costs related to the long-term care institute.

1999-1959s

AMENDED ANALYSIS

This bill increases the personal needs allowance of nursing home residents and residents of residential care facilities and community residences and makes an appropriation for that purpose.

This bill also creates a 2-year position of long-term care specialist to perform the duties of the long-term care institute. The bill provides for a transfer of general fund undesignated surplus sufficient to pay the annual salary of the long-term care specialist and any other costs related to the long-term care institute.

SENATOR KLEMM: House Bill 653 would allow the personal needs allowance for members in the nursing home facilities to have increased, their monthly allowance from \$40-\$50 a month. The committee on Finance recommends this bill ought to pass.

Amendment failed.

Senator Klemm moved ought to pass.

Adopted.

Ordered to third reading.

SENATOR KLEMM: I would like to just take a moment. I would like to thank the members of the Senate for passing this bill and also consid-

ering the amendment. Unfortunately, there was opposition to it in the House, and the people in our nursing homes have been waiting for this bill for four years, and I did not want to take a chance on losing the bill. Thank you very much for your consideration.

TAKEN OFF THE TABLE

Senator D'Allesandro moved to have **HB 729**, adding social clubs recognized by the Internal Revenue Service to the definition of "charitable organization" for purposes of the laws governing raffles, taken off the table.

Adopted.

HB 729, adding social clubs recognized by the Internal Revenue Service to the definition of "charitable organization" for purposes of the laws governing raffles.

SENATOR D'ALLESANDRO: This bill does nothing but add the word "social clubs" recognized by the Internal Revenue Services to the definition of "charitable organization for purposes of laws governing a raffle". The bill came to Internal Affairs, there are certain clubs not for profits recognized by the IRS that needed the sanction of conducting a raffle, this gives them that right. It is very simple.

Question is on the committee amendment (#1513).

Amendment adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Gordon moved that the Rules of the Senate be so far suspended as to allow committee reports not previously advertised in the Senate Calendar.

Adopted by the necessary 2/3 vote.

Recess.

Out of Recess.

SENATOR RUSSMAN: My understanding is that if the rules are suspended at Senator Gordon's request, that he is going to move to table this bill for the time being to do some work on it at the present time. If that were correct, I would like to know that.

SENATOR GORDON: Yes, I appreciate Senator Russman for clarifying that. What I would like to do, I would like to bring the bill in so we could consider it today. The fact is that I would like to take some action on the bill. I know that there is some controversy involved with it. Basically, if I can bring it in and have someone, because I cannot at this point of time, make a motion to table it after it is in. Then see if there is some parts of this bill that can be acceptable to the body.

SENATOR HOLLINGWORTH: This bill is to be referred to Finance so that we can have testimony and hear about this bill. This bill has not had a public hearing or public notification. I have had several phone calls from people in my district that have the pilot program from Rockingham county who have asked to be able to speak and to be heard on this bill. I would not want to have action taken today. I think that I recognize Senator Gordon's desire to take and have something done, but I feel that if we are tabling this for the purpose to have action today, I would be opposed to that. I feel strongly that a bill of this magnitude that estab-

lishes a family court statewide and starts a whole new permanent court system, needs to have input from the general public, and not be taken or acted on without that information.

SENATOR RUSSMAN: Yes, Senator Gordon, my understanding is part of the concern here, at least on your part, is that if this bill, if something does not happen, conceivably the two pilot projects in Grafton county and Rockingham county may be terminated at this point, and there is a search for some kind of assurances or language that even if this bill was referred or perhaps defeated, that those pilot projects would continue on. Is that fair to say?

SENATOR GORDON: I want to thank you for that question for clarification, because I think that is exactly what the issue is. I have to take exception to Senator Hollingworth that in fact this issue has had hearings, and this very issue has had a hearing in the House where obviously they have had the hearings and passed the bill out; but this very subject matter was the subject matter of a bill which I submitted, and we had a public hearing in the policy committee, in the Senate Judiciary Committee, and because the House bill was passed, I elected not to go forward with that portion of the bill that I submitted. Anyone who had a problem with the family division would have had an opportunity to appear at the hearing in the Senate, in the policy committee. I am assuming that the Finance Committee attempting to make policy decisions on the bill, I would assume that the Finance Committee would just look at the financial aspect of this bill, and if there are people who do have concerns with its continuation down there, that they would have raised the issue prior to this in the hearing that has already been held. There does not appear to be any of those numbers of people who in fact do oppose it. To answer your question, Senator Russman, the fact is that I am concerned about that. I am concerned unless we pass something that the pilot programs, which are currently in place, are going to see their demise, because there are people, as Senator Hollingworth who might of indicated, who would like to see the family division, for whatever reasons that they might have, see the pilots go away.

SENATOR F. KING: Yesterday afternoon in the throes of trying to get work done, I was asked by the chairman of the Finance Committee to deal with some of these bills. When we looked at this bill, I think the committee, as we sat on the couch in the hallway downstairs, we made an assumption that this bill was to establish new family courts, one in Belknap and one in Merrimack county. It was our conclusion, based on the result of the budget request from the court system, that there would not be sufficient money to do that. As you recall, the court systems are not doing especially well, at least we thought, in the budget process. So we voted to rerefer, based on the assumption. We certainly did not consider that the two existing family court systems that are pilot projects were going to be jeopardized. I want to make it clear that our vote was made on an assumption that there was no money to be spent in the court system.

SENATOR FERNALD: This family court issue is a huge issue. For example, if we do a family court statewide, we will probably need to get probably have five extra Superior Court judges. This requires more debate than we can give it today, and given particularly that we don't even have a copy of the bill in front of us, at least I don't. The motion on the floor is to suspend the rules to require bills to be reported to committee with hearings. I happen to be on Judiciary, and I think we owe it to the

process, we owe it to the state, and we owe it to the Senate that we have this bill go to committee and be heard. I appreciate the fact that the House has worked hard on this, I appreciate the fact that they have had hearing on this, but the process is that both bodies consider this **TAPE CHANGE** where it will go if we take no action on this bill today.

SENATOR HOLLINGWORTH: I was going to say if we were to suspend the rules, I would want to move referred to committee, but that would be the only purpose that I would want it to come in. I do believe that this is not something that should be debated on the floor today.

MOTION TO VACATE

Senator Hollingworth moved to vacate **HB 707**, relative to the family division of the courts from the Finance Committee to the Judiciary Committee.

Adopted.

HB 707 is vacated to the Judiciary Committee.

TAKEN OFF THE TABLE

Senator Cohen moved to have **HB 448**, relative to the board of dental examiners and the regulation of dentists and dental hygienists, taken off the table.

Adopted.

HB 448, relative to the board of dental examiners and the regulation of dentists and dental hygienists.

Senator Cohen moved to rerefer.

Adopted.

HB 448 is rereferred to the Executive Departments and Administration Committee.

SUSPENSION OF THE RULES

Senator Fraser moved that the Rules of the Senate be so far suspended as to allow the introduction of a Senate Bill after the deadline.

SB 231, relative to public water supplies.

Adopted by the necessary 2/3 votes.

SB 231, relative to public water supplies. Public Affairs

SENATOR FRASER: This bill does not have a number yet, but I think most of you, I have spoken to at one time another in the last week or so about a problem that we have in Pittsfield. The rates by the Water Company have increased by a 185 percent. The reason being that the state mandated that they build a water plant. Three citizens in the town have already dug wells in the downtown area, and there is a threat of somewhere in the area of 30 or 40 more doing it. This will have a tragic effect on our community. I have learned this morning that the town of Webster has a similar type of problem with their water district. I would like to have this bill introduced and at some point have a public hearing.

SENATOR DISNARD: I am not against your bill, I just have a question. How is home rule effect, is it under a state control?

SENATOR FRASER: I think probably, Senator Disnard, I have not even looked at the language, I just got the bill. I suspect it allows for home rule.

SENATOR MCCARLEY: Senator Fraser, when is this all going to happen? Are we doing this today?

SENATOR FRASER: No, no, no, Senator McCarley, thank you for the question. I have some concerns about the bill itself, I am not sure it does what the town of Pittsfield would like. I just wanted to introduce the bill so it could get into a public hearing.

SENATOR MCCARLEY: Okay, thank you.

COMMITTEE OF CONFERENCE REPORTS

1999-1951-CofC

10/09

Committee of Conference Report on HB 25-FN-A, an act making appropriations for capital improvements.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

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

1 Capital Appropriations. The sums hereinafter detailed are hereby appropriated for the projects specified to the departments, agencies, and branches named:

I. Adjutant General.

A. NHSVC maintenance building and equipment completion	\$ 610,000
Less federal	<u>-610,000</u>
Net state appropriation subparagraph A	\$ 0
B. Replacement of information technology hardware systems & applications *	62,000
C. Renovation of state armories	<u>\$300,000</u>
Total state appropriation paragraph I	<u>\$362,000</u>

II. Department of Administrative Services, Division of Plant and Property Management.

A. Bureau of General Services

1. Life safety code compliance – Johnson Hall building	\$ 170,000
2. Defective elec. wiring & panel replacement, health and human services building	148,500
3. Replace defective cooling tower legislative office building	66,000
4. Flash & coat (2) stair towers – health and human services building	88,000
5. Repair building foundation – Storrs St. warehouse	52,000
6. Renovate existing facility – 61 South Spring St.	1,500,000
7. Communications equipment upgrade *	200,000
8. Executive/legislative budget system *	294,000
9. Information technology plan consultants *	250,000
10. Equipment upgrade-DASD *	200,000
11. Business continuity plan *	250,000
12. VSE to MSV Conversion *	200,000

13. Bridges House roof and structural rehabilitation	125,000
14. Health and human services building roof	368,000
15. Light replacement – health and human services*	<u>389,050</u>
Net state appropriation subparagraph A	<u>\$ 4,300,550</u>
Total state appropriation paragraph II	<u>\$ 4,300,550</u>
III. Department of Agriculture, Markets, and Food.	
A. Laboratory equipment	<u>\$ 172,000</u>
Total state appropriation paragraph III	<u>\$ 172,000</u>
IV. Community-technical college system.	
A. Alan B. Shepard memorial wing development, Christa McAuliffe planetarium – Concord	\$ 100,000
B. Library accreditation compliance	4,700,000
C. Maintenance/critical repairs	1,365,000
D. General science laboratory upgrade	600,000
E. Computer systems/hardware *	<u>132,500</u>
Total state appropriation paragraph IV	<u>\$ 6,897,500</u>
V. Department of Corrections.	
A. Replace boiler plant – women’s prison	\$ 200,000
B. Year 2000 equipment replacement/upgrade *	146,000
C. Expansion of department WAN *	126,000
D. New halfway house – southern	<u>500,000</u>
Total state appropriation paragraph V	<u>\$ 972,000</u>
VI. Department of Education.	
A. Computer applications expansion/replacement *	<u>\$ 650,000</u>
Total state appropriation paragraph VI	<u>\$ 650,000</u>
VII. Department of Environmental Services.	
A. Drinking water state revolving fund matching funds	\$ 2,946,780
B. Wastewater state revolving fund matching funds	270,314
C. Hazardous waste superfund match	3,140,000
D. Storage building for emergency response equipment	540,000
Less federal	<u>-432,000</u>
Net state appropriation subparagraph D	108,000
E. Equipment/furniture office consolidation	208,550
F. Bedrock aquifer program	215,515
G. Implementation of information technology plan *	317,104
H. Winnepesaukee operations model	<u>257,000</u>
Total state appropriation paragraph VII	<u>\$ 7,463,263</u>
VIII. Department of Health and Human Services Commissioner’s Office.	
A. Laboratory safety improvements	\$ 242,000
B. Laundry and bathing equipment – Glencliff	80,000
C. APS kitchen floor & window repairs – N.H. Hospital	100,000
D. Laundry equipment replacement – N.H. Hospital	180,000
E. Main Bldg./Annex 1 roof replacement – behavioral health	1,210,000
F. Laconia developmental services campus – designated receiving facility renovations – developmental services	250,000

G. Philbrook fire safety improvements –	
N.H. Hospital	115,000
H. Information technology *	\$ 20,500,000
Less federal	<u>-13,000,000</u>
Net state appropriation subparagraph H	7,500,000
Total state appropriation paragraph VIII	<u>\$ 9,677,000</u>

The funds appropriated in subparagraph VIII, H for information technology programs shall not be committed, contracted for, or expended, without the prior written approval of the governor.

IX. Legislative Branch.

A. Legislative budget assistant – tax policy revenue forecasting and modeling software	\$ <u>1</u>
Total state appropriation paragraph IX	\$ 1

X. Liquor Commission.

A. Renovate store #73, Hampton – southbound	\$ <u>1,425,000</u>
Total state appropriation paragraph X	\$ 1,425,000

XI. Port Authority.

A. Building improvements	<u>320,000</u>
Total state appropriation paragraph XI	\$ 320,000

XII. Department of Resources and Economic Development.

A. ADA compliance for parks facilities	\$ 150,000
B. Statewide radio system	650,000
Less federal	<u>-150,000</u>
Net state appropriation subparagraph B	500,000
C. New toilet facilities - Hampton	125,000
D. Septic gray water system – Mount Washington	150,000
E. Install power – Crawford Notch	<u>150,000</u>
Total state appropriation paragraph XII	\$ 1,075,000

XIII. Department of Transportation.

A. Match for FAA projects	\$ 500,000
B. Match for public transit bus replacement	290,000
C. Acquisition for railroad and airport properties	1,450,000
D. Concord rail bridge	650,000
E. Compliance, governor's commission on disability – All general fund agencies	<u>900,000</u>
Total state appropriation paragraph XIII	\$ 3,790,000

XIV. N.H. Veterans Home.

A. Design and build new facility	\$ 10,000,000
Less federal	<u>-6,500,000</u>
Net state appropriation subparagraph A	3,500,000
Total state appropriation paragraph XIV	\$ 3,500,000

The funds appropriated in subparagraph A shall not lapse.

XV. Youth Development Services.

A. King cottage renovations – design only – YDC	\$ 27,000
B. Safe rooms for Tobey building – construction – YDC	245,000
C. Purchase 4 generators *	210,000
D. Phase I – preparation for agency networking *	<u>225,000</u>
Total state appropriation paragraph XV	\$ 707,000
Total state appropriation section 1	\$ 41,311,314

* The bonds issued for these projects shall be 5-year bonds.

2 Appropriation; University System of New Hampshire. The sums hereinafter detailed are hereby appropriated for the projects specified:

A. Pettee Hall general renovation	\$ 4,300,000
B. New Hampshire public television equipment	2,000,000
C. Murkland Hall roof and related renovation	600,000
D. Kingsbury Hall design	680,000
E. Boyd Hall design	600,000
Total state appropriation section 2	<u>\$ 8,180,000</u>

3 Appropriation; Department of Fish and Game. The sums hereinafter detailed are hereby appropriated for the projects specified:

A. Broodfish facility – Milford	\$ 180,000
B. Repair & replacement of fish rearing containers	350,000
C. Water line repair/replacement	200,000
D. Central boat/equipment storage – Concord	210,000
E. Barry conservation camp building replacement	100,000
F. Headquarters exhibit refurbishment	75,000
Total state appropriation section 3	<u>\$ 1,115,000</u>

4 Appropriation; Department of Transportation and Department of Safety. The sums hereinafter detailed are hereby appropriated for the projects specified:

I. Department of Transportation.

A. Paint storage & transfer building	\$ 415,000
B. Roof repair/Stickney Ave.	630,000
C. Patrol shed – Exeter	600,000
D. Additions & modifications to building B – traffic	325,000
E. Energy & environmental renovations – statewide	1,000,000
F. Conway rest area	500,000
G. Morton building	3,000,000
H. CAD/D transition *	552,000
I. PC & Server & Software Upgrade *	603,000
Total state appropriation paragraph I	<u>\$ 7,625,000</u>

II. Department of Safety.

A. Design and construct Troop D barracks/ DMC training	\$ 910,000
B. Paving and roof replacement at troop stations	80,000
C. Video surveillance system – troop stations/ Hayes bldg.	50,000
D. Carpeting at 10 Hazen Drive – Concord	154,000
Total state appropriation paragraph II	<u>\$ 1,194,000</u>
Total state appropriation section 4	<u>\$ 8,819,000</u>

* The bonds issued for these projects shall be 5-year bonds.

5 Expenditures; General. The appropriations made for the purposes mentioned in sections 1, 3, and 4 and the sums available for those projects shall be expended by the trustees, commissions, commissioner, or department head of the institutions and departments referred to herein; provided that all contracts and projects and plans and specifications therefor shall be awarded in accordance with the provisions of RSA 228.

6 Expenditures; University System of New Hampshire.

I. The appropriations made for the purposes mentioned in section 2 and the sums available for these projects shall be expended by the trustees of the university system of New Hampshire. All contracts for the construction of all or any part of said buildings or facilities shall be let

only after competitive sealed bids have been received and only after an advertisement calling for such bids has been published at least once in each 2 successive calendar weeks in a newspaper of general circulation in New Hampshire or in a trade journal known to be circulated among the contractors from whom bids will be sought with the state of New Hampshire or elsewhere in the area. The first publication of such advertisement shall be not less 30 days prior to the date the bids will be received. All conditions considered, wherever possible, it is recommended that the services of New Hampshire architectural and construction firms be considered within the discretion of the trustees.

II. The appropriations made in section 2 are available for all costs incidental to the completion of the projects enumerated including the costs of the services of architects, engineers, and other consultants of such kind and capacity as the university system board of trustees, in its discretion, may wish to employ on such terms and conditions as the board determines. These moneys shall be spent under the direction of the university system board of trustees.

III. If, in the judgment of the trustees of the university system, just cause exists indicating the lowest bid should be rejected, then the contract may be awarded to the next lowest bidder; or, if the next lowest bid should be rejected, the contract may be awarded to the third lowest bidder.

IV. The board of trustees of the university system has the right to reject any and all bids and, if the lowest bid is in excess of the appropriation, the board has the right to negotiate with the low bidder or with the 3 lowest bidders for a contract for the construction upon terms considered most advantageous to the university. If only one bid is received, the board of trustees may negotiate a contract for the construction on terms considered most advantageous to the university system and to the state. Any authorization contained in this act which is at variance with the requirements of applicable federal law and regulations shall be controlled by the terms of the federal law and regulations.

V. Notwithstanding paragraphs I, III, and IV, the sums appropriated by section 2, paragraph A of this act for the Pettee Hall general renovation, may be expended and awarded by the trustees of the university system; provided that all contracts for all or any part of the building or facilities shall follow construction management procurement procedures and guidelines. If the trustees select construction management pursuant to this paragraph, paragraphs I, III, and IV shall not apply and the trustees shall retain the right to reject or negotiate following accepted construction management practices.

7 Land Acquisition. Any land acquired under the appropriations made in sections 1, 3, and 4 of this act, except such land, if any, as may be acquired under the appropriation for the department of environmental services, shall be purchased by the commissioner of the department of transportation with the approval of governor and council.

8 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, and 4 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$59,425,314 and for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

9 Payments.

I. The payment of principal and interest on bonds and notes issued for the projects in sections 1 and 2 shall be made when due from the general funds in the state.

II. The payment of principal and interest on bonds issued for the projects in:

(a) Section 3 shall be made when due from the fish and game fund.

(b) Section 4 shall be made when due from the highway fund.

10 Liquidation. The state treasurer is authorized to deduct from the fund accruing to the university under RSA 187-A:7, or appropriation in lieu thereof, for each fiscal year such sum as may be necessary to meet interest and principal payments in accordance with the terms and conditions of bonds and notes issued for the purpose of section 2.

11 Powers of Governor and Council. The governor and council are hereby authorized and empowered:

I. To cooperate with and enter into such agreements with the federal government, or any agency thereof, as they may deem advisable, to secure federal funds for the purposes of this act.

II. To accept any federal funds which are, or become available for any project under sections 1, 3, and 4 beyond the estimated amounts. The net appropriation of state funds for any project for which such additional federal funds are accepted shall be reduced by the amount of such additional funds, and the amount of bonding authorized by section 8 shall be reduced by the same amount.

12 Transfers. The individual project appropriations provided in sections 1, 2, 3, and 4 of this act shall not be transferred or expended for any other purposes; provided that if there is a balance remaining after an individual project, which is fully funded by state funds, is completed, accepted, and final payment made, said balance or any part thereof may be transferred by governor and council, or for expenditures made pursuant to section 6 by the trustees of the university system, to any other individual project or projects, which are also fully funded by state funds, within the same section and from the same funding source, provided that prior approval of the capital budget overview committee is obtained.

13 Reduction of Appropriation and Bonding Authority. If the net appropriation of state funds for any project provided for by sections 1, 3, and 4 is determined on the basis of an estimate of anticipated federal, local, or other funds, and if the amount of such funds actually received or available is less than said estimate, then the total authorized cost for such projects and the net appropriation of state funds thereof shall be reduced by the same proportion as the proportion by which federal, local, or other funds are reduced. The amount of bonding authorized by section 8 shall be reduced by the amount that the appropriation of state funds is reduced pursuant to this section.

14 Information Technology Equipment and Software. Individual project appropriations for information technology equipment provided for by sections 1, 3, or 4, or for any other agency in any budget bill enacted during the 1999 legislative session, shall not be spent, obligated, or encumbered until such time as the agency's information technology plans are reviewed by the division of information technology management pursuant to RSA 21-I:67 and approved by the capital budget overview committee. The division of information technology management shall review any such agency technology plans within 90 days. An agency may request an extension of time from the capital budget overview committee.

15 Youth Development Services; Long Range Capital Planning and Utilization Committee Approval. Amend 1997, 351:68, as amended by 1998, 372:2, to read as follows:

351:68 Expenditure of Funds Appropriated for Construction and Renovations - YDC in HB 25-A. The appropriation for construction and reno-

vations - YDC made to the department of youth development services in section 1, paragraph XVI, D of HB 25-A of the 1997 legislative session shall be set aside for a match for any federal funds which are now or may be made available for the construction or renovation costs of facilities for juvenile offenders and shall not be spent, obligated, or encumbered until such time as **the department receives approval from the [capital budget overview] long range capital planning and utilization** committee [~~approves the consultant's survey authorized under section 67 of this act~~].

16 Regional Community-Technical Colleges; Early Childhood Laboratory School Fund Established. Amend RSA 188-F by inserting after section 20 the following new section:

188-F:20-a Early Childhood Laboratory School Fund. There is established the early childhood laboratory school fund which shall be administered by the department of regional community-technical colleges. Moneys received from private donations or from federal or other sources shall be deposited into the fund. The purpose of the fund is to provide for payment of the cost of bonds and notes on the early childhood laboratory school on the Concord campus, and to enhance academic programs in parent education. The fund shall be continually appropriated to the department of regional community-technical colleges and shall be nonlapsing.

17 Appropriation; Payment of Bonds and Notes; Regional Community-Technical Colleges; Early Childhood Laboratory School.

I. The sum of \$427,400 is appropriated to the regional community-technical colleges for the purpose of the construction of the early childhood laboratory school on the Concord campus.

II. To provide funds for the appropriation made in paragraph I the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$427,400 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the early childhood laboratory school fund established in RSA 188-F:20-a.

18 Appropriation; Department of Resources and Economic Development; Recreational Vehicle Sites at Moose Brook. The sum of \$100,000 is hereby appropriated to the department of resources and economic development for the purpose of constructing 15 recreational vehicle sites at Moose Brook. The sums appropriated shall be a charge against the state park fund established in RSA 216-A:3-i.

19 Appropriation; Payment of Bonds and Notes; Fire Standards and Training; Aircraft Rescue and Fire Fighting Training Facility.

I. In order to receive a 90-10 federal match of funds of \$6,300,000 for a total project cost of \$7,000,000, the sum of \$700,000 is appropriated to the division of fire standards and training for the purpose of the construction of the aircraft rescue and fire fighting training facility adjacent to the department of safety fire academy.

II. To provide funds for the appropriation made in paragraph I the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$700,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from funds held by the director of fire standards and training pursuant to RSA 21-P:12-a, III.

20 Appropriation Purpose Amended; Resources and Economic Development; Cannon Ski area. Amend 1995, 309:1, XII, A, 2 to read as follows:

2. ~~[Sunapee]~~ Cannon lift and ski area repairs \$ 527,000
 21 Lapse Date Eliminated; Resources and Economic Development;
 New Hampshire Economic Development Fund. Amend 1991, 4:22 as
 amended by 1992, 289:26, 1993, 358:18 and 1995, 285:1, and as ex-
 tended by 1997, 349:34, II to read as follows:

4:22 Appropriation. The sum of \$5,750,000 is hereby appropriated to the
 department of resources and economic development for the purpose of car-
 rying out the provisions of section 21 of this act. These funds shall be in
 addition to any other funds appropriated to the department and ~~[on June~~
~~30, 1997, all unexpended and unencumbered balances]~~ shall *not* lapse.

22 Lapse Date Eliminated; Resources and Economic Development;
 New Hampshire Economic Development Fund. Amend 1993, 349:18, III
 as inserted by 1995, 285:2 and as amended by 1997, 349:18 to read as
 follows:

III. The appropriation contained in paragraph I shall not lapse ~~[un-~~
~~til June 30, 1999]~~. Any balances remaining ~~[as of June 30, 1997,]~~ shall
 be allocated by the review committee or budgeted within the state op-
 erating budget for the purposes of paragraph I or other economic initia-
 tives and programs.

23 Capital Appropriation to Department of Safety; Amount Increased.
 Amend 1997, 349:4, II, A as amended by 1998, 226:2 and 1998, 276:4 to
 read as follows:

A. Dover Point substation addition, ~~[\$390,000]~~ **\$460,000**
 Warehouse/Epping station

24 Capital Budget; 1997 HB 25-A; Total Appropriation Increased;
 Highway Funds. Amend 1997, 349:4, total state appropriation section
 4 to read as follows:

Total state appropriation section 4 ~~[\$4,790,000]~~ **\$4,860,000**

25 Capital Budget; 1997 HB 25-A; Total Increased. Amend 1997, 349:8
 to read as follows:

349:8 Bonds Authorized. To provide funds for the total of the appro-
 priations of state funds made in sections 1, 2, 3, and 4 of this act, the
 state treasurer is hereby authorized to borrow upon the credit of the
 state not exceeding the sum of ~~[\$67,998,437]~~ **\$68,178,937** and for said
 purposes may issue bonds and notes in the name of and on behalf of the
 state of New Hampshire in accordance with the provisions of RSA 6-A.

26 Capital Budget; 1997 HB 25-A; Lapse Date Extended; Amounts In-
 creased; Department of Administrative Services; Parking Garage Repairs.
 Amend 1997, 349:1, II, A, 10 and 11 to read as follows:

10. Parking garage repairs – legislative
 office building ~~[\$60,000]~~ **\$ 68,565**

11. Parking garage repairs –
 Storrs Street ~~[\$160,000]~~ **\$261,935**

27 Capital Budget; 1997 HB 25-A; Total Appropriation Section 1 Sub-
 paragraph A Increased. Amend the total state appropriation for 1997,
 349:1, II, A to read as follows:

Total state appropriation
 subparagraph A ~~[\$2,075,000]~~ **\$2,185,500**

28 Capital Budget; 1997 HB 25-A; Total Appropriation Section 1 In-
 creased. Amend 1997, 349:1, total state appropriation section 1 to read
 as follows:

Total state appropriation section 1 ~~[\$52,208,437]~~ **\$52,318,937**

29 Appropriation Purpose Amended; Health and Human Services;
 Glencliff Home for the Elderly Added. Amend 1995, 310:191, as amended
 by 1997, 349:31, as extended by 1997, 349, 34, XXXVII, and as amended
 by 1998, 276:2 and 3 to read as follows:

310:191 Department of Health and Human Services; Acute Psychiatric Services Building Renovation; M & S Building; Thayer Building; Glencliff Home for the Elderly Appropriation. The sum of \$2,800,000 is hereby appropriated to the department of health and human services for the design and renovation of, and purchase of equipment and furnishing for the B-wing of the acute psychiatric services building; furnishings, painting, safety features and other patient-required improvements in the M & S Building and the Thayer Building for the use of psychiatric nursing home services; ~~and~~ furnishings, painting, safety features, and other patient-required improvements at the Glencliff home for the elderly; **and improvements to the Brown Building**. This appropriation is in addition to any other funds appropriated to the department of health and human services.

30 Appropriation; Bonds Authorized; Emergency Management; Telephone System Replacement.

I. The sum of \$218,800 is appropriated to the office of emergency management for the purpose of telephone system replacement.

II. To provide funds for the appropriation made in paragraph I, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$218,800 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Notwithstanding any provision of RSA 106-H:9, payments of principal and interest on the bonds and notes shall be made from funds held in the enhanced 911 system fund established in RSA 106-H:9.

31 Appropriation; Youth Development Services; Tobey School Elevator. The general court recognizes that the Tobey school located in Concord is not in compliance with the Americans with Disabilities Act (ADA). Therefor there is hereby appropriated the sum of \$225,000 for the biennium ending June 30, 2001 to the department of youth development services for the purpose of repairing or replacing the elevator at the Tobey school in order that the school come into compliance with the ADA. The repair or replacing shall be at the discretion of the commissioner of the department of youth development services, with the prior approval of the fiscal committee of the general court. This appropriation is in addition to any other funds appropriated to the department of youth development services. This appropriation shall be a charge against the accumulated balance forward that the department has accumulated as a result of overbillings made and collected in prior years as noted on page 40 of the performance audit of the juvenile justice system issued by the office of the legislative budget assistant in November, 1998.

32 Lapse Dates Extended to June 30, 2001. The following appropriations are hereby extended to June 30, 2001.

I. The appropriation made to the department of transportation in 1989, 367:1, XII, A, 1, as amended by 1991, 351:27, II(I) and 1992, 289:60, as extended by 1993, 359:20, V, 1995, 309:32, VII, 1996, 215:3, I, and 1997, 349:34, I for improvements at the Keene Dillant-Hopkins airport.

II. The appropriation made to the department of transportation in 1997, 349:1, XIV, B for statewide fuel tank program.

III. The appropriation made to the department of environmental services in 1993, 359:1, IV, B for the state revolving fund match.

IV. The appropriation made to the department of transportation in 1993, 359:1, XII, A, 1, as extended by 1994, 171:1, 1996, 215:3, III, and 1997, 349:34, X for land acquisition for navigation beacons.

V. The appropriation made to the department of administrative services in 1995, 309:1, II, A, 1, as extended by 1997, 349:34, XI for the health and human services building and laboratory HVAC renovations.

VI. The appropriation made to the department of administrative services in 1995, 309:1, II, B, 3, as extended by 1997, 349:34, XIV for the study and design of court facility on county donated land – Carroll County Superior Court.

VII. The appropriations made to the department of administrative services in 1997, 349:1, II, A, 10 and 11 for parking garage repairs at the legislative office building and Storrs Street garages.

VIII. The appropriation made to the department of corrections in 1995, 309:1, IV, K, as amended by 1997, 349:29, and as extended by 1997, 349:34, XVII for preliminary design of expanded correctional facilities, including land acquisition, in accordance with federal crime bill grants.

IX. The appropriation made to the department of corrections in 1995, 309:1, IV, L and as amended by 1997, 349:34, XVIII for the construction of boilers, N.H. state prison for women, Goffstown.

X. The appropriation made to the department of environmental services in 1995, 309:1, VI, A as extended by 1997, 349:34, XIX for the state revolving fund program – wastewater.

XI. The appropriation made to the department of health and human services in 1995, 309:1, VII, B, 1 as extended by 1997, 349:34, XXIII for RSA 171-B mentally retarded criminal offenders.

XII. The appropriation made to the department of health and human services in 1995, 309:1, VII, C, 1 as extended by 1997, 349:34, XXIV for life and safety renovations – Glencliff.

XIII. The appropriation made to the department of health and human services commissioner's office in 1997, 349:1, VII, B as amended by 1998, 276:1, for acute psychiatric service building parking improvement – NH hospital.

XIV. The appropriation made to the department of health and human services commissioner's office in 1997, 349:1, VII, E, as amended by 1998, 276:1, for repair tunnel retaining walls – Glencliff.

XV. The appropriation made to the department of health and human services commissioner's office in 1997, 349:1, VII, J for additional renovations – Brown building – NH hospital.

XVI. The appropriation made to the department of health and human service by 1995, 310:191, as amended by 1997, 349:31, as extended by 1997, 349:34, XXXVII, as amended by 1998, 276:2 and 3, and as amended by section 29 of this act for design and renovation of APS-B-wing, M and S building and Thayer building improvements, Glencliff home improvements, and improvements to the Brown building.

XVII. The appropriation made to the department of resources and economic development in 1995, 309:1, XII, A, 2 as amended by section 20 of this act and as extended by 1997, 349:34, XXVIII for Cannon lift and ski area repairs.

XVIII. The appropriation made to the department of resources and economic development in 1997, 335:3 for the purchase and development of property in Piermont, New Hampshire on Lake Tarleton.

XIX. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 3 and 4 for roof repairs – supreme court and health and human services building.

XX. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 9 for repair of drainage system – state library.

XXI. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 1 for fire suppression – state library.

XXII. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 12 for the emergency repairs, contingency fund.

XXIII. The appropriation made to the department of administrative services in 1997, 349:1, II, A, 13 for the life safety, renovations – health and human services building.

XXIV. The appropriation made to the department of administrative services in 1997, 349:1, II, B, 1-3 for LAN hardware and site preparation, year 2000 financial support system, and check processing and mailing system.

XXV. The appropriation made to the department of administrative services in 1997, 349:1, II, C, 1 for the bureau of court facilities Dover/Durham/Somersworth District Court.

XXVI. The appropriation made to the community technical college system in 1997, 349:1, IV, A for telephone systems and roof projects- Manchester, Claremont, Nashua, and Concord.

XXVII. The appropriation made to the community technical college system in 1997, 349:1, IV, C for critical laboratory support for N.H. industries.

XXVIII. The appropriation made to the community technical college system in 1997, 349:1, IV, E for upgrade of general science laboratories.

XXIX. The appropriation made to the department of environmental services in 1997, 349:1, VI, A for the waste water state revolving fund match.

XXX. The appropriation made to the department of environmental services in 1997, 349:1, VI, B for the drinking water state revolving fund match.

XXXI. The appropriation made to the department of environmental services in 1997, 349:1, VI, D for the bedrock aquifer assessment.

XXXII. The appropriation made to the department of environmental services in 1997, 349:1, VI, F for dam removal.

XXXIII. The appropriation made to the department of health and human services commissioner's office in 1997, 349:1, VII, F and as amended in 1998, 276:1 for the Brown Building addition and renovation – Glencliff.

XXXIV. The appropriation made to the port authority in 1997, 349:1, IX, D for the maintenance dredging Hampton/Seabrook harbor.

XXXV. The appropriation made to the port authority in 1997, 349:1, IX, C for dredging Little Harbor.

XXXVI. The appropriations made to the department of resources and economic development in 1997, 349:1, X, B-D for repair Rocky Bend seawall, replace bath house – Sunapee, and replace bridge – Lafayette campground.

XXXVII. The appropriation made to the department of transportation in 1997, 349:1, XIV, A for 5-10 percent match FAA airport projects.

XXXVIII. The appropriation made to youth development services in 1997, 349:1, XVI, D as amended by 1997, 351:68 and 1998, 372:2, 3 and as amended by section 15 of this act for construction and renovations – YDC.

XXXIX. The appropriation made to the department of transportation in 1997, 349:4, I, A for John O. Morton building renovation.

XL. The appropriation made to the department of safety in 1997, 349:4, II, A as amended by 1998, 226:2 and as amended by section 23 of this act for warehouse/Epping station.

XLI. The appropriation made to the department of safety in 1997, 349:4, II, B as amended by 1998, 226:2 for microwave system upgrade.

XLII. The appropriation made to the department of corrections in 1998, 223:2 for the design and construction of the new medium security prison and for furnishings and equipment for inmates of the new prison.

XLIII. The appropriation made to the university system in 1992, 260:16 as amended by 1997, 351:51 for site planning and design of a research facility on the university of New Hampshire campus to enable the university to develop an entrepreneurial campus concept.

XLIV. The appropriations made to the department of fish and game in 1995, 309:3, A and B as extended by 1997, 349:34, XXXV for roof repairs and concrete repair/replacement – hatcheries.

XLV. The appropriation made to the department of fish and game in 1997, 349:3, I for headquarters building modification.

XLVI. The appropriation made to the liquor commission in 1997, 349:1, VIII, B for point of sale registers.

XLVII. The appropriation made to the department of education in 1997, 349:1, V, A for phase II computer implementation.

33 Effective Date.

I. Section 32 of this act shall take effect June 30, 1999.

II. The remainder of this act shall take effect July 1, 1999.

The signatures below attest to the authenticity of this Report on HB 25-FN-A, an act making appropriations for capital improvements.

Conferees on the Part of the Senate

Sen. Larsen, Dist. 15
Sen. D'Allesandro, Dist. 20
Sen. Gordon, Dist. 2
Sen. J. King, Dist. 18

Conferees on the Part of the House

Rep. E. Smith, Ches. 6
Rep. Chandler, Carr. 1
Rep. Calawa, Hills. 17
Rep. Vaughn, Rock. 35

SENATOR D'ALLESANDRO: The bill before you is a Capital Budget bill. I think it is a good bill. It took great deliberations on the part of the House and the Senate, and I commend every member of the Conference Committee, both House and Senate, to their due diligence and consideration of the issues. The Senate took a strong position with regard to the University System. That position was adhered to some extent by the House. The House had strong positions on other items. I think the Capital Budget as presented, is a good Capital Budget. It is within the \$50 million framework. It actually comes below the \$50 million framework. We have fully funded the Veteran's Home, which I think, was a priority for all people, Republicans and Democrats. That is in place so we should be in a priority status in terms of getting the \$6.5 million from the federal government, and the addition to that home should be completed. We have done a good job with regard to Health and Human Services in addressing their requirements for information technology upgrades that will help them do a better job of responding to the services that they have to provide. With regard to the Department of Education, we have assented to their requirements for producing better information for us, so that we can make better decisions with regard to educational reform. The statistical analysis that takes place should be upgraded significantly. The MS25 reports better and more concise. We should be getting those in a timely manner, and the interaction between the districts and department should be increased. In terms of the Adjutant General, we did supply some dollars to take care of some severely needed fencing requirements for our Armorys. I think that as you go through the process, items were looked at carefully, deliberately, and we came to a meeting of the minds and put this together. As I say, I truly have to compliment the members of the committee. Senator Larsen, who is not

here today...she did a super job leading the conference. Senator Gordon, Senator King, Senator Wheeler, myself, were on the committee. I can't say enough about the House conferees. I thought that they were outstanding and listening to the needs of the state, and coming to consensus on this budget. It does a good job for the state of New Hampshire, it is under the \$50 million, and we can move forward.

SENATOR KLEMM: Senator D'Allesandro, the other day we passed an amendment to a bill to allow \$6 million in bonding for the vocational schools, is that accounted for in this Capital Budget?

SENATOR D'ALLESANDRO: No, it is not, Senator Klemm. There is no vocational money in this budget, in this Capital Budget.

SENATOR PIGNATELLI: On page two of the Committee Conference Report, line 26, the "new Halfway House Southern", it was \$1,500,000 and it is now at \$500,000. Can you tell me what that \$500,000 is for?

SENATOR D'ALLESANDRO: The \$500,000 was to do a study and then come back to the legislature after that has been done so that the Halfway House would never be located in a area that was not receptive to it, and that we would have plans for that Halfway House so that we knew that monies were appropriated; it would be going to a building that would be done and we would know where it would be, who it would be servicing in terms of numbers, and when it would be completed.

SENATOR PIGNATELLI: Southern, the term "southern", does that mean that if the study comes out and it ought to be "northern" it would not be?

SENATOR D'ALLESANDRO: There was a statement from the commissioner of corrections that the Halfway House would not be located in any area that there was not a positive response to it.

SENATOR GORDON: I just wanted to rise and support the Committee of Conference Report and urge my Republican colleagues to go along with it. What becomes immediately apparent in doing the Capital Budget, is that the state has any number of needs, and all, which seem to be worthy, and we only have limited resources. I am sure that not everyone saw their priorities satisfied or their individual interests satisfied in this particular budget. I think that it strikes a good balance and it identifies those projects, which have the highest priority and the greatest need. The only other thing that I would say is that there have been many times this session that I raised, and was critical of the process, and this is one time that I would stand and say that I think that the Capital Budget process, the process itself, the Committee of Conference fair. It proceeded exceptionally well. My compliments to the chair, Senator Larsen for doing so. I want to make sure that everyone understands that I think this is responsible, and I hope that everyone can vote for it.

Senator D'Allesandro moved adoption.

Adopted.

1999-1902-CofC

10/01

Committee of Conference Report on HB 69, an act relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:
Amend the bill by replacing all after section 4 with the following:

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

The signatures below attest to the authenticity of this Report on HB 69, an act relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees.

*Conferees on the Part
of the Senate*

Sen. Wheeler, Dist. 21
Sen. J. King, Dist. 18
Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. Daniels, Hills. 13
Rep. Gilman, Graf. 1
Rep. Clegg, Hills 23
Rep. Kelley, Rock. 22

1999-1902-CofC

AMENDED ANALYSIS

This bill changes the definition of employee related to certain labor laws.

Senator Wheeler moved adoption.

Adopted.

1999-1955-CofC

09/01

Committee of Conference Report on HB 112-FN-A, an act increasing the tobacco tax and imposing the tax on all types of tobacco products.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

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

1 Cigarette Tax. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [37] 52 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

2 Applicability. Section 1 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 6, 1999, shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

3 New Subdivision; Tobacco Use Prevention Fund. Amend RSA 126-K by inserting after section 14 the following new subdivision:

Tobacco Use Prevention Fund

126-K:15 Tobacco Use Prevention Fund. There is hereby established in the office of the state treasurer a fund to be known as the tobacco use prevention fund. Of tobacco settlement funds received by the state of New Hampshire, \$3,000,000 annually, commencing with fiscal year 2001, shall be deposited in the tobacco use prevention fund. Moneys in this fund shall be nonlapsing and continually appropriated, beginning with fiscal year 2001, for tobacco use prevention and cessation programs, which shall include but not be limited to:

- I. Tobacco use prevention community programs and grants.
- II. Tobacco use prevention school programs and grants.
- III. Tobacco use prevention state-wide programs and grants.
- IV. Tobacco use cessation programs.
- V. Tobacco use prevention and cessation counter marketing.
- VI. Evaluation.
- VII. Administration and enforcement.

4 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (vvv) the following new subparagraph:

(www) Moneys received under RSA 126-K:15, which shall be credited to the tobacco use prevention fund.

5 Tobacco Use Prevention and Cessation Programs. The allocation of moneys in the tobacco use prevention fund to specific tobacco use prevention and cessation programs shall be determined by the legislature during the 2000 legislative session.

6 Effective Date. This act shall take effect July 6, 1999.

The signatures below attest to the authenticity of this Report on 112-FN-A, an act increasing the tobacco tax and imposing the tax on all types of tobacco products.

*Conferees on the Part
of the Senate*

Sen. Hollingworth, Dist. 23
Sen. McCarley, Dist. 6
Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. Lozeau, Hills. 30
Rep. Chandler, Carr. 1
Rep. Kurk, Hills. 5
Rep. Buckley, Hills. 44

1999-1955-CofC

AMENDED ANALYSIS

This bill increases the tobacco tax by 15 cents.

The bill dedicates \$3,000,000 of tobacco settlement funds to a tobacco use prevention fund.

SENATOR HOLLINGWORTH: Yes, we would ask that the Committee of Conference on HB 112-FN-A: would be move ought to pass. I would like to speak briefly to it. We had attempted to try to make sure that the transfer money was included in this version and unfortunately, we were unable to convince the House of the importance of that. They did recognize, and they did agree, that with not having the transfer power, the commissioner of Health and Human Services would find himself under funded in the provider line and that therefore, it would be not just likely, it would be a certainty, that he would be required to come back in the future for monies to fund that provider line without that transfer power. The House recognized that and said that they were willing to support

him coming back before the process to receive the supplemental funding. So with regret, the transfer is out of this version, as well as the computer would have enabled us to do more accurate tax evaluation. Included in the Committee Conference Report is the funding from the tax settlement fund of 1.5 cents, actually it is not 1.5 cents, it is at \$3 million that will go for succession and prevention, and the legislature will determine those programs in the upcoming session. We did list the categories that we feel that need to be included into that succession and education program, and while we did not get all that we wanted, we feel that was a part of having the study to determine how we will use the prevention fund, and education fund is an important one. I hope that you will support this one.

Recess.

Senator Cohen in the Chair.

SENATOR F. KING: Senator Hollingworth, can you tell me what the anticipated supplemental budget will have to be?

SENATOR HOLLINGWORTH: I am afraid it might be as high as \$14 million.

SENATOR F. KING: Am I right in assuming that since the last I knew, we had a \$8.5 million surplus, that are ready to pass now an operating budget and a school budget that is in deficit as well?

SENATOR HOLLINGWORTH: Unless of course, the commissioner can find some way to keep those provider lines down. While the pharmaceutical piece was taken out of our version, and the House had removed that, he believes that he can still move forward on that. That is where we found the highest increases, was in the pharmaceutical program. So we are hoping that he is going to be able to try to make some considerable savings in that and still thinks that he can move forward on that. That is our greatest hope that we will not have a supplemental budget, which will be of that increase.

SENATOR F. KING: So there may not be a supplemental budget?

SENATOR HOLLINGWORTH: I am afraid there will be a supplemental budget of some amount.

SENATOR F. KING: It may not be \$14 million.

SENATOR HOLLINGWORTH: It may not be \$14 million, it probably will not be in the first year anyway.

SENATOR BLAISDELL: I think that by denying the commissioner of Health and Human Services, the authority to transfer funds within the department...I believe that the House Republican Leaders have ensured a budget deficit that will remember this, that will require a supplemental appropriation in January. We hired one of the finest men in this country to head one of the most controversial departments in the world, as far as I am concerned. It is an impossible job. Yet the House stripped the commissioner transfer authority from the budget. When the Senate restored it to the bill to raise the cigarette tax, the House offered severely limited transfer authority, and demanded an exorbitant price for it. Commissioner Shumway anticipates that he will need \$14 million during the biennium to meet the rising costs of health care, especially prescription drugs. With the authority to transfer money between programs within the department,

he could pay the bills without running a deficit. Without it, you can't be assured he is going to be back here next year in January asking for more money. The same people who are tying the commissioner's hands, insisting on giving his predecessor all sorts of discretionary authority to manage the finances and personnels of the department. Throughout our negotiations on the budget, the Speaker of the House and the chairman of the House Finance Committee have harped, and I mean harped, on the importance of a balance budget. They even tried to say that the shortfall in the educational trust fund makes the budget that you and I adopted illegal. Now they are turning around drowning us in red ink. I think that it is the wrong thing to do, and we should have given that authority to one of the finest Health and Human Services commissioners that this state has ever had. I can't believe that House Finance Committee, chairman Kurk, would do this. He gave it to the other one and would not give it to this one, and he is wrong, and he is going to have to pay for it next January.

SENATOR JOHNSON: Senator Hollingworth, how is DRA going to handle the floor tax?

SENATOR HOLLINGWORTH: I am not very knowledgeable on that other than the fact that Stan Arnold says he will be able to do it. The date was changed to the sixth to allow him that capacity. It would be no different then the way that he has handled it in the past, each time there has been a tobacco increase, and there has been a floor tax.

SENATOR JOHNSON: I think that most of us on Tuesday received a notice from Profitto's Market and Deli, which I believe is in Senator F. King's territory in Littleton. I just want to make a couple of comments that they made to us. The second thing that he has here for us to remember is that "it will not raise the \$30 million, and sales would be lost and Stan Arnold is wrong this time." "We are your tax collectors, listen to us". Down below he says "you will be held accountable, the questionable revenue gains, minute and are not worth the gamble to lose business profits tax, capital gains tax, rooms and meals tax, lottery tax and gasoline tax, keep the New Hampshire advantage". Thank you.

SENATOR F. KING: I just want to comment that I agree with the Senate President that the commissioner should have been allowed the transfer authority, and I am pleased to know that we now recognize that the authority that was given to Terry Morton to do this resulted in his being able to manage his budget and come in without a supplemental budget. I am glad to see that those who opposed this so vehemently on this floor now recognize that it is a good policy.

SENATOR SQUIRES: I rise briefly, Mr. President, to also lament the loss of the transfer authority, that is very unfortunate, and I am sure we will see delays in payment of providers in 15 months. But I also rise to mark the occasion, one for the first time over 60 years following the introduction of the tobacco tax, the state of New Hampshire, some of its money and devotes it to cessation and prevention. I don't know how much the tobacco tax has brought in over the years. I suspect that it is over a billion dollars, and then you begin to calculate the cost social, economic and human, of all the people in nursing homes. Many, whom have tobacco related diseases, which is part of the whole provider problem previously alluded to. We can be proud of the fact, that we have finally done it, we can lament the fact that we took about eight percent of the tobacco settlement and used it for the purposes that we got it for. But never the

less, as I told someone yesterday, we are a big multiple of zero, or we have, and I am grateful to the senate and all of you who kept this issue alive and set us, I will be modest, but really way down the course where we should be going.

Senator Hollingworth moved adoption.

Adopted.

Senator F. King in opposition to HB 112-FN-A Committee of Conference Report.

1999-1918-CofC

05/01

Committee of Conference Report on HB 252, an act establishing a committee to study all aspects of the condominium act established under RSA 356-B.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

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

1 New Section; Process for Division of Rental Units from Individually Owned Units for Tax and Title Purposes. Amend RSA 356-B by inserting after section 26 the following new section:

356-B:26-a Division of Rental Units from Individually Owned Units for Tax and Title Purposes. Notwithstanding the provisions of RSA 356-B:26, in situations where a single owner has purchased several units within an established complex and uses them as rental properties, the following procedure shall allow cities and towns to rectify discrepancies concerning marketable title to the properties:

I. Upon the request of the majority of the lot owners in a subdivision, the governing body may cause a plat to be made for the purpose of taxation or tax title procedures. Such request shall be made in the form of a warrant article which may be placed on the warrant by the will of the selectmen or as a petitioned warrant article as provided in RSA 39:3. Upon approval by the legislative body, the governing body, acting as the applicant, shall submit such application to the planning board for review and approval pursuant to local subdivision regulations and RSA 676:4 where the town has authorized the planning board to approve or disapprove plats pursuant to RSA 74:35.

II.(a) When completed, the plat shall be filed with the planning board by the governing body that ordered the plat. For the purposes of this section, the filing of the application for approval of the plat shall occur at least 15 but not more than 20 days prior to the public hearing at which the application is submitted to and accepted by the planning board.

(b) On its title page shall appear the sworn certificate of the surveyor who made the plat, which shall state and contain:

(1) The name of the governing body by whose order the plat was made and the date of the order.

(2) A clear and concise description of the land so surveyed and mapped by metes and bounds beginning with some corner marked and established in the New Hampshire state plane coordinate system, North American DATUM of 1983.

(3) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and each parcel thereof.

(4) A statement the surveyor has fully complied with the provisions of this section in filing the same.

(c) Notice shall be given to the owners of record of lands in the plat, the applicant, abutters and the public according to the procedures set forth in RSA 676:4, I(d) and notice shall also be given, in the same manner as provided for in RSA 676:4, I(d), to each person holding a mortgage on such property and to the person to whom property taxes are assessed if other than the owner in order that such persons shall have the opportunity to examine the map, view the temporary monuments, and make known any disagreement with the boundaries as shown by the temporary monuments. For the purposes of this section, the names and addresses of all persons to be notified shall be those as indicated in the county registry of deeds not more than 5 days before the day of filing of the application with the planning board.

III.(a) Such plat, when approved by the planning board, shall be recorded in the registry of deeds pursuant to the requirements of RSA 674:37 and shall be recorded within 30 days of submission to and acceptance by the planning board, as specified in section 3 of this act. The approval and subsequent recording of any such plat shall in no way extinguish, exhaust or vacate any liens, mortgages or encumbrances on any land contained within the area of the plat and any such liens, mortgages or encumbrances shall continue to run with the land as shown on the plat as recorded in the registry of deeds.

(b) Reference to any land, as it appears on a recorded plat, is deemed sufficient for purposes of title and taxation. Conveyance may be made by reference to such plat and shall be as effective to pass title to the land so described as it would be if the same premises had been described by metes and bounds. Such plat or record of such plat shall be received in evidence in all courts and places as correctly describing the several parcels of land therein designated.

(c) Amendments or corrections to a plat may be made at any time by application to the planning board by the governing body as outlined in section 2 of this act.

(d) Any persons aggrieved by any decision of the planning board regarding approval of a plat may appeal such decision pursuant to RSA 677:15.

(e) A copy of this act shall be recorded in the registry of deeds along with the final plat.

2 Committee Established. There is established a committee to study all aspects of the condominium act established under RSA 356-B.

3 Membership and Compensation.

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

(a) Three members of the house of representatives, at least one of whom shall be a member of the house commerce committee, appointed by the speaker of the house.

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

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

4 Duties. The committee shall study all aspects of the condominium act established under RSA 356-B, soliciting input from organizations including but not limited to the attorney general's office and the Community Associations Institute-New Hampshire (C.A.I). Measures to be

considered shall include, but not be limited to, enabling legislation to allow condominium associations to adopt provisions in their bylaws to provide for contraction or division by an 80 percent affirmative vote by condominium owners.

5 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.

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the attorney general, the speaker of the house of representatives, the house clerk, the senate president, the senate clerk, the governor, and the state library on or before November 1, 1999.

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

The signatures below attest to the authenticity of this Report on HB 252, an act establishing a committee to study all aspects of the condominium act established under RSA 356-B.

*Conferees on the Part
of the Senate*

Sen. Trombly, Dist. 7
Sen. Disnard, Dist. 8
Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. K. Herman, Hills. 13
Rep. S. Francoeur, Rock. 22
Rep. McGough, Hills. 18
Rep. Taylor, Straf. 11

1999-1918-CofC

AMENDED ANALYSIS

This bill establishes a procedure for the division of units within condominium complexes and creates a committee to study all aspects of the Condominium Act established under RSA 356-B.

Senator Trombly moved adoption.

Adopted.

1999-1921-CofC

04/09

Committee of Conference Report on HB 265, an act relative to the student trustees on the University System of New Hampshire board of trustees.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 16 with the following:

16 Town of Springfield; Kindergarten Program; Per Pupil Reimbursement Amended. Amend 1999, 65:9, III to read as follows:

III. If the town of Springfield continues to maintain, at public expense, a kindergarten program established prior to school year 1998-1999, it shall receive reimbursement for [fiscal year 2000 and each fiscal year thereafter at the rate of \$750 per pupil] *each pupil for fiscal year 1999 and each fiscal year thereafter at the rate of ½ the average base cost per pupil of an elementary school pupil as determined in accordance with RSA 198:40 and 198:41.*

Amend the bill by replacing section 17 with the following:

17 Kindergarten Programs; Transfer to Education Trust Fund. Notwithstanding RSA 9:13-e, any undesignated general fund surplus up to the sum of \$1,700,000 for the biennium ending June 30, 1999 shall be transferred to the education trust fund established in RSA 198:39 for the purposes of sections 15 and 16 of this act.

The signatures below attest to the authenticity of this Report on HB 265, an act relative to the student trustees on the University System of New Hampshire board of trustees.

*Conferees on the Part
of the Senate*

Sen. McCarley, Dist. 6

Sen. Gordon, Dist. 2

Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. Chandler, Carr. 1

Rep. Hess, Merr. 11

Rep. Kurk, Hills. 5

Rep. Snyder, Straf. 14

Senator McCarley moved adoption.

Adopted.

1999-1940-CofC

08/09

Committee of Conference Report on HB 291, an act establishing a study committee for seed sterilization technology or "terminator" technology.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as passed by the House, and pass the bill as so amended:

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

1 Committee Established. There is established a 3-year study committee to examine the threat to bio-diversity as a result of the sterility trait flowing via pollen from "terminator" crops to surrounding plants, rendering them sterile.

2 Membership and Compensation.

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

(a) Four members of the house of representatives, appointed by the speaker of the house, including 2 members of the house environment and agriculture committee, one member of the house science, technology and energy committee, and one member of the house commerce committee.

(b) Three members of the senate, appointed by the president of the senate, including 2 members of the senate environment committee and one member of the senate economic development committee.

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 the threat to bio-diversity as a result of the sterility trait flowing via pollen from "terminator" crops to surrounding plants, rendering them sterile. The committee shall determine the value of legislation that would regulate this technology to protect both agriculture and our wild species of plants.

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 senate president, the house clerk, the senate clerk, the governor, and the state library annually on or before November 1.

6 Report by Commissioner of Agriculture, Markets, and Food. The commissioner of agriculture, markets, and food shall complete an annual report on any recent developments in the field of genetically-engineered plant life. The commissioner may use any appropriate department personnel and resources for completing the report as the commissioner deems necessary. Such annual report shall be provided to the state library, the governor, the speaker of the house of representatives, the senate president, and the chairs of the house and senate committees relating to agriculture and the environment, on or before November 1 of the years 1999, 2000, 2001, and 2002.

7 Repeal. Sections 1-6 of this act, relative to a 3-year study committee to examine the threat to bio-diversity as a result of the sterility trait flowing via pollen from "terminator" crops to surrounding plants, is repealed.

8 Effective Date.

I. Section 7 of this act shall take effect November 1, 2002.

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

The signatures below attest to the authenticity of this Report on HB 291, an act establishing a study committee for seed sterilization technology or "terminator" technology.

*Conferees on the Part
of the Senate*

Sen. Cohen, Dist. 24

Sen. Wheeler, Dist. 21

Sen. Russman, Dist. 19

*Conferees on the Part
of the House*

Rep. Babson, Carr. 5

Rep. Chandler, Carr. 1

Rep. Harmon, Graf. 8

Rep. Melcher, Hills. 11

1999-1940-CofC

AMENDED ANALYSIS

This bill establishes a 3-year study committee to examine the threat to bio-diversity as a result of the sterility trait flowing via pollen from "terminator" crops to surrounding plants, rendering them sterile. The commissioner of agriculture, markets, and food shall also complete an annual report, for the years 1999, 2000, 2001, and 2002, on recent developments in the field of genetically engineered plant life.

SENATOR WHEELER: I just want to bring to the Senate's attention, in HB 291, the Senate was very proactive and it took what I believe, the moral leadership in saying that this is not a technology that will benefit our farmers either in New Hampshire, the United States, or the rest of the world. We did pass the ban in the Senate. The House conferees were adamant that they would not accept the ban. So rather than losing everything, we compromised and accepted the study committee with a report on genetically engineered seed every year by the Department of Agriculture, the commissioner of Agriculture. The Senate conferees are very disappointed in this outcome, and we are sorry that the House was not as far sighted as the Senate in understanding that this is not a beneficial technology. Thank you.

Senator Cohen moved adoption.

Adopted.

1999-1949-CofC**09/10**

Committee of Conference Report on HB 331, an act relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

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

1 Hazardous Waste and Surface Water Quality Violations; Department of Transportation. Due to the discovery of hazardous waste and surface water quality violations attributed to the department of transportation's bureau of traffic at its Concord facility during the 1996 summer construction season, the sum of \$307,250 is required to satisfy said violations identified by the state's department of environmental services.

2 Appropriation. There is hereby appropriated the sum of \$307,250 to the department of transportation for the fiscal year ending June 30, 2000, for the purpose of section 1 of this act. The funds appropriated herein shall only be expended in accordance with the memorandum of understanding signed by the attorney general and the commissioners of the departments of environmental services and transportation. The funds hereby appropriated shall be a charge against the highway surplus account.

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

The signatures below attest to the authenticity of this Report on HB 331, an act relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

*Conferees on the Part
of the Senate*

Sen. Larsen, Dist. 15
Sen. Pignatelli, Dist. 13
Sen. Squires, Dist. 12

*Conferees on the Part
of the House*

Rep. K. Herman, Hills. 13
Rep. Chandler, Carr. 1
Rep. S. Francoeur, Rock. 22
Rep. Taylor, Straf. 11

1999-1949-CofC**AMENDED ANALYSIS**

The bill also addresses hazardous waste and surface water quality violations incurred by the department of transportation which were identified by the state department of environmental services, and makes an appropriation therefor.

Senator Larsen moved adoption.

Adopted.**1999-1920-CofC****01/09**

Committee of Conference Report on HB 333, an act relative to contracts between participating providers and managed care entities.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 333, an act relative to contracts between participating providers and managed care entities.

*Conferees on the Part
of the Senate*

Sen. Wheeler, Dist. 21

Sen. McCarley, Dist. 6

Sen. J. King, Dist. 18

*Conferees on the Part
of the House*

Rep. K. Herman, Hills. 13

Rep. Hunt, Ches. 10

Rep. Francoeur, Rock. 22

Rep. Taylor, Straf. 11

Senator Wheeler moved adoption.

Adopted.**1999-1933-CofC****04/09**

Committee of Conference Report on HB 341, an act relative to the process for nonrenewal of teacher contracts.

Recommendation:

having considered the same, report the committee is unable to reach agreement.

The signatures below attest to the authenticity of this Report on HB 341, an act relative to the process for nonrenewal of teacher contracts.

*Conferees on the Part
of the Senate*

Sen. McCarley, Dist. 6

Sen. Hollingworth, Dist. 23

Sen. J. King, Dist. 18

*Conferees on the Part
of the House*

Rep. O'Hearn, Hills. 26

Rep. Alger, Graf. 9

Rep. Henderson, Rock. 20

Rep. Snyder, Straf. 14

Senator McCarley moved adoption.

Adopted.**1999-1926-CofC****01/09**

Committee of Conference Report on HB 369, an act establishing a committee on educational programs on tobacco use for minors.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 6 with the following:

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

The signatures below attest to the authenticity of this Report on HB 369, an act establishing a committee on educational programs on tobacco use for minors.

*Conferees on the Part
of the Senate*

Sen. Wheeler, Dist. 21
 Sen. McCarley, Dist. 6
 Sen. Johnson, Dist. 3

*Conferees on the Part
of the House*

Rep. McGough, Hills. 18
 Rep. K. Herman, Hills. 13
 Rep. Francoeur, Rock. 22
 Rep. Garrish, Hills. 37

Senator Wheeler moved adoption.

Adopted.**1999-1910-CofC****01/09**

Committee of Conference Report on HB 408, an act relative to drug formularies under managed care entities.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 420-J:7-b, III as inserted by section 1 of the bill by replacing it with the following:

III. Every health plan that provides prescription drug benefits shall notify covered persons of changes to the plan list or plan formulary, provide an explanation of the exception process by which a covered person can access nonformulary medically necessary prescription drugs, and provide a toll-free telephone number through which a covered person can request additional information. Upon notification to covered persons, the health benefit plan shall allow at least 45 days before implementation of any formulary change; provided, however, that advance notice shall not be required if the federal food and drug administration has determined that a prescription drug on the health benefit plan's formulary is unsafe.

The signatures below attest to the authenticity of this Report on HB 408, an act relative to drug formularies under managed care entities.

*Conferees on the Part
of the Senate*

Sen. Wheeler, Dist. 21
 Sen. Squires, Dist. 12
 Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. K. Herman, Hills. 13
 Rep. Francoeur, Rock. 22
 Rep. Dalianis, Hills 35
 Rep. Taylor, Straf. 11

Senator Wheeler moved adoption.

Adopted.**1999-1875-CofC****04/09**

Committee of Conference Report on HB 428, an act relative to school administrative units.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 194-C:2, IV (b) (4) as inserted by section 3 of the bill by replacing it with the following:

(4) Any plan for organization, reorganization, or withdrawal from a school administrative unit shall be prepared in accordance with RSA 194-C:2, III, and shall be submitted to the state board pursuant to RSA 194-C:2, VI. The plan shall be submitted to the voters in accordance with RSA 194-C:2, VII or 194-C:2, VIII. If the voters fail to vote in the affirmative by the 3/5 vote required, the school district shall not offer another warrant article seeking to create a planning committee for a period of 2 years after the date of the final vote by the district.

The signatures below attest to the authenticity of this Report on HB 428, an act relative to school administrative units.

*Conferees on the Part
of the Senate*

Sen. Disnard, Dist. 8
Sen. Johnson, Dist. 3
Sen. J. King, Dist. 18

*Conferees on the Part
of the House*

Rep. McKinley, Straf. 2
Rep. Ward, Graf. 1
Rep. Larrabee, Merr. 9
Rep. C. Jean, Hills. 32

Senator Disnard moved adoption.

Adopted.

1999-1912-CofC

08/09

Committee of Conference Report on HB 463-LOCAL, an act relative to local regulation of junk yards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on HB 463-LOCAL, an act relative to local regulation of junk yards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations.

*Conferees on the Part
of the Senate*

Sen. Russman, Dist. 19
Sen. Pignatelli, Dist. 13
Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Calawa, Hills. 17
Rep. Leber, Merr. 1
Rep. McCarty, Hills. 38
Rep. Bouchard, Merr. 22

Senator Russman moved adoption.

Adopted.

1999-1899-CofC

05/10

Committee of Conference Report on HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 4 with the following:

4 Behind the Wheel Training Requirements Increased. Amend RSA 263:19 to read as follows:

263:19 Driver Education.

I. A driver's license may be issued subject to the provisions of this chapter to a person under the age of 18 years who has attained his sixteenth birthday, if such person shall present a certificate of successful completion of a driver education course given by a public or nonpublic secondary school and approved by the department of education in cooperation with the department of safety or given by a motor vehicle driver's school licensed under the provisions of this chapter. An approved driver education course, whether conducted by a secondary school or by a school licensed under this chapter, shall consist of both classroom instruction and behind the wheel driver training *of not less than 10 hours*, in accordance with rules adopted pursuant to RSA 541-A, published jointly by the commissioner of education and the commissioner of safety, such standards to be not less than those presently required.

II. *To qualify for a driver's license under this section, a person under the age of 18 shall also certify the completion of 20 hours of additional supervised driving time under the supervision of a licensed parent or guardian, or, if there is no licensed parent or guardian, under the supervision of a licensed adult over the age of 25. The commissioner shall adopt rules relative to the method of certification.*

III. *Any person who wishes to obtain a motorcycle endorsement shall not be required to complete the 20 hours of practice driving time specified in paragraph II, but shall successfully complete a program authorized pursuant to RSA 263:34-b and shall be exempt from RSA 263:14, II(c) while operating a motorcycle.*

The signatures below attest to the authenticity of this Report on HB 491, an act requiring the department of safety to conduct all qualifying examinations of individuals seeking driver's licenses.

*Conferees on the Part
of the Senate*

Sen. Gordon, Dist. 2
Sen. Trombly, Dist. 7
Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. Packard, Rock. 29
Rep. Letourneau, Rock. 13
Rep. LaPorte, Hills. 39
Rep. Gleason, Rock. 13

1999-1899-CofC

AMENDED ANALYSIS

This bill requires all qualifying examinations for individuals seeking to obtain driver's licenses be conducted by department of safety personnel. The bill also requires that persons under the age of 18 must complete 20 hours of additional supervised driving time with a parent or guardian in order to obtain a license. Motorcycle license applicants are exempted from the additional 20 hours of driving time.

Senator Gordon moved adoption.

Adopted.

1999-1914-CofC

08/09

Committee of Conference Report on HB 562, an act relative to the date of decision for appeals of zoning matters.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

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

1 Committee Established. There is established a committee to study the date of decision for appeals of zoning matters.

2 Membership and Compensation.

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

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

(b) Four 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 the date of decision for appeals of zoning matters.

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 senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 1999.

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

The signatures below attest to the authenticity of this Report on HB 562, an act relative to the date of decision for appeals of zoning matters.

*Conferees on the Part
of the Senate*

Sen. Trombly, Dist. 7
Sen. Wheeler, Dist. 21
Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. Hess, Merr. 11
Rep. Lockwood, Merr. 9
Rep. Foster, Hills. 10
Rep. Simon, Hills. 40

Senator Trombly moved adoption.

Adopted.

1999-1934-CofC

08/10

Committee of Conference Report on HB 563, an act relative to names of limited liability partnerships and companies and cooperative associations.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 563, an act relative to names of limited liability partnerships and companies and cooperative associations.

*Conferees on the Part
of the Senate*

Sen. Klemm, Dist. 22
Sen. Wheeler, Dist. 21
Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. Hunt, Ches. 10
Rep. K. Herman, Hills. 13
Rep. S. Francoeur, Rock. 22
Rep. Taylor, Straf. 11

Senator Klemm moved adoption.

Adopted.

1999-1943-CofC

05/01

Committee of Conference Report on HB 584-FN, an act relative to administrative license suspensions.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect January 1, 2000.

The signatures below attest to the authenticity of this Report on HB 584-FN, an act relative to administrative license suspensions.

*Conferees on the Part
of the Senate*

Sen. Gordon, Dist. 2
Sen. Pignatelli, Dist. 13
Sen. McCarley, Dist. 6

*Conferees on the Part
of the House*

Rep. Christie, Rock. 22
Rep. Lozeau, Hills. 30
Rep. Weare, Rock. 21
Rep. Knowles, Straf. 11

Senator Gordon moved adoption.

Adopted.

1999-1870-CofC

08/09

Committee of Conference Report on HB 664, an act establishing a study committee on rights of ownership to cemetery plots.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 4 with the following:

4 Chairperson; Proceedings. 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. A majority of the committee shall vote on any findings and recommendations.

The signatures below attest to the authenticity of this Report on HB 664, an act establishing a study committee on rights of ownership to cemetery plots.

*Conferees on the Part
of the Senate*

Sen. Trombly, Dist. 7
Sen. Disnard, Dist. 8
Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. Patten, Carr. 9
Rep. Griffin, Rock. 27
Rep. Zerba, Ches. 17
Rep. Rice, Belk. 7

Senator Trombly moved adoption.

Adopted.

1999-1930-CofC

05/09

Committee of Conference Report on HB 616-FN-A, an act establishing a house study committee to consider issues related to the driver training fund.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

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

I. The membership of the committee shall consist of 3 house members, appointed by the speaker of the house.

The signatures below attest to the authenticity of this Report on HB 616-FN-A, an act establishing a house study committee to consider issues related to the driver training fund.

*Conferees on the Part
of the Senate*

Sen. Gordon, Dist. 2
Sen. Pignatelli, Dist. 13
Sen. McCarley, Dist. 6

*Conferees on the Part
of the House*

Rep. Packard, Rock. 29
Rep. Kurk, Hills. 5
Rep. Letourneau, Rock. 13
Rep. Buckley, Hills. 44

Senator Gordon moved adoption.

Adopted.

1999-1941-CofC

05/01

Committee of Conference Report on HB 676, an act increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 676, an act increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

*Conferees on the Part
of the Senate*

Sen. Gordon, Dist. 2
Sen. Pignatelli, Dist. 13
Sen. McCarley, Dist. 6

*Conferees on the Part
of the House*

Rep. Packard, Rock. 29
Rep. Bradley, Carr. 8
Rep. Letourneau, Rock. 13
Rep. Konys, Hills. 33

Senator Gordon moved adoption.

Adopted.

1999-1925-CofC

09/01

Committee of Conference Report on HB 684, an act making adjustments to the fiscal year 1999 budget for the department of health and human services.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 13 with the following:

13 Computation of Tax Increments; Current Assessed Value. Amend RSA 162-K:10, III to read as follows:

III.(a) Each subsequent year the assessors shall determine *current* assessed valuation, and tax increments *and shall report them to the commissioner of the department of revenue administration* according to the following method:

(1) If the municipality retains the full excess captured assessed value for the development district the assessors shall certify to the commissioner of revenue administration, for the purposes of the report required by RSA 41:15, [~~no more than the original assessed value of the real property in the development district~~] *the current assessed value, as the basis to equalize annually the valuation of property throughout the state, and the full excess captured assessed value, to be deducted from the current assessed valuation for the calculation of the property tax rate.* The assessors shall extend all rates as established by the commissioner of revenue administration under the provisions of RSA 41:15 against the current assessed value, including all captured assessed value. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes paid that year on real property in the district which the captured assessed value bears to the total current assessed value. The amount so remitted each year is referred to in this section as the tax increment for that year.

(2) If the municipality retains only a portion of the excess captured assessed value for the development district and returns the remaining portion to the tax lists, the assessors shall include [~~the original assessed value and that portion of the captured assessed value which is shared with all the affected taxing district for purposes of determining the assessed value for computing rates. The commissioner of revenue administration shall compute the rates of all taxes levied by the state, county, municipality, school district, and every other taxing district in which the district is located on this aforementioned assessed value~~] *the current assessed value, to be used as a basis to equalize annually the valuation of property throughout the state, and that portion*

of the excess captured assessed value which the municipality does not retain, to be deducted from the current assessed valuation for the calculation of the property tax. The assessors shall extend all rates against the total current assessed value, including that portion of the captured assessed value which the municipality is retaining for the development district only. In each year for which the current assessed value exceeds the original assessed value, the municipal tax collector shall remit to the municipality that proportion of all taxes paid on real property in the district that the retained captured assessed value bears to the total current assessed value in the district. The amount so remitted each year is referred to as the tax increment.

(b) The general court finds that municipalities that have adopted a tax increment financing plan and issued tax increment financing plan bonds under this chapter before April 29, 1999, or which have adopted a tax increment financing plan and entered into contracts and incurred liabilities in reliance upon the tax increment plans under this chapter before April 29, 1999, have incurred obligations which must be honored. The general court recognizes also that in accordance with the intent of this chapter, such obligations were entered into in order to accomplish a public purpose and for the improvement of development in municipalities. Accordingly, the provisions of subparagraph III(a) shall not apply to tax increment financing plan districts which authorized and issued tax increment bonds under this chapter before April 29, 1999 or which adopted a tax increment financing plan under this chapter and entered into contracts and incurred financial liabilities in reliance upon such tax increment plan before April 29, 1999. This subparagraph shall only apply to tax development districts as they existed as of April 29, 1999. To the extent such tax increment financing plan is amended to increase the amount of bonded indebtedness, to increase the cost of the development program, or to extend the duration of the program's existence, this subparagraph shall not apply.

(c) *In any year in which the current assessed value of the development district is equal to or less than the original assessed value, the assessors shall compute and extend taxes against the current value. Taxes shall be distributed from the affected property to each of the taxing authorities as determined by the current levy and there is no tax increment.*

The signatures below attest to the authenticity of this Report on HB 684, an act making adjustments to the fiscal year 1999 budget for the department of health and human services.

*Conferees on the Part
of the Senate*

Sen. McCarley, Dist. 6
Sen. Hollingworth, Dist. 23
Sen. Johnson, Dist. 3

*Conferees on the Part
of the House*

Rep. Hess, Merr. 11
Rep. Henderson, Rock. 20
Rep. Whalley, Merr. 5
Rep. Konys, Hills. 33

Senator McCarley moved adoption.

Adopted.

1999-1873-CofC

03/01

Committee of Conference Report on HB 689-FN, an act establishing a committee to study campaign contributions and expenditures.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 4 with the following:

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.

The signatures below attest to the authenticity of this Report on HB 689-FN, an act establishing a committee to study campaign contributions and expenditures.

*Conferees on the Part
of the Senate*

Sen. McCarley, Dist. 6
Sen. Wheeler, Dist. 21
Sen. Krueger, Dist. 16

*Conferees on the Part
of the House*

Rep. Horton, Coos 3
Rep. F. Davis, Merr. 12
Rep. Splaine, Rock. 34
Rep. Clegg, Hills. 23

Senator McCarley moved adoption.

Adopted.**1999-1905-CofC****10/01**

Committee of Conference Report on SB 47-FN, an act relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on SB 47-FN, an act relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.

*Conferees on the Part
of the Senate*

Sen. Disnard, Dist. 8
Sen. Trombly, Dist. 7
Sen. F. King, Dist. 1

*Conferees on the Part
of the House*

Rep. Dyer, Hills. 8
Rep. Langer, Merr. 11
Rep. Stickney, Rock. 26
Rep. Reidy, Hills. 46

Senator Disnard moved adoption.

Adopted.**1999-1869-CofC****08/10**

Committee of Conference Report on SB 70, an act changing the safe drinking water standard for MTBE.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing paragraph V(c) of section 1 with the following:

(c) The department of environmental services in consultation with the department of health and human services adopt primary and secondary drinking water standards and ambient groundwater quality standards designed to protect the public health. The general court urges the department of environmental services as part of their review on MTBE to examine the scientific record that led California to adopt a public health goal of 13 parts per billion for MTBE for drinking water and to adopt a secondary drinking water standard of 5 parts per billion for MTBE.

Amend the bill by replacing section 2 with the following:

2 New Subdivision; Methyl Tertiary Butyl Ether (MTBE). Amend RSA 485 by inserting after section 16 the following new subdivision:

Methyl Tertiary Butyl Ether (MTBE)

485:16-a Drinking Water Standards and Notification.

I. The commissioner, in consultation with the commissioner of health and human services, shall adopt primary and secondary drinking water standards pursuant to RSA 485:3, and ambient groundwater quality standards pursuant to RSA 485-C:6, applicable to MTBE. The commissioner shall not commence rulemaking for these standards until after the department has reviewed the scientific record on the risks posed by the presence of MTBE in drinking water supplies. Such review shall be completed at the earliest possible date, but no later than January 1, 2000. The commissioner shall commence rulemaking no later than January 1, 2000.

II. Any public water system delivering water with greater than 5 parts per billion of MTBE shall notify each customer of the MTBE content.

485:16-b Authority to Limit MTBE in Gasoline; Penalties.

I. The commissioner shall seek all necessary waivers from the Environmental Protection Agency such that conventional gasoline, or some other substitute gasoline that is readily available and reasonably priced, may immediately replace reformulated gasoline in Strafford, Rockingham, Hillsborough, and Merrimack counties. The waivers shall expire on January 1, 2002. The temporary waivers shall not be predicated upon the state implementing substitute air emissions reduction strategies in order to comply with the state implementation plan.

II. In addition to the authority to seek waivers under paragraph I, the commissioner, after consultation with the commissioner of health and human services, may limit, with the approval of the governor and council, the concentration of MTBE allowed in any gasoline sold in all or part of the state after first holding a public hearing on the issue and certifying to the air pollution advisory committee established in RSA 125-J:11 that gasolines which meet such limit are:

(a) Readily available to New Hampshire consumers at a reasonable price;

(b) Less hazardous overall to humans and the environment than gasoline having higher MTBE concentrations taking into account all exposure routes, including air and water; and

(c) Approved for use in New Hampshire by the Environmental Protection Agency without a requirement to substitute additional air emissions reductions.

III. Nothing in this section shall prohibit the commissioner from phasing in any limitations approved under paragraph II.

IV. Retail sellers of gasoline and the suppliers to such retail sellers shall comply with the provisions of paragraph II or be subject to the enforcement provisions of RSA 485:58.

V. The limitations on MTBE concentrations established under the provisions of this section shall be exempt from the requirements of RSA 541-A, the administrative procedure act. The department shall file, however, in the office of legislative services a copy of all rules adopted, amended, or repealed under this section by the department.

Amend the bill by replacing section 3 with the following:

3 New Subparagraph; Proceedings in Special Cases; Administrative Procedure Act; Exceptions; Limits on Methyl Tertiary Butyl Ether. Amend RSA 541-A:21, I by inserting after subparagraph (u) the following new subparagraph:

(v) RSA 485:16-b, II relative to limits on the concentration of methyl tertiary butyl ether in gasoline.

The signatures below attest to the authenticity of this Report on SB 70, an act changing the safe drinking water standard for MTBE.

Conferees on the Part of the Senate

- Sen. Wheeler, Dist. 21
- Sen. Cohen, Dist. 24
- Sen. Russman, Dist. 19

Conferees on the Part of the House

- Rep. Bradley, Carr. 8
- Rep. Norelli, Rock. 31
- Rep. Maxfield, Merr. 9
- Rep. Densmore, Graf. 3

1999-1869-CofC

AMENDED ANALYSIS

I. Requires that the commissioner of environmental services adopt primary and secondary drinking water and ambient groundwater quality standards applicable to MTBE.

II. Authorizes the commissioner to limit the concentration of MTBE allowed in gasoline.

III. Requires that public water systems delivering water with a certain concentration of MTBE notify each customer of the MTBE content.

IV. Requires that the commissioner seek waivers from the Environmental Protection Agency so that reformulated gasoline may be replaced in Strafford, Rockingham, Hillsborough, and Merrimack counties.

Senator Wheeler moved adoption.

Adopted.

1999-1892-CofC

08/09

Committee of Conference Report on SB 101, an act relative to landlord-tenant obligations.

Recommendation:
having considered the same, report the committee is unable to reach agreement.

The signatures below attest to the authenticity of this Report on SB 101, an act relative to landlord-tenant obligation.

*Conferees on the Part
of the Senate*

Sen. Trombly, Dist. 7
 Sen. Disnard, Dist. 8
 Sen. Russman, Dist. 19

*Conferees on the Part
of the House*

Rep. Bergin, Hills. 16
 Rep. Woods, Straf. 11
 Rep. J. Wall, Straf. 9
 Rep. Craig, Hills. 38

Senator Trombly moved adoption.

Adopted.**1999-1942-CofC****05/01**

Committee of Conference Report on SB 158-FN, an act relative to indecent exposure.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on SB 158-FN, an act relative to indecent exposure.

*Conferees on the Part
of the Senate*

Sen. Pignatelli, Dist. 13
 Sen. J. King, Dist. 18
 Sen. Gordon, Dist. 2

*Conferees on the Part
of the House*

Rep. Christie, Rock. 22
 Rep. Welch, Rock. 18
 Rep. Weare, Rock. 21
 Rep. Knowles, Straf. 11

Senator Pignatelli moved adoption.

Adopted.**1999-1897-CofC****05/01**

Committee of Conference Report on SB 124, an act establishing a committee to study the integration of technology at the state and municipal level.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing paragraph I of section 2 with the following:
 2 Membership and Compensation.

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

(a) Five members of the senate, appointed by the president of the senate.

(b) Five members of the house of representatives, at least one of whom shall be a member of the municipal and county government committee, at least one of whom shall be a member of the science, technology and energy committee, and at least one of whom shall be a member of the election law committee, appointed by the speaker of the house.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall investigate specific measures which would promote the integration of technology at the state, county, and

municipal levels for the mutual benefit of all entities and the citizens of the state of New Hampshire. Among the issues included in its study shall be the identification and integration of technology necessary to develop a statewide voter registration database. In conducting its research, the committee shall seek input from the department of administrative services, division of information technology management, in terms of specific technology applications that the state of New Hampshire is deploying or desires to deploy at the county and/or local level and the New Hampshire Association of Counties and the New Hampshire Municipal Association for their perspective on municipal technology needs. In addition, the committee shall seek the input from the oversight committee on telecommunications, which is considering the feasibility and cost-effectiveness of installing certain high-speed telecommunications lines.

The signatures below attest to the authenticity of this Report on SB 124, an act establishing a committee to study the integration of technology at the state and municipal level.

*Conferees on the Part
of the Senate*

Sen. D'Allesandro, Dist. 20
Sen. McCarley, Dist. 6
Sen. Klemm, Dist. 22

*Conferees on the Part
of the House*

Rep. Lynde, Hills. 24
Rep. Guay, Coos 6
Rep. Maxfield, Merr. 9
Rep. Bergeron, Hills. 32

Senator D'Allesandro moved adoption.

Adopted.

1999-1907-CofC

01/09

Committee of Conference Report on SB 183-FN-A, an act establishing a New Hampshire health access corporation and continually appropriating a special fund and making an appropriation therefor, requiring the department of health and human services to make a biennial report on the health status of New Hampshire residents, relative to certain transfers to the health care fund, and relative to rates for pharmaceutical services.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend subparagraph I(e) as inserted by section 6 of the bill by replacing it with the following:

(e) One member appointed by the New Hampshire HMO Association.

The signatures below attest to the authenticity of this Report on SB 183-FN-A, an act establishing a New Hampshire health access corporation and continually appropriating a special fund and making an appropriation therefor, requiring the department of health and human services to make a biennial report on the health status of New Hampshire residents, relative to certain transfers to the health care fund, and relative to rates for pharmaceutical services.

*Conferees on the Part
of the Senate*

Sen. Squires, Dist. 12
 Sen. Fernald, Dist. 11
 Sen. Pignatelli, Dist. 13

*Conferees on the Part
of the House*

Rep. Hunt, Ches. 10
 Rep. K. Herman, Hills. 13
 Rep. Dalianis, Hills. 35
 Rep. Taylor, Straf. 11

Senator Squires moved adoption.

Adopted.**1999-1777-CofC****04/09**

Committee of Conference Report on SB 204, an act establishing the New Hampshire excellence in higher education endowment trust fund.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 6:40, VI as inserted by section 1 of the bill by replacing it with the following:

VI. Requiring disclosure regarding any administrative fees, or portion thereof, which are or may be returned to the trust fund.

Amend the bill by replacing section 4 with the following:

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

The signatures below attest to the authenticity of this Report on SB 204, an act establishing the New Hampshire excellence in higher education endowment trust fund.

*Conferees on the Part
of the Senate*

Sen. Larsen, Dist. 15
 Sen. Gordon, Dist. 2
 Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Hoadley, Merr. 24
 Rep. Alger, Graf. 9
 Rep. P. Davis, Coos 1
 Rep. Snyder, Straf. 14

Senator Larsen moved adoption.

Adopted.**1999-1908-CofC****01/09**

Committee of Conference Report on SB 214-FN, an act relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

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

1 Members of the Board. Amend RSA 151-C:3, I(a)(2)(B) and (C) to read as follows:

(B) ~~Three~~ **Four** consumers, each from a different region of the state. For the purposes of this subparagraph "consumer" means an individual whose occupation is not in the delivery of health care services, who has no fiduciary obligation or financial interest in any health care facility or health care insurer licensed or regulated by this state, and who is not related in their immediate family to anyone who is involved in the delivery of health care services or health insurance.

(C) ~~Two~~ **Three** providers whose occupation is in the delivery of health care services regulated by the board. One of these providers shall be nominated by the New Hampshire Hospital Association. The ~~other~~ **second** provider shall be nominated by the New Hampshire Health Care Association. **The third provider shall be nominated by the New Hampshire Ambulatory Surgery Association.**

2 Terms. Amend RSA 151-C:3, I(b) to read as follows:

(b) The commissioner of the department of health and human services or designee shall serve as the only permanent member of the board. All other members of the board shall serve ~~only for one~~ 3-year ~~term~~ **terms**, provided that of the initial members, the representative of health care insurers and one consumer shall serve for one year, one consumer and one provider shall serve for 2 years and one consumer and one provider shall serve for 3 years. **Members of the board shall not serve more than 2 full consecutive terms.**

3 Staff; Meetings. Amend RSA 151-C:3, VII to read as follows:

VII.(a) The commissioner of the department of health and human services shall provide staff to support the work of the board and shall appoint, from among the staff, a person to serve as staff director who shall oversee the staff and act as liaison between the commissioner and the board. **The staff director shall also testify at public hearings to defend staff analyses and recommendations to the board.** The commissioner shall also provide space for the board and staff and other assistance and materials as necessary; **provided, that all meetings of the board shall take place on government property owned or leased by the state of New Hampshire. Notwithstanding this paragraph or any other provision of law to the contrary, the staff members shall report to the board.**

(b) The staff director shall account to the commissioner of the department of health and human services for the administration of funds allocated under this chapter, for the conduct of the staff, and shall timely and appropriately execute his **or her** duties.

4 Ambulatory Surgical Facility; Definition. Amend RSA 151-C:2, I to read as follows:

I. "Ambulatory surgical facility" means a **health care** facility ~~[which is not physically attached to a health care facility and]~~ **or a portion of a health care facility** which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.

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

The signatures below attest to the authenticity of this Report on SB 214-FN, an act relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

*Conferees on the Part
of the Senate*
Sen. Wheeler, Dist. 21
Sen. Fernald, Dist. 11
Sen. Gordon, Dist. 2

*Conferees on the Part
of the House*
Rep. Batula, Hills. 18
Rep. Pilliod, Belk. 3
Rep. Wendelboe, Belk. 2
Rep. Donovan, Sull. 11

1999-1908-CofC

AMENDED ANALYSIS

This bill requires the health services planning and review board to meet on government property owned by the state of New Hampshire. The bill also provides that members of the health services planning and review board shall not serve more than 2 full consecutive terms.

Senator Wheeler moved adoption.

Adopted.

1999-1916-CofC

10/09

Committee of Conference Report on SB 224, an act relative to stenographic records and availability of transcripts of adjudicative hearings before licensing boards.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

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

1 Emergency Action Against Licensees; Certified Shorthand Court Reporter Added. Amend RSA 541-A:30, III to read as follows:

III. If the agency finds that public health, safety or welfare requires emergency action and incorporates a finding to that effect in its order, immediate suspension of a license may be ordered pending an adjudicative proceeding. The agency shall commence this adjudicative proceeding not later than 10 working days after the date of the agency order suspending the license. ***A record of the proceeding shall be made by a certified shorthand court reporter provided by the agency.*** Unless expressly waived by the licensee, agency failure to commence an adjudicative proceeding within 10 working days shall mean that the suspension order is automatically vacated. The agency shall not again suspend the license for the same conduct which formed the basis of the vacated suspension without granting the licensee prior notice and an opportunity for an adjudicative proceeding.

2 New Subparagraphs; Contested Cases in Adjudicative Proceedings; Notice Requirements. Amend RSA 541-A:31, III by inserting after subparagraph (d) the following new subparagraphs:

(e) A statement that each party has the right to have an attorney present to represent the party at the party's expense.

(f) For proceedings before an agency responsible for occupational licensing as provided in paragraph VII-a, a statement that each party has the right to have the agency provide a certified shorthand court reporter at the party's expense and that any such request be submitted in writing at least 10 days prior to the proceeding.

3 Contested Cases; Record of Oral Proceedings. Amend RSA 541-A:31, VII to read as follows:

VII. The entirety of all oral proceedings shall be recorded verbatim ***by the agency.*** Upon the request of any party or upon the agency's own initiative, such record shall be transcribed ***by the agency*** if the requesting party or agency shall [first] pay all reasonable costs for such tran-

scription. If a transcript is not provided within 60 days of a request by a person who is a respondent party in a disciplinary hearing before an agency responsible for occupational licensing, the proceeding shall be dismissed with prejudice. Any party may record an oral proceeding, have a transcription made at the party's expense, or both, but only the transcription made by the agency from its verbatim record shall be the official transcript of the proceeding.

4 New Paragraph; Occupational Licensing Proceeding; Certified Shorthand Court Record. Amend RSA 541-A:31 by inserting after paragraph VII the following new paragraph:

VII-a. At the request of a party in any oral proceeding involving disciplinary action before an agency responsible for occupational licensing except for an emergency action under RSA 541-A:30, III, the record of the proceeding shall be made by a certified shorthand court reporter provided by the agency at the requesting party's expense. A request shall be submitted to the agency in writing at least 10 days prior to the day of the proceeding.

5 Effective Date. This act shall take effect 60 days after its passage. The signatures below attest to the authenticity of this Report on SB 224, an act relative to stenographic records and availability of transcripts of adjudicative hearings before licensing boards.

*Conferees on the Part
of the Senate*

Sen. Gordon, Dist. 2
Sen. Pignatelli, Dist. 13
Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Goulet, Hills. 15
Rep. Millham, Belk. 4
Rep. Stickney, Rock. 26
Rep. Virtue, Merr. 9

1999-1916-CofC

AMENDED ANALYSIS

This bill adds notice requirements and provides that a stenographic record shall be made by a certified shorthand court reporter in an emergency action and in an agency adjudicative proceeding on occupational licensing upon the request of a party to the proceeding, and requires dismissal of a complaint if a transcript is not provided.

Senator Gordon moved adoption.

Adopted.

TAKEN OFF THE TABLE

Senator D'Allesandro moved to have **HB 75**, changing the number required for a quorum on the commission for human rights, taken off the table.

Adopted.

HB 75, changing the number required for a quorum on the commission for human rights.

Senator D'Allesandro moved to refer.

Adopted.

HB 75 is rereferred to the Executive Departments and Administration Committee.

1999-1854-EBA

04/09

Enrolled Bill Amendment to SB 37-FN

The Committee on Enrolled Bills to which was referred SB 37-FN AN ACT relative to fees for testing of domestic animals for disease.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 37-FN**

This enrolled bill amendment makes a technical correction to section 1 of the bill.

Enrolled Bill Amendment to SB 37-FN

Amend RSA 436:115, II as inserted by section 1 of the bill by replacing lines 3 and 4 with the following:

(b) *Any other fees necessary to carry out the testing.*

(c) Any other matter necessary for the administration of this subdivision.

Senator Gordon moved adoption.

Adopted.

1999-1894-EBA

03/09

Enrolled Bill Amendment to SB 104

The Committee on Enrolled Bills to which was referred SB 104 AN ACT making a variety of changes in certain insurance laws.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 104**

This enrolled bill amendment corrects the amending language in a section of the bill.

Enrolled Bill Amendment to SB 104

Amend section 4 of the bill by replacing lines 1-2 with the following:

4 Preferred Provider Organizations Deleted. Amend RSA 420-E:2, I to read as follows:

Senator Gordon moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to adopt the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 140, an act relative to ear and body piercing.

The Committee of Conference has been discharged and the House requests a new Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Janeen Dalrymple
Joseph Manning
Gloria Seldin
Peter Batula

**SENATE ACCEDES TO REQUEST FOR A COMMITTEE
OF CONFERENCE**

SB 140, an act relative to ear and body piercing.

Senator Wheeler moved to accede to the request of a new Committee of Conference and moved to discharge the previous Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Squires, McCarley

COMMITTEE OF CONFERENCE REPORT

1999-1935-CofC

05/09

Committee of Conference Report on HB 685-FN-A, an act relative to the duties of the New Hampshire land and community heritage commission.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on HB 685-FN-A, an act relative to the duties of the New Hampshire land and community heritage commission.

*Conferees on the Part
of the Senate*

Sen. Larsen, Dist. 15
Sen. Hollingworth, Dist. 23
Sen. Russman, Dist. 19

*Conferees on the Part
of the House*

Rep. M. Whalley, Merr. 5
Rep. Kurk, Hills. 5
Rep. Major, Rock. 16
Rep. Burling, Sull. 1

Senator Blaisdell moved adoption.

Adopted.

SUSPENSION OF THE RULES

Senator F. King moved that the Rules of the Senate be so far suspended as to allow a committee report not previously advertised in the Senate Calendar.

Adopted by the necessary 2/3 votes.

HB 294-FFN-L, relative to state aid to municipalities for closure of certain municipal incinerators and establishing a study committee to consider options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway. Finance Committee. Ought to pass.

SENATOR F. KING: This bill was amended by Senator Trombly, but it is the bill that we passed earlier today with HB 208. We put his amendment on that. I would like to move a recommendation of the Finance Committee with a 4-0 vote ought to pass on this bill.

Adopted.

Senator F. King moved to have **HB 294-FFN-L**, relative to state aid to municipalities for closure of certain municipal incinerators and establishing a study committee to consider options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway, laid on the table.

Adopted.

LAID ON THE TABLE

HB 294-FFN-L, relative to state aid to municipalities for closure of certain municipal incinerators and establishing a study committee to consider options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway.

Recess.

Out of Recess.

COMMITTEE OF CONFERENCE REPORT

1999-1960-CofC

01/09

Committee of Conference Report on SB 140, an act relative to ear and body piercing.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 New Chapter; Ear Piercing. Amend RSA by inserting after chapter 141-H the following new chapter:

CHAPTER 141-I

EAR PIERCING

141-I:1 Ear Piercing. All ear piercing devices, including but not limited to earrings, needles, and associated parts, that come in direct contact with the client's skin during the ear piercing process shall be single-use prepackaged sterilized units. Reusable stabilizing devices used in ear piercing that come in direct contact with the client's skin shall be cleaned and sterilized after each use in accordance with rules adopted pursuant to RSA 314-A. Any person violating the provisions of this chapter shall be guilty of a violation. Nothing in this chapter shall be construed to affect persons operating in compliance with the New Hampshire code of administrative rules, HE-P 1103.02.

The signatures below attest to the authenticity of this Report on SB 140, an act relative to ear and body piercing.

*Conferees on the Part
of the Senate*

Sen. Wheeler, Dist. 21
 Sen. Squires, Dist. 12
 Sen. McCarley, Dist. 6

*Conferees on the Part
of the House*

Rep. Dalrymple, Rock. 26
 Rep. Manning, Ches. 9
 Rep. Seldin, Merr. 17
 Rep. Batula, Hills. 18

1999-1960-CofC**AMENDED ANALYSIS**

This bill requires persons engaged in piercing the ears of the human body to use single-use prepackaged sterilized units.

Senator Wheeler moved adoption.

Adopted.

MOTION OF RECONSIDERATION

Senator Roberge having voted on the prevailing side moved reconsideration on **HB 661-L**, relative to the scope of abatement appeals, whereby we voted it inexpedient to legislate.

Motion failed.

1999-1891-EBA

08/09

Enrolled Bill Amendment to SB 99

The Committee on Enrolled Bills to which was referred SB 99

AN ACT allowing the same interest rates and charges on small loans under \$1,500 as is allowed on small loans over \$1,500.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 99**

This enrolled bill amendment corrects a typographical error in section 1 of the bill.

Enrolled Bill Amendment to SB 99

Amend section 1 of the bill by replacing line 2 with the following:
 Less and Loans of More Than \$1,500 Eliminated. Amend RSA 399-A:3, I to read as follows:

Senator Gordon moved adoption.

Adopted.

1999-1887-EBA

08/09

Enrolled Bill Amendment to SB 192

The Committee on Enrolled Bills to which was referred SB 192

AN ACT relative to vital records.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 192**

This enrolled bill amendment inserts a missing word.

Enrolled Bill Amendment to SB 192

Amend RSA 126:15, II as inserted by section 1 of the bill by replacing line 3 with the following:

established under RSA 126:31 and shall retain the remaining \$4 as ~~his~~ *the clerk's* fee for issuing

Senator Gordon moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 25-FN-A, making appropriations for capital improvements.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 69, an act relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 112-FN-A, an act increasing the tobacco tax and imposing the tax on all types of tobacco products.

HOUSE MESSAGE

The House of Representatives has refused to adopt the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 252, an act establishing a committee to study all aspects of the condominium act established under RSA 356-B.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 265, an act relative to the students trustees on the University System of New Hampshire board of trustees.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 291, an act establishing a study committee for seed sterilization technology or "terminator" technology.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 331, an act relative to voiding warranties on leased or purchased motor vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 333, an act relative to contracts between participating providers and managed care entities.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 341, an act relative to the process for nonrenewal of teacher contracts.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 369, an act establishing a committee on educational programs on tobacco use for minors.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 408, an act relative to drug formularies under managed care entities.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 428, an act relative to school administrative units.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 463-L, an act relative to local regulation of junkyards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 562, an act relative to the date of decision for appeals of zoning matters.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 563, an act relative to names of limited liability partnerships and companies and cooperative associations.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 584-FN, an act relative to administrative license suspensions.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 616-FN-A, an act establishing a house study committee to consider issues related to the driver training fund.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 664, an act establishing a study committee on rights of ownership to cemetery plots.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 676, an act increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 684, an act making adjustments to the fiscal year 1999 budget for the department of health and human services.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 685-FN-A, an act relative to the duties of the New Hampshire land and community heritage commission.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 689-FN, an act establishing a committee to study campaign contributions and expenditures.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 47-FN, an act relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 70, an act changing the safe drinking water standard for MTBE.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 101, an act relative to landlord-tenant obligations.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 124, an act establishing a committee to study the integration of technology at the state and municipal level.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 140, an act relative to ear and body piercing.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 158-FN, an act relative to indecent exposure.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 183-FN-A, an act establishing a New Hampshire health access corporation and continually appropriating a special fund and making an appropriation therefor, requiring the department of health and human services to make a biennial report on the health care status of New Hampshire residents, relative to certain transfers to the health care fund, and relative to rates for pharmaceutical services.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 204, an act establishing the New Hampshire excellence in higher education endowment trust fund.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Senate Bill:

SB 214-FN, an act relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

Late Session

Senator Cohen moved that the Senate be in recess for the sole purpose of House Messages, introduction of bills, referring bills to committee, scheduling of hearings, holding hearings, Enrolled Bills Reports and amendments and that when we adjourn we adjourn to the Call of the Chair.

Adopted.

Third Reading and Final Passage

HB 208, establishing a coordinated and comprehensive effort by state agencies for economic growths, resource protection, and planning policy to deter sprawl.

HB 464, relative to electric reduction financing.

HB 601, allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, and changing the personnel group status of the warden of the lakes region facility.

HB 653, increasing the personal needs allowance of nursing home residents and residents of residential care facilities and community residences and making an appropriation therefor.

HB 709, relative to the railroad tax.

HB 729, adding social clubs recognized by the Internal Revenue Service to the definition of "charitable organization" for purposes of the laws governing raffles.

In recess.

Out of Recess.

1999-1967-EBA

08/10

Enrolled Bill Amendment to HB 112-FN-A

The Committee on Enrolled Bills to which was referred HB 112-FN-A AN ACT increasing the tobacco tax and dedicating a portion of tobacco tax revenues to tobacco use prevention and cessation programs, establishing a tobacco use prevention advisory committee, transferring funds to the legislative budget assistant for tax policy simulation software, and authorizing certain transfers within the budget for the department of health and human services.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 112-FN-A

This enrolled bill amendment corrects the title to reflect its contents.

Enrolled Bill Amendment to HB 112-FN-A

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

AN ACT increasing the tobacco tax and dedicating a portion of tobacco settlement funds to a tobacco use prevention fund.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 112, increasing the tobacco tax and dedicating a portion of tobacco settlement funds to a tobacco use prevention fund.

Senator D'Allesandro moved adoption.

Adopted.

1999-1963-EBA

08/01

Enrolled Bill Amendment to SB 27

The Committee on Enrolled Bills to which was referred SB 27

AN ACT relative to assessment fee schedules for trust companies and banks.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 27

This enrolled bill amendment makes a typographical correction in section 1 of the bill.

Enrolled Bill Amendment to SB 27

Amend RSA 383:11, II(a)(7) as inserted by section 1 of the bill by replacing line 1 with the following:

(7) *Fiduciary assets that are \$50,000,000,000 or more, shall be*

Senator Trombly moved adoption.

Adopted.

1999-1966-EBA

08/09

Enrolled Bill Amendment to SB 177

The Committee on Enrolled Bills to which was referred SB 177

AN ACT allowing marriage and family therapists to obtain third party payment for services rendered which would otherwise qualify for such payments.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 177**

This enrolled bill amendment adds a reference in section 2 of the bill, and inserts a contingency which combines the provisions of this bill and SB 58, if SB 58 becomes law.

Enrolled Bill Amendment to SB 177

Amend RSA 415:18-a, III(a) as inserted by section 2 of the bill by replacing line 8 with the following:

practitioners, ***licensed marriage and family therapists***, or licensed clinical social workers shall be substantially the same as the ratio of the

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

5 Accident and Health Insurance; Licensed Marriage and Family Therapists. Amend RSA 415:18-a, I to read as follows:

I. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses, shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state and whose principal place of employment is in this state, coverage for expenses arising from the treatment of mental illnesses and emotional disorders which, in the professional judgment of psychiatrists, licensed psychologists, licensed pastoral psychotherapists, psychiatric/mental health advanced registered nurse practitioners, licensed clinical mental health counselors, ***licensed marriage and family therapists***, and licensed clinical social workers, are subject to significant improvement through short-term therapy, and benefits for expenses arising from diagnosis and evaluation of all other mental illnesses and emotional disorders. Such benefits shall be at least as favorable to the certificate holder as the minimum benefits specified in paragraphs II, III and IV.

6 Accident and Health Insurance; Marriage and Family Therapists. Amend RSA 415:18-a, III(a) to read as follows:

(a) Benefits for services of a psychiatrist, licensed psychologist, licensed pastoral psychotherapist, psychiatric/mental health advanced registered nurse practitioner, licensed clinical mental health counselors, ***licensed marriage and family therapist***, or licensed clinical social

worker who customarily bills patients directly shall be subject to terms and conditions at least as favorable as those which apply to the benefits for the services of physicians for other illnesses, and the ratio of the benefits to the fees reasonably and customarily charged for the services of such psychiatrists, licensed psychologists, licensed pastoral psychotherapists, psychiatric/mental health advanced registered nurse practitioners, licensed clinical mental health counselors, *licensed marriage and family therapists*, or licensed clinical social workers shall be substantially the same as the ratio of the benefits for services of physicians for other illnesses to the fees reasonably and customarily charged for the services of such physicians for other illnesses.

7 Accident and Health Insurance; Marriage and Family Therapists. Amend RSA 415:18-a, IV to read as follows:

IV. In the case of policies or certificates providing benefits for hospital and medical expenses on a major medical basis, benefits shall be subject to deductibles and coinsurance at least as favorable as those which apply to the benefits for any other illness, provided that benefits payable for expenses incurred in any consecutive 12-month period may be limited to an amount not less than \$3,000 per covered individual, and to a lifetime maximum of not less than \$10,000 per covered individual. In this paragraph, covered major medical expenses include the reasonable charges for services and treatment on an inpatient, outpatient or partial hospitalization basis by a psychiatrist, a licensed psychologist, a licensed pastoral psychotherapist, a psychiatric/mental health advanced registered nurse practitioner, a licensed clinical mental health counselor, *a licensed marriage and family therapist*, a licensed clinical social worker, a licensed general hospital, a public or licensed mental hospital, or a community mental health center or psychiatric residential program approved according to rules adopted by the commissioner of the department of health and human services.

8 New Subparagraph; Definitions; Licensed Marriage and Family Therapist. Amend RSA 415:18-a, V by inserting after subparagraph (f) the following new subparagraph:

(g) "Licensed marriage and family therapist" means an individual who is licensed as a marriage and family therapist under RSA 330-A:21.

9 Contingency. If SB 58 of the 1999 legislative session becomes law, section 1-4 of this act shall not take effect and sections 5-8 of this act shall take effect January 1, 2000 at 12:01 a.m. If SB 58 does not become law, sections 1-4 of this act shall take effect January 1, 2000 and sections 5-8 of this act shall not take effect.

10 Effective Date.

I. Sections 1-8 of this act shall take effect as provided in section 9 of this act.

II. Section 9 of this act shall take effect upon its passage.

Senator Trombly moved adoption.

Adopted.

1999-1964-EBA

03/01

Enrolled Bill Amendment to SB 223-FN-A

The Committee on Enrolled Bills to which was referred SB 223-FN-A AN ACT establishing a wellness and primary prevention council.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 223-FN-A

This enrolled bill amendment corrects a reference in the title of a bill section, makes a technical correction to the membership of the wellness and primary prevention council, and makes a grammatical correction.

Enrolled Bill Amendment to SB 223-FN-A

Amend section 1 of the bill by replacing line 1 with the following:

1 New Chapter; Wellness and Primary Prevention Council. Amend RSA by inserting after chapter 126-L the

Amend RSA 126-M:3, II as inserted by section 1 of the bill by replacing line 1 with the following:

II. The term of each member in subparagraphs (b), (c), (e), (f), (g), and (h) shall be coterminous with

Amend RSA 126-M:4, VII as inserted by section 1 of the bill by replacing lines 1-2 with the following:

VII. Providing information and recommendations to the general court, governor, executive branch departments, the courts, and other public officials, departments or agencies

Senator Trombly moved adoption.

Adopted.

1999-1976-EBA

03/09

Enrolled Bill Amendment to HB 25-FN-A

The Committee on Enrolled Bills to which was referred HB 25-FN-A AN ACT making appropriations for capital improvements.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 25-FN-A

This enrolled bill amendment clarifies the effect of certain prior acts on certain appropriations extended by this bill and makes certain grammatical and typographical corrections.

Enrolled Bill Amendment to HB 25-FN-A

Amend subparagraph II, A, 15 of section 1 of the bill by replacing line 1 with the following:

15. Light replacement – health and human services building*

389,050

Amend paragraph I of section 6 of the bill by replacing line 5 with the following:

been published at least once in each of 2 successive calendar weeks in a newspaper of general

Amend section 13 of the bill by replacing line 5 with the following: appropriation of state funds therefor shall be reduced by the same proportion as the proportion by

Amend section 17 of the bill by replacing lines 1-3 with the following:

17 Appropriation; Payment of Bonds and Notes; Department of Regional Community-Technical Colleges; Early Childhood Laboratory School.

I. The sum of \$427,400 is appropriated to the department of regional community-technical colleges for the

Amend section 20 of the bill by replacing line 2 with the following:
Amend 1995, 309:1, XII, A, 2 as extended by 1997, 349:34, XXVIII to read as follows:

Amend section 23 of the bill by replacing line 2 with the following:
as amended by 1998, 226:2 to read as follows:

Amend section 26 of the bill by replacing line 1 with the following:
26 Capital Budget; 1997 HB 25-A; Amounts Increased; Department of

Amend section 27 of the bill by replacing line 1 with the following:
27 Capital Budget; 1997 HB 25-A; Total Appropriation Section 1, Paragraph II, Subparagraph A Increased.

Amend section 29 of the bill by replacing lines 2-3 with the following:
Added. Amend 1995, 310:191, as amended by 1997, 349:31 and 1998, 276:2, as extended by 1997, 349:34, XXXVII and 1998, 276:3 to read as follows:

Amend paragraph I of section 32 of the bill by replacing lines 1-2 with the following:

I. The appropriation made to the department of transportation in 1989, 367:1, XII, A, 1, as extended by 1991, 351:27, II(1), 1992, 289:60, VII, 1993, 359:20, V, 1995, 309:32, VII,

Amend paragraph III of section 32 of the bill by replacing line 2 with the following:
B as extended by 1994, 171:1 for the state revolving fund match.

Amend paragraph VII of section 32 of the bill by replacing line 2 with the following:

II, A, 10 and 11, as amended by section 26 of this act, for parking garage repairs at the legislative office building and Storrs Street

Amend paragraph IX of section 32 of the bill by replacing lines 1-2 with the following:

IX. The appropriation made to the department of corrections in 1995, 309:1, IV, L as extended by 1997, 349:34, XVIII for the construction of boilers, N.H. state prison for women,

Amend paragraph XVI of section 32 of the bill by replacing lines 2-3 with the following:

310:191, as amended by 1997, 349:31 and 1998, 276:2, as extended by 1997, 349:34, XXXVII and 1998, 276:3, and as amended by section 29 of this act for design and renovation of APS-B-wing, M

Amend paragraph XXXIII of section 32 of the bill by replacing line 2 with the following:

commissioner's office in 1997, 349:1, VII, F, as amended by 1998, 276:1, for the Brown Building

Amend paragraph XL of section 32 of the bill by replacing line 2 with the following:

1998, 226:2 and as amended by section 23 of this act for Dover Point substation addition, warehouse/Epping station.

Amend the bill by inserting after section 32 the following and renumbering the original section 33 to read as 34:

33 Capital Budget; 1997 HB 25-A; Total Appropriation Section 1, Paragraph II Increased.

Amend the total state appropriation for 1997, 349:1, II to read as follows:
Total state appropriation
paragraph II

[\$ 7,971,000] \$8,081,500

Senator Trombly moved adoption.

Adopted.

1999-1969-EBA**03/01****Enrolled Bill Amendment to HB 395-FN-A**

The Committee on Enrolled Bills to which was referred HB 395-FN-A AN ACT establishing a program of matching grants to preserve historic agricultural structures in New Hampshire.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HB 395-FN-A**

This enrolled bill amendment makes a technical correction in section 1 of the bill and inserts a contingency.

Enrolled Bill Amendment to HB 395-FN-A

Amend RSA 227-C:29, I as inserted by section 1 of the bill by replacing line 2 with the following:

any other matter necessary to the administration of this subdivision, an advisory committee to the division of

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Authorization for Contingent Renumbering. If any other act of the 1999 regular session of the general court which contains an amendment to RSA 6:12, I which inserts any new subparagraph into paragraph I of such section becomes law, the director of legislative services is authorized to make any technical changes to the numbering in any RSA sections inserted by this or any other act as necessary to conform said sections to proper RSA format. The authority granted under this section shall not include the power to make any substantive changes and shall expire upon printing of the 1999 session laws.

Senator Trombly moved adoption.

Adopted.**1999-1980-EBA****03/01****Enrolled Bill Amendment to HB 562**

The Committee on Enrolled Bills to which was referred HB 562

AN ACT relative to the date of decision for appeals of zoning matters.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HB 562**

This enrolled bill amendment corrects the title of the bill to reflect the contents of the bill.

Enrolled Bill Amendment to HB 562

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

AN ACT establishing a committee to study the date of decision for appeals of zoning matters.

Senator Trombly moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 94, relative to enforcement of the child passenger restraint law.

HB 410, relative to the enforcement authority of the department of environmental services.

HB 670, establishing an advisory board to study the future of the New Hampshire automated information system's "Webster" Internet site.

HB 722, revising the law relative to protection of persons from domestic violence.

SB 99, allowing the same interest rates and charges on small loans under \$1,500 as is allowed on small loans over \$1,500.

SB 192, relative to vital records.

SB 198, relative to voluntary certification of persons installing or servicing propane gas or heating oil equipment.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 492, reducing the state bond guarantee limit for wastewater projects.

HB 626, relative to revising the laws regulating accountancy.

HB 685, relative to the duties of the New Hampshire land and community heritage commission.

SB 20, relative to soliciting or selling tickets to entertainment or sports events on public ways.

SB 191, relative to the New Hampshire higher educational and health facilities authority.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 2, relative to state fees, funds, revenues, and expenditures.

HB 213, relative to voting by prisoners.

HB 216, relative to release conditions pending trial for defendants in domestic violence, stalking, or protective order violation cases.

HB 272, relative to the use of laser pointing devices.

HB 367, relative to requesting certifying scientists to appear at DWI hearings.

HB 451, establishing a committee to study first and second mortgage home loans.

HB 545, establishing a committee to study ambulatory surgical facilities.

HB 650, establishing a committee to study the structure of alcohol and drug abuse prevention services.

HB 687, establishing the criminal offense of identity fraud.

HB 739, eliminating the restrictions on the number of days bingo volunteers may serve.

SB 12, relative to the World War II memorial campaign and making an appropriation therefor.

SB 32, exempting employers of certain part-time contractors from providing unemployment compensation, and establishing a study committee to analyze ways to reconcile inconsistencies with the statutes with regard to independent contractors.

SB 37, relative to fees for testing of domestic animals for disease.

SB 53, relative to licensure of physicians providing teleradiology services in this state.

SB 78, relative to contract requirements between a paid solicitor and a charitable trust.

SB 104, making a variety of changes in certain insurance laws.

SB 131, changing the name of the office of travel and tourism to the office of travel and tourism development, and updating outdated references to the office of vacation travel.

SB 172, relative to representation by a citizen in a court proceeding.

SB 175, requiring insurance coverage for prescription contraceptive drugs and prescription contraceptive devices and for contraceptive services.

SB 197, adding a duty to the committee to study the state substance abuse treatment delivery system.

SB 217, relative to real estate brokers of other jurisdictions doing business in this state.

Senator D'Allesandro moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 464, relative to electric rate reduction financing and relative to the duties of the public utilities commission.

HB 601, allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, replacing the superintendent of the lakes region facility with a warden in the salary classification table and replacing the superintendent of the New Hampshire state prison for women with a warden in the salary classification table.

HB 729, redefining "charitable organization" for purposes of the laws governing raffles.

1999-1974-EBA

03/10

Enrolled Bill Amendment to SB 28

The Committee on Enrolled Bills to which was referred SB 28

AN ACT relative to food production and distribution and food service licensure.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 28

This enrolled bill amendment corrects 2 references in the bill.

Enrolled Bill Amendment to SB 28

Amend RSA 143:11, I(a) as inserted by section 5 of the bill by replacing line 10 with the following:

been certified by the Buros Institute for Assessment, Consultation and Outreach at the

Amend RSA 143-A:6, I as inserted by section 8 of the bill by replacing line 10 with the following:

certified by the Buros Institute for Assessment, Consultation and Outreach at the

Senator Trombly moved adoption.

Adopted.

1999-1965-EBA

05/09

Enrolled Bill Amendment to SB 58

The Committee on Enrolled Bills to which was referred SB 58

AN ACT allowing clinical mental health counselors to obtain third party payment for services rendered which would otherwise qualify for such payments.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 58

This enrolled bill amendment adds a reference in section 2 of the bill.

Enrolled Bill Amendment to SB 58

Amend RSA 415:18-a, III(a) as inserted by section 2 of the bill by replacing line 8 with the following:

practitioners, *licensed clinical mental health counselors*, or licensed clinical social workers shall be substantially the same as the ratio of the

Senator Trombly moved adoption.

Adopted.

1999-1971-EBA

08/10

Enrolled Bill Amendment to SB 67

The Committee on Enrolled Bills to which was referred SB 67

AN ACT limiting liability resulting from the use of automatic external defibrillation.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 67

This enrolled bill amendment corrects grammatical errors.

Enrolled Bill Amendment to SB 67

mend RSA 151-B:28 as inserted by section 1 of the bill by replacing line 6 with the following:

negligence or willful and wanton acts or omissions. This section shall not limit civil liability protection

Senator Trombly moved adoption.

Adopted.

1999-1975-EBA

04/10

Enrolled Bill Amendment to SB 189-FN

The Committee on Enrolled Bills to which was referred SB 189-FN AN ACT relative to the establishment of a civil rights act.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 189-FN**

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to SB 189-FN

Amend RSA 354-B:3, II as inserted by section 1 of the bill by replacing line 2 with the following:

violation of this chapter or to protect lawful exercise of the rights secured by this chapter.

Senator Trombly moved adoption.

Adopted.

1999-1961-EBA

05/09

Enrolled Bill Amendment to SB 201-FN

The Committee on Enrolled Bills to which was referred SB 201-FN AN ACT reclassifying non-support as a felony under certain circumstances.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 201-FN**

This amendment makes a technical correction to the bill.

Enrolled Bill Amendment to SB 201-FN

Amend RSA 639:4, II as inserted by section 1 of the bill by replacing lines 3 and 4 with the following:

cumulative period of more than one year;

(b) A class B felony if the amount of the arrearage is more than \$10,000;

Senator Trombly moved adoption.

Adopted.

1999-1983-EBA**03/01****Enrolled Bill Amendment to HB 684**

The Committee on Enrolled Bills to which was referred HB 684

AN ACT requiring a 2/3 vote of both houses of the general court to increase the rate of the business enterprise tax and making technical corrections to 1999, HB 117.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HB 684**

This enrolled bill amendment makes certain typographical corrections and changes an effective date provision to avoid a conflict with 1999, HB 117.

Enrolled Bill Amendment to HB 684

Amend section 3 of the bill by replacing lines 1-3 with the following:

3 Utility Property Tax; Definitions. Amend RSA 83-F:1, IV and V to read as follows:

IV. [~~“Utility property owner” means any person, partnership, limited liability company,~~

Amend RSA 83-F:1, V(b) as inserted by section 3 of the bill by replacing line 2 with the following:

public utilities commission under RSA 362:4; and

Amend section 16 of the bill by replacing line 2 with the following: provisions of RSA 188-E:8 and RSA 188-E:9, for fiscal year 2001, the state shall reimburse a sending

Amend section 19 of the bill by replacing paragraph I with the following:

I. Section 9 of this act shall take effect July 1, 1999 at 12:02 a.m.

Senator Trombly moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 331, addressing hazardous waste and surface water quality violations incurred by the department of transportation identified by the state department of environmental services, and making an appropriation therefor.

HB 369, establishing a committee on educational programs on tobacco use for minors.

HB 468, relative to the home rule powers of municipalities.

HB 559, authorizing vanity plates or decals for OHRV registrations.

HB 608, establishing a New Hampshire emergency management response and recovery fund and making an appropriation therefor.

HB 652, relative to victim's assistance, penalty assessments on criminal offenses, and establishing a surcharge on items sold at state prison commissaries which is continually appropriated to the victim's assistance fund.

HB 664, establishing a study committee on rights of ownership to cemetery plots.

HB 738, making an appropriation to the department of administrative services for the purpose of reimbursing counties for providing prisoner custody in courthouses.

HB 741, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs.

SB 27, relative to assessment fee schedules for trust companies and banks.

SB 62, relative to the acquisition of Umbagog Lake Campground in Cambridge, New Hampshire, and making an appropriation therefor.

SB 102, relative to the payment of the premium tax.

SB 177, allowing marriage and family therapists to obtain third party payment for services rendered which would otherwise qualify for such payments.

SB 182, relative to eligibility for ordinary death benefits under the New Hampshire retirement system.

SB 187, relative to payment of group health insurance premiums for eligible retired teachers and for certain active or retired group II members in the New Hampshire retirement system.

SB 195, appropriating funds for sludge testing.

SB 223, establishing a wellness and primary prevention council.

Senator D'Allesandro moved adoption.

Adopted.

1999-1973-EBA

04/01

Enrolled Bill Amendment to HB 69

The Committee on Enrolled Bills to which was referred HB 69

AN ACT relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 69

This enrolled bill amendment corrects the title of the bill to accurately reflect its contents.

Enrolled Bill Amendment to HB 69

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

AN ACT relative to the definition of employee under certain labor laws.

Senator Trombly moved adoption.

Adopted.

1999-1987-EBA

05/09

Enrolled Bill Amendment to HB 265

The Committee on Enrolled Bills to which was referred HB 265

AN ACT relative to the student trustees on the University System of New Hampshire board of trustees.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 265

This enrolled bill amendment corrects the title of the bill to accurately reflect the contents of the bill.

Enrolled Bill Amendment to HB 265

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

AN ACT relative to the student trustees on the university system of New Hampshire board of trustees, adequate education grants in cooperative school districts, kindergarten program funding, and the adequate education grant in the town of Stratford.

Senator Trombly moved adoption.

Adopted.

1999-1990-EBA

04/10

Enrolled Bill Amendment to HB 291

The Committee on Enrolled Bills to which was referred HB 291

AN ACT establishing a study committee for seed sterilization technology or "terminator" technology.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 291

This enrolled bill amendment corrects the name of a senate committee referenced in section 2 of the bill.

Enrolled Bill Amendment to HB 291

Amend section 2 of the bill by replacing line 7 with the following: members of the senate environment committee and one member of the senate energy and economic development

Senator Trombly moved adoption.

Adopted.

1999-1978-EBA

08/10

Enrolled Bill Amendment to HB 491

The Committee on Enrolled Bills to which was referred HB 491

AN ACT relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 491

This enrolled bill amendment inserts the current version of RSA 263:19 as amended by HB 566 of the 1999 legislative session (1999, 157).

Enrolled Bill Amendment to HB 491

Amend the bill by replacing section 4 with the following:

4 Behind the Wheel Training Requirements Increased. Amend RSA 263:19 to read as follows:

263:19 Driver Education.

I. A driver's license may be issued subject to the provisions of this chapter to a person under the age of 18 years who has attained his sixteenth birthday, if such person shall present a certificate of successful completion of a driver education course given by a public or nonpublic secondary school and approved by the department of education in cooperation with the department of safety or given by a motor vehicle drivers' school licensed under the provisions of this chapter. An approved driver education course, whether conducted by a secondary school or by a school licensed under this chapter, shall consist of both classroom instruction and behind the wheel driver training of not less than 10 hours, in accordance with rules adopted pursuant to RSA 541-A, published jointly by the commissioner of education and the commissioner of safety, such standards to be not less than those presently required. The department of safety, by the nature of its function, shall be held ultimately responsible for setting and maintaining the quality standards for driver education in the state, aided and facilitated by the department of education. This authority shall apply uniformly over both secondary school courses and private motor vehicle drivers' school courses.

II. To qualify for a driver's license under this section, a person under the age of 18 shall also certify the completion of 20 hours of additional supervised driving time under the supervision of a licensed parent or guardian, or, if there is no licensed parent or guardian, under the supervision of a licensed adult over the age of 25. The commissioner shall adopt rules relative to the method of certification.

III. Any person who wishes to obtain a motorcycle endorsement shall not be required to complete the 20 hours of practice driving time specified in paragraph II, but shall successfully complete a program authorized pursuant to RSA 263:34-b and shall be exempt from RSA 263:14, II(c) while operating a motorcycle.

Senator Trombly moved adoption.

Adopted.

1999-1972-EBA

04/09

Enrolled Bill Amendment to HB 563

The Committee on Enrolled Bills to which was referred HB 563

AN ACT relative to names of limited liability partnerships and companies and cooperative associations.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 563

This enrolled bill amendment makes a technical correction in section 2 of the bill.

Enrolled Bill Amendment to HB 563

Amend RSA 293-A:4.01(b) as inserted by section 2 of the bill by replacing line 17 with the following:

[10] (6) the name of any political party recognized under RSA 652:11, unless written

Senator Trombly moved adoption.

Adopted.

1999-1979-EBA

08/10

Enrolled Bill Amendment to HB 576-FN-A

The Committee on Enrolled Bills to which was referred HB 576-FN-A AN ACT establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 576-FN-A

This enrolled bill amendment corrects references to child custody and support impact seminars and the child custody and support impact program.

Enrolled Bill Amendment to HB 576-FN-A

Amend the bill by replacing section 2 with the following:

2 Child Custody and Support Impact Seminars; Positions Created. There are hereby created 3 full-time court assistant III positions and one-part-time court assistant III position within the child custody and support impact program for the purpose of managing statewide child custody and support impact seminars pursuant to RSA 458-D.

Senator Trombly moved adoption.

Adopted.

1999-1984-EBA

03/09

Enrolled Bill Amendment to HB 601

The Committee on Enrolled Bills to which was referred HB 601

AN ACT allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, replacing the superintendent of the lakes region facility with a warden in the salary classification table and replacing the superintendent of the New Hampshire state prison for women with a warden in the salary classification table.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 601

This enrolled bill amendment modifies the title and certain provisions of the bill to conform with the provisions of 1999, HB 2-FN-A, re-designates a provision of the bill to avoid a conflict with existing law, and inserts language omitted from the bill.

Enrolled Bill Amendment to HB 601

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

AN ACT allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, changing the salary group of the warden of the northern New Hampshire correctional facility in the unclassified system, replacing the superintendent of the lakes region facility with a warden in the salary classification table and replacing the superintendent of the New Hampshire state prison for women with a warden in the salary classification table.

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Clarification of Term. Amend RSA 651:6 by inserting after paragraph I the following new paragraph:

I-a. As used in this section, a "law enforcement officer" is a sheriff or deputy sheriff of any county, a state police officer, a constable or police officer of any city or town, an official or employee of any prison, jail, or corrections institution, a probation-parole officer, or a conservation officer.

Amend section 5 of the bill by inserting after paragraph III the following new paragraph:

IV. Deleting in group N:

Warden, northern New Hampshire correctional facility, department of corrections

Amend the bill by replacing section 6 with the following:

6 Applicability of Salary Classifications. The warden of the northern New Hampshire correctional facility (formerly the Berlin prison facility) on the effective date of this act shall become the unclassified warden at the salary step in group O which is not less than step 4 in group N.

Amend RSA 622:2-a as inserted by section 8 of the bill by replacing line 1 with the following:

622:2-a ~~Warden~~ **Wardens**. The ~~warden~~ **wardens** of the New Hampshire state ~~prison for men~~ **prisons** shall

Senator Trombly moved adoption.

Adopted.

1999-1982-EBA

04/10

Enrolled Bill Amendment to HB 616-FN-A

The Committee on Enrolled Bills to which was referred HB 616-FN-A

AN ACT establishing a house study committee to consider issues related to the driver training fund and exempting persons covered under the Americans with Disabilities Act from certain driver's license requirements.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 616-FN-A

This enrolled bill amendment inserts a contingency provision to reflect an amendment to an RSA section which was made by HB 491 of the 1999 legislative session, and which was also amended by HB 566 (1999, 157).

Enrolled Bill Amendment to HB 616-FN-A

Amend the bill by replacing all after section 6 with the following:

7 Waiver of Certain License Requirements; Version Incorporating HB 566. RSA 263:19 is repealed and reenacted to read as follows:

263:19 Driver Education.

I. A driver's license may be issued subject to the provisions of this chapter to a person under the age of 18 years who has attained his sixteenth birthday, if such person shall present a certificate of successful completion of a driver education course given by a public or nonpublic secondary school and approved by the department of education in cooperation with the department of safety or given by a motor vehicle drivers' school licensed under the provisions of this chapter. An approved driver education course, whether conducted by a secondary school or by a school licensed under this chapter, shall consist of both classroom instruction and behind the wheel driver training, in accordance with rules adopted pursuant to RSA 541-A, published jointly by the commissioner of education and the commissioner of safety, such standards to be not less than those presently required. The department of safety, by the nature of its function, shall be held ultimately responsible for setting and maintaining the quality standards for driver education in the state, aided and facilitated by the department of education. This authority shall apply uniformly over both secondary school courses and private motor vehicle drivers' school courses.

II. Any person wishing to qualify for a driver's license who submits proof that the person has a disability covered by the Americans with Disabilities Act may request a waiver of a requirement of this section from the commissioner. The commissioner or his or her agents may approve such requests at their discretion.

8 Waiver of License Requirements; Contingent Version for HB 491. RSA 263:19 is repealed and reenacted to read as follows:

263:19 Driver Education.

I. A driver's license may be issued subject to the provisions of this chapter to a person under the age of 18 years who has attained his sixteenth birthday, if such person shall present a certificate of successful completion of a driver education course given by a public or nonpublic secondary school and approved by the department of education in cooperation with the department of safety or given by a motor vehicle drivers' school licensed under the provisions of this chapter. An approved driver education course, whether conducted by a secondary school or by a school licensed under this chapter, shall consist of both classroom instruction and behind the wheel driver training of not less than 10 hours, in accordance with rules adopted pursuant to RSA 541-A, published jointly by the commissioner of education and the commissioner of safety, such standards to be not less than those presently required. The department of safety, by the nature of its function, shall be held ultimately responsible for setting and maintaining the quality standards for driver education in the state, aided and facilitated by the department of education. This authority shall apply uniformly over both secondary school courses and private motor vehicle drivers' school courses.

II. To qualify for a driver's license under this section, a person under the age of 18 shall also certify the completion of 20 hours of additional supervised driving time under the supervision of a licensed parent or guardian, or, if there is no licensed parent or guardian, under the supervision of a licensed adult over the age of 25. The commissioner shall adopt rules relative to the method of certification.

III. Any person who wishes to obtain a motorcycle endorsement shall not be required to complete the 20 hours of practice driving time specified in paragraph II, but shall successfully complete a program authorized pursuant to RSA 263:34-b and shall be exempt from RSA 263:14, II(c) while operating a motorcycle.

IV. Any person wishing to qualify for a driver's license who submits proof that the person has a disability covered by the Americans with Disabilities Act may request a waiver of a requirement of this section from the commissioner. The commissioner or his or her agents may approve such requests at their discretion.

9 Contingency. If HB 491 of the 1999 legislative session becomes law, section 8 of this act shall take effect at 12:01 a.m. on the day that HB 491 takes effect. If HB 491 does not become law, section 8 of this act shall not take effect.

10 Effective Date.

I. Section 7 of this act shall take effect August 27, 1999 at 12:01 a.m..

II. Section 8 of this act shall take effect as provided in section 9 of this act.

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

Senator Trombly moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives has passed Bills and a Resolution with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 84-FN, establishing a committee to study the penalties for driving under the influence of intoxicating liquor or controlled drugs in the state, and the education and treatment services available to offenders.

HB 224-FN-A, establishing a joint committee on code enforcement.

HB 537, relative to background checks for firearms purchases.

HB 553-FN-A, establishing a commission on the status of men.

HB 577, relative to the power of a school district to expend catastrophic special education funds and relative to the exemption of certain unexpected catastrophic special education expenses from the provisions of the municipal budget law.

HB 599-FN-A, establishing a committee to study the integration of technology at the state, county, and municipal levels.

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

HB 643, transferring the regulation of emergency medical services from the department of health and human services to the department of safety.

HB 649-FN, relative to nitrogen oxide emissions from electricity generation.

HB 669-FN, relative to the determination of current comparable compensation for persons with gainful earnings who receive disability retirement benefits.

HB 704-FN-A, establishing a wildlife damage control program and making an appropriation therefor.

HB 746, relative to emergency police assistance.

HCR 10, requesting Congress to give priority to preserving Social Security and ensuring that it continues as universal and mandatory for all workers.

HB 346-FN-A, relative to permissible fireworks.

HB 363-FN, increasing the bonding limit of the school building authority.

HB 501-FN-A, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton.

HB 602-FN, establishing the position of health insurance consumer assistant.

HB 615-FN-A, establishing a registry for brain and spinal cord injuries.

HB 645-FN, relative to telecommunications equipment assistance and the enhanced 911 system.

HB 743, requiring that the question relative to the necessity for a convention to revise the New Hampshire constitution be presented to the voters in the November 2000 general election.

HCR 8, urging the improvements to the Kyoto Protocol prior to its implementation.

HCR 13, urging the selection of a final design for the New Hampshire commemorative quarter which includes the state motto "live free or die, 9 stars representing New Hampshire as the ninth state to ratify the United States Constitution, and the Old Man of the Mountain."

HJR 10, requiring that the United States Marine Corps flag be flown over the State House every November 10 to honor the birth of the Corps.

INTRODUCTION OF HOUSE BILLS

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 84-HJR 10 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 84-FN, establishing a committee to study the penalties for driving under the influence of intoxicating liquor or controlled drugs in the state, and the education and treatment services available to offenders. **Transportation**

HB 224-FN-A, establishing a joint committee on code enforcement. **Education**

HB 537, relative to background checks for firearms purchases. **Judiciary**

HB 553-FN-A, establishing a commission on the status of men. **Executive Departments and Administration**

HB 577, relative to the power of a school district to expend catastrophic special education funds and relative to the exemption of certain unexpected catastrophic special education expenses from the provisions of the municipal budget law. **Education**

HB 599-FN-A, establishing a committee to study the integration of technology at the state, county, and municipal levels. **Energy and Economic Development**

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills. **Environment**

HB 643, transferring the regulation of emergency medical services from the department of health and human services to the department of safety. **Public Institutions, Health and Human Services**

HB 649-FN, relative to nitrogen oxide emissions from electricity generation. **Energy and Economic Development**

HB 669-FN, relative to the determination of current comparable compensation for persons with gainful earnings who receive disability retirement benefits. **Insurance**

HB 704-FN-A, establishing a wildlife damage control program and making an appropriation therefor. **Wildlife and Recreation**

HB 746, relative to emergency police assistance. **Judiciary**

HCR 10, requesting Congress to give priority to preserving Social Security and ensuring that it continues as universal and mandatory for all workers. **Internal Affairs**

HB 346-FN-A, relative to permissible fireworks. **Executive Departments and Administration**

HB 363-FN, increasing the bonding limit of the school building authority. **Executive Departments and Administration**

HB 501-FN-A, relative to the repair of a certain covered railroad bridge in Contocook village in the town of Hopkinton. **Finance**

HB 602-FN, establishing the position of health insurance consumer assistant. **Insurance**

HB 615-FN-A, establishing a registry for brain and spinal cord injuries. **Public Institutions, Health and Human Services**

HB 645-FN, relative to telecommunications equipment assistance and the enhanced 911 system. **Energy and Economic Development**

HB 743, requiring that the question relative to the necessity for a convention to revise the New Hampshire constitution be presented to the voters in the November 2000 general election. **Internal Affairs**

HCR 8, urging the improvements to the Kyoto Protocol prior to its implementation. **Environment**

HCR 13, urging the selection of a final design for the New Hampshire commemorative quarter which includes the state motto "live free or die, 9 stars representing New Hampshire as the ninth state to ratify the United States Constitution, and the Old Man of the Mountain." **Public Affairs**

HJR 10, requiring that the United States Marine Corps flag be flown over the State House every November 10 to honor the birth of the Corps. **Internal Affairs**

1999-1989-EBA

05/10

Enrolled Bill Amendment to SB 70

The Committee on Enrolled Bills to which was referred SB 70

AN ACT relative to prevention of MTBE contamination of drinking water and groundwater.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 70

This amendment renumbers an RSA section to avoid duplicating the numbering of an RSA section inserted by SB 191 (1999).

Enrolled Bill Amendment to SB 70

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

4 Contingent Renumbering. If SB 191 becomes law, RSA 541-A:21, I(v) as inserted by section 3 of this act shall be renumbered to RSA 541-A:21, I(w).

Senator Trombly moved adoption.

Adopted.

1999-1986-EBA

03/01

Enrolled Bill Amendment to SB 83

The Committee on Enrolled Bills to which was referred SB 83

AN ACT relative to the regulation of the practice of veterinary medicine.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 83

This enrolled bill amendment corrects certain cross-references and makes certain grammatical and technical corrections.

Enrolled Bill Amendment to SB 83

Amend RSA 332-B:2, X as inserted by section 8 of the bill by replacing line 1 with the following:

X. An animal owner or his or her designated agent performing treatment as prescribed by a

Amend RSA 332-B:7-a, XII as inserted by section 14 of the bill by replacing it with the following:

XII. Establishing and enforcing standards for veterinary facilities; and

Amend RSA 332-B:11 as inserted by section 17 of the bill by replacing lines 1-2 with the following:

332-B:11 Reciprocity.

I. The board may issue a license without examination to a person who:

Amend RSA 332-B:12 as inserted by section 18 of the bill by replacing line 3 with the following:

recognized as provided for in RSA 332-B:9[~~, may be granted a temporary license~~] for a period not to

Amend RSA 332-B:14, II(n) as inserted by section 23 of the bill by replacing line 2 with the following:

medical records, or the issuance of health, vaccination, or inspection certificates; or

Amend RSA 332-B:15, IV as inserted by section 25 of the bill by replacing line 5 with the following:

board pursuant to RSA 332-B:15, V, and no witness or other fee shall be necessary for valid service.

Amend RSA 332-B:16, III(b) as inserted by section 27 of the bill by replacing line 3 with the following:
complainant. The hearing notice shall constitute a final ruling on the complainant's request

Senator Trombly moved adoption.

Adopted.

1999-1993-EBA

03/01

Enrolled Bill Amendment to SB 93

The Committee on Enrolled Bills to which was referred SB 93
AN ACT relative to self-storage facility liens.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 93

This enrolled bill amendment makes grammatical corrections and conforms certain references to other provisions in the bill.

Enrolled Bill Amendment to SB 93

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

AN ACT relative to self-service storage facility liens.

Amend RSA 451-C:1, III as inserted by section 1 of the bill by replacing line 2 with the following:
use of storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

Amend RSA 451-C:2 as inserted by section 1 of the bill by replacing line 2 with the following:
personal property located at the self-service storage facility so long as the personal property shall remain in

Amend RSA 451-C:4, I as inserted by section 1 of the bill by replacing line 6 with the following:
the division of motor vehicles, the secretary of state, or the town clerk within 14 days after such

Amend RSA 451-C:4, II as inserted by section 1 of the bill by replacing line 9 with the following:
possession or from the occupant's self-service storage facility unit within 20 days of the date of mailing of the notice

Amend RSA 451-C:7, I as inserted by section 1 of the bill by replacing lines 2-3 with the following:
entire contents of the unit have a total value under \$500, the property shall be deemed abandoned. Such property may then be removed from the self-service storage facility unit and shall be retained for 30 days. If

Amend RSA 451-C:7, II as inserted by section 1 of the bill by replacing line 2 with the following:
entire contents of the unit have a total value under \$500, the property shall be deemed abandoned. If

Amend RSA 451-C:7, II as inserted by section 1 of the bill by replacing line 5 with the following:
requirements of RSA 451-C:5 and RSA 451-C:6, may remove such property from the self-service storage facility unit,

Amend RSA 451-C:10 as inserted by section 1 of the bill by replacing line 1 with the following:

451-C:10 Disclosure. An owner of a self-service storage facility shall disclose, in any rental agreement

Senator Trombly moved adoption.

Adopted.

1999-1962-EBA

08/09

Enrolled Bill Amendment to SB 105

The Committee on Enrolled Bills to which was referred SB 105

AN ACT relative to continuation of coverage of health insurance.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 105

This enrolled bill amendment makes 2 typographical corrections and corrects amending language.

Enrolled Bill Amendment to SB 105

Amend RSA 415:18, VII(g)(1)(C)(iii) as inserted by section 1 of the bill by replacing line 3 with the following:

XVIII of the Social Security Act within the 18-month continuation in subparagraph

Amend RSA 415:18, VII(g)(1)(C)(iv) as inserted by section 1 of the bill by replacing line 3 with the following:

~~whichever occurs first.] ; or~~

Amend RSA 415:18, VII(g)(1)(E) as inserted by section 1 of the bill by replacing line 1 with the following:

(E) *Extension coverage need not be provided beyond:*

Amend RSA 415:18, VII(g)(1)(F) as inserted by section 1 of the bill by replacing line 1 with the following:

(F) The individual, surviving spouse, divorced spouse, legally separated

Senator Trombly moved adoption.

Adopted.

1999-1994-EBA

03/10

Enrolled Bill Amendment to SB 113

The Committee on Enrolled Bills to which was referred SB 113

AN ACT establishing a division of travel and tourism development within the department of resources and economic development.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 113

This enrolled bill amendment makes typographical and technical corrections. This enrolled bill amendment also modifies a section and inserts a contingency to avoid a conflict with 1999, SB 131-FN-A.

Enrolled Bill Amendment to SB 113

Amend the introductory paragraph of RSA 12-A:23 as inserted by section 4 of the bill by replacing line 1 with the following:

It is the intent of the general court that all agencies

Amend section 5 of the bill by replacing line 2 with the following:

Director of travel and tourism development, department of

Amend section 8 of the bill by replacing line 1 with the following:

8 Reference Change. Amend RSA 12-A:1-e, II to read as follows:

Amend the bill by replacing section 9 with the following:

9 Reference Change. The introductory paragraph of RSA 12-A:41, I is repealed and reenacted to read as follows:

I. There is established a New Hampshire film and television commission within the division of travel and tourism development, department of resources and economic development. The purposes of the commission shall be:

Amend the bill by replacing section 14 with the following:

14 Contingency. If SB 131-FN-A of the 1999 regular session becomes law, section 9 of this act shall take effect at 12:01 a.m. on the effective date of SB 131-FN-A. If SB 131-FN-A does not become law, section 9 of this act shall take effect July 1, 1999.

15 Effective Date.

I. Section 9 of this act shall take effect as provided in section 14 of this act.

II. The remainder of this act shall take effect July 1, 1999.

Senator Trombly moved adoption.

Adopted.

1999-1985-EBA

08/09

Enrolled Bill Amendment to SB 158-FN

The Committee on Enrolled Bills to which was referred SB 158-FN

AN ACT relative to definitions and penalties for indecent exposure and inclusion in certain sexual offender registry classifications.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 158-FN

This enrolled bill amendment inserts in section 3 of the bill the version of RSA 651-B:6, I which was amended by HB 706 (1999, 177).

Enrolled Bill Amendment to SB 158-FN

Amend the bill by replacing section 3 with the following:

3 Addition to Sexual Offender Registry Classifications. Amend RSA 651-B:6, I to read as follows:

I. Any sexual offender convicted of a violation or attempted violation of RSA 632-A:2 [~~or~~], 632-A:3, *or 645:1, III*, and any offender against children convicted of a violation or attempted violation of RSA 169-B:41, II, 633:1, 633:2, 639:2, 639:3, III, 645:2, II, 649-A:3, I, 649-B:3, 649-B:4, or 650:2, II, or of an equivalent offense in an out-of-state jurisdiction, shall be registered for life.

Senator Trombly moved adoption.

Adopted.

1999-1995-EBA

03/09

Enrolled Bill Amendment to SB 163

The Committee on Enrolled Bills to which was referred SB 163

AN ACT establishing a commission to study methods for reducing violent incidents involving children and guns.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 163

This enrolled bill amendment corrects references to certain entities and makes a typographical correction.

Enrolled Bill Amendment to SB 163

Amend paragraph I of section 2 of the bill by replacing subparagraph (f) with the following:

(f) The president of the New Hampshire County Attorneys' Association, or designee.

Amend paragraph I of section 2 of the bill by replacing subparagraph (i) with the following:

(i) A representative of the Injury Prevention Center at Dartmouth-Hitchcock Medical Center.

Amend section 4 of the bill by replacing line 1 with the following:

4 Chairperson. The members of the study commission shall elect a chairperson from

Senator Trombly moved adoption.

Adopted.

1999-1981-EBA

04/10

Enrolled Bill Amendment to SB 167

The Committee on Enrolled Bills to which was referred SB 167

AN ACT relative to off-label prescription drugs.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 167

This enrolled bill amendment inserts a contingency provision to re-number an RSA section inserted by the bill.

Enrolled Bill Amendment to SB 167

Amend the bill by replacing all after section 5 with the following:
6 New Section; Off-Label Prescription Drugs. Amend RSA 415 by inserting after section 18-i the following new section:

415:18-j Off-Label Prescription Drugs.

I. No insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses and providing coverage for prescription drugs shall exclude coverage for any such drug for a particular indication on the ground that the drug has not been approved by the Food and Drug Administration (FDA) for that indication, if such drug is recognized for treatment of such indication in one of the standard reference compendia or in the medical literature as recommended by current American Medical Association (AMA) policies.

II. Any coverage of a drug required by this section shall also include medically necessary services associated with the administration of the drug.

III. Nothing in this section requires:

(a) Coverage for any drug if the FDA has determined its use to be contraindicated for the treatment of the particular indication for which the drug has been prescribed;

(b) Coverage for experimental or investigational drugs not approved for any indication by the FDA; and

(c) Reimbursement or coverage for any drug not included on the drug formulary or list of covered drugs specified in a health plan, contract, or policy.

7 Off-Label Prescription Drugs; Health Service Corporation. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 415-A, RSA 415-F, RSA 415:6, II(4), **RSA 415:6-g**, RSA 415:18, V, RSA 415:18, VII(g), RSA 415:18, VII-a, RSA 415:18-a, **RSA 415:18-j**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

8 Off-Label Drugs; Health Maintenance Organizations. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, **RSA 415:6-g**, RSA 415:18, VII(g), RSA 415:18, VII-a, **RSA 415:18-j**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

9 Contingency. If SB 175-FN of the 1999 legislative session becomes law, then sections 6-8 of this act shall take effect 60 days after its passage, and sections 3-5 of this act shall not take effect. If SB 175-FN of the 1999 legislative session does not become law, then sections 3-5 of this act shall take effect 60 days after its passage, and sections 6-8 of this act shall not take effect.

10 Effective Date.

I. Sections 3-8 of this act shall take effect as provided in section 9.

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

Senator Trombly moved adoption.

Adopted.

1999-1988-EBA**03/09****Enrolled Bill Amendment to SB 204**

The Committee on Enrolled Bills to which was referred SB 204

AN ACT establishing the New Hampshire excellence in higher education endowment trust fund.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 204**

This enrolled bill amendment clarifies certain references in the bill.

Enrolled Bill Amendment to SB 204

Amend section 1 of the bill by replacing lines 1-3 with the following:

1 New Subdivision; New Hampshire Excellence in Higher Education Endowment Trust Fund. Amend RSA 6 by inserting after section 36 the following new subdivision:

New Hampshire Excellence in Higher Education
Endowment Trust Fund

Amend RSA 6:37, II as inserted by section 1 of the bill by replacing line 1 with the following:

II. "Eligible educational institution" means that which is defined in section 529 of

Amend RSA 6:38 as inserted by section 1 of the bill by replacing line 1 with the following:

6:38 New Hampshire Excellence in Higher Education Endowment Trust Fund Established.

Amend RSA 6:38, III as inserted by section 1 of the bill by replacing line 2 with the following:

the commission for purposes of providing education scholarships under this subdivision.

Senator Trombly moved adoption.

Adopted.

1999-1977-EBA**04/10****Enrolled Bill Amendment to SB 214-FN**

The Committee on Enrolled Bills to which was referred SB 214-FN

AN ACT relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 214-FN**

This enrolled bill amendment corrects the title of the bill to accurately reflect its contents.

Enrolled Bill Amendment to SB 214-FN

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

AN ACT relative to the membership and staff of the health services planning and review board and relative to the definition of ambulatory surgical facility.

Senator Trombly moved adoption.

Adopted.

1999-1991-EBA

04/10

Enrolled Bill Amendment to SB 200

The Committee on Enrolled Bills to which was referred SB 200

AN ACT relative to child day care licensing procedures.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to SB 200**

This enrolled bill amendment makes a technical correction to section 2 of the bill.

Enrolled Bill Amendment to SB 200

Amend section 2 of the bill by replacing lines 4-5 with the following: care of, or having regular contact with children, and within 30 days of adding new household members or other individuals who will have regular contact with children, submit to the

Amend section 2 of the bill by replacing lines 27-28 with the following: corrective action to remove the individual from the agency, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall

Senator Trombly moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 25, making appropriations for capital improvements.

HB 689, establishing a committee to study campaign contributions and expenditures.

HB 698, restricting fees for registration permits for certain vehicles.

HB 719, relative to procedures regarding children in need of services.

CACR 6, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law.

SB 227, establishing a gambling business felony.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 69, relative to the definition of employee under certain labor laws.

HB 265, relative to the student trustees on the university system of New Hampshire board of trustees, adequate education grants in cooperative school districts, kindergarten program funding, and the adequate education grant in the town of Stratford.

HB 291, establishing a study committee for seed sterilization technology or "terminator" technology.

HB 491, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements.

HB 563, relative to names of limited liability partnerships and companies and cooperative associations.

HB 576, establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor.

HB 601, allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, changing the salary group of the warden of the northern New Hampshire correctional facility in the unclassified system, replacing the superintendent of the lakes region facility with a warden in the salary classification table and replacing the superintendent of the New Hampshire state prison for women with a warden in the salary classification table.

HB 616, establishing a house study committee to consider issues related to the driver training fund and exempting persons covered under the Americans with Disabilities Act from certain driver's license requirements.

HB 665, relative to the New Hampshire emergency management compact with other jurisdictions.

HB 684, requiring a 2/3 vote of both houses of the general court to increase the rate of the business enterprise tax and making technical corrections to 1999, HB 117.

SB 70, relative to prevention of MTBE contamination of drinking water and groundwater.

SB 83, relative to the regulation of the practice of veterinary medicine.

SB 93, relative to self-service storage facility liens.

SB 105, relative to continuation of coverage of health insurance.

SB 113, establishing a division of travel and tourism development with the department of resources and economic development.

SB 158, relative to definitions and penalties for indecent exposure and inclusion in certain sexual offender registry classifications.

SB 163, establishing a commission to study methods for reducing violent incidents involving children and guns.

SB 167, relative to off-label prescription drugs.

SB 200, relative to child day care licensing procedures.

SB 204, establishing the New Hampshire excellence in higher education endowment trust fund.

SB 214, relative to the membership and staff of the health services planning and review board and relative to the definition of ambulatory surgical facility.

HB 89, making an appropriation for a department of transportation study of the state house complex's space needs, and naming the newly constructed state highway bridge on Route 135 between the towns of Haverhill and Bath in honor of Raymond S. Burton.

HB 333, relative to contracts between participating providers and managed care entities.

HB 395, establishing a program of matching grants to preserve historic agricultural structures in New Hampshire.

HB 408, relative to drug formularies under managed care entities.

HB 428, relative to school administrative units.

HB 463, relative to local regulation of junkyards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations.

HB 464, relative to electric rate reduction financing and relative to the duties of the public utilities commission.

HB 525, relative to special number plates for certain veterans.

HB 562, establishing a committee to study the date of decision for appeals of zoning matters.

HB 584, relative to administrative license suspensions.

HB 653, increasing the personal needs allowance of nursing home residents and residents of residential care facilities and community residences and making an appropriation therefor.

HB 658, relative to certification, registration, and insurance requirements for recovery agents who assist bail agents and sureties.

HB 676, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

HB 709, relative to the railroad tax.

HB 721, relative to procedures regarding delinquent children under RSA 169-B.

HB 729, redefining "charitable organization" for purposes of the laws governing raffles.

SB 28, relative to food production and distribution and food service licensure.

SB 30, relative to the cruelty to animals laws.

SB 47, relative to restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.

SB 58, allowing clinical mental health counselors to obtain third party payment for services rendered which would otherwise qualify for such payments.

SB 67, limiting liability resulting from the use of automatic external defibrillation.

SB 114, relative to health carrier disclosure of third party liability.

SB 124, establishing a committee to study the integration of technology at the state, county, and municipal level.

SB 140, relative to ear piercing.

SB 183, requiring the department of health and human services to make a biennial report on the health status of New Hampshire residents, relative to rates for pharmaceutical services, requiring the department to conduct a study, and establishing a subcommittee to study affordable health insurance for low-income working adults.

SB 189, relative to the establishment of a civil rights act.

SB 201, reclassifying non-support as a felony under certain circumstances.

SB 209, establishing a study committee on certain matters concerning superior court justices.

SB 224, relative to notice requirements and recording of hearings in contested cases and relative to records and availability of transcripts of adjudicative hearings on occupational licensing.

HB 666, relative to the taxation of sand, gravel, loam, and other similar substances.

SB 69, relative to health care charitable trusts and community benefits. Senator D'Allesandro moved adoption.

Adopted.

In recess.

Out of Recess.

LATE SESSION

Senator Cohen moved to adjourn.

Adopted.

The Senate received notification on August 26, 1999 of the passing of Senate President, Clesson J. Blaisdell.

Adjournment.

ORGANIZATION DAY

September 3, 1999

The Senate Clerk, Gloria M. Randlett, called the Senate to order at 9:00 a.m.

The prayer was offered by Rev. David P. Jones, Senate Chaplain.

Even though our hearts have been broken, in the process you and I have learned again that no one - no one - is indispensable. But remember everyone - everyone - is essential. Look around this room and look up into the gallery and remember that fact. Moments of transition call for great courage, for change can be one of life's most unsettling and frightening experiences. And change is what has happened here. You twenty-three have to decide what to do about it and how to go about doing it. But, not to worry. You can relax, for within you and around you and above you, you have already all the resources you need, so use them and lead us. Let us pray:

Lord, it seems to be one of Your favorite past times to ask us to embark upon pathways whose twists and turns we cannot fully anticipate and whose destinations we cannot clearly perceive. Remind us repeatedly that if we allow You to be the agent of all our travels, our journey's end will find us at that place where You know we need and ought to be, and all manner of things will be well.

Amen

Senator Roberge led the Pledge of Allegiance.

The Clerk of the Senate, Gloria M. Randlett, called the Roll of the Senate for attendance.

There were 22 members present.

NOMINATIONS

Nominations for temporary presiding officer.

Senator D'Allesandro nominated Secretary of State William Gardner for temporary presiding officer.

Senator Johnson seconded the nomination.

Further nominations.

Senator Fernald moved that nominations for temporary presiding officer be closed.

Adopted.

Question is on electing Secretary of State William Gardner for temporary presiding officer.

Adopted.

Senators Roberge and J. King to escort temporary presiding officer, Secretary of State William Gardner to the rostrum.

WILLIAM GARDNER: I know that this is much more solemn than it was less than a year ago when you elected your Senate President, and Junie's family was all sitting over here in the corner. I am sure that all of you can remember some of the events of that day. But you are here today for an equally important task and at this point, I would like to call for the nomination of the President of the Senate.

Recess.

Out of Recess.

RULES FOR ELECTION

Senator Cohen moved that by concurrence of the entire Senate body that the vote of the Senate President be an open roll call and that the selection of the Senate President be by a majority of those present.

Adopted.

William Gardner, the presiding officer, asked for nominations for the president of the Senate.

Senator Trombly nominated Senator Larsen, for the president of the Senate.

SENATOR TROMBLY: I think that it is safe to say that Sylvia Larsen is not Junie Blaisdell. She most certainly is not going to gavel a session together with a rubber chicken. I have never heard her curse as much as I have tried to teach her. She is frustratingly nonpolitical. When Machiavelli wrote his book "The Prince", he most certainly was

not writing about Sylvia Larsen, and I know that she hasn't read that book. Shy is a term never applied to Junie Blaisdell. Sylvia Larsen is competent, she is compassionate, she is capable and she is kind. She has the respect of all that know her. She is highly regarded in her district and she is restrained in difficult times. Sylvia Larsen in her private life, dedicates herself to causes involving children and the elderly. Mr. President, longevity in this body is not necessarily always rewarded with the job of presiding officer. I think that is a tradition that has carried through, not only in this body but in the House, and in society at large. There are many people who are wise, many people who are smart, many people who are capable, who never obtain the role of leader, but they are respected for their abilities. The past few days, Sylvia has been criticized for being too close to the Governor, but I say to this body, is it not important that we have a Senate president who can work closely with the Governor, and the Speaker of the House, and on both sides of the aisle? It does not fit though to allege that Sylvia Larsen is a captain with the Governor's office. When on one of the most important issues of the day, the Claremont opportunity, how to resolve that is an area where Senator Larsen and the Governor do not agree. Sylvia is a supporter of an income tax, and she has unwaivered in her support for an income tax. Governor Shaheen opposes an income tax and has not waived in her opposition to an income tax. Governor Shaheen has gone on the record, and campaigned and was elected, as a supporter of video lottery. Sylvia Larsen opposes video lottery. But it doesn't end there. It should not be foreign to have a presiding officer who has an open door to the Governor's office. No one, no one in this chamber was more a friend to Jeanne Shaheen than Junie Blaisdell, and we elected him Senate President. Some say that Sylvia is too partisan, yet those people who make that allegation are the same people who, in the same breath, say that we really don't know her. Sylvia Larsen is no more partisan than any other Senator in this body. When the work needs to be done, Sylvia is there embracing Democrats and Republicans, rich or poor, to get the people's business done. Sylvia Larsen chaired the Capital Budget Committee and I did not hear one Senator in this body complain about how she managed the hearings, or what was included in that budget. I dare say that the Capital Budget is a very important piece of legislation, yet no complaints about partisanship from Sylvia. I read in the paper, Senator Fred King, the other day, that you used to watch Junie Blaisdell speak on a certain side of an issue, and then he would vote contrary to the way that he spoke, because he supported the majority position. I dare say, that I think, Senator Larsen would show that same kind of support for our majority positions. As a matter of fact, when Sylvia Larsen ran for Senate President last December, and there was a discussion as to whom we would elect, Senator Larsen showed her dedication to this institution, her dedication to bringing people together, her priority being dispute resolution, by agreeing to support Senator Blaisdell. I think that is a quality that we ought not to ignore. Senator Larsen wanted the position of Senate President. Senator Larsen gave it up for unity. That is a quality that I admire. That is a quality that I want in the next Senate President. Last December, this body elected unanimously, the democratic nominee, Junie Blaisdell. Senator Larsen accepted her role and fit into that power structure, a power structure with which Junie must have been comfortable or else he would not have allowed it. That was Junie Blaisdell. Sylvia Larsen was chosen by Senator Blaisdell to be his Senate President Pro Tem. I think that we need to respect the trust that Senator Blaisdell

placed in Sylvia Larsen. It is with great pride, and on behalf of all of the residents of District 7, Sylvia, that I place your name in nomination for Senate President.

Senator D'Allesandro seconded the nomination.

SENATOR D'ALLESANDRO: Thank you very much, Mr. Secretary. I appreciate your willingness to serve as the Temporary Chair of this convention, and I know that you will do it in a marvelous fashion as you were taught in the ninth grade by your Civics teacher, Lou D'Allesandro. Good government has a way of blossoming, and you have blossomed, and I am forever grateful for that. Forever grateful. I thank all of my fellow Senators for being here, particularly Senator George Disnard, who came a long way under most difficult circumstances. When I use the term Great Americans, George Disnard is at the top of my list. To know him is truly to admire his consistency and his fairness and dedication. I thank him from the bottom of my heart for being here. He is truly an example of what great Americans are all about. I am very, very privileged to have the opportunity to second the nomination of Sylvia Larsen. I do it basically for three reasons. We talk about fairness, in fairness of the process. I have served with Sylvia as a member of the Capital Budget. I have been around here as a member of the House, and now as a member of the Senate. I think that fairness is a manifestation that Sylvia represents every time that she walks into a conference and every time that she walks into a room. Every time that you are in her presence, you get the sense of fairness, the fact that everyone is to be heard from and that everyone will have been paid attention to. There is no exclusionary process. Fairness is very important in a deliberative body. The fact that everyone believes that they have had their say and that their say has been taken into consideration. Fairness is one of the manifestations of a good leader. I tend to use athletic analogies, and I know that some people think that athletic analogies are not appropriate, I tend to use them because of the fact that my life has really been spent in athletics, and I think of life in terms of the team. I think that team concept is a very good concept. Every team needs a coach. They need a coach that brings that team together. The delineation between a good coach and a great coach, is that a great coach has an opportunity to listen to every player and takes into consideration what that player is saying. That great coach responds to that, and brings that into his or her game plan, and one hopes that that is a winning game plan. But even if it is not a winning game plan, it is a game plan that everyone had a part of, everybody believed in, and everybody was heard. I think that is the concept of the coach. The ability to lead. What about the ability to lead in these most difficult times? Senator Trombly has articulated to certain issues that we differ on. Those issues are there. They are going to be there. Leading us through that path and bringing us to a successful conclusion is the responsibility of our leader. Junie Blaisdell, our former President, I dealt with Junie Blaisdell from the time that I was 18 years of age and a freshman at the University of New Hampshire and Junie was refereeing games. Junie had that uncanny ability to bring people together. It is my opinion that Sylvia Larsen has that same ability. Certainly it is manifested in a different manner, we are all individuals. Those individual differences are what we are, and we manifest those when we do something, yet we respect those individual differences. They are the greatest part of our lives, the fact that we are individuals. Some individuals have a rare ability to bring us together. These are trying

times. They are very difficult times. The democratic caucus has nominated the person that we believe can take us through these trying times and make something good happen. I am proud to say that I support Sylvia. I think that she can do that, and I think that she cares deeply for every individual in this room and everybody in our state. We all have a mission. I think that we are all in concert with that particular situation. We want to move forward, we want to go forward, and we want to do that in the best way possible. I, therefore, am proud and privileged to second the nomination of Sylvia Larsen to be President of the New Hampshire state Senate. Thank you very much, Mr. Secretary.

Further nominations.

Senator J. King nominated Senator Hollingworth, for the president of the Senate.

SENATOR J. KING: I rise in support of Beverly Hollingworth for the President of the New Hampshire state Senate. You know, I guess these two fellows, Senator Trombly and Senator D'Allesandro, just cut my speech in half, because as they went through it, I wasn't quite sure who they were talking about. Most of the things, if not all of them, fit very well for my candidate, Beverly Hollingworth. Here is a woman that has been elected nine times in the same district. Four times in the Senate and five times in the House. She has gotten along well over there and over here. There is no question that she can do the job. There is no question that she is probably the hardest worker that we have in this Senate. No question about it. Why are we here today? First of all, it was a close vote. It was a close vote. That is why we are here...so that others can put in and see what happens. If we ever asked for a diligent person who hangs on and gets things done, she has proven that this year. She has proven it in the Finance Committee. She hung in there and hung in there and hung in there until she got, and the committee got, what they wanted as a group, not as one person, as a group. That is the kind of thing that we want. I have a strong support for Senator Larsen as a Senator, and I would have no problem supporting her if Beverly wasn't running, or if she was the only candidate, but the vote was so close, our side decided that we would bring it to the floor. Cooperation, I think that if we want cooperation with Beverly Hollingworth we will have no trouble getting it. In fact, she understands that far beyond what most people do in this Senate and in the House. No problem at all, she is aware of that and cooperation goes on as needed. She was a person who lost one election and learned a lesson and came back again. That is the "stick-to-it-ness" and that is what we need here in this Senate. That is get out there and do it, and that is what we need here in the Senate. That is why I am supporting Beverly Hollingworth; therefore, I place her name in nomination for Senate President. Thank you. Senator Cohen seconded the nomination.

SENATOR COHEN: I am honored to second the nomination of my good friend, Bev Hollingworth. We all remember last December when we elected Junie Blaisdell as our President. One of the reasons that he was elected was because he was committed to leading an independent and open Senate. A Senate where all 24 members would be encouraged to participate in the process to apply their considerable skills, to participate and involve their individual experience and talent to attend to the people's business. He was remarkably successful at that. I am sure that we are all very thankful that we had Junie Blaisdell as President of

the Senate. When Junie Blaisdell took the podium to accept the Presidency, he shared this vision of inclusiveness and working together, independence, with all of us. He made it real. He was successful in that endeavor. Today we are faced with an important choice. We can continue to pursue the course that we took when we elected Junie, or we can change direction. During my five terms as Senator, it has become manifestly clear over and over again, that the Senate does its best work and achieves its greatest results and successes when all members work together. By definition, the President of the Senate is the President of the entire Senate. Earlier this year, the Senate scored its greatest success and another page in the history books when the House endorsed and the Governor signed the Senate budget. We all know that it was Beverly Hollingworth that shepherded that through along with many other Democrats as well as Republicans. I believe that it is imperative that we stay the course that Junie set by electing Senator Beverly Hollingworth to lead us. She is a dedicated Democrat. She has served in this legislature for 18 years. She has contributed significantly to many major meaningful legislative initiatives. She has shown a tremendous knack for working well with all sides and moving forward to achieve very positive results for the people of the state of New Hampshire on even the most controversial and contentious issues. No one doubts that she has earned the respect and confidence of Senators on both sides of the aisle, and I believe that that is very important. I am proud to second the nomination of Senator Beverly Hollingworth as the Senate President. Thank you.

Senator Johnson moved that nominations be closed.

Senator J. King seconded the motion.

Adopted.

Question is on electing Senator Hollingworth or Senator Larsen for the Senate President.

The following Senators voted Hollingworth: F. King, Gordon, Johnson, Fraser, Below, Roberge, Fernald, Squires, Francoeur, Krueger, J. King, Klemm, Hollingworth, Cohen.

The following Senators voted Larsen: McCarley, Trombly, Disnard, Pignatelli, Larsen, Russman, D'Allesandro, Wheeler.

Hollingworth: 14 - Larsen: 8

Senator Beverly Hollingworth is elected the President of the Senate.

Temporary Presiding Chair, Secretary of State William Gardner requested that Senators J. King, Cohen, Trombly and D'Allesandro escort the President of the Senate, Beverly Hollingworth, to the rostrum.

PRESIDENT HOLLINGWORTH: We all regret the need for this session. Perhaps it may help to remember how much Junie loved this institution, and how well he understood that the Senate - its past, present and future - transcends the personalities and achievements of individual Senators. Even the greatest ones - like Junie. As Senators, the people of New Hampshire have chosen us to serve their interests, to do their business and sustain their government for two years. We are stewards of an institution that has thrived long before us and will thrive long after us. That is why, despite our personal feelings, we are here this morning - to fulfill our responsibilities as Senators, to the people and to their Sen-

ate. None of us wanted to become President of the Senate in these circumstances - least of all, me. After Junie passed away, some of you approached me to say you believed I could continue the kind of leadership we chose when we elected Junie as our President. I was reminded that you don't seek the Presidency of the Senate, it seeks you. Throughout his career, Junie believed in an independent and open Senate, with all 24 of its members engaged in the process of governing. He also believed - that past experience has shown - that for the Senate to be independent and open, its President must enjoy the confidence of Senators on both sides of the aisle. He reaffirmed and elaborated those principles when he first took this podium as our President. That is why I did all I could to ensure we chose Junie as our President. And that is why I have accepted the challenge of following him. No one can have any doubts about where my partisan loyalties lie. For 18 years I have served this legislature as Democrat. As a Democrat I have a strong allegiance to our Democratic Governor as well as to our Democratic representatives on the other side of the wall. By the same token, I know that because I represent all the voters of my district and serve all the people of this state, I must balance my loyalty to my party against my responsibilities as a Senator. This balance is far more important for the President of the Senate. The framers of our Constitution established an independent Senate as one of the most important checks and balances designed to sustain the separation of powers. And I have learned that for the Senate to be independent, I must be open; that is, that all its members must be enabled to share in its work. For the Senate to succeed, the majority party must lead, but lead towards the goal of bipartisan achievement. I do not need to tell you how important it is for us to unite and cooperate. Most of us have shared two very difficult sessions. We have all shared a tragic loss and we still have difficult, troublesome issues to resolve. We are a small group. When we pull together as a team, if we are to succeed. Now we must stick together, not drift apart. There has been more than enough turmoil. There will be no changes in the organization of the Senate. The officers of the Senate will remain the same. The committee chairs will remain the same. The committee assignments will remain the same. Our staff will remain the same. I am humbled and honored that you have entrusted me with this responsibility. I need all of your help to succeed the way that Junie would like us to. Please. Thank you very much for this honor.

RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and when we adjourn we adjourn to the Call of the Chair.

Adopted.

ANNOUNCEMENTS

SENATOR MCCARLEY (RULE #44): I would just like to very briefly rise and I think that everyone in this Senate has got to feel the same way that I do. I would like to thank our Chaplain David Jones for being absolutely extraordinary during this past difficult time. I think that touching us and making us all cry, but making us all laugh and acknowledging what an incredible person Junie was. I just feel a need to recognize our Chaplain in that regard. Thank you, David.

SENATOR LARSEN (RULE #44): I just briefly want to say how much of an honor it is to have been nominated. I believe that the importance of this Senate and this Senate working together to come to resolution

supercedes any one of us. It is our task, our common task, and we have a job ahead. I thank each and every one of you in your own way, you have taken the time to talk to me. You have given me your heartfelt support when you could, and I am very honored by that. Thank you.

SENATOR JOHNSON (RULE #44): I think that I have gotten to know you over these last three terms that I have served in this body, and I just want to say as the Republican Leader, I am sure that we will work together to do what the Senate has to do. Thank you.

SENATOR FERNALD (RULE #44): I just wanted to say something on a little lighter note. Our dear departed Junie Blaisdell habitually placed an 's' between the 'g' and 'w' in Hollingworth, and I would like it to be the sense of the Senate that her name shall forever be correctly pronounced in this room, and that the press shall also take notice.

ANNOUNCEMENTS

LATE SESSION

Senator Cohen moved to adjourn to the Call of the Chair.

Adopted.

Adjourned to the Call of the Chair.

October 19, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Rev. Canon Marthe F. Dynen, Senate Guest Chaplain.

More years ago than I care to tell, a fourth-grade teacher impressed upon her students the importance of honesty in our dealings with one another. She told all the familiar stories - of George Washington, and Abraham Lincoln - and some stories of her own weaving, but she made sure that we knew lying was bad and truth-telling was good. One day, several of the children in her class sneaked peppermint candy - a forbidden fruit on school grounds - they sneaked the candy onto the playground and passed it out among their friends. When we returned to class, peppermint breath filled the air and was not hidden from our teacher. "Now children," she cried, "I know some of you have had candy, and that is not allowed in school time. I want all of you who had candy, to be honest and truth-telling, and to stand up now." Only one small girl stood up. That child grew to adulthood, still remembering the pain of having been alone in truth-telling, but knowing, as her teacher taught her, that truth-telling is good. She still takes occasional risks to tell the truth, and she still feels the pain of sometimes being alone. And today you come together in your on-going effort to tell and hear truth, sometimes feeling alone in the speaking and the hearing, as you support relationships between students and teachers in our schools that encourage our children, in all of our cities and towns, to risk learning truth throughout their lives and to risk using what they learn in bold and creative ways.

Great and gracious God; You have brought us into a land of abundance, which we see through our narrow vision as scarcity. Help the members of this body to see the truth of the abundance You have given us, to use it wisely and thankfully, in faithful service to Your people

whom they serve. Give them discerning hearts and minds, listening ears, respect for one another, and courage to persevere. In Your Holy name we pray.
Amen

Senator Below led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

SENATE RULE CHANGES

SENATE RULES COMMITTEE PROPOSAL - 1999-2000 SESSION

Senator J. King offered the following:

Amend Rule 17a to read as follows:

Tuesday, September 7, 1999

First day for draft request

Friday, October 15, 1999

Last day for draft request with all information except for new bills resulting from study committees.

Wednesday, December 8, 1999

Sign off

Wednesday, January 5, 2000

First session day of year 2000

Monday, February 28-March 6, 2000

Vacation Week

Adopted.

COMMITTEE REPORTS

HB 577, relative to the power of a school district to expend catastrophic special education funds and relative to the exemption of certain unexpected catastrophic special education expenses from the provisions of the municipal budget law. Education Committee. Vote 8-0. Ought to pass with amendment, Senator Gordon for the committee.

1999-2037s

04/09

Amendment to HB 577

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

1 Special Education; State Aid; School District Authority Amended. Amend RSA 186-C:18, VIII to read as follows:

VIII. A school district shall raise [and], appropriate *and expend* funds, reflecting the total cost in meeting catastrophic special education student costs as provided under RSA 186-C:18, including the school district and department of education liability. A school district may issue reimbursement anticipation notes as provided for in RSA 198:20-d to be redeemed upon receipt of reimbursement from the state. The department of education shall be liable for the cost of the school districts borrowing of any funds for special education student costs over 3-1/2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution.

2 New Paragraph; Special Education; Catastrophic Aid Expenses. Amend RSA 186-C:18 by inserting after paragraph IX the following new paragraph:

X. Unexpected special education costs incurred by a school district which are eligible for reimbursement from the state pursuant to RSA 186-C:18, III and which could not be identified prior to the adoption of the local district budget shall be exempt from the provisions of RSA 32:8, RSA 32:9 and RSA 32:10.

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

SENATOR GORDON: House Bill 577 allows school districts to expend funds borrowed for catastrophic special education expenses which could not be identified or anticipated prior to the adoption of the annual school district budget. The amendment alters the school district exemptions from the municipal budget law required in order to expend funds beyond the approved school budget, and has the support of both the department of education and the department of revenue administration. The committee believes this bill is a common sense measure that will allow districts to spend necessary catastrophic aid funds. The Senate Education Committee recommends this bill ought to pass with amendment, and I urge your support.

Amendment adopted.

Ordered to third reading.

HB 314, relative to the escrowing of certain utility payments. Energy and Economic Development Committee. Vote 7-0. Rereferred to Committee, Senator F. King for the committee.

SENATOR F. KING: House Bill 314 was before the committee and we had a committee hearing within the last two weeks. This bill does not require any immediate action, but it was the recommendation of the committee that we keep the bill available in case we want to do something because of the issue of restructuring that is going on.

Adopted.

HB 314 is rereferred to the Energy and Economic Development Committee.

HB 599-FN-A, establishing a committee to study the integration of technology at the state, county, and municipal levels. Energy and Economic Development Committee. Vote 4-0. Inexpedient to Legislate, Senator F. King for the committee.

SENATOR F. KING: House Bill 599 also just recently had a hearing and it was the committee's recommendation that we find it as inexpedient to legislate in the interest of trying to balance the state budget.

Committee report of inexpedient to legislate is adopted.

HB 645-FN-A, relative to telecommunications equipment assistance and the enhanced 911 system. Energy and Economic Development Committee. Vote 7-0. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: Madam President, this bill HB 645 enhances the capacity of people with disabilities to use the 911 system. It introduces a telephone line surcharge to fund a program to assist people suffering from hearing or speech impediment and people unable to use standard equipment to purchase appropriate telecommunications equipment. It requires the governor's Commission on Disability to establish a cost-sharing formula for persons whose income exceeds county eligibility criteria for the program. It adds a representative of the disabled community to the enhanced 911 commission. It also requires a telephone service provider to transfer emergency calls, including the caller's number, to the public safety answering point. The committee was unanimous in reporting this bill out as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 649-FN-A, relative to nitrogen oxide emissions from electricity generation. Energy and Economic Development Committee. Vote 7-0. Ought to pass with amendment, Senator Below for the committee.

1999-2066s

08/10

Amendment to HB 649-FN

Amend the introductory paragraph of RSA 125-J:1, XIX-c as inserted by section 2 of the bill by replacing it with the following:

XIX-c "NOx-emitting generation source" means any internal combustion engine or combustion turbine which generates electricity for use or sale, except for sources which meet the definition of a NOx budget source. NOx-emitting generation source shall not include any generators which:

Amend RSA 125-J:13, II(b) as inserted by section 3 of the bill by replacing it with the following:

(b) The payment provided for in subparagraph II(a) shall be made annually and shall be equal to the number of tons of NOx emitted by the NOx-emitting generation source, less the tons of NOx not requiring emission reduction mechanisms under paragraph I, times a fee of \$200 per ton for tons emitted during the period running May 1 to September 30 and a fee of \$100 per ton for tons emitted during the period running October 1 to April 30. These fees shall be multiplied by:

- (1) Zero for tons emitted prior to January 1, 2000.
- (2) One for tons emitted between January 1, 2000 and June 30, 2000, inclusive.
- (3) Two for tons emitted between July 1, 2000 and June 30, 2001, inclusive.
- (4) Three for tons emitted between July 1, 2001 and June 30, 2002, inclusive.
- (5) Four for tons emitted between July 1, 2002 and June 30, 2003, inclusive.
- (6) Five for tons emitted on or after July 1, 2003, so that fees for the May 1 to September 30 period are capped at \$1,000 per ton and the fees for the October 1 to April 30 period are capped at \$500 per ton after July 1, 2003.

Amend RSA 125-J:13, III as inserted by section 3 of the bill by replacing it with the following:

III. The provisions of paragraphs I and II shall not apply:

(a) For a period of 8 years from the effective date of this section, to any electricity generating source which existed as of July 1, 1999, was permitted by the department, whether on a temporary or permanent basis, including any permit renewal or modification, whether applied for or issued, pertaining to any such generating source; and

(b) For a period of 6 years from the effective date of this section, to any electricity generating source which, as of May 1, 1999, filed an application for a permit with the division containing substantial but not necessarily complete information; and

(c) To any electricity generating source which replaces an electricity generating source described in subparagraph III(a) or (b) above and which emits fewer pounds of NOx per kilowatt-hour than the electricity generating source described in subparagraph III(a) or (b) above, but only for the period of time remaining in the exemption applicable to the replaced electrical generation source, as determined by the department, and only to the extent of the generating capacity of the replaced electrical generation source.

Amend the bill by replacing section 4 with the following:

4 New Subparagraph; Nitrogen Oxide Emissions Reduction Fund Created. Amend RSA 6:12, I by inserting after subparagraph (aaaa) the following new subparagraph:

(bbbb) Moneys received by the department of environmental services under RSA 125-J:13, II, which shall be credited to the nitrogen oxide emissions reduction fund.

1999-2066s

AMENDED ANALYSIS

This bill requires any new NOx-emitting generation source, except certain replacement sources, to supply NOx emissions information and acquire NOx budget allowances or other emissions reduction mechanisms.

This bill requires such sources to make a direct payment to the department which shall be credited to a special fund, for each ton of NOx emitted if emissions reduction mechanisms are not utilized, and provides a formula for the calculation of such fees.

This bill also defines NOx-emitting generation source.

SENATOR BELOW: House Bill 649 was considered to address an emerging problem which is the deployment of small scale internal combustion engines by businesses and such for generation of electricity. These generators have increased nitrogen oxide emissions, and use of these additional units has the potential to substantially increase such emissions in the future. The bill seeks to subject these generation sources to NOx or nitrogen Oxide, emission requirements more similar to requirements for larger electricity generators that are not budget sources, meaning sources that are already regulated under existing laws, because these small ones are not regulated. The bill requires these NOx emitting generation sources to either 1) incur capital cost associated with the installation of air pollution control equipment that reduces their emissions below seven pounds per NOx per megawatt hour. 2) by credit allowances or some other emission reduction mechanism to comply with these reduction requirements or 3) pay an emission base fee to the department, which is phased in over a period of 5-years. Those funds would be used to help reduce or offset other NOx emission reductions. The committee has proposed an amendment that does three substantial things. 1) it clarifies the definition of a NOx emitting source to mean an internal combustion engine or combustion turbine that generates electricity. 2) it clarifies the phase-in of the fee and what that will be at the end of the 5-year period. 3) perhaps most importantly, the amendment allows for a grandfathering, or clarifies the grandfathering, which is existing plants would have 8 years before they would have to start complying with this new regulation. It also provides that those generating sources could replace their existing generating with a new generating that was lower emission, and still continue the exemption for the same amount of time and for the same capacity that they had already qualified for. The bill was not without controversy. Some environmental groups felt that it was not strong enough. Some business groups would rather not see it, but all of the business groups that testified both before the committee, supported the compromise, as did most of the environmental groups, so we urge your support of the committee recommendation ought to pass with amendment. Thank you.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HCR 8, urging improvements to the Kyoto Protocol prior to its implementation. Environment Committee. Vote 7-0. Inexpedient to Legislate, Senator Russman for the committee.

SENATOR RUSSMAN: The committee voted 7-0 inexpedient to legislate. No one liked the language that was proposed, and so therefore we would ask that you would support the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 224-FN-A, establishing a joint committee on code enforcement. Executive Departments and Administration Committee. Vote 3-0. Ought to Pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 224 is the result of a study committee that some of us served on last year relating to statewide building codes. The bill establishes a joint committee on code enforcement. The members of various boards would include the fire control, electricians, plumbers, water wells, architects and engineers among some who would sit on this committee on an annual basis, at least minimally an annual basis, and meet together and try to assure that the different codes from different boards were not in conflict. The committee is an advisory committee and cannot change the action of these related boards, but would work to reduce the conflicts between the various code standards. The Executive Departments and Administration Committee recommends this bill as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 346-FN-A, relative to permissible fireworks. Executive Departments and Administration Committee. Vote 4-0. Ought to pass with amendment, Senator Cohen for the committee.

1999-2019s

03/10

Amendment to HB 346-FN-A

Amend RSA 160-B:6, III-a as inserted by section 8 of the bill by replacing it with the following:

III-a. Buildings used for the sale or storage of display and consumer fireworks shall be dedicated solely to the sale or storage of display and consumer fireworks and items relating to the sale and promotion of fireworks provided for in rules adopted by the commissioner pursuant to RSA 541-A and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5.

Amend RSA 160-B:6, V as inserted by section 8 of the bill by replacing it with the following:

V. The fee for a license for each location shall be [~~\$1,000~~] **\$1,500** per year, payable annually to the department of safety for deposit into the general fund.

Amend RSA 160-C:3, VII as inserted by section 14 of the bill by replacing it with the following:

VII. The fee for a license for each location shall be **\$1,500** per year, payable annually to the department of safety for deposit into the general fund.

Amend RSA 160-C:10, III as inserted by section 14 of the bill by replacing it with the following:

III. Any person who sells permissible fireworks shall post, in a prominent place within the public area of the store, a list with the appropriate United States Department of Transportation EX number of each item on the premises.

Amend the bill by replacing section 21 with the following:

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

SENATOR COHEN: This bill creates a new chapter of law which regulates permissible fireworks. The bill also creates a fireworks review committee and funds a new fireworks inspector. The review committee would ensure the permissible fireworks conform to New Hampshire's safety standards. New Hampshire currently allows about 200 of 6000 federally approved fireworks. This bill also expedites the process of approving fireworks in the state and gives the commissioner of safety, the power to approve or not approve the fireworks review committee's recommendations of permissible fireworks. The amendment reflects a number of changes; among them changing the permit cost from \$2,000 to \$1500. Another change would allow fireworks related items to be sold in shops along with permissible fireworks as determined by the rules promulgated by the commissioner. A third change would replace "reference number" with "explosive number" in the section requiring all fireworks on the premises to be listed on a master sheet. The committee recommends that the bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 363-FN, increasing the bonding limit of the school building authority. Executive Departments and Administration Committee. Vote 3-0. Ought to Pass, Senator Cohen for the committee.

SENATOR COHEN: This bill allows the building authority to increase its cap on bond guarantees which will make more money available to school districts for building aid. The current bonding limit of \$78 million has been reached, and if the cap is not increased, several projects that are in progress could be delayed. The bonding by the state has not cost the state any money in the past because there have not been any defaults. This bonding doesn't raise any money, but instead, guarantees school district loans, which allows the school districts to secure loans at a lower interest rate. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 553-FN-A, establishing a commission on the status of men. Executive Departments and Administration Committee. Vote 5-0. Rereferred to Committee, Senator Trombly for the committee.

SENATOR TROMBLY: Senator Brown and I have met with the proponents of this legislation and we are working on some amendments to clarify some of the language and tighten it up; however, we have run out of time, and we would ask that you give us the opportunity to bring a formal amendment to you on this legislation and for your consideration in January. Thank you.

Adopted.

HB 553-FN-A is rereferred to the Executive Departments and Administration Committee.

HB 602-FN, establishing the position of health insurance consumer assistant. Insurance Committee. Vote 5-0. Inexpedient to Legislate, Senator Fraser for the committee.

SENATOR FRASER: Madam President, I was pleased to cosponsor this bill originally because we recognized the need to provide New Hampshire consumers with someone that they could go to for information and help with managed care issues. I am happy to say that this bill is no longer necessary, since the position of consumer advocate was included in the budget that passed earlier this year; therefore, since separate legislation is not needed to create and fund a position, the Insurance Committee was unanimous in reporting this bill out as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 669-FN, relative to the determination of current comparable compensation for persons with gainful earnings who receive disability retirement benefits. Insurance Committee. Vote 4-0. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: I rise in support of HB 669. Currently the statutory language concerning which job to use in calculating a person's disability retirement benefit needs to be clarified. House Bill 669 provides that the amount of disability retirement compensation received by a disabled retiree shall be based on the greater of his or her salary at the time of disability retirement. That salary, at the time of retirement, or the salary held when the disability occurred. In other words, if someone becomes disabled in a job that pays \$40,000 a year, but instead of retiring immediately, they take another job at \$30,000 a year for a period of time, the retirement benefit that the person ends up receiving will be based on the \$40,000 a year salary that the person had at the time of the injury. The retirement system calculates the benefit this way anyway. What the Retirement System Board asked the legislature to do was to clarify it in statute. There is no fiscal impact despite the fact that the original bill was drafted with a fiscal note. We discussed this in the hearing and there was close questioning. I have the transcript with me, and when asked about the fiscal impact, they responded that there was no fiscal impact. I think that you are safe in supporting this. It was unanimously supported in the House and in the Senate Insurance Committee.

Adopted.

Ordered to third reading.

HCR 10, requesting Congress to give priority to preserving Social Security and ensuring that it continues as universal and mandatory for all workers. Internal Affairs Committee. Vote 6-0. Ought to Pass, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: Social Security is an important program that will in some way affect every person in America. Therefore, Congress should make...ensuring the continuing viability of Social Security a priority, especially in light of the current financial state of the nation. Social Security needs to remain universal and mandatory to enable the program to continue. This resolution requests congress to give priority to preserving Social Security. The Internal Affairs Committee recommends this bill as ought to pass.

SENATOR KRUEGER: I rise in support of this resolution, but I wish to go on record as saying that as a person who strongly supports a different means available to people in this country to ensure real retirement benefits, not token retirement benefits that no one can sustain themselves on later in life, that I would hope that a vote in favor of this resolution would not deem that this is the only plan that will be available in the future. God help us if it is.

Question is on the committee report of ought to pass.

A roll call was requested by Senator Trombly.

Seconded by Senator D'Allesandro.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, McCarley, Trombly, Disnard, Roberge, Fernald, Squires, Pignatelli, Francoeur, Larsen, Krueger, Brown, J. King, Russman, D'Allesandro, Wheeler, Klemm, Hollingworth, Cohen.

The following Senators voted No:

Yeas: 23 - Nays: 0

Adopted.

Ordered to third reading.

HJR 10, requiring that the United States Marine Corps flag be flown over the state house every November 10 to honor the birth of the Corps. Internal Affairs Committee. Vote 6-0. Ought to Pass, Senator Fraser for the committee.

SENATOR FRASER: Madam President, this bill requires that the United States Marine Corps flag be flown over the State House every November 10 to honor the birth of the Corps. The Marine Corp was founded on November 10, 1775. The United States Marine Corps flag is currently flown over the United States Capitol on every November 10 to honor the birth of the Corp. This resolution would require the flying of the flag over the New Hampshire State House. The Internal Affairs Committee recommends that this bill ought to pass.

Adopted.

Ordered to third reading.

HB 743, requiring that the question relative to the necessity for a convention to revise the New Hampshire constitution be presented to the voters in the November 2000 general election. Internal Affairs Committee. Vote 4-2. Ought to Pass, Senator Klemm for the committee.

SENATOR KLEMM: House Bill 743 provides that a question relative to the necessity for a convention to revise the New Hampshire constitution be presented to the voters in November 2000 general election. The question of whether or not we should have a constitutional convention will let the people have a chance to voice their opinions on whether or not the changes to the constitution should be addressed. This is a choice of the people. If there is a convention, the people will choose the delegates that they want to represent them. The Internal Affairs committee recommends this bill as ought to pass.

Question is on the committee report of ought to pass.

A division vote was requested.

Yeas: 10 - Nays: 12

Motion failed.

Question is on the committee report of ought to pass.

A roll call was requested by Senator Klemm.

Seconded by Senator F. King.

The following Senators voted Yes: F. King, Gordon, Fraser, Below, Fernald, Squires, Krueger, Russman, D'Allesandro, Klemm.

The following Senators voted No: Johnson, McCarley, Trombly, Disnard, Roberge, Pignatelli, Francoeur, Larsen, Brown, J. King, Wheeler, Cohen.

Yeas: 10 - Nays: 12

Motion failed.

Senator Trombly moved inexpedient to legislate.

Adopted.

HJR 10 is inexpedient to legislate.

HB 537, relative to background checks for firearms purchases. Judiciary Committee. Vote 5-0. Ought to Pass, Senator Cohen for the committee.

SENATOR COHEN: This bill gives statutory authority to the Department of Safety to act as the point of contact for criminal background checks on individuals who have applied for a handgun purchase in accordance with the Brady Act. The Department of Safety is currently doing the checks pursuant to a federal request to the governor's office that requested that the legislature provide explicit statutory authority to do so. The Department of Safety uses a state database, which is more complete for New Hampshire than the National Information Crime system check, or NIC used by the FBI. For example, some domestic violence offenders are not recorded on the NIC data base if they have not been fingerprinted, but the state does have these records if a person has been convicted in New Hampshire. Using the Department of Safety as the point of contact for these checks can also help speed the turn around time. The department personnel are more accessible to firearm dealers and purchasers than personnel at the FBI's national center. The department spends more hours per day processing background checks than the national center. New Hampshire's citizens are generally more comfortable dealing with the state agency rather than a more distant federal one. Issues of confidentiality are also better served by having the state conduct the checks. It is more feasible to monitor the Department of Safety rather than the FBI to ensure compliance with the requirement that records of approved handgun purchase applications must be destroyed within one day of approval. I ask you to support the Judiciary Committee's unanimous recommendation of ought to pass for HB 537.

SENATOR FRANCOEUR: Senator Cohen, my understanding was that the state of New Hampshire is doing the point of contact now, but it is also done in conjunction with the feds, so I guess it is up to the buyer, I guess, to decide if he wants to go through the state or the feds. With passage of this, does it say that the state is the only point of contact, or would it also allow the state to become the point of contact, since my understanding is, that the state is currently doing it just with agreement, I guess, because it terminated last year when the bill failed in the Senate?

SENATOR COHEN: My understanding is that this would formalize what is happening in the state which is the point of contact, which most people prefer, the state has better records or data base information.

SENATOR FRANCOEUR: So it would be currently like it is now where the buyer can go to either one?

SENATOR COHEN: Perhaps...it is my understanding that the state may be the point of contact here...isn't necessarily the point of contact.

Recess.

Out of Recess.

SENATOR COHEN: We have looked at the legislation itself and it specifies in there "may". That the state may become the point of contact, which they are currently doing now, but it doesn't necessitate it. Does that satisfy your question, Senator Francoeur?

SENATOR FRANCOEUR: If I read the legislation correctly with Senator Cohen, it says that it "may", so my understanding of may means that it could be either way.

SENATOR COHEN: May is may and shall is shall.

Adopted.

Ordered to third reading.

HB 707-FN, relative to the family division of the courts. Judiciary Committee. Vote 5-2. Ought to pass with amendment, Senator Pignatelli for the committee.

1999-2072s

09/01

Amendment to HB 707-FN

Amend RSA 490:32 as inserted by section 2 of the bill by replacing it with the following:

490:32 Family Division.

I. There is hereby established a family division which shall be a permanent component of the judicial branch under the administrative authority of the supreme court in the counties of Rockingham and Grafton on the effective date of this subdivision. All matters under the jurisdiction of the family division shall be transferred from other state courts no later than 6 months after the effective date of this section.

II. In establishing the family division, the supreme court shall:

(a) Designate the courthouses within each county which will house the family division.

(b) Select and designate judges, marital masters, and other court personnel from the district, probate and superior courts to serve in the family division, based on their expertise in, and commitment to, family law matters;

(c) Designate an administrative judge for the family division by selecting, from among the district and probate court judges serving in the family division, a jurist who has demonstrated an interest in legal issues affecting the family and a commitment to the values, objectives, and ideals of the family division.

Amend RSA 490:34 as inserted by section 2 of the bill by replacing it with the following:

490:34 Equity Jurisdiction. Notwithstanding any law to the contrary and for each county in which the family division is established, the family division shall have the powers of a court of equity in cases where subject matter jurisdiction lies with the family division. Suits in equity where subject matter jurisdiction lies with the family division including, but not limited to, petitions and libels of divorce, and petition of nullity

of marriage, alimony, custody of children, support, and other similar proceedings may be heard upon oral testimony or depositions, or both, or when both parties consent, or service having been made and a notice of the time and place of the hearing having been given, when both parties appear. Such suits may be heard by any justice or marital master of the family division at any time, but nothing contained in this section shall be construed as limiting the power of the family division to have issues of fact framed and tried by a jury, according to the rules in equity, or the course of such proceedings at common law.

1999-2072s

AMENDED ANALYSIS

This bill establishes a family division of the courts in Rockingham and Grafton counties. The bill also establishes a committee to study implementation of a statewide family division.

SENATOR PIGNATELLI: In 1995 the legislature passed a bill establishing a family court pilot program in two counties, Rockingham and Grafton. This was done after a study group determined that judicial matters pertaining to families, divorce, custody, child abuse and neglect, guardianship and child delinquency would be better handled through a family court system rather than split between the superior, district and municipal courts. Four years later, we have a family court, still a pilot project in these two counties, and it receives praise for its comprehensive integration of family issues. All of the professional personnel in the family court have chosen to work exclusively on these family issues and in the family court. A case manager oversees all cases involving a particular family and works to move its docket along expeditiously. Generally the same judge hears all matters pertaining to a particular family, and so the background knowledge necessary to make decisions that are truly in the best interest of the family and children prevails. The family court system streamlines the judicial experience for families who might otherwise have to travel between various courts spread throughout the county and deal with a confusing array of requirements, locations, rules and court personnel. The bill if it passes, will go to the Finance Committee. As a statement policy, the Judiciary Committee vote reflects the fact that we believe in the merits of the family court system and would like to see it expanded into two additional counties, Belknap and Carroll counties. The Judiciary Committee amended this bill to remove a requirement that marital masters be nominated and confirmed by governor and council. We felt that this requirement would politicize this position too much, and we prefer to leave the current procedure in place for hiring marital masters. The family court system is not perfect but it is working well for the majority of people. As experience allows the system to be improved, we believe that expanding it to two additional counties is a good step towards making the judicial system more accessible, convenient, efficient and less adversarial to more New Hampshire families. Thank you very much.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 746, relative to emergency police assistance. Judiciary Committee. Vote 4-0. Ought to pass with amendment, Senator Cohen for the committee.

1999-2012s

04/10

Amendment to HB 746

Amend RSA 106-C:3-a as inserted by section 2 of the bill by replacing it with the following:

106-C:3-a Inter-community Special Reaction Team Assistance for Critical Incident Emergency. The chief executive officer, or such officer's designee, of a police department with the special reaction team or the person designated by the chief executive officers of the member communities of a regional special reaction team as authorized to order the deployment of such regional special reaction team is authorized to assign the special reaction team to extend assistance to any other county or municipality in times of a critical incident emergency. Requests for such assistance shall be made by the chief executive officer, or such officer's designee, of the police department in need of emergency police assistance for a critical incident emergency. Requests for such assistance may also be made by the ranking on-duty state police officer when the state police is coordinating the response to a critical incident emergency and is in need of emergency police assistance, or by the commander of a regional special reaction team when that team is coordinating the response to a critical incident emergency and is in need of emergency police assistance.

SENATOR COHEN: House Bill 746 is a culmination of an idea that has been germinating within the law enforcement community for several years to deal with the problem of municipalities providing emergency assistance to other municipalities in New Hampshire. Right now, if a town has an emergency situation and needs assistance from an emergency response team in another community, the law does not uniformly allow this aid to be given. Within a particular municipality, only the local police and the state police currently have jurisdiction. Unless a municipality has a mutual aid agreement in place with another municipality, it cannot accept assistance, due to problems of jurisdiction and liability. House Bill 746 expands the current statutory authority to include special reaction teams, which would be called upon to render assistance in times of critical incident emergencies. Recent incidents in New Hampshire and nationwide, have given impetus to the measure to create inter-municipality cooperation among emergency response teams. When a gunman ran havoc in Colebrook in 1997, a measure like HB 746 would have facilitated swift assistance from other special reaction teams near Colebrook. When a lone gunman kept state and local police at bay in Raymond throughout the night just a few months ago, the ability to call on emergency response teams from surrounding towns would have helped to keep law enforcement personnel reinforced and better able to contain the threat to public safety. On a more distance stage, the Columbine incident underscores the need for special reaction teams to have the authority to work together to respond to whatever situations occur. Law enforcement personnel came from all over the state to support this bill. Local and state police officials told us about plans to conduct joint training exercises to improve the team's ability to work together. The legislature needs to do its part by passing this bill to give law enforcement the statutory authority to render assistance when requested for critical incidents that occur in our state. This measure will increase public safety, allowing our law enforcement personnel to do their jobs more effectively. The Judiciary Committee voted unanimously to pass HB 746, and I urge us all to do the same. Thank you.

SENATOR DISNARD: Senator Cohen, if one community has a reaction team and it is sent to another area, who has the liability if there is a suit?

SENATOR COHEN: I don't know if there is anyone on the committee that could possibly answer that. Let's take a recess and find out.

Recess.

Out of Recess.

SENATOR COHEN: I can try to answer Senator Disnard's question. At the current time, I think that we all realize that another municipality doesn't have the capability of assisting the other town unless they are in a mutual aid agreement. It appears, although this is not certain, that the town requesting the assistance, would probably still have the liability. I am frankly not certain about it at this point in time. But this doesn't change the statutes affecting the liability, it just enables other towns to come in when requested.

SENATOR DISNARD: I am just concerned that the police chief or someone who is in charge of this reaction team may be unwilling to place his or her community in risk if there might be a liability. I am not against the program.

SENATOR COHEN: I understand. The fact that these other police enforcement officials came in and supported this, I would hope that they considered that question and that concern when they came in to support this. It is not clear as our reading of the bill, as to who has the liability, but my understanding is that it wouldn't change the current liability situation. The police community supported the bill so I hope that they are cognizant of it.

SENATOR FRANCOEUR: Senator Cohen, not being on the Judiciary Committee, if I read this bill and Nashua has a SWAT team and Hudson doesn't, just reading on the front page, it says that Hudson could order Nashua to provide this SWAT team to them? Is that correct.

SENATOR COHEN: They can request it, but they can't order it.

SENATOR FRANCOEUR: It says there that they "authorized to order". Is it order?

SENATOR COHEN: The order would have to come from the individual town that is requested. The town that is requesting cannot do the ordering, they can do the requesting.

SENATOR FRANCOEUR: Can you show me where it says that in the bill?

SENATOR COHEN: The chief could order his own team. If you look on the top of page two. If you look at the bottom of page one and the top of page two, it is still up to the chief to do the actual ordering after the request has been made.

Senator Gordon moved to have HB 746, relative to emergency police assistance, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 746, relative to emergency police assistance.

HCR 13, urging the selection of a final design for the New Hampshire commemorative quarter which includes the state motto "live free or die, 9 stars representing New Hampshire as the ninth state to ratify the

United States Constitution, and the Old Man of the Mountain." Public Affairs Committee. Vote 3-0. Ought to Pass, Senator Wheeler for the committee.

SENATOR WHEELER: I will say at the outset that the liability for the design rests squarely with the secretary of the treasury of the United States, because that person makes the final decision on the design. The quarter program which will have each state in the next ten years, submit a design and have a quarter after its state, the final decision from each state's submission rests with the governor, but the design selection, ultimately comes from the secretary of the treasury. So we have already made our decision in New Hampshire, but the decision had not been made at the time that this resolution was filed. There was some concern that perhaps our state motto would not have been included in the final choice, so it began as a bill to urge the incorporation of the state motto on the New Hampshire coin. In the course of that I learned quite a bit about our state motto and I feel impelled to share a little of it with you. In 1809 General John Stark was invited to be the keynote speaker at the 32-anniversary reunion of the Battle of Bennington. He declined because of poor health but he sent a toast to his wartime comrades, "Live Free or Die - Death is not the worst of evils." That remained a toast of that group as long as they survived, and it remained a saying that was important to people in New Hampshire. In 1945 the New Hampshire legislature was considering a state motto. We were the last state to consider a state motto. A contest was run by the *Manchester Union Leader*, and a board of judges from that selected "Strong and Steadfast as the Granite Hills", but speaking for patriotic groups, Representative Walker Wiggin of Manchester led a successful floor fight to substitute "Live Free or Die" toast for the motto. Representative John Chandler of Warner also vigorously supported the Wiggin move. So that is how we got our state motto. The resolution was expanded to include the design and the stars because in the design selection the three that New Hampshire was able to have, the covered bridge was from a bridge in Pennsylvania and the church was a church in Ohio. So we all felt that the Old Man was truly ours. No other state could claim the Old Man, so the resolution expanded to include the Old Man of the Mountain, and the nine stars indicating New Hampshire's entrance into the union. So although this resolution is not necessary, I think that by passing it we are affirming that decision. Thank you.

SENATOR FRASER: Senator Wheeler, I learned things today that I have never heard before. It was always my impression that Representative Robert Lawton had a great deal to do with the motto "Live Free or Die."

SENATOR WHEELER: Oh, thank you for asking that question, Senator Fraser. I just didn't want to take anymore time and wear out my welcome. In 1969 the legislature led by Representative Robert Lawton of Laconia, yes indeed, voted to place Stark's motto on all noncommercial motor vehicle plates beginning in 1970. So, yes, Robert Lawton had a great deal to do with it.

SENATOR FRASER: Thank you very much.

Adopted.

Ordered to third reading.

SB 231, relative to public water supplies. Public Affairs Committee. Vote 3-1. Ought to pass with amendment, Senator Roberge for the committee.

1999-2069s

08/10

Amendment to SB 231

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Connection to a Public Water System. Amend RSA 485 by inserting after section 48 the following new subdivision:

Connection to a Public Water System

485:48-a Connection to a Public Water System.

I. No person shall occupy, lease to any other person, or permit any other person to occupy, a building or any part of a building such as a single family home, apartment, office, store, restaurant, shop, theater, public hall, motel, or tourist cabin unless such building is connected to a public water main, where the building is located within 100 feet of the public water main, and where the owner of the public water system is willing to provide water service.

II. A public water system shall be as defined in RSA 485:1-a.

III. Nothing in this section shall prohibit a city, town, or village district water system from increasing the 100 foot distance under paragraph I, or from granting waivers to the requirement of connection to a public water main, for buildings with an adequate alternative water supply system which complies with applicable state and local regulations prior to the effective date of this section.

IV. Nothing in this section shall prohibit a city, town, or village district, served by a water utility regulated under RSA 362 from increasing the 100 foot distance in paragraph I, or from granting waivers to the requirement of connection to a public water main, for buildings with an adequate alternative water supply system which complies with applicable state and local regulations prior to the effective date of this section.

V. This section shall not apply to wells established before the effective date of this section.

VI. If a city, town, or village district water system has in effect, before the effective date of this section, an ordinance or bylaw requiring a distance other than 100 feet as provided in paragraph I, that ordinance or bylaw shall not be invalidated by this section.

1999-2069s

AMENDED ANALYSIS

This bill requires that any occupied building be connected to a public water main within 100 feet of it unless the distance is increased or a waiver is granted by the appropriate municipal body or unless the municipal body has in effect before the effective date of this act an ordinance or bylaw requiring a different distance.

SUBSTITUTE MOTION

Senator Fraser moved to substitute rerefer for ought to pass with amendment.

Adopted.

SB 231 is rereferred to the Public Affairs Committee.

HB 615-FN-A, establishing a registry for brain and spinal cord injuries. Public Institutions, Health and Human Services Committee. Vote 4-0. Ought to Pass, Senator Squires for the committee.

SENATOR SQUIRES: I rise in support of HB 615. This registry would allow the Department of Health and Human Services to compile and

analyze information relative to the incidents, diagnosis and treatment of brain and spinal cord injuries. It is intended further to educate the public, to monitor the morbidity and mortality of these injuries, evaluate health data, offer prevention services to population groups at risk, and undertake risks assessment activities. Although not known with precision, it is estimated that about 1000 individuals each year suffer a brain injury, and 100 suffer spinal cord injuries. The issue here is the funding. This is not an inexpensive project to undertake. There are matching funds that can be applied for to the CDC, once the registry is up and going. The committee's view was that we should pass the concept and send it to Finance and figure out at that point what to do. It is an important concept, and I urge your support of the bill. Thank you.

SENATOR F. KING: Senator Squires, there seems to be something amiss in the bill. On line 21 and 22 it speaks about setting up an advisory council which shall consist of the following members, but it doesn't list those members. Are those members listed in the current statute or what?

SENATOR SQUIRES: There is a council at the moment, and I don't frankly know why this is necessary. I can certainly find out, but we heard in the committee hearing, testimony from the brain and spinal cord injury, I think that it is called the Advisory Committee. I guess my assumption would be that it would be pretty much the same as the council.

SENATOR F. KING: This is an FN bill as you have indicated, and it could have a substantial cost, yet there is no fiscal note. Do you have any idea of what the costs would be?

SENATOR SQUIRES: Yes, the House took out the money in order to pass it. It is somewhere, depending on how extensive this registry becomes, but it is probably no less than \$100,000 and no more than \$200,000 to get it established.

SENATOR KRUEGER: I just wanted to rise in strong support of this particular bill. Yes, there is a cost attached to it. But I need to say also that in keeping this registry, people who have been affected by accidentally and suffer from brain and/or spinal cord injuries, would in fact be able to seek out funds, whether it be research funds, prevention funds relative to infant and child care, traffic, transportation. I feel very, very strongly and I know that this is premature since it has not come back from Finance, but I just want to let people know that without that data, it is almost impossible to seek out any kind of private funding through foundation grants. So I would hope that everyone would look kindly upon this piece of legislation. Thank you.

SENATOR GORDON: I rise to speak briefly. I would also like to add my support of this legislation and also indicate that when this originally came in it was to be funded, but it was to be funded by an increase in the real estate transfer tax. As you know, we have already preempted that method of taxation, and the money would have raised a substantial amount of money which would not have only created the registry, but would have gone much further in providing services to those who have received brain injuries or may also have been used for other preventive measures. The creation of the registry itself, although it would require some money, I think, is a very honorable and a worthy project, and I think that we ought to support it and send it to Finance and see if Finance can't raise some money to get the registry started.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 643-FN-A-L, transferring the regulation of emergency medical services from the department of health and human services to the department of safety. Public Institutions, Health and Human Services Committee. Vote 4-0. Ought to Pass, Senator Squires for the committee.

SENATOR SQUIRES: This bill is an outcome of a study committee last year. That committee heard testimony from a wide variety of organizations, the Police Chiefs, the Medical Society, Health and Human Services, Professional Fire Fighters, American College of Emergency Physicians and so forth. Currently for historical reasons, the emergency medical services are lodged in the Department of Health and Human Services, but the reality of it is that in many communities, emergency services are offered by the fire departments. So there is a conflict in the administrative procedures and rules that govern those two organizations. What the bill does is move the supervision from the Department of Health and Human Services to the Department of Safety, putting it all into one organization. There was no opposition to the bill at the hearing. There is a fiscal note on this bill and it is confusing, because the testimony that we heard in committee was that there was no fiscal impact. The funds already exist, and the authority for funding is transferred from Health and Human Services to the Department of Safety. But if you read the fiscal note, that isn't as clear as it ought to be. So that needs to be pursued. I think that the bill should go to the Finance Committee and we will clarify that point in the executive session of the Finance Committee.

SENATOR MCCARLEY: I rise to speak very briefly. A question was raised in our caucus by Senator Disnard regarding an issue around the funding. I did give a call to HHS and spoke with Jim who indicated that during the budget process we did actually move the funds from HHS in the general fund so that when the legislation passed, the Department of Safety would be able to access the funds, and that way we wouldn't have an issue associated with this because the assumption was that everybody wanted to do this. So we actually did that as part of our budget process. I have no issue with it going to Finance, but I thought that I would point that out if you wanted to go ahead and act on the bill today.

SENATOR SQUIRES: The reason that I was concerned about it is, if you look at the fiscal note, under methodology, it says that the departments "assume" the remaining costs... and I agree with what Senator McCarley said. I don't think that it is a problem, but I couldn't stand here and just vote for it without fiscal review, because I don't understand the fiscal note, but I will by tomorrow when we get it in Finance.

SENATOR DISNARD: Doctor Squires, would you believe that Senator Below knows, in his town of Lebanon, the Claremont Kiwanis Club raised \$25-\$30,000 each year for the EMS program for training EMS? An individual at Mary Hitchcock receives a grant every year for this situation. May I assume that these grants will not be taken over to the Department of Safety, and therefore Mary Hitchcock may lose a \$100,000 grant which they have received for nine years to help with the EMS program?

SENATOR SQUIRES: Senator Disnard, I must say that question was not raised in the hearing, so I am not sure. I believe that it would be extraordinary if a department reached out and particularly to someone as eminent as Senator Below, and grabbed his money and stuck it under the authority of Commissioner Flynn. I doubt it.

SENATOR DISNARD: Would you check on that when the bill is in Finance?

SENATOR SQUIRES: Yes I will.

SENATOR DISNARD: Thank you.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 84-FN, establishing a committee to study the penalties for driving under the influence of intoxicating liquor or controlled drugs in the state, and the education and treatment services available to offenders. Transportation Committee. Vote 5-0. Ought to Pass, Senator Trombly for the committee.

SENATOR TROMBLY: This bill was quite timely, and as a matter of fact, there is an Ad Hoc Study Committee going on with the Department of Safety now. The key thing with this legislation rather than studying just the DWI laws, is the fact that they are going to study treatment of offenders and what programs that will be available in the state. There was testimony given to the committee that the DWI arrests went down significantly because of our laws in the 80's, but in the 90's we will be dealing now with the hardcore individuals who need treatment rather than exclusive punishment. There is an Ad Hoc Study Committee going on now in Safety dealing with this. This ratifies it and this just does what I said. Thank you, Madam President.

SENATOR BELOW: Senator Trombly, on page two of the bill, line 17, it requires the committee to report its findings and recommendations by on or before November 1, 1999? Do you think that is realistic?

SENATOR TROMBLY: Yes, because the Ad Hoc Committee has been meeting, Senator Below. So they didn't wait for this legislation to pass, they went ahead and began studying it already.

SENATOR BELOW: Okay.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Gordon moved to have **HB 746**, relative to emergency police assistance, taken off the table.

Adopted.

HB 746, relative to emergency police assistance. Judiciary Committee. Vote 4-0. Ought to pass with amendment, Senator Cohen for the committee.

1999-2012s

04/10

Amendment to HB 746

Amend RSA 106-C:3-a as inserted by section 2 of the bill by replacing it with the following:

106-C:3-a Inter-community Special Reaction Team Assistance for Critical Incident Emergency. The chief executive officer, or such officer's designee, of a police department with the special reaction team or the person designated by the chief executive officers of the member communities of a regional special reaction team as authorized to order the deployment

of such regional special reaction team is authorized to assign the special reaction team to extend assistance to any other county or municipality in times of a critical incident emergency. Requests for such assistance shall be made by the chief executive officer, or such officer's designee, of the police department in need of emergency police assistance for a critical incident emergency. Requests for such assistance may also be made by the ranking on-duty state police officer when the state police is coordinating the response to a critical incident emergency and is in need of emergency police assistance, or by the commander of a regional special reaction team when that team is coordinating the response to a critical incident emergency and is in need of emergency police assistance.

SENATOR COHEN: Perhaps the question has been resolved that the RSA 106-C:6 is the current law that is not affected by this. It says that "neither the state nor any police department personnel rendering emergency police assistance to another county or municipality shall be liable by any act or omission." So basically it doesn't change it. The current law still stands. The ones that have been requested do not face increased liability, they are still protected under the current RSA. I hope that you support the committee amendment.

Amendment adopted.

Ordered to third reading.

ADDENDUM

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills. Environment Committee. Vote 4-0. Ought to pass with amendment, Senator Russman for the committee.

1999-2087s

08/01

Amendment to HB 625-FN-A

Amend RSA 125-L:3, I as inserted by section 1 of the bill by replacing it with the following:

I. Any municipal waste combustor with a design capacity to burn 100 tons per day or more of municipal solid waste shall reduce its mercury emissions, pursuant to the time frames for compliance in accordance with RSA 125-L:5, to achieve a mercury emission rate of no greater than 0.028 mg/dscm corrected to 7 percent oxygen by volume on a dry basis, or at least 85 percent control efficiency.

Amend RSA 125-L:5 as inserted by section 1 of the bill by replacing it with the following:

125-L:5 Compliance.

I. No person shall operate a municipal waste combustor with the design capacity to burn 100 tons per day or more of municipal solid waste without a temporary or operating permit issued by the department in accordance with RSA 125-C. Any source subject to this section shall file a complete application for a permit or permit modification under the provisions of RSA 125-C and a plan for achieving compliance with this chapter.

II. Combustors with a design capacity of 250 tons per day or more shall submit the plan and application pursuant to paragraph I, by July 1, 2000 in order to comply by January 1, 2001 with the emission limits established by this chapter.

III. Combustors with a design capacity of less than 250 tons per day but not less than 100 tons per day shall submit the plan and application pursuant to paragraph I, by January 1, 2001 in order to comply by July 1, 2001 with the emission limits established by this chapter.

IV. Until 6 months prior to the date set under paragraph II and III for complying with an emission limit, the owner of a combustor may request a single extension of time of not more than 6 months, for compliance with this chapter. The commissioner shall grant the extension if, based on the information presented, compliance with the applicable emission limit is not achievable by the compliance date due to, but not limited to, engineering constraints, availability of equipment, or other justifiable technical reasons. The commissioner shall not consider issues of cost or economic hardship in granting the extension.

SENATOR RUSSMAN: I understand that there is going to be an amendment offered for this bill. Originally it came before the Environment Committee out of the House without any funding. I believe that it also took out the Claremont Burn Plant. I think that it is important to keep in mind that New England has the highest rates of mercury pollution in the United States. Also it obviously causes birth defects, brain and neurological damage, muscle degeneration and even death in certain cases. It is an important issue and the New Hampshire Risk Project that we completed in 1997 puts it in the top 20. It is among the mercury study committee's top priority to try and reduce the amount of mercury that is being emitted by these plants, the two of them. One is in Penacook and the other one in Claremont. Originally DES had talked about 20 percent funding, and that was taken out at one point by the House Finance Committee. Matter of fact, the House Science and Technology Committee wanted 100 percent of the costs, they increased it to that, then the House Finance Committee amendment took Claremont out until some federal action, some years potentially down the road. I know that this bill is very important to the Mercury Reduction Program that New Hampshire is undergoing and actually, if we made these two plants comply, we would reduce the amount of mercury by one-third that New Hampshire actually emits. So it is substantial when you put the two plants together. The funding issue obviously is important and I am not sure what the answer to that is. I know that the bill is going to go to Finance, and I believe that commissioner Varney and Ken Colburn will talk to the Finance Committee as perhaps how best to deal with this particular issue, because it is an important issue to resolve. When we did the numbers, it came out to about \$22 and change for each person in the area that is serviced by the plant, although it obviously will improve air quality throughout the state of New Hampshire. Mercury is something that can travel hundreds of miles and move around quite readily. Obviously people may raise the 28-a question, although the attorney general's office came and testified that because the communities had entered into a contract whereby they would be bound to voluntarily spend any money which required updates and things of that nature, I don't foresee a 28-a problem. I guess that for the time being, I would certainly urge...I believe that Senator Johnson is going to offer the floor amendment to fully fund it, and then it would go to Senate Finance and then we will see how it comes back and what the negotiations are to be able to go on. It is an important bill for air quality in New Hampshire and it is something that shouldn't be taken lightly certainly so. I would leave it at that, and urge the support of the amendment to get it to Finance.

Amendment adopted.

Senator Johnson offered a floor amendment.

Sen. Johnson, Dist. 3

1999-2111s

08/10

Floor Amendment to HB 625-FN-A

Amend the bill by replacing section 1 with the following:

1 New Chapter; Mercury Emissions Reduction and Control Program.
Amend RSA by inserting after chapter 125-K the following new chapter:

CHAPTER 125-L

MERCURY EMISSIONS REDUCTION AND CONTROL PROGRAM

125-L:1 Findings and Purpose.

I. The general court finds that mercury is a persistent, toxic pollutant that accumulates in the food chain and poses a significant adverse threat to the state's public health and welfare and to the natural environment, including fish and wildlife. As a potent neurotoxin, mercury exposure in humans can lead to birth defects, brain damage, elevated blood pressure, abnormal heart rhythms, low grade intermittent fevers, gastrointestinal irritation, muscle degeneration, and even death. The effects of mercury exposure on plants include decreased chlorophyll production, inhibited growth, root and leaf damage, accelerated aging, and death. Reproductive problems are the primary concern for birds. In response to the human health risk posed by mercury, the state of New Hampshire has issued a statewide advisory on the consumption of fresh water fish. This fish consumption advisory applies to all freshwater fish species collected from all inland waters. It advises women of childbearing age and young children to limit their consumption of freshwater fish to no more than one meal per month; all other people are advised to limit their consumption to no more than four meals per month. The Department of the Interior and the Department of Commerce have estimated that fishing expenditures in the state equal approximately \$320 million annually, while the American Sportfishing Association has estimated that these expenditures support about 7,700 jobs in New Hampshire. Consequently, mercury deposition may have an impact on New Hampshire's recreational economy.

II. The general court further finds that deposition of mercury and mercury compounds is occurring in the state of New Hampshire. While the majority of emissions originate from sources outside of New Hampshire, sources within the state also contribute to mercury deposition in New Hampshire and in the northeast region. Therefore, it is incumbent upon the state of New Hampshire to undertake prudent action to reduce its contribution to mercury deposition. Approximately 98 percent of the mercury emitted by anthropogenic (man-made) sources in New Hampshire comes from the incineration of municipal solid waste and medical waste, and from the combustion of fossil fuels, such as coal and oil.

III. The general court acknowledges that in June of 1998, the New England states and the eastern Canadian provinces jointly endorsed the implementation of a Regional Mercury Action Plan calling for the virtual elimination of anthropogenic mercury emissions, with an interim goal of reducing mercury emissions 50 percent by the year 2003.

IV. The general court recognizes the importance of additional research into the human health and ecological impacts of mercury contamination, the development of technologies to reduce and measures to avoid mercury emissions to the ambient air from sources such as coal-burning electricity generation plants, and the assessment of the relative

cost-effectiveness of such technologies and measures. The general court finds, however, that reducing the substantial mercury emissions from municipal waste combustors and hospital medical and infectious waste incinerators through the use of existing technology where it can be applied cost effectively is prudent environmental policy for the state of New Hampshire.

V. Ash landfills which serve municipal waste combustors may experience increased mercury levels in the ash disposed at such landfills as a result of efforts to lower mercury emissions from such municipal waste combustors. Therefore, the general court finds that it is appropriate to implement mercury controls on municipal waste combustors after the department of environmental services conducts a detailed study and review of the ash landfills in the state to make certain that all necessary safeguards are in place to protect against environmental degradation from such sources and ensure the protection of drinking water supplies.

125-L:2 Definitions.

I. "Commissioner" means the commissioner of the department of environmental services.

II. "Control efficiency" means the percentage of mercury removed by the pollution control system expressed as a percentage of the total mercury that is introduced into the pollution control system.

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

IV. "Design capacity" means the maximum design 24-hour charging rate of a municipal waste combustor capable of continuously burning municipal solid waste.

V. "Eligible costs" means those costs incurred by any regional refuse disposal district or solid waste management district formed pursuant to the mandates of RSA 149-M to the extent that any such district is legally obligated to pay for pollution control equipment mandated through enactment of this chapter, including the cost of engineering services, installation, and operation and maintenance, as well as the capital cost for the pollution control equipment and any amortization costs, meaning principal and interest, resulting from the installation of such equipment.

VI. "Governor" means the governor of the state of New Hampshire.

VII. "Hospital, medical and infectious waste incinerator" means any device that combusts any amount of hospital waste or medical/infectious waste.

VIII. "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. Hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

IX. "Medical/infectious waste" means "medical/infectious waste" as defined in 40 CFR 60.51c.

X. "Municipal solid waste" means solid waste generated at residences, commercial or industrial establishments, and institutions, but excluding construction and demolition debris, automobile scrap and other motor vehicle waste, infectious waste, asbestos waste, contaminated soil and other absorbent media and ash other than ash from household stoves.

XI. "Municipal waste combustor" or "combustor" means a device that combusts solid, liquid, or gaseous municipal solid waste for the primary purpose of volume reduction or disposal. Municipal waste combustors do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

XII. "Solid waste" means "solid waste" as defined by RSA 149-M:4, XXII. 125-L:3 Mercury Reduction and Control Program. The department shall develop a mercury reduction and control program. The program shall include, but is not limited to, the following:

I. Any municipal waste combustor with a design capacity to burn 100 tons per day or more of municipal solid waste shall reduce its mercury emissions, pursuant to the time frames for compliance in accordance with RSA 125-L:5, to achieve a mercury emission rate of no greater than 0.028 mg/dscm corrected to 7 percent oxygen by volume on a dry basis, or at least 85 percent control efficiency.

II. The department shall evaluate the technical and economic feasibility of establishing a mercury emission limit of 0.028 mg/dscm corrected to 7 percent oxygen by volume on a dry basis for:

(a) Municipal waste combustors with a design capacity to burn less than 100 tons per day of municipal solid waste; and

(b) Hospital, medical and infectious waste incinerators.

III. The department shall evaluate the technical and economic feasibility of establishing a mercury emission limit for coal-burning electricity generation plants.

125-L:4 Rulemaking Authority. The commissioner shall adopt rules, under RSA 541-A relative to:

I. Procedures and frequency for stack testing, testing protocols, measurement methods, and other such actions as may be necessary to verify compliance with this chapter.

II. Fees for implementing and enforcing the terms and conditions relating to reduction of mercury emissions of a permit issued in accordance with RSA 125-C.

III. A grant program to reimburse eligible costs to certain solid waste management districts and regional refuse disposal districts pursuant to RSA 125-L:8.

125-L:5 Compliance.

I. No person shall operate a municipal waste combustor with the design capacity to burn 100 tons per day or more of municipal solid waste without a temporary or operating permit issued by the department in accordance with RSA 125-C. Any source subject to this section shall file a complete application for a permit or permit modification under the provisions of RSA 125-C and a plan for achieving compliance with this chapter.

II. Combustors with a design capacity of 250 tons per day or more shall submit the plan and application pursuant to paragraph I, by July 1, 2000 in order to comply by January 1, 2001 with the emission limits established by this chapter.

III. Combustors with a design capacity of less than 250 tons per day but not less than 100 tons per day shall submit the plan and application pursuant to paragraph I, by January 1, 2001 in order to comply by July 1, 2001 with the emission limits established by this chapter.

IV. Until 6 months prior to the date set under paragraph II and III for complying with an emission limit, the owner of a combustor may request a single extension of time of not more than 6 months, for compliance with this chapter. The commissioner shall grant the extension if, based on the information presented, compliance with the applicable emission limit is not achievable by the compliance date due to, but not limited to, engineering constraints, availability of equipment, or other justifiable technical reasons. The commissioner shall not consider issues of cost or economic hardship in granting the extension.

125-L:6 Enforcement.

I. All of the enforcement provisions of RSA 125-C:15 shall apply to violations of this chapter.

II. Each day of a continuing violation shall constitute a separate violation.

125-L:7 Variances. Any variance granted under this chapter shall be granted by the commissioner upon application and after a hearing, in accordance with RSA 125-C:16.

125-L:8 Reimbursement of Mandated Costs.

I. The department shall establish rules and a grant program to reimburse eligible costs to any solid waste management district or regional refuse disposal district served by a municipal waste combustor required to comply with the emission limits established by this chapter. The department shall reimburse such eligible costs over the same period as any such district has amortized those costs, provided that such amortization period shall not be less than 5 years.

II. The department shall determine the eligible costs of each district served by a municipal waste combustor subject to this chapter and reimburse such eligible costs and, with prior approval of the joint legislative fiscal committee and the governor and council, reimburse each municipality subject to the funds as appropriated by the legislature for this purpose.

1999-2111s**AMENDED ANALYSIS**

This bill establishes a mercury emissions reduction and control program.

This bill requires that the department of environmental services establish a grant program to reimburse eligible costs to any solid waste management district or regional refuse disposal district served by a municipal waste combustor required to comply with the emission limits established by this bill.

This bill also requires the department to conduct a study of the implications of increased mercury levels in the state's ash landfills in order to ensure maximum protection measures from ash contaminants.

SENATOR JOHNSON: I rise in support of everything that Senator Russman said. I serve on the Environment Committee and I was not able to be at the last meeting, but I did indicate that my vote would be no, because of the funding issue. I think that my major problem is that the burden of the costs shall not be shifted to the local communities. I think that it is a 28-a issue. According to my information that I have, the Wheelabrator contract for Tex Wheelabrator for new government regulation, by requiring the Sullivan County district communities to pay 57 percent or 81 percent of the costs imposed by such regulation. House Bill 625 would require Wheelabrator to spend \$1.8 million to comply with the new emissions limit and the Sullivan county district share, I believe, of that \$1.8 million is \$886,000. Not to belabor the issue anymore, I think that Senator Russman has certainly been very cooperative in his presentation. I would suggest that you pass this floor amendment and we will get it sent to Finance and get it squared away.

SENATOR DISNARD: I agree with Senator Russman that it should go to Finance. I also agree that the governor has a fine program to reduce the mercury emissions. I can remember when this incinerator was mandated by the state as interpreted by the people of my area. Change or-

ders kept coming through. For a while, we had the highest tipping fees in the country, over \$100. Those have been lowered now. Ten of the fourteen communities, or eleven, are in New Hampshire, and ten or eleven of those communities pay their fee by taxes. The other three communities pay the haulers, and the haulers charge the people who have the trash. I think that we have a problem. I understand that when a bill comes up that the public was not aware of until this morning in my area...that this most important bill was going to be on the floor of the New Hampshire Senate today. I have received several calls this morning about it. Again, I haven't had an opportunity to check it out. These may be higher emissions than the federal government. That in itself would indicate, perhaps, that the state should pay the costs. I understand the constitutional question that a contract can't change the constitution of the state of New Hampshire. So I have no problem with this going to Finance, and I commend the Environment Committee for attempting to lower the mercury. We are concerned with, once again, who gets stuck with the bill?

SENATOR LARSEN: Senator Johnson, since this also appears to affect the Penacook plant as well, the question that I have, having just received the floor amendment, is would this grant program cover the potential cost of the two communities that have incinerators? I heard a reference to a \$1.8 million...would this establish a grant program? Do you perceive that this would establish a grant program for \$1.8 million, and would that in fact, cover all of the state's incinerators so that it wouldn't in fact, fall upon the local contracting?

SENATOR JOHNSON: Senator Larsen, all of the information that I have here was just covering the Sullivan county district and the Vermont district as I know it. The town that I live in, Meredith, is one of the towns that is in that contract, that is why I am familiar with it. I really don't want to give you that answer right now, but I could certainly get that answer for you while this is down in Finance.

SENATOR LARSEN: So if we vote for this we can vote for it knowing that it will have greater review down in the Finance Committee?

SENATOR JOHNSON: Yes.

SENATOR LARSEN: Thank you.

SENATOR TROMBLY: Senator Johnson, on page four of your amendment in relation to Senator Larsen's question, line 28. It says "The department shall establish rules and a grant program to reimburse eligible costs to any solid waste management district", so I believe that it covers Senator Larsen's question.

SENATOR JOHNSON: Thank you, Senator Trombly for pointing that out. I appreciate it.

SENATOR BELOW: I rise in support of the floor amendment. During the hearing, DES presented testimony that the Claremont facility emits about 150 pounds of mercury each year into the environment, which is a persistent biocumulates. I think that it is appropriate to consider the state's role in helping fund these capital costs and to consider that in Finance.

SENATOR FERNALD: Senator Johnson, I am not sure if it was said already and if I missed it, I apologize, but do we have any idea what the cost will be to upgrade...I guess we are talking about three incinerators so that they comply with the new limit on mercury?

SENATOR JOHNSON: I think that the amount that was in the original House version of the bill was the \$1.8 million.

SENATOR FERNALD: Did I understand that with the amendment that Penacook and another plant will also be eligible, and do we know what that additional cost is?

SENATOR JOHNSON: I think that is probably from the original House Bill, and I think that this \$1.8 million covers that.

SENATOR F. KING: I rise in support of this amendment, obviously mercury is something that we ought to be very concerned about. I am also very concerned about the 28-a issue if there is one. This is something that we deal with on a monthly basis in administrative rules, and it is my understanding that the requirement that is being imposed on this facility is greater than the federal requirement that exists today; therefore, it is a state requirement; therefore, if the state wants to impose that, they have to pay for it. Now the issue of a contractual arrangement that exists among these towns and their obligation to pay, I cannot speak to. If the state is going to impose regulations on communities, then they have a constitutional obligation to pay for it, and we are all very cognizant of constitutional requirements and this certainly is one of them. If we have to do it, the state should have to pay for it.

SENATOR RUSSMAN: It depends on the size of the plant as to whether the federal government requires them to do things. For example, in New Jersey and Florida, Wheelabrator is already doing these things because they... matter of fact they have already done these things because they fit a certain matrix that the government has required. The Penacook plant falls within that, that is why the Penacook plant is required to do it irrespective. Penacook is required to do it. New Hampshire is required in Claremont.... It is a little over 57 percent because of the Vermont communities that are involved. Frankly, it is over a five-year spread that the payment would be, so that the \$22 and change, even though that is a one time deal per person, it would be spread over five years, if that is in fact what we choose to do. Now I personally feel that if the town has contracted to do this and it would pay for any increases or updates or retrofits, I think that the town is obligated to do that, irrespective of whether it is a state mandate or a federal mandate. I think that the town has to pay for that or the communities that are receiving the benefit of it in their particular areas. Certainly it ought to go to Finance. There isn't any question about that. The issue really is over this appropriate method to fund it, and I am not so sure that we are perhaps talking about as much money as we may think for the air quality benefits that we may observe. The other issue is whether or not the federal government required of this plant some four or five years down the road. The final thing is, the money in any event, shouldn't be appropriated now because it hasn't... we really shouldn't spend it until after it is built and actually do it, because they don't have to do it for a year or two. They have a certain amount of time here, and I am sure that commissioner Varney will work with Finance in doing that, so you really shouldn't be appropriating money at this particular time to pay for it a couple of years away. Those are issues that will come out in Finance. I would urge you to support it to at least to get it there, and we can have further discussions at that time.

SENATOR GORDON: I rise in support of the amendment and in essence, would echo what Senator Russman has just said, and that is, that as a matter of public policy, I think that we all have to agree that scouring

this poison mercury out of the air is something that benefits the entire state. If in fact these plants need to be upgraded, in fact the benefits which will be received from upgrading these plants will benefit the entire state. I believe that the state should be responsible, in a large part, for the upgrade and the cost of upgrading, and that the individual costs should not be borne by just those communities who find themselves in this unusual circumstance. The only other comment that I would like to make is that I was involved when the original Trash Cooperative - Solid Waste District was formed with I think, it was 26 towns, here in central New Hampshire, which had operated the plant in Penacook. I have to say in terms of service to government, that was one of the best things that I think that I was ever involved in, because in large part, even though they are dealing with a very controversial issue, they have operated for the last eight or nine years in large part, without any controversy or very little controversy at all. I would hope that if in fact this legislation applies to Claremont, that it would also apply to Penacook. Thank you.

Floor Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 501-FN-A, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton. Finance Committee. Vote 7-0. Ought to Pass, Senator Larsen for the committee.

SENATOR LARSEN: House Bill 501 addresses the need for the repair of a beautiful historic railroad bridge in Contoocook village in the town of Hopkinton. House Bill 501 requires the Department of Cultural Resources, which has oversight over New Hampshire's historic bridges, to conduct a study of the repairs required to restore the covered bridge. Following a request letter from the Department of Cultural Resources, the Department of Transportation has agreed to perform a structural engineering study and evaluation of the required repairs. This bridge, built in 1889, is the oldest covered railroad bridge in the world. In the Finance Committee we learned of recent federal funding for historic bridge preservation with an 80/20 match. Under HB 501, the commissioner of Cultural Resources, with the oversight of the Department of Transportation and the Capital Budget Overview Committee, would be permitted to solicit, expend and disperse state and federal funds, as well as private grants and funds to repair and preserve this state treasure. The Finance Committee recommends ought to pass.

Senator D'Allesandro moved to have **HB 501-FN-A**, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 501-FN-A, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton.

SB 203-FN-A-L, authorizing electronic games of chance at racetracks. Finance Committee. Vote 7-0. Rereferred to Committee, Senator F. King for the committee.

SENATOR F. KING: I think that given the circumstances that we find ourselves in that we need to keep all items for potential revenue available. If out of desperation we need a couple hundred million dollars, we may want to look somewhere for it, so we would like to keep this bill available in case that circumstance arises.

Adopted.

SB 203 is rereferred to the Finance Committee.

HB 572-FN-A, relative to the apportionment provisions of the business profits tax. Ways and Means Committee. Vote 6-0. Ought to Pass, Senator F. King for the committee.

SENATOR F. KING: In the 1970's, New Hampshire imposed the Business Profits Tax. Included in this legislation was an apportionment formula which consisted of three equally weighted factors, the property, payroll and sales. Chapter 163 of the New Hampshire laws of 1991 imposed the first change to the equal weighting of the property compensation and sales factors, in which its gross profits are determined for the state. The legislature adopted this bill to justly apportion factors so that the sales factor represented 1.5 times the weight of the other factors. In 1993 laws changed the game by HB 51. The legislation amended the apportionment factors to double weight the sales factor relative to property and compensation for a period of five-years. It made it 50 percent for sales and 25 percent each for property and compensation. The legislation contained a sunset provision whereby the apportionment of the sales factor will return to 1.5 weighting as of July 1, 1999. This change will apply to returns and taxes due on accountable taxes ending on or after July 1, 1999. It is very important for our largest employers in this state, that we reinstate the law that expired on July 1. It will not affect their tax obligation going forward because they made estimates, and they make their final adjustment in the spring. So it is very important that this bill pass. As I said, the largest employers in the state would be adversely impacted if we don't do that.

Adopted.

Senator McCarley moved to have **HB 572-FN-A**, relative to the apportionment provisions of the business profits tax, laid on the table.

Adopted.**LAI D ON THE TABLE**

HB 572-FN-A, relative to the apportionment provisions of the business profits tax.

SB 211-FN-A, reestablishing certain credits against the business profits tax. Ways and Means Committee. Vote 7-0. Inexpedient to legislate, Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: This bill would have perpetuated the credits against the business profits tax for job creation, capital investment, research, and development. These credits sunsetted at the end of the last biennium. The cost of these credits cannot be sustained at the present fiscal condition. I move that we support inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.**TAKEN OFF THE TABLE**

Senator D'Allesandro moved to have **HB 501-FN-A**, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton, taken off the table.

Adopted.

HB 501-FN-A, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton.

Recess.

Out of Recess.

Question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Trombly moved to have **HB 294**, relative to state aid to municipalities for closure of certain municipal incinerators, taken off the table.

Adopted.

HB 294, relative to state aid to municipalities for closure of certain municipal incinerators.

Adopted.

SENATOR TROMBLY: Briefly, Madame President and members of the Senate, this bill was placed on the table at the end of session while we were reconsidering the impact studies of the regional development, and I was hoping to use this amendment relative to that situation. We have dealt with that and this is an important issue for those municipalities facing funding of closing their incinerators. This bill is modeled after what we do with the water treatment now. It is a very popular bill in the communities. We need to get on with this and there is no reason to leave it on the table at this point. It is relief for our cities and towns. I would ask Madam President that we pass this bill at this time, so that we can help the communities dealing with closures of municipal incinerators. Thank you.

Senator F. King offered a floor amendment.

1999-1929s

09/10

Amendment to HB 294-FN-LOCAL

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

AN ACT relative to state aid to municipalities for closure of certain municipal incinerators.

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

1 Findings and Purpose.

I. In the near future, environmental regulations will require incinerators to lower emissions of certain air pollutants. Most, if not all, municipalities that operate incinerators will find that the necessary pollution control equipment is too expensive to install and will choose to close their facilities.

II. In 1994 the legislature established a 20 percent grant program to encourage municipalities to close their unlined solid waste landfills. Municipalities that have operated incinerators have saved themselves money and saved the state money under the landfill closure program as the ash landfills created are smaller in size and therefore less costly to close.

III. The general court finds that incorporating the closure of municipal incinerators into the solid waste landfill closure program constitutes good solid waste policy and is consistent with past actions taken by the legislature. The inclusion into the grant program of incinerators previ-

ously closed by municipalities, as was done with certain facilities in the landfill closure program, treats such facilities fairly by not penalizing those facilities for acting in an environmentally favorable manner through early closure.

2 Subdivision Heading Changed; Municipal Incinerators Added. Amend the subdivision heading preceding RSA 149-M:41 to read as follows:

Aid to Municipalities for Closure of Unlined Solid Waste Landfills
and
Certain Municipal Incinerators

3 Declaration of Policy; Municipal Incinerators Added. Amend RSA 149-M:41 to read as follows:

149-M:41 Declaration of Policy. In recognition of the potential for harm to both public health and the environment which can result from an unlined solid waste landfill that has not been properly closed *or from a municipal incinerator without adequate emissions controls*, it is hereby declared to be the policy of this state to encourage municipalities to close all unlined solid waste landfills *and certain municipal incinerators* in accordance with 42 U.S.C. Section 9601 et seq. and RSA 147-B, RSA 149-M:6 and 149-M:7, *and RSA 125-I*.

4 Definitions; Eligible Costs; Municipal Incinerators Added. Amend RSA 149-M:42, III to read as follows:

III. "Eligible costs" means the costs of the closure of a solid waste landfill *or municipal incinerator* eligible to be covered by the grant established by this subdivision, and shall include costs of hydrogeological and engineering investigation and design, capital construction of closure elements required by rules adopted pursuant to RSA 149-M:7, and construction supervision. Eligible costs shall exclude land acquisition, except for land which is necessary to the physical elements of closure of *either* an unlined landfill *or a municipal incinerator*, and any administrative, legal, and fiscal costs related to the closure.

5 Definition Added; Municipal Incinerator. Amend RSA 149-M:42 by inserting after paragraph III the following new paragraph:

IV. "Municipal Incinerator" means any of the 18 municipally owned solid waste incinerators constructed prior to July 1, 1998, excluding any designed or intended primarily to burn construction or demolition debris, special wastes, motor vehicle wastes, asbestos, or contaminated soil or other absorbent media. The 18 facilities shall be the waste to energy facility operated by the Lamprey Regional Solid Waste Co-operative in Durham, the waste-to-energy facility operated by the city of Portsmouth at the former Pease Air Force base, and the incinerators located in the following municipalities: Auburn, Bridgewater, Candia, Canterbury, Durham, Lincoln, Litchfield, Nottingham, Ossipee, Pelham, Pittsfield, Plymouth, Sutton, Wilton, Windham, and Wolfeboro.

6 State Contributions; Municipal Incinerators Added. Amend RSA 149-M:43 to read as follows:

149-M:43 State Contributions. The state shall pay annually 20 percent of the annual amortization charges, meaning the principal and interest, on the eligible costs resulting from the closure of unlined solid waste landfills by municipalities, *or the closure of eligible municipal incinerators*, in accordance with 42 U.S.C. Section 9601 et seq. and RSA 147-B, RSA 149-M:6 and 149-M:7, *and RSA 125-I*.

7 Application Agreement; Municipal Incinerators Added. Amend RSA 149-M:46 to read as follows:

149-M:46 Application Agreement. Applications for state grants under this subdivision shall contain an agreement that the applicant has closed

or shall close the unlined solid waste landfill *or municipal incinerator* in accordance with plans and specifications approved by the department, pursuant to rules adopted by the commissioner under RSA 541-A, and will provide proper post-closure monitoring and maintenance of the landfill, *or incinerator, if required*. Such plans and specifications shall not be more stringent than federal requirements. Failure to close the solid waste landfill *or municipal incinerator* in accordance with plans and specifications approved by the department or to provide proper post-closure monitoring and maintenance of the landfill *or incinerator site, if required*, shall result in loss of payments of the annual grant installment next following such failure. Such loss of payment of the annual grant installment shall continue in effect until such time as the municipality has completed the steps necessary to close the landfill in accordance with plans and specifications approved by the department and has provided proper post-closure monitoring and maintenance of the landfill *or incinerator site, if required*.

8 Priority of Applications. Amend RSA 149-M:47, III to read as follows:

III. The commissioner or designee shall hold an annual public hearing to receive testimony on the list *of solid waste landfills or municipal incinerators* proposed for each fiscal year. After considering the testimony offered at the hearing, the commissioner shall prepare the final list, and assistance shall be granted in the fiscal year accordingly.

9 Assistance to Municipalities; Incinerators Added. Amend RSA 149-M:48, VII and VIII to read as follows:

VII. In conjunction with the applicant's qualified professional engineer, conduct an inspection of the landfill *or incinerator* upon completion of the closure work to approve substantial completion.

VIII. Based upon a satisfactory construction completion inspection, and the receipt of as-built drawings *for landfills and a report for incinerators*, review and approve final eligible project costs.

10 Priorities; Air Quality Added. Amend RSA 149-M:49, I(d) to read as follows:

(d) Facility has an identified surface water *or air quality* impact.

11 Priorities; Air Quality Added. Amend RSA 149-M:49, II(d) to read as follows:

(d) Facility has an identified surface water *or air quality* impact.

12 Priorities; Engineering Reports. Amend RSA 149-M:49, III and IV to read as follows:

III. Facilities for which hydrogeological investigations *or engineering reports* have been initiated in accordance with a work plan approved by the department, which have obtained a groundwater permit, *if required*, and which are actively in the process of having a closure system designed.

IV. Facilities for which hydrogeological investigations *or engineering reports* have been initiated in accordance with an approved workscope and for which closure is actively being pursued.

13 Reimbursement of Costs; Municipal Incinerators Added. Amend RSA 149-M:50 to read as follows:

149-M:50 Applicability; Reimbursement of Eligible Costs. The department shall determine the eligible costs of each municipal solid waste landfill completed between fiscal year 1985 and fiscal year 1995 in accordance with the records on file at the department pertaining to each such closure and its eligible costs *and for the closure of the waste-to-energy incinerators operated by the Lamprey Regional Solid Waste Co-operative and the city of Portsmouth, and eligible mu-*

municipal incinerators which ceased operating prior to July 1, 1998. The department shall assume 20 percent of such eligible costs and the interest cost related to that 20 percent on bonds issued on such projects beginning on July 1, 1995 *for landfills and July 1, 1998 for incinerators.* The department shall determine the amount due for such eligible costs prior to July 1, 1995 *for landfills and July 1, 1998 for incinerators* and, with prior approval of the joint legislative fiscal committee and the governor and council, reimburse each municipality subject to the funds as appropriated by the legislature for this purpose.

14 Effective Date. This act shall take effect 60 days after its passage.
1999-1929s

AMENDED ANALYSIS

This bill expands the landfill closure program in the solid waste management act to include certain municipal incinerators.

SENATOR F. KING: I rise to offer an amendment. The amendment that is being offered deletes from the original bill...what is being deleted is on page four of the original bill on line four. It is a study committee that was established to study major significant reasonable impacts. That portion is being deleted from this bill, and the rest of the bill stays the way that it was originally. This is an amendment that was available, and because not all of the Senators were here the day that we were going to consider the amendment, the bill was tabled. The intent of the Finance Committee was to delete that last part of the bill.

Floor Amendment adopted.

Ordered to third reading.

Senator Brown offered the following resolution:

1999 SESSION

99-1056
10/09

SENATE RESOLUTION **10**

A RESOLUTION urging the United States Congress to pass the Work Incentives Improvement Act of 1999.

SPONSORS: Sen. Brown, Dist. 17

COMMITTEE: [committee]

ANALYSIS

This senate resolution urges the United States Congress to pass the Work Incentives Improvement Act of 1999 (S. 331).

99-1056
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

A RESOLUTION urging the United States Congress to pass the Work Incentives Improvement Act of 1999.

Whereas, pending legislation before the United States Congress includes the Work Incentives Improvement Act of 1999 (S. 331), and

Whereas, the Work Incentives Improvement Act of 1999 is intended to provide health care and employment preparation and placement ser-

VICES to individuals with disabilities that will enable those individuals to reduce their dependency on cash benefit programs; to encourage states to adopt the option of allowing individuals with disabilities to purchase Medicaid coverage that is necessary to enable such individuals to maintain employment; to provide individuals with disabilities the option of maintaining Medicare coverage while working; and to establish a program that will allow individuals with disabilities to seek the services necessary to obtain and retain employment and reduce their dependency on cash benefit programs; now, therefore, be it

Resolved by the Senate:

That the New Hampshire senate urges the United States Congress to enact the Work Incentives Improvement Act of 1999; and

That copies of this resolution, signed by the senate president, be forwarded by the senate clerk to the Speaker of the United States House of Representatives, to the President of the United States Senate, and to each member of the New Hampshire Congressional delegation.

SENATOR BROWN: This is Senate Resolution 10. I am sorry that it is being offered at the last minute. I think that when you see it you will see that it is pretty simple. We had a study committee to look at the obstacles for the disabled to be employed by the state of New Hampshire. In that study committee, one of the things that we concluded, was that this bill, this congressional bill, urges the United States Congress to pass the Work Incentive Improvement Act. It would go a long way towards removing those obstacles. What it does essentially is it allows people who are disabled and receiving certain programs to go back to work and not lose the benefits that are inhibiting them from going back to work today. This resolution simply says to us...it passed the Senate and we want congress to pass it. It urges them to do so.

Adopted.

SUSPENSION OF THE RULES

Senator Below moved to suspend Senate Rule 14 to allow for an untimely motion to reconsider our last action on HB 109.

SENATOR BELOW: This is an unusual circumstance. Back about six months ago we passed HB 109 with an amendment, and the House voted to nonconcur with that amendment and returned the bill to the Senate. It simply has been in the drawer in the Senate in sort of a legislative limbo. If the motion to suspend the rule is adopted by the necessary 2/3rd vote, I would offer a motion to reconsider our last action, and then if that is adopted, I would offer the motion to lay the bill on the table so that it would be available as a vehicle for proposed revenue actions by the Senate. There is precedent for this. Last spring we passed HB 112 with an amendment, which the House nonconcurred with, and they returned the bill to the Senate, and there was a timely motion under rule 14 for reconsideration of our last action on HB 112, and that reconsideration was adopted. We brought the bill back from third reading and we then laid it on the table and subsequently amended it, and went to committee of conference, and then it became law. So I am requesting that we do the same procedure used with HB 112 and HB 109 if we have a suspension of the rules. Thank you.

Adopted by the necessary 2/3 vote.

HB 109, an act establishing a flat rate education income tax and a state-wide education property tax to fund public education and making an appropriation therefor.

RECONSIDERATION

Senator Below having voted on the prevailing side, moved reconsideration on **HB 109**, an act establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor, whereby we ordered it to third reading and final passage.

Adopted.

Senator Below moved that **HB 109**, an act establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor, be on Second Reading at the present time.

Adopted.

Senator Below moved to have **HB 109**, an act establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 109, an act establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor.

ANNOUNCEMENTS

RESOLUTION

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the sole purpose Enrolled Bills Reports and amendments, and that when we adjourn we adjourn to the Call of the Chair.

Adopted.

Third Reading and Final Passage

HB 84-FN, establishing a committee to study the penalties for driving under the influence of intoxicating liquor or controlled drugs in the state, and the education and treatment services available to offenders.

HB 294, relative to state aid to municipalities for closure of certain municipal incinerators.

HB 346-FN-A, relative to permissible fireworks.

HB 363-FN, increasing the bonding limit of the school building authority.

HB 501-FN-A, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton.

HB 537, relative to background checks for firearms purchases.

HB 577, relative to the power of a school district to expend catastrophic special education funds and relative to the exemption of certain unexpected catastrophic special education expenses from the provisions of the municipal budget law.

HB 669-FN, relative to the determination of current comparable compensation for persons with gainful earnings who receive disability retirement benefits.

HB 746, relative to emergency police assistance.

HCR 10, requesting Congress to give priority to preserving Social Security and ensuring that it continues as universal and mandatory for all workers.

HCR 13, urging the selection of a final design for the New Hampshire commemorative quarter which includes the state motto "live free or die, 9 stars representing New Hampshire as the ninth state to ratify the United States Constitution, and the Old Man of the Mountain."

HJR 10, requiring that the United States Marine Corps flag be flown over the state house every November 10 to honor the birth of the Corps.

Adopted.

In recess to the Call of the Chair.

Out of Recess.

LATE SESSION

Senator Cohen moved that the business of the day being complete that the Senate now adjourn until Friday, October 22, 1999 at 8:00 a.m.

Adopted.

Adjournment.

October 22, 1999

The Senate met at 8:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Chaplain.

Good morning and I do mean morning. There is nothing more inevitable than the flow of a river toward the sea. All appearances to the contrary, it is going to happen, although what the 'it' is, is not always as evident along the way. Yesterday I flew home from Texas and I spent some time looking down at the mighty Mississippi. I will tell you this, from 25,000 feet, the Mississippi River is the most inefficient, fickle and confusing river in the world. It twists, it turns, it reverses direction, it abandons old channels, it ruthlessly cuts new channels, it is muddy, it is messy and it is slow, but it does reach its destination, the Gulf, finally, because it keeps on moving. So despite any meandering, course changes, new channels, so will you, reach your destination if you just keep moving. Do not fear. Trust the process and go with the flow of your deepest convictions and relax. Let us pray:

Lord, both of rushing torrents and slow moving winding rivers, lead us on to the goal which You have mapped out for us. Give us humility so that we might move along at the speed and in the channels of Your desires for us. Remind us that this river is too strong for any of us to control and too big for any of us to see it all in its completeness. So let us stick together and know that working and moving and companionship all will be well.

Amen.

SENATOR HOLLINGWORTH: Father Jones, before you leave, I have a picture of the Senate and Junie. We wanted to present to you and thank you so much for how you shepherded us through those hard days.

David had given us a check because he wanted to purchase this picture. On the back is his check - that we are giving back to him. We want you to have this picture as a gift.

FATHER JONES: Why don't you use this check for school funding. Thank you very much for this photo.

Senator McCarley led the Pledge of Allegiance.

INTRODUCTION OF GUESTS NOTICE OF RECONSIDERATION

Senator Brown served notice of reconsideration on **HB 743**, requiring that the question relative to the necessity for a convention to revise the New Hampshire constitution be presented to the voters in the November 2000 general election.

Recess.

Out of Recess.

COMMITTEE REPORTS

HB 224-FN-A, establishing a joint committee on code enforcement. Finance Committee. Vote 5-2. Ought to Pass, Senator Larsen for the committee.

SENATOR LARSEN: The Committee on Executive Departments referred HB 224, rereferred it, establishing a joint committee on code enforcement to Senate Finance. This bill establishes an advisory committee on code enforcement, consisting of members from eight different organizations. The members of the various boards that will sit on this committee will meet to help assure that the different building codes from the different boards were not in conflict. This advisory committee will also help to resolve disputes as to which board has jurisdiction over which code. The bill, as written, has no fiscal impact. The Senate Finance Committee recommends ought to pass.

SENATOR FRANCOEUR: Senator Larsen, you just said that this board would resolve disputes between different boards. The only thing that I see that this board does is on line nine, which says that "the committee shall discuss matters of mutual interest." I don't see anything in here that says that they will be like a referee and resolve any code differences.

SENATOR LARSEN: No, that is true. It is meant to look at the code conflicts and try to resolve them within a mutually agreed upon discussion. There is no mandate that they resolve them. It would allow for a dialogue to identify which are the ones that cause conflict and to attempt to sit down and resolve a way that will work for both interested organizations.

SENATOR FRANCOEUR: So if I understand you correctly, this board has no power to change codes from one board to overlap to another, they are just more of a place where we just sit down and discuss them?

SENATOR LARSEN: That is correct. And, if there is some mutually agreed upon resolution of an issue, then the two boards would resolve to try to correct them through mutual agreement. There is no authority by this advisory board to correct or change, in and of itself.

SENATOR FRANCOEUR: Couldn't they have done this already without this being in statute?

SENATOR LARSEN: Yes, they could. They had not resolved to do it and, looking at how to resolve some of the issues, this was seen as a way to begin a dialogue that allows people to at least be aware when building codes are in conflict, and the problems that it causes to communities, building code enforcement authorities, to at least be aware that your code conflicts with my code, and we need to resolve this.

SENATOR FRANCOEUR: Thank you.

Adopted.

Ordered to third reading.

HB 615-FN, establishing a registry for brain and spinal cord injuries. Finance Committee. Vote 7-0. Ought to pass with amendment, Senator Squires for the committee.

1999-2144s

01/09

Amendment to HB 615-FN-A

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

AN ACT establishing a registry for brain and spinal cord injuries and making an appropriation therefor.

Amend the bill by replacing all after section 7 with the following:

8 Appropriation. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 2000 to the department of health and human services for the purposes of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

1999-2144s

AMENDED ANALYSIS

This bill establishes a registry for compilation and analysis of information relating to brain and spinal cord injuries, and requires the commissioner of health and human services to make an initial report to the legislature on the establishment of the registry.

This bill makes an appropriation for the purposes of the bill.

SENATOR SQUIRES: I won't speak to the merits of this idea because I addressed this on the floor earlier in the week. The problem is the money. We put \$1 in the fund to keep the bill alive. I hope to be able to pursue other avenues of funding, both outside and inside the government. For the moment, the bill remains alive with an appropriation of \$1. I hope that you will support it.

Amendment adopted.

Senator F. King offered a floor amendment.

1999-2162s

03/

Floor Amendment to HB 615-FN-A

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

AN ACT establishing a registry for brain and spinal cord injuries and making appropriations to the department of resources and economic development and the governor's commission on disability.

Amend the bill by replacing all after section 7 with the following:

8 Operating Budget; Governor's Commission on Disability; Source of Funds. Amend the totals and estimated sources of funds for 1999, 159:1.01, 03, 03, 01 to read as follows:

	<u>FY 2000</u>	<u>FY 2001</u>
TOTAL	315,629	310,651
ESTIMATED SOURCE OF FUND FOR COMMISSION ON DISABILITY		

00 FEDERAL FUNDS	[108,829] 0	[108,829] 0
GENERAL FUND	[206,800] 315,629	[201,822] 310,651
TOTAL	315,629	310,651

9 Division of Economic Development; Travel and Tourism Development. Amend 1999, 159:1.03, 03, 02, 03 by inserting the following:

	<u>FY 2000</u>	<u>FY 2001</u>
10 PERSONAL SERVICES		
- UNCLASSIFIED	\$1	\$1

3 Division of Economic Development; Travel and Tourism Development. Amend the totals and estimated sources of funds for 1999, 159:1.03, 03, 02, 03 to read as follows:

TOTAL	[3,502,202] 3,502,203	[3,495,716] 3,495,717
ESTIMATED SOURCE OF FUND FOR TRAVEL AND TOURISM DEVELOPMENT		
GENERAL FUND	[3,502,202] 3,502,203	[3,495,716] 3,495,716
TOTAL	[3,502,202] 3,502,203	[3,495,716] 3,495,716

11 Transfer Authority; Department of Resources and Economic Development. Notwithstanding the provisions of RSA 9:17-a, II-a, the commission of the department of resources and economic development may transfer funds appropriated in 1999, 159:1.03, 03, 02, 03 from class 10 to class 11 for the purpose of funding the salary of the unclassified director of travel and tourism development.

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

1999-2162s

AMENDED ANALYSIS

This bill establishes a registry for compilation and analysis of information relating to brain and spinal cord injuries, and requires the commissioner of health and human services to make an initial report to the legislature on the establishment of the registry. This bill also makes appropriations to the department of resources and economic development and the governor's commission on disability.

SENATOR F. KING: I rise to offer a floor amendment. This is an amendment that is being offered for 615. There are two items that are related to our budget that we passed. These are corrections that need to be made. The chairman of the House Finance Committee is in agreement with these. This is certainly a housekeeping amendment and I just heard about it this morning, but I certainly recommend that it pass.

Floor Amendment adopted.

Ordered to third reading.

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills. Finance Committee. Vote 7-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: House Bill 625-FN-A was referred to Finance from the Senate Environment Committee. The Department of Environmental Services assumed that this bill would provide reimbursement of 100 percent of eligible costs to those New Hampshire municipalities served by the Claremont Wheelabrator Municipal Waste Combuster. The department has estimated the total eligible costs for Claremont to be \$1,220,170.00. This bill as amended by the Environment Committee, requires a five-year payback, and will have a fiscal impact beginning in FY 2002 of approximately \$204,433.00 per year. The Senate Finance Committee recommends HB 625 as ought to pass.

SENATOR GORDON: Senator Below, on page four of the bill, lines 33-36...it says that the "department shall determine the eligible costs of each district served by the municipal waste Combuster, subject to the chapter and reimburse such eligible costs." Then it says, "with prior approval of the joint legislative fiscal committee and the governor and council reimburse each community or municipalities subject to the funds as appropriated by the legislature for this purpose." I guess that I am trying to figure out why that...if the department is determining the eligible costs and the towns are entitled to them, why it is necessary to have a process in here where the Fiscal Committee approves it. I guess giving the heightened concern that I have this morning in regard to fiscal matters, whether or not this imposes an obstacle for our communities to get reimbursed?

SENATOR BELOW: That is a good question, Senator Gordon. I am sure that I have a great answer for it though. This is, I believe, language that probably came from the version that the House had on this matter. It was part of Senator Johnson's amendment that was offered on the floor the other day. It does subject the...this determination of eligible costs to approval by the Fiscal Committee and the governor and council. I think that it is just a matter of routine process whereby such disbursements get approved by this process. I am sure that it is different from the usual process. I am not sure.

SENATOR GORDON: I am not aware of that necessarily being a routine process when communities are entitled to reimbursement, and I am concerned that this provides the legislature with another opportunity to prevent communities from receiving due benefits. I am wondering if you would have any objection if we were to table this bill long enough for me to investigate and make sure that it is in fact a routine process?

SENATOR BELOW: Certainly. This particular point was not discussed in either Environment or Finance, so personally, I would agree to you tabling it.

Senator F. King moved to have **HB 625-FN-A**, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

HB 643-FN-A-L, transferring the regulation of emergency medical services from the department of health and human services to the department of safety. Finance Committee. Vote 7-0. Ought to pass with amendment, Senator Squires for the committee.

1999-2145s

09/01

Amendment to HB 643-FN-A-LOCAL

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

AN ACT transferring the regulation of emergency medical services from the department of health and human services to the department of safety and relative to salaries for certain positions in the department of health and human services.

Amend the bill by replacing all after section 12 with the following:

13 Classified Positions in Department of Health and Human Services.

I. Notwithstanding the provisions of 1995, 310:60, any classified employee of the department of health and human services whose position was changed from one salary group to a lower paying salary group shall continue to receive the salary and scheduled raises of the higher paying group so long as such employee is employed in such position.

II. Employees to whom paragraph I applies are hereby entitled to the 5 percent raise for classified state employees effective June 5, 1998, the 3 percent raise for classified state employees effective October 1, 1999, and all subsequent raises negotiated for classified state employees.

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

1999-2145s

AMENDED ANALYSIS

This bill transfers the regulation of emergency medical services from the department of health and human services to the department of safety. It establishes a division of emergency medical services within the department of safety.

This bill also clarifies that employees in certain department of health and human services' positions are entitled to certain salaries and raises.

SENATOR SQUIRES: Madam President, this bill went to the Finance Committee with two questions. 1) that I raised, the fiscal note that was attached to the bill as we had it on the floor of the Senate, seemed to indicate that additional funds were going to be required. 2) the second question that came during the floor discussion that was raised by Senator Disnard concerning the grant that is made from the Mary Hitchcock Hospital of about \$100,000 to support this program, and what was going to happen to those grants. In the Finance Committee hearing, we learned that the fiscal note was in fact, an old one that had been attached to a previous version of the bill as it was in the House, and that all of the funds required for this operation are in the budget, both in the form of appropriated funds and federal funds that come into the state, and all of the costs of this program are transferred... and all of the revenue sources are transferred from the Department of Health and Human Services to the Department of Safety. So there is no impact on the current budget. As to the second question, we explored that in detail and the grant will be continued by negotiations already completed to the Department of Health and Human Services, which will administer them. So there will be no disturbance in the flow of the grant money. The impact on the state budget is zero. So we concluded that the questions had been answered and ask you to pass the bill.

SENATOR DISNARD: Senator Squires, can I assume from what you said...may I assume from what you said, that Health and Human Services will be administering the grants still or did I misunderstand?

SENATOR SQUIRES: I did say that. That is my understanding from the committee hearing.

SENATOR DISNARD: Would you believe that I asked the question so that the record would show that?

SENATOR SQUIRES: I believe that, and I hope that I answered to the best of my ability.

SENATOR GORDON: Senator Squires, I have been wholeheartedly supportive of the original bill, but this is the first time that I have seen the amendment. The amendment has to do with pay for a classified employees in Health and Human Services. Because I am supportive of the bill, I am concerned about the amendment and whether or not the amendment is...because it seems to be a substantial change in policy, whether the amendment is going to be acceptable to the House. We have already indicated here in previous bills that people have checked with the House to make sure that they are okay. I am just wondering if there was any indication that the House is in agreement with the amendment that has been added onto this bill?

SENATOR SQUIRES: The amendment was proposed by Senator Larsen and we agreed that when it came to the House floor that she would present that aspect of it. So if I might...ask you to, once Senator Larsen speaks to it, that you address that question to her?

SENATOR GORDON: Sure.

SENATOR LARSEN: The amendment to HB 643 addresses the problem of 18 state employees who in HB 32 were frozen at 1994 labor grades. Their pay was frozen and they have been coming to work for five years with no hope of a future pay increase because of the decision made through HB 32. I think that all of us would recognize the difficulty of coming to work everyday for five years, watching other employees receive pay raises and knowing that because of the language written into HB 32, you had no hope of resolving this. In Senate Finance, we looked at this issue. There is no intent to derail what is a good bill to move the emergency medical services to the Department of Safety. But because it related to the Department of Health and Human Services and employees, it made good sense to resolve this issue of the 18 employees who are frozen in their pay levels, and to recognize that it in fact, causes no new outlay of expenditures from our budget. Don Hill from the Department of Administrative Services has indicated that the monies necessary to allow the pay increases to begin to occur for these individuals is in his lapsed accounts and therefore, Senate Finance agreed that this was a reasonable, very small amendment to an important bill, both of which need to pass. We have had conversations with the House, and I hope that in the dialogues that we have that they will recognize the importance of passing both measures. Thank you.

SENATOR GORDON: Senator Larsen, you indicated that you had dialogue with the House, but you didn't indicate that they supported the amendment or not. I guess that I am concerned that the amendment, if in fact the House disagrees with it, is going to in fact, derail the original part of the bill. I guess I would like to have some assurances that if I vote for the amendment, that I am not putting the original bill at jeopardy. I want to know if whether or not that is the case, Senator Larsen?

SENATOR LARSEN: From Senator Squires' and my conversation, it was indicated that we would have a Conference Committee on this. I think that the Senate frequently takes the Senate position. If we always look at what the House agrees with 100 percent, many of the important policy issues that we have resolved over time would not have occurred. So we understand that there will be a Committee of Conference on this. We were assured that that would in fact take place. Clearly, we will work to make that Committee of Conference happen quickly. As I say, I think the fairness issue of this is so important that everyone recognizes the need that the Department of Safety needs to have the Emergency Medical Services begin there. It is the whole reason that the state will be Y2K compliant. It is in our budget that this occur, and this minor issue that costs the state no additional funds or additional outlay, should not be an issue which would derail such an change in the regulation of the Emergency Medical Services.

SENATOR GORDON: I understand that and I understand why it is important to take a position, but I am still concerned about derailing the bill. I understand that they are already... that both departments right now are already to make a change. Do you have any idea when this Committee of Conference is going to take place, and when there might be a resolution so that they can implement this thing?

SENATOR LARSEN: You probably have as much indication as I. When the House is in session they will review this change. If the majority of the House members recognize how minor the amendment is, they can also consider concurrence. We don't have to go to a Committee of Conference if they agree to it. If it goes to a Committee of Conference, clearly it takes an additional week. I don't think that anyone wants to delay it as such that it makes the transition more difficult.

SENATOR DISNARD: In the 11 years that I have served in the legislature, I have always supported fair employment raises. I have also always strongly supported helping the needy, especially children in need. I am torn between voting against the amendment to protect the EMS money for children with damaged brain injuries, or bodies, or voting for the bill and putting the support for these children in jeopardy. I feel that I must make a decision, and I will have to vote against the amendment to protect the children who might lose this grant for the EMS, which I support.

Recess.

Out of Recess.

Amendment failed.

Senator Larsen moved to have **HB 643-FN-A-L**, transferring the regulation of emergency medical services from the department of health and human services to the department of safety, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 643-FN-A-L, transferring the regulation of emergency medical services from the department of health and human services to the department of safety.

HB 645-FN, relative to telecommunications equipment assistance and the enhanced 911 system. Finance Committee. Vote 7-0. Ought to Pass, Senator F. King for the committee.

SENATOR F. KING: This bill was referred to the Finance Committee by the Energy and Economic Development Committee. This bill changes the name of the Telecommunications Assistance Program to the Telecommunications Equipment Assistance Program. It establishes a telephone line surcharge to fund the Telecommunications Equipment Assistance Program. It requires the governor's commission on disability to establish a cost-sharing formula for persons whose income exceeds current eligibility criteria for the program. It adds a representative of the disabled community to the enhanced 911 commission. It specifies that a qualified person under the Telecommunications Equipment Assistance Program and a person with a hearing or speech difficulty. It requires telephone service providers to transfer emergency calls, including the callers telephone number to the public safety answering point. The PUC has indicated that the current 8 percent access line collection is sufficient to pay the monthly cost of the telecommunications relay service and to accommodate a 1 cent month, for access line charge for the program. The Senate Finance Committee recommends HB 645 as ought to pass.

Adopted.

Ordered to third reading.

HB 649-FN, relative to nitrogen oxide emissions from electricity generation. Finance Committee. Vote 7-0. Ought to Pass, Senator Below for the committee.

SENATOR BELOW: This bill was referred to Finance from the Energy and Economic Development Committee. This bill requires NOx emitting source generation sources to either incur capital costs for equipment installation by credits, allowances or pay emission **TAPE CHANGE** The Finance Committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 707-FN, relative to the family division of the courts. Finance Committee. Vote 7-0. Rereferred to Committee, Senator Squires for the committee.

SENATOR SQUIRES: This bill came to the Finance Committee and in the process of discussing it, we found out that there were two technical drafting errors. The errors were as follows. What we wanted to do and what we thought we were going to do in the Judiciary Committee, was to expand the court to two counties and remove the provision that required the approval of marital masters by the governor's council. What happened in the drafting of the amended version, the expansion to the two counties came out and the provision requiring approval by the governor's council stayed in. We apologize. We need to fix it and then we will be back again.

SENATOR TROMBLY: Senator Squires, given the fact that the Finance Committee was made aware of these problems, is the Finance Committee ready and prepared today to answer questions relative to the financing of the system or would you prefer that the bill go back and you be allowed to gather that information for a floor debate?

SENATOR SQUIRES: I can make an attempt to answer questions about the finance end of it, because I was at the Finance Committee hearing.

SENATOR MCCARLEY: I wanted to know if this bill was going to be rereferred to the Judiciary Committee or to Finance, because I know that

there were some questions, frankly, relative to policy as opposed to finance and I was not able to attend the Finance Committee meeting, so I am wondering where it is being referred to?

PRESIDENT HOLLINGWORTH: The Finance Committee moved it back to Judiciary. We felt that the question was more on policy and we couldn't make the decision on Finance until the questions had been answered by the Judiciary Committee of what their intent was. I think that is about as clear as I can make the discussion.

SENATOR PIGNATELLI: The Judiciary Committee doesn't need this bill back. We don't want this bill back. We know what we plan to do. I have the correction and as soon as we vote down the rereferral motion, I can speak to what the floor amendment says, which is the Judiciary Committee's intent.

Motion failed.

Senator Pignatelli moved ought to pass.

Adopted.

Senator Pignatelli offered a floor amendment.

1999-2150s

09/01

Floor Amendment to HB 707-FN

Amend RSA 490:32 as inserted by section 2 of the bill by replacing it with the following:

490:32 Family Division.

I. There is hereby established a family division which shall be a permanent component of the judicial branch under the administrative authority of the supreme court in the counties of Rockingham and Grafton on the effective date of this subdivision. All matters under the jurisdiction of the family division shall be transferred from other state courts no later than 6 months after the effective date of this section.

II. The family division shall be expanded to the counties of Carroll and Belknap during the biennium ending June 30, 2001.

III. In establishing the family division, the supreme court shall:

(a) Designate the courthouses within each county which will house the family division.

(b) Select and designate judges, marital masters, and other court personnel from the district, probate and superior courts to serve in the family division, based on their expertise in, and commitment to, family law matters;

(c) Designate an administrative judge for the family division by selecting, from among the district and probate court judges serving in the family division, a jurist who has demonstrated an interest in legal issues affecting the family and a commitment to the values, objectives, and ideals of the family division.

Amend RSA 490:35 as inserted by section 2 of the bill by replacing it with the following:

490:35 Judges and Marital Masters. With the understanding of the special nature of matters within the family division, judges and marital masters selected to serve shall possess the following qualifications:

I. Willingness to serve in the family division;

II. Professional experience in family law matters;

III. Legal and personal qualities including, but not limited to:

(a) Knowledge of family matters, including related matters such as tax and pension law;

(b) Personal maturity so as to understand and make decisions on matters before the court; and

(c) Personal qualities of patience and understanding of the difficult personal matters which are the subject of the division and a willingness to deal with complex family matters in a non-adversarial manner.

1999-2150s

AMENDED ANALYSIS

This bill establishes a family division of the courts in Rockingham and Grafton counties and requires the Supreme Court to expand the family division to Carroll and Belknap counties. The bill also establishes a committee to study implementation of a statewide family division.

SENATOR PIGNATELLI: This amendment corrects the drafting error. Senator Squires is absolutely right. The Judiciary Committee had a long hearing on this bill, and we voted to remove section two in one part of this bill. When the drafting took place, they removed the wrong section two. So we had a bill with the section two that we wanted to keep in, removed and then section two still in there that we wanted to remove. So now we have the floor amendment which corrects that. When I gave my report the last time that we met, my report was accurate, but we failed to notice in the calendar, I failed to notice in the calendar that it was the wrong amendment that we were voting on. So when we vote for this floor amendment, we will vote for what the Judiciary Committee wanted to do, what its intent was to do. Thank you.

SENATOR MCCARLEY: I rise to speak very briefly. I have actually hoped that it was going to be rereferred to the Judiciary Committee because in the caucus discussion on this bill, it seems to me that there are still policy questions to the overall administration of the family court. I am wholeheartedly in support of the concept and was years ago, of a family court. This has had a lot of fits and starts associated with it, that it raised questions about whether the services are getting to where they are supposed to, and also administratively, who really should be overseeing this. I was not satisfied we had gotten to that decision. I didn't hear in the caucus committee from members of the Judiciary, that we had really finally answered those questions, so I am hesitant to talk about expanding something where we have questions. My hope had been, and was fully ready to support the rerefer to the Judiciary Committee. Since we are not able to do that, I must reluctantly vote no on this bill today.

SENATOR TROMBLY: There was another amendment that was offered to this bill. I guess that I have a question at this time for Senator Pignatelli. Senator Pignatelli, I am looking at your floor amendment. You will remember that in the body of the bill there was an accidental deleting of a reference, but it was highly significant because it appeared to eliminate marital masters from the process. I am looking on page two of my copy of the bill, Senator Pignatelli. It says, "such suits may be heard by any justice of the family division." Do you remember in our discussions with the court and in caucus, that the words "or marital masters" should be added to that? I was looking quickly over your amendment, and I don't see that in here. Could you tell me if your amendment takes care of adding marital masters to page two, because I don't see it there?

Recess.

Out of Recess.

SENATOR PIGNATELLI: The answer to Senator Trombly's question is that amendment with the words "marital masters" added in was part of the erroneous amendment that we voted on the last time that we were in session. So we already voted that in, so now we are just amending the erroneous part of the amendment that we adopted in the Judiciary Committee.

SENATOR TROMBLY: So the language that added "marital masters" to that section, which doesn't appear in my copy, was amended on Tuesday. Your amendment only deals with those two sections that the Finance Committee had to concern. Is that correct?

SENATOR PIGNATELLI: That is correct.

SENATOR F. KING: I am not familiar enough to speak about whether the family court system is a good system or not. I have heard that in one county it seems to do well and in another county there are some questions about it. My concern about this is that this seems to impose a new program on the courts during this biennium. I would like to remind the Senate of what happened to the court budget during the last budget process. The court made its normal request as it does, the governor substantially cut that budget, substantially cut it by millions, and the House went along with that recommendation. It came to the Senate, and Senator John King and I, worked hard to put \$2 million back into the budget. My question is, I don't see how the court system can set up a new program in two counties with the budget that we gave them. It is unfair to tell the court that they have to do this if we are not prepared to give them the money. Now they talked about a million dollars or something like that in Finance the other day as I recall. I believe that is a million dollars a year. So if we are going to instruct the court to do this, then I think that we have the responsibility to give them the money to do it. I would have no objection if the program were to start on June 30, 2003, and let the next legislature worry about the money. I will not vote for this because I believe that we shortchanged the court system in the budget, and to impose a nickel more cost on them is simply unfair.

SENATOR FERNALD: Senator King, if we adopt Senator Pignatelli's amendment to get the policy back where it was intended, then should we rerefer it back to Finance so that they can work on the money aspect?

SENATOR F. KING: I think that at the very minimum you have to do that.

Floor Amendment adopted.

Referred to the Finance Committee (Rule #24).

TAKEN OFF THE TABLE

Senator Below moved to have **HB 109**, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor, taken off the table.

Adopted.

HB 109, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor.

SENATOR BELOW: I would like to explain the spreadsheets that were handed out earlier. I apologize, we are still waiting for the amendment to come up from Legislative Services. I am not sure what the holdup is.

By going through the spreadsheet will help you understand what the content and the intent of the bill is. The one that I would like to start with is 102299. It starts out by explaining, although it is not shown on this spreadsheet, that the bill will reinstate the statewide property tax on a temporary basis for this current tax year, fiscal year, at \$5.50 per thousand, and for the next fiscal year at \$5 per thousand, and then it would be totally repealed starting in 2001. A 4 percent education income tax would be initiated starting January 1, 2001. This sheet shows sort of an analysis of fiscal year 2001, that is the second year of the current biennium. The first line shows the gross revenue estimate from the 4 percent flat rate personal income tax, based on standard exemptions of \$1100 per taxpayer, \$3000 per dependent, and an additional \$3000 for single head of household as well as a \$3000 exemption of dependent filer earned income, meaning that if you have a child who is a student and they work in addition to the parent claiming a dependent exemption, the student can earn \$3000 of wages or self employment income or farm income and not pay tax on that. The concept behind the standard exemptions, is essentially saying that the personal income has two classes. A base level which is subsistence level of income, so that each person can earn enough to support themselves and their dependents at a very minimal subsistence level in terms of food, shelter, clothing and transportation and healthcare. The \$11,000 is just about full-time minimum wage. The revenue estimates are provided by the institute on taxation and economic policy through their micro simulation model, which is a state of the art forecasting method for personal income taxes. The low growth estimate, which is also the one used in the LBA spreadsheet, is based on very conservative assumptions about adjusted gross income growth. That is stated at the bottom of the page. Just to put it in context, over the last three years for which we have IRS, statistics of income data for New Hampshire adjusted gross income growth, which in 1995-97 the growth rate was 12 percent, 9.1 percent and 8.1 percent. The low growth estimate assumes a rapid slow down in that growth rate that has already occurred. It assumes that it drops off by a third last year, 1998, and drops down to 5 percent by 2001, next year, for the next fiscal year, which is below the historic ten year average. So it assumes a major downturn in the economy. The mid-growth estimate also assumes a downturn but less of one, and the high-growth estimate would be approximately if, the economy continued booming the way that it is, what we might see, that would be at the high end of the range. The second line on this page shows the assumed start-up cost, \$10,000,000 for starting up income tax. I don't think that it would be more than that, but if it was, it could be perhaps capitalized and amortized. There is a reference to timber tax credit. Under New Hampshire Law, timber when it is sold, is subject to timber severance tax of 10 percent of the value of the gross value of the sale. So there is an exemption of the timber tax from capital gains, an exclusion of that because it is already essentially taxed. That only costs about \$1 million for a full year, and less than \$.5 million in this half year. To further explain, the revenue estimate is net of interstate issues, meaning commuter losses as well as federal and business profit tax credits. So just following the low estimate figure, there is an assumed net revenue of \$310,000,000 that would be the cash flow available in the current biennium and the fiscal year 2001. That is 40 percent of the calendar year revenue estimate. That comes from five payroll withholding periods where employers would remit payroll withholding February 15-June 15, 2001, as well as two estimated payments for those who don't have wage withholding. The next two-lines...line four and this will be in

the text of the bill. This provides that there is currently an un-audited estimated additional surplus other than what was previously anticipated of \$31,000,000 from fiscal year 1999. That is appropriated into the education trust fund. In a sense, it is borrowed because the expectation will be repaid back at the end of the biennium and sent back to the rainy day fund and health care transition fund. It helps with cash flow in the current fiscal year. Line 5 is to make up the existing, preexisting revenue gap. We were talking about \$100,000,000. Line 6 & 7 show the approximate differential in what was assumed to come in from the statewide property tax and what the \$5.15 would generate. So those are deductions from the net revenue from the income tax. Line 8 is money that would be transferred from the education trust fund back to the general fund to make up for the fact that the interest and dividends tax is repealed as of January 1, 2001. Line 13 shows that the full year revenue estimate for interest and dividends is \$70,000,000, so it is assumed that we will lose half of that by repealing that on January 1, 2001. That is made up as shown on lines 14 & 15 by transferring half...by shifting the cigarette tax increase that was dedicated to education trust fund, back to the general fund, starting January 1, 2001, as well as transferring back half the tobacco settlement money. So that keeps the general fund whole. It balances the general fund. Then it shows that even at the low forecast there is an estimated \$67,000,000 surplus, so even if the revenue estimate at this low estimate is off by 20 percent, 20 percent too high, we should still balance. Of that \$31,000,000 would be restored to repay the surplus that was borrowed, and it would go back into the rainy day fund and education trust fund. There would be presumably a surplus potentially available to go into the next biennium. There is a reference to it being available for hardship grants, that is a new concept that is introducing this bill, and we will explain that in a little bit. That sort of covers page one. Page two shows roughly, what would happen in the first full year of operation fiscal year 2002. The gross revenue estimate from the personal income tax. Again, that is based on a proportion of the calendar year estimate, which is how the model generates the estimate. Line two shows the estimated cost of the administration which is \$5 million plus \$1 million for the timber severance tax credit which was not figured into the gross revenue estimate. Then there is \$812 million net revenue estimated below, in over a billion at the high end. Line four shows the BPT and the BET, which at this point we are starting to show what goes into the education trust fund in FY 2002, the next biennium. That is assumed to stay in place, but there is a statement of intent in the bill that all four of these, well actually three of these, four, six and seven, would be repealed, should be repealed by the legislature as soon as there is enough revenue coming in to cover our commitment to education adequacy. So we came in at the high end of showing a zero. We seemed to have zeroed out these other revenues. Line five shows that the amendment will propose to repeal the education transfer tax as of July 1, 2001. So that is shown as zero revenue from that. The utility property tax is assumed to continue at the \$6.60 rate, although starting at 2002, it is presumed to be starting to be phased out with the goal of getting it down to zero as well as the rental car tax. It is assumed to remain in place until we have the revenue to zero that out and repeal that out as well. Sweepstakes revenues, assume there for a total, available in 2002, on line seven for a minimum of \$963 million for educational adequacy. There is assumed that there is a \$25 million carried over from the previous year's surplus for the hardship aid which is what it would be pro-

grammed to cost, but we will explain that in a minute. The rest of the surplus I just ignored. I didn't carry that forward. So there is a substantial amount potentially available for education adequacy. On line 12, that shows items that have been going into the education trust fund that have returned to the general fund. We had going into the education trust fund in this biennium, lines 12a, 12b, 12c. Appropriations from the general fund that were formally made for foundation aid kindergarten and school revenue sharing. Those are all returned to the general fund. As the tobacco settlement money and the cigarette tax increase, that would return to the general fund approximately \$106 million a year that we are now putting into the education trust fund. That should more than cover the loss of revenue from repealing the interests and dividends tax and repealing the legacy and succession tax as of July 1, 2001, which are lines 13a and 13b, so that the net impact to the general fund is actually slightly positive. Line 15 shows that the taxes that are repealed, the real estate transfer tax started to phase out the utility property tax, total taxes repealed approximately \$500 million, as well as there is more money available for additional property tax relief if that was desired, or if we find the income tax is generating too much revenue, we can cut the rate. Page three shows the second year of the next biennium; just to get an idea where this is going. Revenue estimate to line one, assume the growth and cost of administration, because by the second year is when you actually...well you get more returns filed and your audit function is starting up. At this point, if we are doing anything much more than a low estimate, we should be able to repeal all of these other taxes by that point...that were increased, lines 4, 6 & 7. There are just some calculations as the total potential availability of funds for education adequacy and what that works out to be per pupil cost. That is that sort of summary. There is another way of looking at it, which is this legal sheet which is prepared by the legislative budget assistant. There are sheets like this that you have seen on some of the other proposals. It is similar to that, but there are some sort of refinements here. Let me explain this. There are four years shown here. Two years of the current biennium and the two-years of the next biennium. The first column under each year sorts out those things that are related to the adequacy funding that actually come out of the general fund. The second column shows the activity in the education trust fund, and the third column shows the total activity related to education adequacy in the trust fund. So for instance, in 2002, you see under the general fund that there is a series of appropriations totaling \$8.1 million, which we did in HB 117, where we set this all up which comes out of the general fund. So it is just shown and acknowledged that those are part of what we did. The education trust fund expenses are approximately \$827 million, which we are all familiar with. Going down to estimated sources of funds, you have the different revenue of components that are assumed to go into this. It is all pretty much everything that we have seen before. The only thing that is really new is this additional \$31 million in surplus. I am sorry that there is no line numbers here, but it is down about five or six rows from the bottom. There is surplus FYI 1999. This is this additional surplus that we had not previously appropriated. The long and short of this is, what it shows is that in this current fiscal year, this proposal without the income tax, just with these adjustments on the statewide property tax and them using the surplus for cash flow, we balanced the education trust fund, it actually generates a surplus. The overall impact of what we have done is balanced. In 2002 we start to see some of the phase out

of some of the revenue sources. In that first column under general fund, just to explain this, there is some use of funds... the tobacco use prevention fund, that is something that we did in the tobacco tax increase bill that we appropriated out of the general fund after the budget has passed. That simply is shown as an expense to be covered. We show down below, that half of the cigarette tax increase is transferred back to the general fund, half of the tobacco settlement money, \$20 million, is transferred back to the general fund. The surplus, we assume that the surplus is repaid, the one that we borrowed the previous year, is repaid back to the general fund to lapse into the health care transition fund and the rainy day fund. Towards the bottom you see a negative \$35 million from repealing the interest and dividends tax. The point here is that we treat the general fund, we keep it whole. We generate a surplus on the education trust fund, which allows for some margin error in the revenue estimate, and the total cumulative impact is building to \$74 million surplus. I won't belabor this much more. 2002, 2003 and what you start to see is some more repeals. The legacy and succession tax at the bottom completely repealed. LBA pointed out that even if it is repealed, July 1, 2002, there will still be some revenue coming in because a lot of the case people, unfortunately the estates that were created before that date, continue to be filed after that date, so they assume not the whole revenue is lost. If it is \$21 million they assume is lost, they should assume around \$31 million. The whole interest and dividend is loss. I am going up from the bottom...\$70 million and we transfer these other funds back to the general fund that we were getting. So really we are kind of narrowed down to just... the statewide property tax is repealed, we are narrowed down to the utility tax, the income tax, the sweepstakes, and perhaps the BPT and the BET increases source of revenue, until we are comfortable repealing that, and the car rental tax. The same thing for 2003, the point is that it shows the potential to balance throughout this period of time and generate a surplus which would allow for a further repeal of taxes or property tax relief or spending on education. Those are those two spreadsheets that were passed out. Now I would like to defer to Senator Fred King to explain a little bit about the hardship grant concept that he developed. This is in the proposed amendment. I think that it was something that a lot of us talked about, the idea of trying to direct aid to some extent, to where it is most needed, and considering certainly....well I will let Senator King speak to it. The factors in the Augenblick that really weren't fully reflecting what we did, that perhaps have some merit.

SENATOR F. KING: I assume that everyone has this spreadsheet. There are two handouts actually. One handout lists those communities statewide starting with the community that ranks at the bottom of the ability to fund education. So you have the one by districts? Okay, well we will just discuss the one by districts. Strangely enough the first one on the first page is Stratford and it is also the first one on the other page. So what you have is roughly 3 percent of the total adequacy money, is in addition...3 percent of that is in a hardship fund we are using as the basis for the determination of what hardship consists of, two factors. Per capita income and equalized property value per student. Those are the two components of the formula that have been in place for **TAPE CHANGE** their education, they graduate down until only those towns are in the bottom 20 percent receive the hardship grant. You can see as you go through your communities, it is through the state where the communities are in...in my district, it breaks at Littleton. Littleton's factor is 1.69 and Strafford's is 4.66. Strafford gets that hardship factor times the number of ADMR's, determines how much

they have for weight of students. So then you will see the amounts. One of my major criticisms of HB 117 was the fact that there was no recognition of communities' ability to fund education. As you know, the money flows directly to the communities on a per pupil basis. Completely contrary to the issue that the lawsuit, in my opinion, that was a decision of the legislature. It totally ignored the fact that after this was all through, there were still communities that were not going to be able to have adequate resources for education. So this is a way of dealing with that. As you go through the sheets, you will see in your own communities, your own Senate districts, those communities that would receive a hardship grant, and you will have judged whether that...how they fit into what you know about your district. I will tell you that if I were to rank the communities in my district based on those factors, this ranking is right on the money. I have said that before I can vote for anymore legislation there has to be some recognition that we need to provide funding to some degree, and I would suggest 3 percent is a small amount to put there. I would prefer it to be five-percent or more, but I can live with 3 percent. This is what this program does. It does not affect in any way, the amount of money that goes into adequacy that is determined by 117. No town is having money taken away from it to fund these grants. This is additional money. It goes to communities that need it.

SENATOR J. KING: Senator Below, for the past month or so, we have heard about donor towns. How they are being punished so badly by the last bill that we had. I want to know if what we are doing now is transferring to the donor towns from one to the other, and I would also like to see, just like I have to determine how much the donor towns had and how much that is going to cost, and what the difference was with the income tax? Because with income tax you have to have people that have to pay it, not property. So I would like to have an idea of what...for instance, Manchester, New Hampshire is going to have to contribute, and how can we get it when it comes back, and whether we are going to be better off or become what is known as the famous donor towns?

SENATOR BELOW: I do not believe that there exists any analytical capability in this state or anywhere in the world to accurately project how much income tax would be paid out of the residents of a particular community, and also taking into the fact of employment location, such as people who work out-of-state who might generate income tax revenue for a particular community. Part of what is in the amendment, is a feature that directs that legislative budget assistant to acquire a complete set of tax policy and revenue forecasting and analytical software and data base development. So the state of the art analytical capability that would be made available to the DRA, administrative services and the LBA, so that we could analyze the impact of all kinds of tax options and tax policies and understand the incidents of the text where it falls by individuals, where it falls on communities and businesses. There is no answer to that question, I think at this point in time, except to recognize that in a given community, some people will pay more and some people will pay less. The income tax will... based on what they pay on their bill that they pay, on their income, the benefit that they receive from education, the bill that you earn on your income and that changes over your life cycle. Somebody who may pay more now, because they are making more money, may pay less in the future when they retire and their income is limited, and they are not paying a statewide property tax, or as much in local school taxes, so that over the life cycle, people pay less...more than less as their income goes up and down.

SENATOR J. KING: Senator Below, would you agree that there is a possibility that Manchester could become what is known as the donor town?

SENATOR BELOW: I don't believe so. I think that some individuals may pay more and some individuals may pay less. But because it is not based on the community of where you live, income is generated where you work, where you live, out-of-state, all over the place. So I don't think that it makes sense to look at it by a town by town basis.

SENATOR RUSSMAN: Senator Fred King, do you happen to have a comparison of the list of distribution of how this thing ended up going over to the Supreme Court, and what all of the towns were getting under that plan, and then how this actually affects that list, so that we could actually see the net gain or what have you, for these particular towns?

SENATOR F. KING: We have dozens of lists and I certainly have them in my office as you probably have. Do you mean the list of what the towns now receive under adequacy?

SENATOR RUSSMAN: What they receive and what we have already done so far, so that all of the towns kind of knew at one point or thought that they knew, what they were getting at one point, and how that would actually change?

SENATOR F. KING: The only change will be that the towns that receive a hardship grant will get additional money. The towns that do not receive a hardship grant will not get any less money.

SENATOR RUSSMAN: Senator King, so that is simply all that is in addition to what they already believe that they are going to be receiving, is that correct?

SENATOR F. KING: That is correct. As an example, Rochester, it gets one of the larger hardship grants, in addition to what they will be receiving out of adequacy, they will receive \$1.8 million additional dollars.

SENATOR RUSSMAN: Maybe you could tell me about Derry?

SENATOR F. KING: Well it is on your list. Page eight. Derry combined gets an additional \$2.3 million.

SENATOR RUSSMAN: Thank you.

SENATOR MCCARLEY: Senator King, just to make sure that I understand the math, Senator King. This plan has your wholehearted support, because after all of your incredible pointing arguments on this floor of how we were spending too much for education, spending \$3 million more than the \$827 has convinced you that this is a good idea?

SENATOR F. KING: I don't think that I ever said that we were spending too much money, I think that I said that we were spending it incorrectly. You are correct, I have said that we have spent it incorrectly. It is clearly unfair for a town like Amherst or Bedford to be receiving that money when Strafford was going to receive less money, and they had to come begging on their hands and knees to get enough to get them what they were getting before. So I have continued to maintain, and you will see from this distribution, that I am not just speaking for the towns in the North Country, because there are towns all over the state who have suffered from the formula that we have passed. This, I think, helps in some small way to make them whole.

SENATOR MCCARLEY: So are we in effect, spending more money on education than we voted in HB 117? Are we not basically moving our number up in terms of our concept of adequacy? That was my question.

SENATOR F. KING: I think that the answer is yes. I would be more than glad to reduce the...keep the \$825 where it is, if you would like to by reducing the grants to other towns, and provide the \$24 million to poor towns.

SENATOR BELOW: I have a couple of thoughts. One of them is that the program as proposed to be established, started at the beginning of the next biennium, 2002. So that it allows some time for review and refinement of the concept. The proposed funding is from an amount equal to 3 percent of the prior year's adequacy spending. So that is how this \$24.75 million is derived from. It simply does...the way that it is structured in the amendment, we do have copies of the amendment now which if the body would, I could distribute and walk through...

SENATOR GORDON: Senator King, I guess what I am trying to find out is exactly what the grants are for? I guess the question would be, is the grant for anything else other than the fact that the town is in economically deprived circumstances?

SENATOR F. KING: The grant is for those towns that have...are among the 20 percent of the lowest per capita income in the community, and those towns that are among the 20 percent that have the least amount of property value per student to support education, which is certainly an arguable definition of ability to pay and provide. That is what it does. It is exactly the same two concepts that were in the Augenblick and the Alternative Augenblick Formula. It is additional money to those towns that were having the most difficulty.

SENATOR GORDON: I guess that we have had this discussion many times, but I am trying to relate the money that is being raised in the hardship grants to improvement in education. I guess that what I would ask is that other than the fact that we are sending money to towns that have certain economic circumstances, how does the money relate to improving the quality of education?

SENATOR F. KING: You get the same benefit from that as you get from the \$824, you get the same security here as you get from that bill. If you are comfortable with that, you should be comfortable with this. If you are not comfortable with that, then you are not going to be comfortable with this.

SENATOR BELOW: I would like to respond to that as well as I can. I think that the way that it would work is this money would go to the towns actually rather than the school district to be used to offset the local school property tax. I think that what that does is...in these communities, it allows the taxpayers to look at their budget and make a decision, based a little bit more on what they think is appropriate for educational policy, and less on the fact that they simply can't afford their local school property tax, because the reality is, in places like Strafford, even with the adequacy funding we did, we actually would have raised their local school property tax rate, which is already among the highest in the state. It would free the towns up to be able to make, I think, a better judgement about what they're spending on education and investment on that education.

SENATOR GORDON: Senator Below, I guess what you said was a little bit troubling to me in that this has a lot of appeal to me, because my three largest towns receive a substantial amount of money. I have to tell you that politically, this has a great deal of appeal, but what I am trying to do is figure out in terms of policy, why we simply want to send

more money back to the communities for education in an educational spending bill, if it is going back to the towns, and no one can tell me how it is going to make one difference or one improvement in the quality of education that we are providing in the state.

SENATOR BELOW: I think that in somewhat the same manner as was intended in Augenblick, there were several factors in Augenblick, but three main factors, I think, were per capita income and property value per pupil. There was also a tax effort concept. Those were factors that said that we direct some of the state resources, in this case, 3 percent of our adequacy to the communities that have the greatest hardship in providing adequate resources to provide a good education. So that puts them on a more...not really a level footing, but it helps them on a little better closer footing...some of the more prosperous communities in terms of being able to support an investment in their education. I think that in a sense, that we need to do more on the state level to help support and encourage ways for them to achieve excellence in education and maintain an affordable costs for that we should do so. But at this point, this is directed to providing the resource base so that they are on a little closer footing to the other communities in terms of supporting education.

SENATOR F. KING: Along that vein, I believe that the question that Senator Gordon raises is the question that a lot of us have raised about the large amount of money, because we know now what is happening to that large amount of money in some communities. It is not necessarily being spent on education. This provides the more protection for that belief that that is where it should go, than we already have existing. The circumstances are exactly the same; however, I would believe that in the towns that I know of in my district, the money is more apt to be spent on education, because I think that there is an inherent greater need to spend it because they have less of an ability to provide it in the past. I think that it remains a local decision and we attempted at one time back in the spring to mandate that half of the money would go towards reducing property taxes, and we were unsuccessful in that concept. So the money will go to the towns and it will go in this case...a little bit more money will go to those towns who have the greatest need. How they spend it will continue to be a local issue just like it is in the terms of HB 117.

SENATOR GORDON: I guess that I am trying to figure out why we are making this a commitment over and above the \$825 million? And a follow up to Senator McCarley, and not including that in the amount on the basis that in fact, we are distributing this money in a manner which is more efficient and will have a greater benefit to the state as a whole than if we simply raise an additional \$24 million or however much it is over and above that \$825.

SENATOR F. KING: The answer is that because the towns on this list got shortchanged in the process. They were shortchanged in the debate. The poor towns, which was the basis of the lawsuit. Look on this list, you will find the five plaintiff towns receiving substantial increases of money. They are the ones who brought the lawsuit. The outcome of HB 117 was to send money on a per pupil basis to all the towns on an equal basis. It did not address the fact that some towns have less ability to provide education. This attempts to somehow make that a more...this whole process more fair to the people with the lowest ability to provide for education. That is all that this intends to do.

SENATOR MCCARLEY: I think unfortunately, the court decisions did not speak to the need of a town. Unfortunately, I think that many of us believe that the court decisions spoke to the state's obligation to fund an adequate education. I don't believe that poor towns were shortchanged. One of my towns, Senator King, is pointed out the additional money that my largest city gets on this. Yes, they get more money. It would appear that part of the legislation coming forward today has to do with buying people with more money. I can always support spending more money for education. I am prepared to say that I begged this body twice last spring, to attach to all of this, an accountability bill. I met with enormous resentment and hesitation to do anything about accountability. I met with it so strongly that I finally backed off and said okay guys, I will go with you and I will wait. We will deal with it next year. I didn't really want to do that, because we should have been dealing with it this year at the same time, so some of Senator Gordon and perhaps Senator King's issues would have been addressed. But instead, right now, what we are talking about is convincing people because their districts get more money. I like that too, I just hope the whole thing is a good idea... and this is the kind of time to be doing something this wholesale. I have understood...I thought that we were taking a recess and I could have gotten my question answered then, but we didn't take a recess, so in my typical fashion, I was rude and asked Senator Below quietly, when do the hardship grants go into effect? I guess that they are not until 2003. So now we have a situation...I could be wrong, but that is what I understood. So now we have a situation where we are talking about doing something like that in 2003, and we asked for a commission, and given it some ability...I serve on that commission and at least four others of you do. A commission to really look again at everything that we have done including how those dollars are distributed. But we are going to talk about legislation now. That kind of, to some degree pushes that aside, and we have to figure out a way to cram up. I just question if we aren't trying to do an awful lot of wholesale things on this floor today that are not overall going to be in our best interest. I understand the need for a decision right now. I absolutely understand the need to deal with something that carries us through June 30, 2001. I understand that this upcoming November, excuse me, next year November 2001, there will be an election to make a lot of different decisions if we want to. So I just hope that we think very carefully about what we are doing today. Thank you.

SENATOR SQUIRES: I rise in support of the concept of the hardship grant. I would ask you to turn to page 7. I will use an example of my district of the problem. This is an extension of what Senator Below said about the Augenblick approach. If you look at the town of Greenville, that is the fourth line down. You will see that it has a per capita income of \$16,781, and it has a property evaluation of \$115,061 per student. So a community in which the per capita income is \$16,781...it is trying to fund its education off of property value per student of \$115,061. Now you go down four more lines and you come to Hollis, you will see a per capita income of \$35,800, and for every student in the system, there is a property value of \$437,000. So in Hollis, the income is more than twice than what it is in Greenville, and the property value per student is approximately four times than what it is in Greenville. What that means, is that the adequacy grant, as we can conceive it, in the original bill, is satisfactory for Hollis, it doesn't need anymore money because it can afford

to move beyond the adequacy grant. Greenville cannot. Nor can the other towns on the list because they are trapped in the economics of per capita income and the property valuation. So the problem with moving up the number for all towns is illustrated there. If we did that, we move it to places that in effect...not that they don't need it, they can afford to do more. I think that every community wants to move past adequacy, whatever that is, they want to be better than that, they want to be excellent. So this approach, exemplified by this situation in my district...and these towns by the way, are about eight miles apart. Upon accident of geography, depending on where you are born, you have an enormous advantage in the educational system. The hardship grant attempts to address that issue. It won't level out the playing field, but it will even it somewhat, giving the children in Greenville a chance, if they wish to take it, to move beyond adequacy into something better. Thank you.

Senator F. King offered a floor amendment.

Sen. F. King, Dist. 1

Sen. Klemm, Dist. 22

Sen. Johnson, Dist. 3

1999-2163s

01/04

Floor Amendment to HB 109-FN-A-LOCAL

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

1 General Fund; Deposit of Undesignated Surplus into the Education Trust Fund for the Biennium Ending June 30, 1999.

I. Notwithstanding the provisions of RSA 9:13-e, the state treasurer shall deposit any general fund undesignated surplus as of June 30, 1999 into the education trust fund as established in RSA 198:39.

2 Estimate of General Fund Undesignated Surplus for Biennium Ending June 30, 2001; Lapses Adjusted. Amend 1999, 159:13 to read as follows

13 Estimate of General Fund Undesignated Surplus.

GENERAL FUND

(Dollars in Thousands)

	<u>FY 2000</u>	<u>FY 2001</u>
Balance, July 1	\$0	[\$(3,509)] \$1,491
Additions:		
Unrestricted Revenue		
Unrestricted Revenue-		
Net of Medicaid	961,148	1,003,757
Medicaid Enhancement		
Revenues	63,700	65,300
Uncompensated Care	<u>10,000</u>	<u>10,000</u>
Total Unrestricted		
Revenue	1,034,848	1,079,057
Appropriations:		
Gross Appropriations		
(Section 1)	1,064,842	1,093,465

	<u>FY 2000</u>	<u>FY 2001</u>
Legislative Specials	530	455
Footnote Reductions/ Adjustments	5,548	13,024
Reduction in Judicial Appropriation	<u>(4,563)</u>	<u>(4,480)</u>
Total Appropriations	1,066,357	1,102,464
Less Lapses	[(26,000)] (31,000)	[(26,000)] (31,000)
Lapse Percent	[2.44%] 2.90%	[2.36%] 2.81%
Net Appropriations	[1,040,357] 1,035,357	[1,076,464] 1,071,464
GAAP Adjustment	2,000	2,000
Current Year Balance	[(3,509)] 1,491	[4,593] 9,593
Balance, June 30	[(3,509)] 1,491	[1,084] 11,084

3 Phase-in Provisions Eliminated. Amend RSA 198:46, I to read as follows:

I. ~~[Except as provided in paragraph IV and RSA 198:48, VI,]~~ Municipalities for which the education property tax exceeds the amount necessary to fund an adequate education determined by RSA 198:40 shall collect and remit such excess amount to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

4 Sunset of State-Financed Public Education System. Each of the sections of 1999, 17 and 1999, 65 shall be without effect as of July 1, 2001, and the provisions of the Revised Statutes Annotated affected by such acts shall be hereby reenacted as they were in effect on the day before the provisions of such acts became effective. Such reenactment shall not affect any other amendments to any statutory provisions adopted in any other act of the legislature which becomes law.

5 Repeal. RSA 198:46, IV, relative to the phase-in of excess education property tax payments, is repealed.

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

1999-2163s

AMENDED ANALYSIS

This bill:

I. Provides that, notwithstanding the provisions of RSA 9:13-e, for the biennium ending June 30, 1999, the state treasurer shall deposit any general fund undesignated surplus into the education trust fund established in RSA 198:39.

II. Amends lapse amounts from the general fund undesignated surplus for fiscal years 2000 and 2001.

III. Repeals the phase-in of excess education property tax payments in the statewide property tax plan.

IV. Imposes a sunset date effective July 1, 2001 for the education funding laws enacted in 1999, 17 and 1999, 65.

SENATOR F. KING: Somehow I am a little confused, probably like everyone. We sort of got halfway into something and then I thought that we were going to deal with this amendment by amendment and discuss each amendment on its own merits, so I will attempt to call your attention back from the previous discussion that we have had, to amendment 2163s. This is an amendment to HB 109-FN. This amendment, as you

can see, is relatively short. It attempts to address two issues. The first one is the issue that has to be addressed. We thought that it had to be addressed last Friday by November 1, and now we think that it can be addressed by November 15, and perhaps by Thanksgiving, but we clearly have to address the bombshell that the court dropped on the legislature when it found the statewide property tax unconstitutional and presented us with a \$450-\$500 million problem. It attempts to do that. The other thing that it attempts to do is to right a problem that we have that resulted from the passage of the Senate budget, which is \$100 million in deficit. That is all that this intends to do. It does one other thing. If it passes, it will require the legislature to re-think the legislation that passed. It will allow the commission...the two commissions that have been established and they are now doing their work, an opportunity to perhaps make changes in the law that is present in the books. Clearly, if this state is to spend \$825 million or \$850 million on education, going forward, we simply are going to have to have a major new way of raising taxes. I call your attention to the three-page document that was passed out. Some of you have seen this, and some of you have heard me speak about it, and some of you are sick of hearing me speak about it, but this is going on the record today for this Senate action, and I want this to be on the record so that the person who sits in my seat in the future years, will know that at least somebody recognized the problem that has been created by this legislature. I have criticized over and over again, previous governors and previous legislators for not funding Augenblick, a law that they passed and refused to fund. It created the situation in which we have today, I believe. So I don't want the person who sits here to say how come somebody didn't talk about the problem of going forward? The first page of this is simply a projection of what will happen at the end of 2005 if we do nothing except allow the process that is in place to go forward. The bottom line tells it all, on the lower right hand corner. What we will have is a billion...\$147 million deficit. Those white lines in there is where we have to do something about raising some revenue if we are going to spend **TAPE CHANGE** If you look at the second page, it looks very much the same, but this is what would happen if we implement a capital gains tax. This is what a capital gains tax would do for us. It will get us a little bit further down the road obviously, but at the end of 2005 there would be an \$833 million deficit. So clearly, if we were to implement a capital gains tax, it doesn't raise sufficient money to solve the problem. The last page is something that is near and dear to my heart. It simply is a chart, and you can look at it at your leisure. What it shows is the gain in revenue, the percentage of gain in revenue for some towns versus another town, and it talks about where the growth is coming from. You can look at that at your leisure. We have three choices today. We can temporarily put our finger in the dike like the little person did in Holland years ago and wait for the dam to burst. That may be the right thing to do, as long as we recognize that is what we are doing. That is all that this bill will do. All that this bill does is reinstate the statewide property tax at \$6.60. It takes away the phase-in, which was the issue for the court. It puts back into effect, the statewide property tax, just as it is in 117 without the phase-in. The second thing that it does is to transfer \$31 million of surpluses that we now know that we have available from our 1999 fiscal operation. It reassesses phase-ins based on...it reassesses the issue of lapses, which we did extremely well with in this past year. So we are assuming a \$10 million availability of lapse money. By eliminating the phase-in, it generates

over the two-year period of \$48 million. So if you look at this handout, the handout that has all of the numbers on it, the key is on the back page. At the end of the biennium we would still have a \$9 million deficit instead of a \$100 million deficit. If a \$1.6 billion is what we are talking about, and this is within that allowable limit of realism. I don't think that anybody thinks that this is an exact science. So all that this does is to take care of the problem that we have with the courts. It would allow our towns to send out their tax bills, because I don't think that anyone believes that the court would find that the statewide property tax is unconstitutional without the phase-in, and it takes care of the deficit. It puts us back on an even course. The other thing that it does is it requires the legislature to act before July 1, 2001, because that is when everything will lapse. Everything will be gone. So the legislature has to readdress the issue and I know that they are going to do that. Some of the things that I want them to address is the issue of how we are going to cap the state's obligation going forward on the situation that we have with HB 117. We are talking about an \$825 million decision of spending decisions, increased capability in the community of spending money...and as they set their budget, it is going to influence our budget. And communities are going to spend that money. Public budgets are controlled by revenue, not by expenditures. I am not critical of towns that spend the money that we give them because for 40 years I have been involved in this process, first as a selectman, as a school board member in the county, and now in the state... and I will tell you that we spend all of the money that is available because we have needs. Towns have needs, they have needs for new buildings, they have needs for a variety of things, and the only reason that they don't spend more money is because they have to raise it out of property taxes. They have to go to a meeting and vote, in my town, to buy a new police cruiser or to do anything else. But if there is revenue available, that decision is easier. So there is going to be an increase in cost, and I think that it puts the state budget process in question, and we need to find a way to cap that somehow, realistically, we have to do that so that the future budget preparers of the state budget will know to some certainty of what the increased obligation to education is going to be. We need to also think about the perception of what we have done. I think that people believed that they were going to get tax relief from what we have done, and I think that it is not clear that that is happening, so I think that we need to think about that. We need to...I can't help but recite a telephone call that I had last night from a good friend of mine who used to live in the North Country and now lives down south here in New Hampshire. He called me because he is concerned about a capital gains tax. He definitely doesn't want that. In the conversation, I found out that he doesn't want an income tax. He also doesn't want a sales tax because that is going to hurt the businesses where he lives. He is not happy with his property tax either. It is not unlike the conversation that I have at coffee in the restaurant on a Saturday morning. I had to tell him, you are going to have to have something. If we are going to spend \$825 million, be prepared to do something. His comment was "let's have a constitutional amendment." I said, well you are probably going to get a chance to do that. His thought was that if you give them a constitutional amendment, and they get to vote on it, and it doesn't pass, then I guess they will have to suffer whatever we decide to do to them. I think that...I would hope that we would find a way to get us to that point where the citizens can vote in November of 2000 on a constitutional amendment, allow the legislature that is

unfortunate enough to come here in January 2001, an opportunity to deal with that result, and this amendment sets that timetable in place. I am very satisfied with the progress that the legislature has made on this issue. I think that everybody who has worked on it should be commended. I am very surprised that we still talk to each other when we meet each other in the hall. But it is a very complicated issue, and it is a very political issue. We all represent different constituencies and towns, and they all have different needs and different abilities to do things, and we are elected to represent them and at the same time we have to look out for the state's interest. I think that we have done a good job. I am not critical of where we are, but I don't think that we are there yet. I don't think that any of us think that we are there yet. So this amendment allows us to get there. It doesn't impose any new taxes. Hopefully, it will get this report off of our backs, at least temporarily, and it will take care of the deficit that we created when we passed a bill that wasn't balanced by \$100 million. Thank you.

SENATOR MCCARLEY: Senator F. King, I do notice in this that there isn't any room, relatively speaking, for sort of a circuit breaker concept that has been discussed, and I am wondering if you are open to understanding dollars or issues, the possibility of an amendment to deal with some sort of circuit breaker that would apply across the state for people who are impacted unusually harshly by the reinstatement of the statewide property tax?

SENATOR F. KING: I think that the answer is yes. The reason that it is not in there is because there is no money to do that. We talked a lot about that. We have all thought a lot about that, but at one point I was going to eliminate the \$9 million deficit by taking \$10 million out of the rainy day fund, and I found that that wasn't a popular concept. In order to create a meaningful circuit breaker, we would have to do one of two things. Either reduce the \$825 million by some percentage and have every town in the state take a hit on that, so my town would get the same hit as your town, percentage wise, and that would generate some more money if we could do that or find some new way to raise some extra money because it simply... I will tell you that I have spent months trying to figure out where the money could come from, and we don't have it to do anything with. I think that the thing we would be faced with immediately... and I tried, as you know, I was talking about \$775 million instead of \$825 million, and I was going to send some money back to the poor towns, but I realize now that that would fly in the face of the court decision that we have enough trouble with the difference between \$843 and \$825 over there and if we tried to reduce the \$825 we would have another adverse opinion from the court, everybody tells me that so...

SENATOR MCCARLEY: But your feeling is that if there was any way with some language that worked, you would be willing to consider that?

SENATOR F. KING: Absolutely.

SENATOR MCCARLEY: A follow up question, would you believe that I received similar phone calls. The people that called me yesterday were actually living in my district, and they pointed out how severely they hated a capital gains tax and an income tax. The only thing that they wanted was a constitutional amendment to get the court out of this?

SENATOR PIGNATELLI: I just want to speak briefly. We hear a lot of people bashing the court system. Senator King just said that we have a problem with the court. We don't have a problem with the court. We have a problem with ourselves. Thank you.

SENATOR F. KING: I want to take that statement back. I apologize. I didn't intend to say that. We have a problem as a result of the decision by the court. We have the \$400 million. I have never questioned the court's position. I think that they answered the question that they were asked accurately and continue to do so. So I want to make that clear. We do have a problem because of what they said, as the result of what they said. I don't know about you, but \$450 million is a problem to me.

SENATOR MCCARLEY: I informed these people, sorry, the one thing that your state Senator is never voting for is that kind of constitutional amendment. I am trying to say what people out there are telling us. That is the concern.

Recess.

Out of Recess.

SENATOR SQUIRES: I begin my remarks here by complimenting Senator King for this effort. No one has worked more diligently, nor with a degree of integrity than he has in the last year to address this problem nor in fact, better represented his constituents. I admire that. I cannot vote for the bill however, for four reasons. First of all, it extends the misery of the property tax, which is part of the problem that brought us here in the first place. The reason that I say that, is that in this bill the property tax rate is for each year, \$6.60, which raises over the two-year period \$884 million. The alternative approach, the property tax, starts out at \$5.50 and drops to \$5 the second year, and so over the biennium, it raises \$703 million, which means that there is a \$181 million less being required from the property taxpayer, which the mechanism, being one, that we all agree, is onerous. So my first observation about the amendment in front of us is it prolongs the period for which this...it prolongs the degree of hardship that this tax inflicts in a manner that we all understand. My second concern is that at the end of the year 2001 the amendment before us, on page two, indicates a deficit of \$9,268,000. We are in the red. Also we have consumed all of the \$30 million this year that should be going back to the health care fund and the rainy day fund. The alternative approach in its most conservative estimate, produces a \$28 million surplus at the end of this period, and returns the money to the health care fund and the rainy day fund. The point of view of economics and government planning, trying to look ahead, is far better to budget for a surplus than it is for a deficit. My third point is and it has been expressed in various ways, we need more time. It is not the right time. There is some time problem. I rise to remind you that the last time that the general fund revenues in the state of New Hampshire met, the general fund expenditures was 1990. That would have been the era to address this problem. The problem was addressed by the disproportionate share arrangement and known by some as the med-a-scum, which was a windfall. Since 1990, virtually this entire decade, the state of New Hampshire has been operating on the presumption that our uncle will give us lots of money. We have managed to just get by because of the largess of this approach, which is now about to end, although it is much reduced, there is still some this year. Even now the general fund revenues are not covering the general fund expenses. In 1995, Douglas Hall wrote this paper. *An Analysis of Spending and Revenues*; it is about the general fund problems. He talks about this, this is four years ago. There is a structural problem in the revenue stream of the state of New Hampshire because the present system, which is this multiplicity of narrowly based taxes is being asked to solve broad based problems, particularly the crimi-

nal justice system. As recently as 1982, the population in the prison was three hundred and something, now it is 2000. Four hundred times. Now nothing, no revenue stream as we have in New Hampshire, can deal with that. We have been able to do it because of the shift of the local property tax to offset the rise in public education, largely due to the increase in the number of students. That population is growing about 2.5 percent a year, although in some areas, especially where I live, it is growing faster. So I am here to say that it is time that we fix the structure. It would have been time about five years ago, but we didn't. Indeed we did not fund the Augenblick Formula, which got us here in the first place because of the structure, we couldn't afford it. My final point is, point four, that the amendment asks us to believe that in the year 2001 there will be sufficient pressure for the legislature to act. The argument being that if there is pressure, the legislature acts. That is a big assumption. We had a lot of pressure in April when the court's deadline ran out and we ignored it. We have a lot of pressure today and what are we doing? Nope, we can't solve it, put it off for two-years, as if some more new data, some more information, some more revelations will come forth about the tax structure of New Hampshire, all of which has been known for a decade. I do not believe that the legislature acts well under pressure. Quite the contrary. The forces that are in this amendment set up a situation... and as for the sunset, I don't have confidence that the legislature will necessarily sunset this. What I see as the situation in two-years from now is sort of working, there is some grumbling, but it is sort of ok, and we will continue the property tax adherent in this bill. Maybe not at the same rate, but we will continue it. We will perpetuate the system, which I for one think is unfair. It has served its day, and it does not serve us anymore in this new era, but we will perpetuate it because we don't have the will to change it. If there is a time to change it, it is now. So for those reasons, for the respect of Senator King and a gratitude for his work, I can't vote for this amendment. Thank you.

SENATOR BROWN: No one likes taxes. The least like taxed is a property tax. Eighty percent of our citizens said that whatever we do, don't do that. I have a tremendous respect and appreciation for Senator Fred King's work. I think that he has put a lot of time and thought into his bill and I am sorry that I have to stand up in opposition to it. The statewide property tax is a vicious and destructive tax. A friend of mine from Pittsfield, one of the plaintiff towns, just the other night told me that she had received her property tax bill and she was furious. She went to her town hall and demanded to know what the statewide property tax was, \$7.70 per thousand? That is right. In one of the plaintiff towns and in one of the poor towns, the receiver towns, the statewide property tax was \$7.70. How can that be? The clerk handed her a booklet that explained how the education portion of her property tax was equalized so that everyone was at 100 percent. That accounted for the different rate. But I am here to tell you that she was not the least bit pleased. Some of us warned about this when the tax was being debated, and it is obvious that the Municipal Association foresaw this problem and prepared this booklet. Property taxes are the most onerous tax that government can impose. They take from your equity. They put at risk the ability to own your own home, and they threaten the American dream. When you increase property taxes, you don't just collect more money, you also reduce the value and the equity of that property, especially when they are excessive. Donor towns will not only pay more taxes, they will see the erosion of their property values. I might say that the poorer towns have had

this happen to them with their excessively high property tax rates. The wealth will decline. There is a direct correlation between property values and property tax rates. Remember that the total tax base is what determines the rate, as the tax base shrinks, the rate grows. If the tax base expands, the rates drops. That is why a town can reappraise property and reduce the rate. Sounds great doesn't it? Values increase so there is more to collect the taxes from, but the individual property owner may actually pay higher taxes even with the lower rate, because their property has been appraised at a higher value. Why is the solution to the Claremont lawsuit to tear down our wealthy communities? Wouldn't it make more sense to build up our poorer communities? The statewide property tax does the opposite, it defies common sense and logic. The statewide property tax is a shell game. We have taken the same tax dollars and reclassified them as state rather than local taxes. Now local property owners don't get to vote directly on the spending of those property tax dollars, the legislature decides. How long will it be before our citizens figure this out? Perhaps at their next school budget meetings. That is not the worst of it, the towns will look with a careful and jealous eye at each other. Donor towns will want to increase their spending in hopes to remove their donor status. Receiver towns will go on spending sprees with this newfound free state money and try to remain receiver towns. There is no incentive to reduce the property tax and expand the economic base, and thus lower tax rates. Why would you do that when the result is you become a donor town too. Is this what we intended to do to New Hampshire, pit town against town and create disincentives to economic growth and reduce the hard earned equity of people's property, confuse and anger our citizens with a confiscatory tax that threatens their ability to own their own home. The statewide property tax must go before the receiver towns get hooked on the donor town's money. Before the damage is so great to our economy that we can't recover, and before New Hampshire bears the terrible stigma of the property tax capital of the nation. Live in New Hampshire and pay higher and higher property taxes with no end in sight. You may say that there aren't that many donor towns, in your district, well you just wait, shortly there will be lots more donor towns, and the state rate will be so high that even the receiver towns will be screaming. Now is the time to rid New Hampshire of this terrible tax forever. Thank you.

SENATOR COHEN: I too am going to start by praising Senator Fred King, which of course means that I am not going to vote for his bill. It really is an honor to work with Fred King. Fred you know how much I enjoy working with you. I have a tremendous amount of respect for you. Tremendous integrity and very hard working for the people of the North Country. Man of great principle and, I am not going to vote for this amendment. The overriding issue that we face today is whether to ensure that the state will and can fulfill its constitutional obligation to provide all children with an adequate education beyond the next election. Some insist that no matter what we do, the Claremont issue will drag through the courts for years; therefore, they say that as long as we make sure that the money doesn't run out during this biennium, we will have fulfilled our responsibility. Short of doing nothing at all, I can't imagine what else we could do to increase the risk of further litigation than to adopt another interim solution. I also believe that so long as we rely excessively on property taxes to pay for public schools, disparities of opportunity and achievement will continue to haunt our educational, as well as our tax system. Inequity and injustice will continue to plague us. I happen to serve some of the towns that are targeted right now. As

Senator Brown mentioned, in the not to distant future, other towns will also be targeted. Let me tell you, I see the faces of the people that live there. Middle class, lower income people who cannot be hit harder. People who have happened to have bought their houses, say in 1950 for maybe \$5,000. Now it is worth a lot more, a tremendous amount more, they are going to be hit really hard. To them, \$500 or so is a big deal. It makes a real difference. These are the people that I talk to. The people who are scared of us instituting an open-ended statewide property tax. Then again there are other people, top executives who have done well, who can spend \$400-\$500 on taking a couple of people out to dinner and who can spend \$1500 on a suit or more. It doesn't matter to them. This is not right. We have an opportunity to do something about this, to solve this thing fairly, to get some money to the towns quickly, and to serve the people of New Hampshire in a way that they expect them to be served. As the Supreme Court has reminded us a year ago that the legality of the school funding system has been the subject of litigation for the past 27 years. The time for interim solutions has passed. Thank you.

SENATOR D'ALLESANDRO: I rise in support of Senator Fred King's amendment, but I praise Clifton Below for the effort that he has made. I think that it has been exemplary. He gave me a lesson today that I missed in my Algebra class when I was at the university, and I appreciate that very much. Certainly the time and effort that he spent on this piece of legislation has been extraordinary. I also compliment Senator McCarley, because I don't think that anyone in this body has given the kind of effort towards education that she has. I represent a district in which there are 20,000 students K-12. They are all waiting for a solution. I represent the city of Manchester and the town of Goffstown. They are waiting to know what is going to happen with the tax bills. I realize that an interim solution may not be acceptable to a lot of people, but an interim solution is acceptable to me in light of the fact that we have two commissions in place that are looking at the long-term solution, both on the adequacy side and the financing side. I know that 20,000 kids have to go to school tomorrow and the next day and the next day, and their education is vitally important to me. I think that we have made enormous strides educationally. In the area that I represent, we finally have a realistic budget that deals with adequately educating our students and taking it to the next level. We have done that. This legislative body has done that. House Bill 117 certainly wasn't perfect, but it was a step in the right direction. I will support this amendment because it provides another step in that right direction, giving us an opportunity to take further giant steps as we move forward. I will not let those 20,000 students go without what they deserve. I stand here today to say that the solution proposed is an acceptable one to me. I want to be positive and I want to vote for something, and I will do that. Thank you very much.

SENATOR LARSEN: I think that we all recognize that what is the floor amendment that is before us today is an interim temporary solution, and in fact, it is an obvious answer to solve the immediate problems of the state. Everyone that has looked at the numbers forecasting costs into the future knows that it is truly an interim solution to buy us time. I will not be voting for this amendment because, while it creates an interim solution, it does not allow for the kind of circuit breaker which would allow people in donor communities who are facing the kind of hardship that might result in the loss of their homes, the kind of hardship that

might result in them choosing to give up their homes, or not to be able to live well this winter because they have to pay their property tax in one short month of notice. A circuit breaker can solve that. We have plans to bring in an amendment for a short term fix if the income tax does not pass, we have plans to bring in what is a short term fix. I think that all of us recognize that we have to stabilize the financial needs of cities and towns and schools. But if we do that and if we do go for a short term fix, which I am not necessarily advocating, it needs to be a compassionate one, and so you will see a floor amendment to follow the income tax vote which includes a circuit breaker, which would allow for one-year review of people's taxation levels, and those who are under true hardship that is caused by statewide property tax would be able to have their needs met through this process. So you will not see me voting for this, although I recognize that we must act on something quickly.

SENATOR GORDON: I just want to say that I share the sentiments that were expressed this morning by Senator King. Almost in their entirety, but basically they come to a different conclusion. When we passed HB 117, we passed it with the understanding that there would in fact be a mechanism in place so that a hardship would not be placed upon certain communities. That has developed into 43 communities, which we collectively refer to as the donor towns. That was an integral part of the bill at the time. When the Supreme Court reviewed the matter recently, and ruled that HB 117 and the property tax was unconstitutional, they made that exact determination. They said that you can't really take that mechanism for avoiding immediate payment away from the rest of the towns from the bill because it was an integral part of the bill. When we recognized at the time when HB 117 was passed, that it wouldn't be fair to impose that immediate burden on those towns. Now we come to a situation where we are about to vote again, and what we are saying it is fair. I haven't come to that conclusion yet because I don't think that it is fair. There is some rationale to it, and I think that we all agree that the heavy reliance on property tax is what put us where we are today. Basically, I think that most of us agree that this heavy reliance on the property tax system has created inequity. We have done some things to correct that inequity by applying a statewide tax, but rather than making it a fair tax, what we have done, is we have made it uniformly unfair for everybody in the state. I think that is wrong. I don't think that we can continue to rely on the statewide property to do that. I am concerned that this is a temporary plan that inevitably will turn into a permanent plan because the legislature will not have the political will to make the tough decisions in the future, no more than it has the political will to make the tough decisions up to this point. I am concerned that if we continue to have this statewide property tax in place, that it will an engine and it will be an engine that is immediately available to be started and cranked up at any time that we need to raise more money. That \$6.60 that we see today, next year will be \$7 and after that it will be \$8 and after that \$9, and people will be asking us all, where was that property tax relief? I can tell you that there are 43 towns that may be affected today, but there are a number of towns, many towns that are on the cusp that will be affected if that were to be raised at any extent. This again, is a temporary solution. What we need is a permanent solution and we need to address that. Let's not put this off anymore. Let's come up with something that works in the long term. While I agree with Fred King and almost every single frustration that he has expressed in

regard to what we have done today, I don't agree that just simply instituting a statewide property tax is going to solve our problem. I am going to vote against this amendment and I urge others to do so as well.

Recess.

Out of Recess.

SENATOR RUSSMAN: I rise in support of my colleague from the North Country. We aren't always on the same page on the issues, but one of the things that I enjoy most about Senator King is that he is a pragmatist and I believe that I am too, and I try to take a practical approach to solving problems. I think that what I have tried to commit myself to do and I realize that we can all come up with reasons not to vote for this thing or that thing or what have you...and it is tough to come up with reasons to vote for some of these things, because really none of them are really very palatable. I said to someone this morning, a fella called me last night and I called him about six o'clock this morning, and he is on the school board over in Hampstead, Rich Little. I told him what I had decided to do was to keep voting yes on everything until something passes, because I don't know what other approach to take to it, because in order to get the problem solved, we have to move the ball down the court. I think that we don't know what the future is going to hold, but we know that we have to do something, and that every shot that we get at this point, I think, that we need to do that. I will be supporting Senator King's amendment.

SENATOR F. KING: I just want to make the record clear that never have I said that a statewide property tax is the way to fund education. As a matter of fact, I voted against HB 117 because of its heavy dependence on the statewide property tax. This amendment, whether it passes or doesn't pass, is only designed to do one thing; to allow the schools to continue operating because that is the crisis that we are facing. If we don't do something, and there may be something better later on and I might vote for it, but we have to do something. There has been no interest in doing anything other than saying no, so I believe that we have to offer something positive that is simple and won't create a problem for us in the court, take care of our deficit, and allow us to reconsider everything. That is all that this does. I want the record to show that I think that a statewide property tax is a lousy way to fund education. Thank you.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator F. King.

Seconded by Senator Klemm.

The following Senators voted Yes: F. King, Johnson, McCarley, Trombly, J. King, Russman, D'Allesandro, Klemm.

The following Senators voted No: Gordon, Fraser, Below, Disnard, Roberge, Fernald, Squires, Pignatelli, Francoeur, Larsen, Krueger, Brown, Wheeler, Hollingworth, Cohen.

Yeas: 8 - Nays: 15

Floor amendment failed.

Senator Below offered a floor amendment.

Sen. Below, Dist. 5

Sen. Squires, Dist. 12

1999-2166s

03/09

Floor Amendment to HB 109-FN-A-LOCAL

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

AN ACT establishing a flat rate education income tax, repealing the statewide property tax and certain other taxes, and relative to other sources of funding for education.

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

1 Findings. The general court finds that:

I. New Hampshire's excessive reliance on the property tax as the primary source of funding for public education should be substantially reduced by replacing the statewide education property tax with an education income tax that is a more equitable, stable, efficient, and reliable source of revenue for funding the state's duty to provide an adequate education for the school children of the state.

II. A uniform standard exemption of income from the education income tax for all taxpayers and dependents is a just, reasonable, and proportionate means to assure that each taxpayer has the ability to earn a minimal subsistence level of income before being subject to the burden of income taxation, and that single heads of households are an appropriate class of people for whom an additional modest exemption from the education income tax is just and reasonable.

III. To promote industry, frugality, and a positive work ethic, a modest exemption from the education income tax on income earned by dependents is just and reasonable.

IV.(a) Communities with low per capita income and low property values as compared to those communities with high per capita income and high property values will greatly benefit from certain enhanced hardship grants in addition to the adequate education grants;

(b) There are advantages available to school children due to higher income and property values in certain communities and that a substitute for these advantages should be provided to children in low per capita income and low property value communities;

(c) Hardship grants are appropriate in order to more nearly provide children in low per capita income and low property value communities with the opportunities generally available to school children in more affluent communities.

V. As revenue from the education income tax grows in excess of requirements for funding adequate education grants and hardship grants, the utility property tax, the tax on rental of motor vehicles, and the increase in the rate of the business profits tax and business enterprise tax, all of which were dedicated to the education trust fund should be phased out and eliminated at the earliest reasonable date to be determined by future legislative action.

VI. As New Hampshire enters the 21st century, modern tax policy and revenue forecasting and analysis software should be acquired and made available to the legislature through the legislative budget assistant.

VII. With the removal of the phase-in provisions under this act, the education property tax under RSA 76:3 and the utility property tax under RSA 83-F are constitutional and reaffirmed as law under this act.

2 New Chapter; Education Income Tax. Amend RSA by inserting after chapter 76 the following new chapter:

CHAPTER 76-A

EDUCATION INCOME TAX

76-A:1 Definitions. In this chapter:

I. "Consumer price index" means the consumer price index for all urban consumers published by the United States Department of Labor.

II. "Department" means the department of revenue administration.

III. "Education trust fund" means the education trust fund established in RSA 198:39.

IV. "Individual" means a natural person.

V. "New Hampshire modified gross income" means New Hampshire modified gross income as determined in RSA 76-A:3.

VI. "New Hampshire taxable income" means New Hampshire taxable income as determined in RSA 76-A:3.

VII. "Nonresident individual" means an individual who receives wages, self-employment, or unearned income for the taxable year from sources in this state, who maintains his or her domicile outside the state.

VIII.(a) "Resident fiduciary" means:

(1) The executor or administrator of the estate of a decedent who at death was domiciled in this state;

(2) The trustee of a trust created by will of a decedent who at death was domiciled in this state;

(3) The trustee of a trust created by, or consisting of property of, a person domiciled in this state;

(4) The trustee of a trust the property of which includes a business organization as defined in RSA 77-A:1, with business activity in New Hampshire as defined in RSA 77-A:1; or

(5) The trustee of a trust that has at least one beneficiary who is a resident individual, where, in the case of an individual, the trustee of the trust is a resident of New Hampshire or, in the case of a corporation or other business entity, has a place of business in New Hampshire.

(b) "Resident fiduciary" shall not include the trustee of any trust which is taxable as a corporation under the United States Internal Revenue Code, a trust to the extent it is considered to be a grantor trust pursuant to sections 671-679 of the United States Internal Revenue Code, and the trustee of a tax-qualified retirement plan under section 401(a) of the United States Internal Revenue Code.

IX. "Resident individual" means:

(a) An individual domiciled in the state; or

(b) An individual who maintains a permanent place of abode within the state and spends more than 183 days of the taxable year within the state.

X. "Taxable year" means the calendar or fiscal year or portion thereof which the taxpayer uses for federal income tax purposes under the United States Internal Revenue Code.

XI. "Taxpayer" means any individual or fiduciary subject to the provisions of this chapter.

XII. "Unearned income" means any income which is not wage or self-employment income, including but not limited to capital gains, allocations of income from S corporations, partnerships, limited liability companies or other similar entities, dividends, interests, rents, and royalties.

XIII. "United States Internal Revenue Code" means the United States Internal Revenue Code of 1986 as amended. The forms, procedures, and regulations of the United States Internal Revenue Service may be used

by the commissioner of revenue administration in formulating rules for adoption under RSA 541-A. This definition shall be operative unless and until a specific statutory exception to its adoption is provided in this chapter, or until the application of one of its provisions is held to violate the New Hampshire constitution.

76-A:2 Imposition of Tax. A tax is imposed upon every resident and nonresident individual and upon every resident fiduciary at the rate of 4 percent of New Hampshire taxable income as determined in RSA 76-A:3.

76-A:3 New Hampshire Taxable Income.

I. "New Hampshire taxable income" means, for any taxable year:

(a) In the case of a resident or nonresident individual, the individual's New Hampshire modified gross income, as defined in paragraph II of this section, less the following:

(1) An exemption of \$11,000 for the taxpayer and an additional exemption of \$11,000 for the taxpayer's spouse if a joint return is made, provided that the taxpayer or spouse is not claimed as a dependent on another taxpayer's federal income tax return or New Hampshire income tax return; and

(2) An additional exemption of \$3,000 for each dependent to which the taxpayer is entitled for federal tax purposes under the United States Internal Revenue Code, provided that the dependent is not claimed as a dependent on another person's federal income tax return or New Hampshire income tax return. A person who is claimed as a dependent under this subparagraph and who has earned income from wages, self-employment income, or farm income which is taxable under this chapter, shall be entitled to an exemption of \$3,000 of such earned income on that person's New Hampshire income tax return; and

(3) An additional exemption of \$3,000 for a taxpayer entitled to a head of household status for federal tax purposes under the United States Internal Revenue Code.

(b)(1) In the case of a resident fiduciary, the amount shown as total taxable income on the fiduciary's United States fiduciary income tax return:

(A) Increased by:

(i) Any interest or dividend income on obligations or securities of another state of the United States; and

(ii) Any interest or dividend income on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempted from the federal income tax; and

(B) Decreased by interest on, and dividends on securities attributable to the interest on, the direct obligations of the United States government.

(2) For a resident fiduciary with at least one beneficiary that is not either a resident individual or another resident fiduciary, the amount of income derived by application of subparagraph (1) shall be multiplied by a fraction, the numerator of which is income properly accumulated for the benefit of resident individuals or resident fiduciaries and the denominator of which is all income property accumulated.

(c) The amount of the exemptions allowed under this paragraph shall be in place for the first year of the tax only. The commissioner of revenue administration shall increase the exemption amounts allowed in each succeeding year by an amount which equals the percentage increase in the consumer price index for a prior annual period established by rule by the commissioner, and rounded to the nearest \$10.

II. "New Hampshire modified gross income" means, for any taxable year, the amount of the taxpayer's adjusted gross income for federal income tax purposes under the United States Internal Revenue Code:

(a) Decreased by:

(1) Interest on, and dividends on securities attributable to interest on, the direct obligations of the United States government;

(2) The amount of income taxable under this chapter which is also taxed as business profits under RSA 77-A; and

(3) The amount of capital gains income directly derived from sales of timber subject to taxation under RSA 79.

(b) Increased by:

(1) Any interest or dividend income on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempted from the federal income tax; and

(2) Any interest or dividend income on obligations or securities of another state of the United States.

76-A:4 Tax; When Due. Subject to the provisions of this chapter concerning the withholding of tax and estimated tax declarations, the tax imposed by this chapter shall be deemed to be assessed and due and payable on the fifteenth day of the fourth month following the close of the taxpayer's taxable year.

76-A:5 Credits. The following credits are allowed against the tax due under this chapter:

I. Taxes withheld pursuant to the provisions of this chapter.

II. Estimated tax payments made pursuant to this chapter.

III. In the case of a resident individual, a credit calculated by:

(a) Calculating the wages, self-employment income, and unearned income of the individual earned or derived from sources in another state and subject to income tax or a tax measured by income in that state;

(b) Reducing the amount calculated in subparagraph (a) by the portion of the taxpayer's claimed exemptions which bears the same relationship to the taxpayer's total claimed exemptions, as the amount calculated in subparagraph (a) bears to the taxpayer's New Hampshire modified gross income; and

(c) Multiplying the amount calculated in subparagraph (a), as reduced in subparagraph (b), by the rate of tax provided in RSA 76-A:2.

IV. In the case of a nonresident individual, a credit calculated by:

(a) Reducing the taxpayer's New Hampshire modified gross income by the amount of wages and self-employment income earned by the taxpayer in New Hampshire and the amount of unearned income from New Hampshire sources;

(b) Reducing the amount calculated in subparagraph (a) by the portion of the taxpayer's claimed exemptions which bears the same relationship to the taxpayer's total claimed exemptions, as the amount calculated in subparagraph (a) bears to the taxpayer's New Hampshire modified gross income; and

(c) Multiplying the amount calculated in subparagraph (a), as reduced in subparagraph (b), by the rate of tax provided in RSA 76-A:2.

Returns

76-A:6 Returns.

I. Every resident individual and nonresident individual having New Hampshire modified gross income greater than the exemption amounts provided in RSA 76-A:3, I and every resident fiduciary shall make a return to the department of revenue administration under such rules and in such form or manner as the commissioner may prescribe, on or before the due date of the tax as provided in RSA 76-A:4.

II. A husband and wife who are both residents or who both earn wages or self-employment income from sources within New Hampshire shall file a joint return for any taxable year for which such a joint return is filed for United States income tax purposes.

III. Whenever any return shows that overpayment allowable to the taxpayer exceed the amount of tax due, the department shall certify the amount of overpayment to the state treasurer for refund from the education trust fund created by RSA 198:39 or shall allow the taxpayer a credit against taxes due for a subsequent year, to the extent of the overpayment, at the taxpayer's option.

76-A:7 Information Returns. Each individual, partnership, limited liability partnership corporation, limited liability corporation, proprietorship, joint stock company, association, insurance company, business trust, real estate trust, or other form of organization, organized for gain or profit, being a resident or having a place of business in this state or being a non-resident having income derived from sources subject to tax under this chapter, in whatever capacity acting, including lessors or mortgagors of personal property, fiduciaries, employers, and all officers and employees of the state or of any political subdivision of the state, having the control, receipt, custody, disposal, or payment of salaries, wages, rentals, or other compensation or income subject to the provisions of this chapter paid or payable during any year to any taxpayer subject to a tax under this chapter shall on such date or dates as the department shall from time to time designate, make complete return thereof to the department, in such form as the department may prescribe.

Withholding of Tax

76-A:8 Who Must Withhold. Every employer as defined by section 3401(d) of the United States Internal Revenue Code of 1986, as amended, employing any person within this state shall deduct and withhold upon wages paid to said employee, a tax equal to 4 percent of such wages less claimed exemptions, subject, however, to the provisions of RSA 76-A:11.

79-A:9 Time for Payment of Withheld Taxes and Filing Withheld Taxes Returns.

I. Every employer required to deduct and withhold any tax under RSA 76-A:8 shall make a quarterly return thereof to the department on or before the fifteenth day of the first calendar month following the calendar quarter for which the return is made. However, a return may be filed on or before the last day of the first calendar month following such quarter if timely deposits have been made in full payment of such taxes due for the quarter.

II. Every employer shall pay over to the department, or to a depository designated by the department, the taxes so required to be deducted and withheld at the same time that such employer is required, under federal income tax law and regulations, to pay over federal taxes that are required to be deducted and withheld from wages to employees.

III. The department may, if such action is necessary in any emergency where collection of the tax may be in jeopardy, require such employer to make such return and pay such tax at any time, or from time to time.

76-A:10 Employer's Liability.

I. Each employer required to deduct and withhold tax under this chapter shall be liable for such tax. In the event an employer fails to withhold and pay over to the department any amount required to be withheld under RSA 76-A:8, the department shall assess such amount against the employer.

II. The amount of tax required to be deducted and withheld and paid over to the department under this chapter, when so deducted and withheld, shall be held to be a special fund in trust for the state. No employee or other person shall have any right of action against the employer in respect to any moneys deducted and withheld from wages and paid over to the department in compliance or in intended compliance with this chapter.

76-A:11 Use of Withholding Tables. At the election of the employer, the employer may deduct and withhold a tax determined on the basis of tables to be prepared and furnished by the department, which tax shall be substantially equivalent to the tax provided in RSA 76-A:8 and which shall be in lieu of the tax required in such section.

Estimated Tax Declarations

76-A:12 Filing of Declarations.

I. On the fifteenth day of the fourth month of the current taxable year every resident individual, nonresident individual, and resident fiduciary, except as provided in paragraph II, shall furnish the department with an estimate of such portion of such person's New Hampshire taxable income for the current taxable year as will not be subject to the withholding provisions of this chapter.

II. The provisions of paragraph I are not applicable to resident individuals and nonresident individuals who reasonably anticipate receiving less than \$11,000 of New Hampshire taxable income which will not be subject to withholding during the current taxable year, or to taxpayers receiving their income from farming as defined by the United States Internal Revenue Code of 1986, as amended. The provisions of paragraph I are not applicable to resident fiduciaries who reasonably anticipate having a tax obligation under this chapter of less than \$440.

76-A:13 Payment of Estimated Tax. Each taxpayer required to file an estimated tax declaration shall include with the declaration of estimated income, payment of not less than 25 percent of the tax due thereon. Thereafter, on the fifteenth day of the sixth and ninth months of the taxable year, the taxpayer shall pay not less than 25 percent of the tax due upon said estimated income or any revised estimate thereof. The fourth installment of estimated tax shall be paid on the fifteenth day of the first month following the close of the taxable year for which the estimate was made.

Miscellaneous Provisions

76-A:14 Extension of Time for Returns. For good cause, the department may extend the time within which a taxpayer is required to file a return or declaration and if such return or declaration is filed during the period of extension no penalty or late payment charge may be imposed for failure to file the return at the time required by this chapter, but the taxpayer shall be liable for interest and late payment charges as prescribed in RSA 21-J:28 and RSA 21-J:33. Failure to file the return during the period of the extension shall void the extension.

76-A:15 Administration.

I. This chapter shall be administered and enforced by the commissioner of revenue administration. The commissioner shall adopt rules, under RSA 541-A, necessary to insure the proper administration of this chapter which shall be consistent with the provisions of RSA 21-J:13.

II. The commissioner shall appoint such additional technical, clerical, and other personnel as the commissioner shall deem necessary to carry out the provisions of this chapter.

III. The department of revenue administration shall collect the taxes, interest, and penalties imposed under this chapter and RSA 21-J and shall

pay them to the state treasurer less the administrative and enforcement costs of this chapter. The state treasurer shall deposit the remaining amount in the education trust fund established in RSA 198:39.

IV. The commissioner may institute actions in the name of the state to recover any tax, interest on tax, or the penalties imposed by this chapter and RSA 21-J, as part of the commissioner's authority to administer this chapter and to administer and enforce the tax laws of this state generally under RSA 21-J.

V. In the collection of taxes imposed by this chapter, the department may use all of the powers granted to tax collectors under RSA 80 for the collection of taxes, and it has all of the duties imposed upon the tax collectors by RSA 80 including the optional tax sale procedure under RSA 80:58-86. The following shall also apply:

(a) The provisions of RSA 80:26 apply to the sale of land for the payment of taxes due under this chapter, and the state treasurer is authorized to purchase the land for the state.

(b) If the state purchases the land, the state treasurer shall certify the purchase to the governor and the governor shall draw a warrant for the purchase price out of any money in the treasury not otherwise appropriated.

VI. The commissioner shall have the authority to subpoena witnesses, records, and documents, as needed, and to administer oaths to those testifying at hearings. The department and the taxpayer may take the depositions of witnesses residing within and without the state pertaining to a matter under this chapter, in the same way as depositions are taken in civil actions in the superior court.

76-A:16 Fees. Fees of witnesses shall be the same as those allowed to witnesses in the superior court. In the case of witnesses summoned by the commissioner, it shall be considered as an expense of administration of this chapter.

76-A:17 Notice. Any notice required by this chapter to be given by the department to a taxpayer shall be made by mail to the last known address of the taxpayer and in the case of hearings shall be given at least 10 days before the date thereof.

76-A:18 Preference. The taxes and interest imposed by this chapter have preference in any distribution of the assets of the taxpayer, whether in insolvency or otherwise.

76-A:19 Dissolutions, Withdrawals, and Statements of Good Standing.

I.(a) No employer organized under any law of this state may transfer property to its shareholders pursuant to RSA 293-A:14.05(a) or to its members and managers pursuant to RSA 304-C:58 until all taxes required to be withheld by the employer under this chapter, and any interest and penalties that related thereto, have been fully paid and a certificate of dissolution shall have been obtained from the commissioner of revenue administration that no returns, tax required to be withheld, tax interest, or penalties for taxes administered by the department are due and unpaid.

(b) In order to transfer property to its shareholders pursuant to RSA 293-A:14.05(a) or its members or managers pursuant to RSA 304-C:58, an employer shall submit a written request containing the complete corporate or limited liability company name and identification number and accompanied by a non-refundable fee of \$30 to the commissioner of revenue administration. This fee shall be deposited into the general fund. If, after reviewing the employer's records, the commissioner determines that no returns, tax required to be withheld, in-

terest, or penalties for taxes administered by the department are due and unpaid, the commissioner shall prepare a certificate in accordance with subparagraph (a).

II. In order to obtain a statement for withdrawal, in accordance with RSA 293-A:15.20(b)(6) or RSA 304-C:68, an employer shall submit a written request containing the complete employer name and identification number and accompanied by a non-refundable fee of \$30 to the commissioner of revenue administration. This fee shall be deposited into the general fund. If, after reviewing the employer's records, the commissioner determines that no returns, tax required to be withheld, interest, or penalties for taxes administered by the department are due and unpaid, the commissioner shall prepare a statement for withdrawal for the purposes required under RSA 293-A:15.20(b)(6) or RSA 304-C:68.

III. In order to obtain a statement that it is in good standing with the department of revenue administration, an employer shall submit a written request containing the complete employer name and identification number and accompanied by a non-refundable fee of \$30 to the commissioner of revenue administration. This fee shall be deposited into the general fund. If, after reviewing the employer's records, the commissioner determines that no returns, tax required to be withheld, interest, or penalties for taxes administered by the department are due and unpaid, the commissioner shall prepare a statement of good standing.

76-A:20 Liens for Tax.

I. If any employer required to deduct and withhold a tax under this chapter neglects or refuses to pay the same after demand, the unpaid amount, including any late payment charge and interest together with any costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to such employer. Such liens shall arise at the time assessment and demand is made by the department and shall continue until the liability for the full amount of the lien is satisfied or becomes unenforceable. Such lien against personal property shall be valid as against any subsequent mortgagee, pledgee, purchaser, or judgment creditor when notice of such lien and the sum due has been placed on record by the department with the secretary of state and in the office of the town clerk where the taxpayer resides. Such lien against real property shall be valid as against any subsequent mortgagee, pledgee, purchaser, or judgement creditor when notice of such lien and the sum due has been placed on record by the department with the register of deeds for the county in which the property subject to the lien is situated. In the case of any prior mortgage on real or personal property so written as to secure a present debt plus future advances by the mortgagee to the mortgagor, the lien herein provided, when notice thereof has been properly recorded, shall be subject to such prior mortgage unless the department also notifies the mortgagee in writing of the recording of such lien, in which case any indebtedness thereafter created from mortgagor to mortgagee shall be junior to the lien herein provided for.

II. The lien created by paragraph I shall be released upon satisfaction of the amount of the lien or upon a finding by the commissioner that the lien has become unenforceable, or if there is furnished to the department a bond with surety approved by the department in a penal sum sufficient to equal the amount of the lien, said bond to be conditioned upon the payment of the amount of the lien upon a final determination or adjudication of the employer's liability therefor.

III. The lien created by paragraph I may be foreclosed in the case of real estate agreeably with the provisions of law relating to foreclosure of mortgages on real estate, and in the case of personal property agreeably with the provisions of law relating to the foreclosure of security interests in personal property.

IV. To secure payment of the taxes, fees, charges, and interest imposed by this chapter and RSA 21-J, the department may avail itself of any other provision of law relating to liens for taxes.

76-A:21 Additional Returns. When the commissioner has reason to believe that a taxpayer has failed to file a return or to include any part of New Hampshire modified gross income in a filed return, the commissioner may require the taxpayer to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received, within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the taxpayer of any penalty for failure to make a correct original return or relieve the taxpayer from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify or extend the statute of limitations provided in RSA 21-J:29.

76-A:22 Corrections. Each taxpayer shall report to the commissioner any change in the amount of the taxpayer's New Hampshire modified gross income as finally determined by the United States Internal Revenue Service with respect to any previous year for which the taxpayer has made a return under this chapter. Such a report shall be made not later than 6 months after the taxpayer has received notice that such change has finally been determined. Notwithstanding any other provision of law, a taxpayer reporting a correction pursuant to this section shall be given notice by the department of any adjustment to the tax due with respect to such correction within 6 months of the filing of the report.

76-A:23 Taxpayer Records.

I. Every taxpayer shall:

(a) Keep such records as may be necessary to determine the amount of the taxpayer's liability under this chapter;

(b) Preserve such records for the period of 3 years or until any litigation or prosecution hereunder is finally determined;

(c) Make such records available for inspection by the commissioner or authorized agents, upon demand, at reasonable times.

II. Whoever violates the provisions of this section shall be subject to the penalties imposed under RSA 21-J:39.

76-A:24 Severability. If any provision or provisions of this chapter, is or are declared unconstitutional or inoperative by a final judgment, order, or decree of the supreme court of the United States or of the supreme court of New Hampshire, the remaining provisions of said chapter shall not be affected thereby.

3 Education Property Tax. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of \$5.50 on each \$1000 of the value of taxable property for the April 1, 1999 to March 31, 2000 tax period, and the uniform rate of \$5.00 on each \$1,000 of the value of taxable property for the April 1, 2000 to March 31, 2001 tax period, is hereby imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F.

4 What Taxes Assessed. Amend RSA 76:5 to read as follows:

76:5 What Taxes Assessed. The selectmen shall seasonably assess all state and county taxes for which they have the warrants of the [~~commissioner of revenue administration~~] **state** and county treasurers respectively; all taxes duly voted in their towns; and all school and village district taxes authorized by law or by vote of any school or village district duly certified to them; and all sums required to be assessed by RSA 33.

5 Information Required. Amend RSA 76:11-a, I to read as follows:

I. The tax bill which is sent to every person taxed, as provided in RSA 76:11, shall show the rate for municipal, [~~local education, state education,~~] **school**, and county taxes separately, the assessed valuation of all lands and buildings for which said person is being taxed, and the right to apply in writing to the selectmen or assessors for an abatement of the tax assessed as provided under RSA 76:16. The department of revenue administration shall compute for each town and city the rates which are to appear on the tax bills and shall furnish the required information to the appropriate town or city.

6 Reference to Interest and Dividend Tax Deleted; Education Income Tax Added. Amend RSA 72:34, II to read as follows:

II. For those exemptions having income or asset limitations, the assessing officials may request true copies of any of the following, as needed to verify eligibility. Any documents submitted shall be considered confidential, handled so as to protect the privacy of the applicant, and returned to the applicant at the time a decision is made on the application. The documents are:

- (a) Federal income tax form; and
- (b) [~~State interest and dividends tax form; and~~
- (c) Property tax inventory form filed in any other town; **and**
- (c) **Education income tax form.**

RSA 359-C shall not apply to the documents requested for verification under this section.

7 Adjustment to Business Profits Tax; Reference Changed. Amend RSA 77-A:4, I to read as follows:

I. In the case of a business organization which is subject to taxation under RSA [~~77~~] **76-A**, a deduction of such amount of gross business profits as is attributable to income which is taxable or is specifically exempted from taxation under RSA [~~77~~] **76-A**.

8 Education Trust Fund. Amend the introductory paragraph of RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities' school districts pursuant to RSA 198:42 **and to provide relief from the local school property tax and to otherwise fund the state's duty to cherish the interest of public schools as defined in statute.** The state treasurer shall deposit into this fund immediately upon receipt:

9 Transfer Tax; Rate. RSA 78-B:1, I(b) is repealed and reenacted to read as follows:

(b) The rate of the tax is \$.50 per \$100, or fractional part thereof, of the price or consideration for such sale, grant, or transfer; except that where the price or consideration is \$4,000 or less there shall be a minimum tax of \$20. The tax imposed shall be computed to the nearest whole dollar.

10 Education Trust Fund; Tobacco Settlement Funds. Amend RSA 198:39, I(i) to read as follows:

(i) Tobacco settlement funds in the amount of [~~\$40,000,000~~] **\$20,000,000** annually.

11 New Subparagraph; Education Income Tax Revenues; Education Trust Fund. Amend RSA 198:39, I by inserting after subparagraph (k) the following:

(1) The net revenue from the education income tax from the department of revenue administration pursuant to RSA 76-A:15, after deducting the necessary costs of collection and administration including taxpayer refunds under RSA 76-A:6, III.

12 Cross-Reference; Phase-in Provisions Eliminated. Amend RSA 198:46, I to read as follows:

I. [~~Except as provided in paragraph IV and RSA 198:48, VI,~~] Municipalities for which the education property tax exceeds the amount necessary to fund an adequate education determined by RSA 198:40 shall collect and remit such excess amount to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

13 Tax Equity and Efficiency Commission. Amend 1999, 17:55, V as amended by 1999, 281:14 to read as follows:

V. The commission shall study issues arising under this act **and other tax-related legislation enacted in 1999 or 2000** relating to tax fairness and administrative implementation which may be appropriate for further legislative action, as well as other aspects of fairness and efficiency in the funding of public education. The commission shall also study and recommend changes in policy, procedure, financing, and governance in cooperative school districts, including how the cost of an adequate education should be determined, apportioned, and credited within cooperative school districts. **As part of its study, the commission shall consider:**

(a) The most appropriate means for evaluating the following types of property for taxation purposes:

- (1) Utility property.
- (2) Railroad property.
- (3) Nuclear station property.

(b) The income tax treatment of pension payments received in lieu of social security payments, pension payments from pensions to which the taxpayer's contributions to the pension were previously taxed, and military pensions.

(c) The proper income tax treatment of military personnel on active duty residing out-of-state.

(d) Whether items of personal income under the Internal Revenue Code, such as certain capital gains, which are currently taxed under RSA 77-A, the business profits tax, can and should instead be taxed under RSA 76-A, the education income tax.

(e) Whether there can and should be a targeted exemption of capital gains from investments in New Hampshire businesses from the education income tax under RSA 76-A.

(f) Whether there can and should be a targeted exemption of capital gains, the proceeds of which are used for necessary medical services.

14 Tax Equity and Efficiency Commission; Final Reporting Date Extended. Amend RSA 1999, 17:55, VII to read as follows:

VII. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 31, 1999, [~~and~~] on or before March 31, 2000, **and on or before December 1, 2000.**

15 Cooperative School Districts; Adequate Education Grants. Amend RSA 195:7, I to read as follows:

I. If a cooperative school district was organized prior to July 1, 1963, during the first 5 years after the formation of a cooperative school district each preexisting district shall pay its share of all capital outlay costs and *all* operational costs *in excess of the amount determined necessary to provide an adequate education under RSA 198:40, I(a)* in accordance with either one of the following formulas as determined by a majority vote of the cooperative district meeting:

16 Cooperative School Districts; Certification of District Taxes; Adequate Education Grants. Amend RSA 195:14, I (b) to read as follows:

(b) The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum, in accordance with RSA 21-J:35, which may be used as a setoff against the amount appropriated when it appears to the commissioner of revenue administration such adjustment is in the best public interest. *The commissioner of the department of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42.*

17 Cooperative School Districts; Certification of District Taxes Amended. Amend RSA 195:14, I (c) to read as follows:

(c) The commissioner of revenue administration shall certify to the state department of education the total amount [~~to be apportioned among the pre-existing school districts. Such total shall include the adequate education cost for the district under RSA 198:38, XII, and the amount above the cost of an adequate education to be assessed and collected as local educational taxes]~~ *of taxes to be raised for the support of the cooperative school district.*

18 Cooperative School Districts; Certification of District Taxes; Determination of Proportional Share Amended. RSA 195:14, I (d) is repealed and reenacted to read as follows:

(d) The state department of education shall determine the proportional share of said taxes to be borne by each preexisting school district and notify the commissioner of revenue administration of its determination.

19 Cooperative School Districts; Educational Adequacy Grant Computation Amended. Amend RSA 195:15 to read as follows:

195:15 State Aid. The state aid to which a cooperative elementary and/or secondary district shall be entitled shall be the total of those shares of the aid to which the pupils attending the cooperative district would have entitled the pre-existing districts, had they remained in the pre-existing districts. [~~For the purposes of crediting the cooperative district's adequate education cost to the pre-existing districts, each such pre-existing district shall have its adequate education cost under RSA 198:38, XII credited against its share of the cooperative school district budget. However, cooperative school districts formed by 2 or more pre-existing districts whose boundaries approximate those of a single township in which they are located shall be treated as a single school district for the purposes of this section].~~

20 Cooperative School Districts; Formation procedures; Computation of Adequate Education Grants. Amend RSA 195:18, III (e) to read as follows:

(e) The method of apportioning [~~the~~] *all* operating expenses *in excess of the amount determined necessary to provide an adequate education under RSA 198:40, I(a)* of the cooperative school district

among the several preexisting districts and the time and manner of payment of such shares. Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II shall not be included in the average daily membership relative to apportionment formulas.

21 Cooperative School Districts; Formation Procedures; Adequate Education Grant Apportionment Amended. Amend RSA 195:18, IX to read as follows:

IX. The organization meeting of a cooperative school district shall be called to order by the chairperson of the cooperative school district planning board, or by the clerk-treasurer thereof, who shall serve as temporary chairperson for the first order of business which shall be the election of a moderator and of a temporary clerk, by ballot, who shall be qualified voters of the district. From and after the issuance of the certificate of formation by the board to the date of operating responsibility of the cooperative school district, such district shall have all the authority and powers of a regular school district for the purposes of incurring indebtedness, for the construction of school facilities and for such other functions as are necessary to obtain proper facilities for a complete program of education. When necessary in such interim, the school board of the cooperative school district is authorized to prepare a budget and call a special meeting of the voters of the district, which meeting shall have the same authority as an annual meeting, for the purpose of adopting the budget, making necessary appropriations, and borrowing money. Whenever the organization meeting is held on or before April 20 in any calendar year, no annual meeting need be held in such calendar year. Sums of money raised and appropriated at the organization meeting or any interim meeting prior to the first annual meeting shall be forthwith certified to the commissioner of revenue administration and the state department of education upon blanks prescribed and provided by the commissioner of revenue administration for the purpose, together with a certificate of estimated revenues, so far as known, and such other information as the commissioner of revenue administration may require. The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum which may be used as a setoff against the amount appropriated when it appears to the commissioner such adjustment is in the best public interest. ***The commissioner of the department of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42 as a setoff against the amount appropriated.*** The commissioner of revenue administration shall certify to the state department of education the total amount of taxes to be raised for said cooperative school district and the state department of education shall determine the proportional share of said taxes to be borne by each preexisting school district and notify the commissioner of revenue administration of its determination. Upon certification by the commissioner of revenue administration the selectmen of each town shall seasonably assess the taxes as provided by law. The selectmen shall pay over to the treasurer of the cooperative district such portion of the sums so raised as may reasonably be required according to a schedule of payments needed for the year as prepared by the treasurer and approved by the cooperative school board, but no such payment shall be greater in percentage to the total sum to be raised by one local district than that of any other local district comprising such cooperative school district.

22 New Subdivisions; Hardship Grants; Taxpayer Disclosure and Protection; Per Pupil Adequate Education Cost Containment. Amend RSA 198 by inserting after section 49 the following new subdivision:

Hardship Grants

198:50 Hardship Grant Calculation and Distribution.

I. Starting in fiscal year 2002 the department of revenue administration shall compute 3 percent of the statewide cost of an adequate education for the prior fiscal year, which product shall be the total amount available for distribution as hardship grants, and shall be known as the hardship grant pool.

II. The hardship grant for each eligible municipality shall be calculated by the department of revenue administration and distributed as follows:

(a) An income factor shall be computed for each municipality by dividing the municipality's per capita income average by the statewide per capita income average.

(b) A property wealth factor shall be computed for each municipality by dividing the municipality's equalized assessed value by the municipality's average daily membership in residence, and then dividing by the statewide equalized assessed value per average daily membership in residence.

(c) A hardship factor shall be computed for each municipality by summing the income factor and property wealth factor and dividing the resulting product by 2.

(d) The hardship grant pool shall be divided by the total number of average daily membership in residence in all municipalities with a hardship factor $< .80$, which yields the gross hardship grant per pupil amount.

(e) The gross hardship grant per pupil amount shall be adjusted for each municipality to produce a net hardship grant per pupil amount which decreases as the hardship factor approaches $.80$.

(f) Each municipality with a hardship factor of $< .80$ shall receive a hardship grant equal to the net hardship grant per pupil amount times the municipality's average daily membership in residence.

III. The hardship grant shall be used to reduce the local school property tax rate of each municipality receiving the same.

IV. The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the implementation of this subdivision.

Taxpayer Disclosure and Protection

198:51 Taxpayer Disclosure and Protection.

I. The department of revenue administration shall annually calculate for each municipality the percentage decrease in local school property taxes resulting from the provision of the adequate education grant, hardship grant, if any, and the amount of other state aid for education. The department of revenue administration shall also annually calculate the local school property tax rate for each municipality as if no such grants or other aid had been provided.

II. The department of revenue administration shall provide to every municipality by October 30 in each year:

(a) A statement of the total amount of the adequate education grant, hardship grant, if any, and the amount of other state aid for education provided to the municipality;

(b) The percentage decrease in school local property taxes resulting from provision of such grants and other state aid to the municipality; and

(c) The local school property tax rate that would have applied in the municipality but for the provision of such grants and other state aid.

III. In addition to the other information required by law, every property tax bill issued in every community shall contain the information specified in paragraph II(a)-(c) in substantially the following format:

“Your local school property tax bill has been reduced by _____ percent because of education funding in the sum of \$ _____ provided by the State of New Hampshire. Your local school tax rate would have been \$ _____ per \$1,000 if your municipality had not received the state aid.”

Per Pupil Adequate Education Cost Containment

198:52 Per Pupil Adequate Education Cost Containment.

I. Notwithstanding any other provision of law to the contrary, the per pupil expense of an adequate education as computed in paragraph II, shall not increase in any given fiscal year by an amount in excess of the percentage increase in the consumer price index as defined in RSA 76-A:1, I for the most immediate prior calendar year ended, provided that, for the fiscal year 2002 only, the increase shall be equal to the total of the percentage increase in the consumer price index for the 2 immediate prior calendar years ended.

II. The per pupil expense of an adequate education for purposes of paragraph I shall be computed by dividing the sum of the statewide cost of an adequate education under RSA 198:40, III for the prior fiscal year by the average daily membership in residence for that fiscal year.

23 General Fund; Deposit of Undesignated Surplus into the Education Trust Fund for the Biennium Ending June 30, 1999.

I. Notwithstanding the provisions of RSA 9:13-e, the state treasurer shall deposit up to \$31,000,000 of general fund undesignated surplus as of June 30, 1999 into the education trust fund as established in RSA 198:39.

II. If there is a surplus in the education trust fund on June 30, 2001, the first \$31,000,000 of such surplus shall be transferred to general fund surplus on June 30, 2001.

24 Education; School Money; Excess Education Property Tax Payment; Maintenance of Local Control. Amend RSA 198:46 to read as follows:

198:48 Maintenance of Local Control. Distributions under RSA 198:42 depend only on weighted average daily membership in residence and the per pupil adequacy cost amounts as determined in this subdivision and are independent of how the [municipalities] *school districts* decide to spend the distributions or other funds they may raise for education. Notwithstanding any other provision of law, nothing in this subdivision is intended in any way to limit or control how school districts operate or spend their budgets, *except that adequate education grants must be expended for educational purposes. Adequate education grants and hardship grants shall not be considered unanticipated funds under RSA 198:20-b. In determining the local school property tax rate, the commissioner of revenue administration shall apply the total amount of adequate education grants received by school districts as a setoff against the amount appropriated in the officially approved budget.*

25 Repeal.

I. RSA 77, relative to taxation of incomes.

II. RSA 77-B, relative to the commuter income tax.

III. RSA 78:32, relative to distribution of tobacco tax revenues.

IV. RSA 261:52-a, relative to notice that the interest and dividends tax may be due.

V. RSA 391:3, relative to the taxation of common trust funds under RSA 77.

VI. RSA 198:39, I(d), relative to tobacco tax revenues deposited in the education trust fund.

26 Repeal.

I. RSA 86, relative to the taxation of legacies and successions.

II. RSA 78-B:13, relative to distribution of funds.

III. RSA 198:39, I(e), relative to real estate transfer tax funds deposited in the education trust fund.

IV. RSA 198:39, I(i), relative to tobacco settlement funds deposited in the education trust fund.

V. RSA 198:39, I(k), relative to general funds appropriated to the education trust fund.

VI. 1999, 281:4, relative to apportioning the costs of an adequate education within a cooperative school district.

VII. RSA 281:12, relative to the definition of state aid for educational adequacy.

27 Repeal. The following are repealed:

I. RSA 198:46, IV, relative to the phase-in provisions for excess education property tax payments.

II. 1999, 17:1, VI, relative to the purpose of the phase-in provisions.

28 Repeal. The following are repealed:

I. RSA 76:3, relative to the state education property tax.

II. RSA 76:8, relative to the commissioner's warrant.

III. RSA 76:9, relative to the commissioner's report.

IV. RSA 198:46, I-III, relative to excess education property tax payments.

V. RSA 198:47, relative to forms for reporting and remitting excess education property tax.

29 Tax Policy Simulation and Forecasting Models. The legislative budget assistant shall acquire, through a consulting firm, a complete system of tax policy simulation and forecasting models for the state of New Hampshire, including all necessary database development and training. The system shall include (1) an individual income tax model; (2) a sales and excise tax model; (3) a property tax model; (4) a business tax model; (5) a dynamic revenue estimating model; and (6) a multi-tax incidence model. The legislative budget assistant shall draw on existing sources of funds within its budget to pay for this system. The department of revenue administration and the department of administrative services shall cooperate with the legislative budget assistant and its consultant in the development of databases for the model and copies of the delivered software system, and training in its use, shall be made available to the department of revenue administration and the department of administrative services.

30 Effective Date.

I. Sections 2, 6-8, and 11 and 25 of this act shall take effect January 1, 2001.

II. Sections 4-5 and 28 of this act shall take effect April 1, 2001.

III. Sections 9, 15-21, and 26 of this act shall take effect July 1, 2001.

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

1999-2166s

AMENDED ANALYSIS

This bill establishes a flat rate education income tax.

This bill reduces the rate of the statewide education property tax through March 31, 2001 and repeals the tax on April 1, 2001. The bill eliminates the excess education property tax payment phase-in provisions upon passage.

The bill establishes a hardship grant program.

The bill repeals the interest and dividends tax and legacies and successions tax and reduces the rates of certain other taxes.

The bill provides that, notwithstanding the provisions of RSA 9:13-e, for the biennium ending June 30, 1999, the state treasurer shall deposit any general fund undesignated surplus into the education trust fund established in RSA 198:39.

This bill extends the final reporting date of the tax equity and efficiency commission.

This bill also provides that the department of revenue administration shall credit all adequate education grant payments to the cooperative school district as a whole for the purpose of determining the amount of taxes to be raised to support the cooperative school district.

SENATOR BELOW: This floor amendment offers both an interim solution and a permanent solution. I believe that...or I hope that in our heart-of-hearts, that the majority of this legislature realizes that this offers a viable, equitable, sustainable, fair, permanent solution. Some people say, have said, that a crisis is not the time to try to do a long-term solution and that we should fix the problem for the interim and get through the crisis, and then consider our options for the long-term. But for far too many years, biennium's, decades, this legislature has chosen to put off the question of what **TAPE CHANGE** of support for government and for public education. So year after year we have had temporary tax increases that become temporary tax increases for year after year, and we continue to struggle with a mixture of narrow based taxes that create all sorts of inequities and unfairness. Let me just walk you through the amendment, because I know that people have not had time to look at it and I appreciate your indulgence. I also appreciate the various kind remarks and attitude of respect that has been offered throughout the body here today, because I think that everyone is here trying to do their best. Everyone is acting in good faith, I believe. The first page, the findings, make some broad statements. The first one is the only one that I will read because I think that it is the fundamental issue. It says that "New Hampshire's excessive reliance on the property tax as the primary source of funding for public education should be substantially reduced by replacing the statewide education property tax with an education income tax that is more equitable, stable, efficient and reliable source of revenue for funding the state's duty to provide an adequate education for the school children of the state." I would observe that I think that there is a very important role for the local school property tax, which is to make up the difference in what the voters choose to expend in their overall budget. So that maintains a local accountability, a direct local burden that people experience when they vote to adopt their budget and to increase their budget. The next couple of findings relate to the rationale for the standard exemptions in the income tax. The finding IV on line 21 a, b & c, pertain to the rationale for the hardship grants that Senator Fred King has described, and c is sort of the bottom line. The hardship grants are appropriate in order to merely provide children in low per capita income and low property value communities with the opportunities generally available to school children in more affluent communities. The purpose is to try and level the playing field a little bit more. Number V is a statement of intent. It recognizes that as revenue from the education income tax grows, as is reasonable to expect, in excess to the funding requirements that the utility property tax, the tax on the rental of motor vehicles and the increase in the rate of the busi-

ness profits tax, and the business enterprise tax, could be phased out and eliminated as contributions to the education trust fund and altogether the source of revenue. VI recognizes that as we enter the 21 century, it is time for the legislature to acquire modern tax policy and revenue forecasting software, so that we can make better evidence base decision making with an objective source of analysis. Finally, VII provides that with the removal of the phase-in that we affirm the constitutionality and the legislative effect of the education property tax and the utility property tax, which are for only the interim two-year duration. Section two of the bill, starting at line nine, is the text concerning the education income tax. This is very similar to what we saw last spring, so I am not going to go over that in details. It runs for nine pages, not too bad for a major new tax. I would call your attention on page three on the bottom, line 31. That is the standard exemption for the taxpayer and additional exemption of \$11,000 for the spouse. Line 35 has an exemption for dependents. On the bottom of page four, just so you understand this, the tax base on this education income tax is the federal adjusted gross income. It is modified, it is decreased by three items. On line 31, interests on obligations of the United States government, which we can't tax under federal law. Second, the amount of taxable income that is taxed is business profits, under RSA 77-a, so that there is no double taxation. We do include...we do tax items of personal income under the federal code, such as capital gains, business profits for sole proprietorships, partnerships under the business profits tax, this allows the credit, no double taxation. Line 35 provides that the amount of capital gains income directly derived from the sale of timber, subject to the 10 percent timber severance tax is also deducted from the tax base, not double taxed. Skipping on to page 11, because of a lot of this is just the administration of the income tax and we have been over it before, and it is nothing really new. On page 11, line 25, section three of the bill, the education property tax. It is reenacted at a rate of \$5.50 for the current year and \$5 for next year. Later in the bill it is repealed as of April 1, 2001. Sections four and five of the bill at the bottom of the page, it is just adjustments on other statutes of the property tax if it is repealed, I think. State property tax is repealed, we just have to change some other references. Section six is again, just an adjustment that comes about when the income tax is implemented. Section seven right now, is significant, presently interest and dividends which are subject to tax under the interest and dividends tax are exempted out of the business profits tax. This continues that if there is interest in the dividends that are subject to the education income tax that are exempted out of the business profits tax. There is a revision, and the purpose of the education trust fund on line 27 and 28 to make it conform with the proposed constitutional amendment that will be offered later, such is that the education trust fund is in addition to distributing adequate education grants as to provide relief from local school property tax and otherwise fund the state's duty to cherish the interest to public schools. Sections nine and ten, I think, just pertain to adjustments to the education trust fund as other taxes are repealed. Nine is the lowering of the real estate transfer tax to what it used to be, which will be effective July 1, 2001. Section 11 on the top of page 13, simply provides that the Department of Revenue can take out the cost of collection administration, including taxpayer refunds, before remitting the balance of the income, the net revenue from the education income tax to the education trust fund. Section 12 eliminates the phasing which the court found unconstitutional. Section 13, line 12 pertains to

having the tax equity and efficiency commission examine some issues that they are not currently charged with related to the income tax. That is particularly at line 26, b, c, d, e and f to have that commission deal with several issues that we never came to a conclusion on how they should be treated. This would examine those. Pensions, certain type of pensions that maybe we should consider how they are treated to ensure the most equity. The treatment of military personnel on active duty residing out of state. Whether certain items such as capital gains, whether we should have targeted exemption of capital gains or the capital gains that are taxed from the business profits tax can and should be taxed under the education income tax. This unconstitutional question should be examined there and whether they can and should be a targeted exemption of capital gains, the proceeds of which are used for necessary medical services. Sometimes people realize capital gains because they have to go into a nursing home for instance. Section 14 of the bill, line 6 extends the final reporting date for the tax equity and efficiency commission to December 1, 2000 so that they could take these issues and consideration before the education income tax goes into place. I am going to skip over sections 15-21 and go up to page 16 that are just some corrective language on the cooperative districts, such that once the statewide property tax is repealed and the income tax in place and there is no statewide property tax, the education adequacy grants go directly to the cooperative district rather than the preexisting school districts cause that makes sense, I believe. Although it is still a question that would be examined by the two commissions in the meantime. Page 16, line 15 is the next section of the bill. Section 22. This sets up the hardship grant program as well as the two other programs that are really all sort of a package. I just want to walk you through them. The first is the hardship grant and there is the taxpayer's disclosure and protection provision and then there is also per pupil adequate education cost containment provision. At line 20, the hardship grant starts in fiscal year 2002, computed at 3 percent of the total adequate education cost for the prior fiscal year. Section II on line 24 describes and outlines the methodology for calculating this. It takes two factors, the income factor, the property welfare factor, property wealth per pupil per capita income, and it takes the average of those two factors in communities that have less than 80 percent of the state average for property wealth per pupil and per capita income and are the ones that can take advantage of the hardship grant program. The top of page 17 outlines the concept that this would be distributed or weighted towards the communities that have the most hardship, and it would slope down so that it approaches zero to those that were at the cusp, so there is not that cliff issue of a slight change in your position creating a big effect in what you receive. That probably needs to be flushed out. I think that we should recognize this as something of a placeholder. It certainly is something that education adequacy commission would take a closer look at and review before it gets implemented. Line 7, there is a provision that the hardship grant shall be used to reduce the local school property tax rate of each municipality receiving the same. So it would end up as a direct credit against that local school property tax. The next section, at line 11, is the taxpayer disclosure and protection provision. I think that Senator Brown should receive tremendous credit for helping us fill up this idea, and Senator Krueger. I think that everyone who has gotten a chance to consider this considers this an excellent idea. It is hard to understand these budgets, and what we are doing in Concord for the average taxpayer. It is some-

what mystifying to many of us, I think, but this is trying to make it real for people. What this does is provide that the DRA, when they calculate tax rates for communities, they do it two ways. The way that the adequacy grants are figured now, they are counted as revenue against the voter approved budget, and then the DRA calculates the amount that needs to be raised, net of the revenues that a school district receives and computes the local school tax. This would have them compute it both ways, with and without the state adequacy and hardship grants. So what the taxpayer will get to know is what is coming to their school district from the state so that they can take that into consideration when they vote on the budget and how it is going to affect their local property tax rate. So if the state is funding half of the cost of education and the tax rate, absent the tax funding, would be \$20 per thousand, and the state funds half of that cost and as a result, the tax rate is \$10 per thousand, that will show up in the bill, and people will see that the state is funding the equivalent to 50 percent of their local property tax. I think that will be very important in terms of maintaining the accountability in the system so that if property tax rate...well there will be this sort of attitude of well gee, we are getting this money from the state, we can spend it and the property tax rate isn't going to go down or it doesn't go up. But sure... look at the total effect. People will be able to see that if they increase spending by 50 percent, that they would have had a \$30 rate instead of a \$20 or \$10 rate. The next section is at line 34, the per pupil adequate education, cost containment provision. This is a new concept. It stipulates that notwithstanding any other provisional **TAPE INAUDIBLE** to the contrary, the per pupil expense of an adequate education as computed in paragraph II, the next paragraph, shall not increase in any given fiscal year by an amount in excess of the percentage increase in the consumer price index from the previous year. Meaning... and section two defines that. You take the total adequate education costs and divide it by the total number of pupils, that is the average spending per pupil. That is limited to inflation, the consumer price index. There is a provision to allow increasing it by two years from the beginning of this biennium to the beginning of the next biennium, and then that gets multiplied out by the number of pupils as the number of pupils grow we have a cap on the amount that we are going to fund direct into the total budget for adequate education. Now, part of the purpose of this is so that as we get our feet on the ground, as we sort out for the long-term, what really is the state's role as the adequacy commission does its work in defining and coming up with new formulas for an adequate education, as we look at our role and building costs for the interim, at least or for the indefinite future, or until the legislature makes another decision to the contrary. We have a budget path that we can work under. The sheet that I gave out earlier presumes that. It presumes that between 2001 and 2002 the adequacy number grows by two years with the per pupil growth and two years worth of inflation, which is assumed to be about 5 percent per year and 10 percent total. I think the actual number has been running about 4.5 percent. Inflation plus per pupil growth. But this assumes 10 percent in 2002, and it assumes another 5 percent increase in 2003. Proceeding on...section 23 of the bill, line 9 provides that we appropriate \$31 million from the undesignated surplus at the end of the previous biennium into the education trust fund. The very next section, II, calls for that to be paid back at the end of the biennium if there is a surplus in the education trust fund, which we certainly have reason to think will occur, \$31 million or whatever I said. Thank you. So in es-

sence, we are borrowing it for the biennium. Line 24 is a revision for the maintenance of local control provision that was in HB 117. There has been considerable controversy or coverage in the press about this idea that many districts are not spending their adequate education grants for education property tax relief. It keeps getting repeated that someplaces are spending it for fire trucks. A lot of us are somewhat mystified by that. I think that it is something of an urban myth that has become a rural myth that districts are spending this for other than education. I have yet to see real documentation of that. This language is intended to make clear, perfectly clear, that although we want to maintain local school district control, local voter control over the overall budget, we are specifying that the grants, the adequate education grants, must be expended for adequate educational purposes, and that they should not be considered unanticipated funds under RSA 198-20, b. That is a provision that says that voters can allow the school board to receive on anticipated funds and essentially spend it on anything that they want within some perimeters. They will not be considered that...instead they shall be counted as an offset as revenue against the voter officially approved budget, so it has to count as a vote, a revenue against the officially approved budget, which will result in direct property tax relief, and the local voters have to affirmatively vote to whatever their process is to modify or increase their budget to spend it on education, and they cannot use it for anything other than educational purposes. The remaining sections of the bill, 25-28 are just different repeals. They are in separate groups because they have different effective dates. It think that I covered the dates when I presented the spreadsheets. I won't go over those again. We are down to section 29 on the bottom of page 19. I made reference to this before. This directs the legislative budget assistance to go ahead and acquire a complete system of tax policy simulation and forecasting models for the state. For the DRA, administrative services to cooperate with developing the data base and to share in having the copies and delivered model and training in its use. This is the position that the Senate already adopted and sent over to the House back in June. The House had it taken out of Committee of Conference. I find it very ironic that if we had made that choice back in June to go ahead and purchase this analytical ability, today, we would have the ability to analyze any kind of circuit breaker that you want. You could work with different assumptions, you could produce...you would know how much it costs, who it would affect, geographically, by income. We could model impacts of businesses. This will give us the objective information that we need to make more informed decisions going forward into the future. Finally, 30 is the assortment of effective dates as to various repeals and enactments. Thank you very much for your attention and forbearance.

SENATOR RUSSMAN: I now have a better sense of why I didn't go into tax law when I was in law school. How does this differ, the 4 percent in terms of the capital gains as to what the governor had proposed? Could you explain that, because there seems like there are some similarity or overlap? Could you just elaborate briefly, briefly on that?

SENATOR BELOW: Yes, briefly. The tax base under this plan is federal adjusted gross income. Included in federal adjusted gross income is all kinds of income. There is earned and unearned income. That includes capital gains, interest and dividends, all kinds of various business income that is treated as personal income as well as wages and salaries. So this is truly broad based tax. It treats all income the same, so capi-

tal gains is covered by this. The exception being that capital gains is already treated under the BPT aren't doubled taxed. The observation that I would have is that many of my constituents who are very opposed to capital gains said that "but I support a broad based income tax." I have made a point of pointing out to them that you know that is included in this, and they say that they understand that but then everyone is paying their fair share and we should see some property tax relief, so I am not being doubled, singled out.

SENATOR GORDON: Just so that I understand the capital gains argument though, I understand that your proposal is based on an adjusted gross income, and in the adjusted gross income is included only those portions of the capital gains on a federal basis that are taxable. Is that correct?

SENATOR BELOW: I believe so, yes. Absolutely.

SENATOR GORDON: So there is a percentage of the capital gain which is taxable for federal, which might be depending on how long you have held the asset. Twenty percent for example, which would become taxable?

SENATOR BELOW: I am not an expert in this, so I am going to have to be a little conditional. I know for instance under the federal code, there is a large exemption if you sell your home. That is obviously not included in the federal AGI. Beyond that, I am not quite positive.

SENATOR GORDON: Okay. Thank you.

SENATOR FRANCOEUR: Senator Below, you just mentioned that everybody would pay their fair share. If I was employed in Massachusetts and I had three kids in public schools in the state of New Hampshire, how much would I pay under this income tax plan?

SENATOR BELOW: It depends on what you have for New Hampshire earnings. The rule under the federal law is that where you earn your income is where it is subject to taxation. So Massachusetts taxes our residents who work in their state, and we get to tax their residents that work in our state. Now in Massachusetts, more of our residents work out-of-state. There are Maine and Vermont borders where more of their residents work in our state than the other way around. So right now, there is a large sum of money, it is a little hard to define, it might be around \$60 million or so of income taxes that are being paid by people working in New Hampshire that are going back to their home states. We would capture somewhere around the sum of that much revenue that is now flowing out-of-state and it would be a loss to Massachusetts, Maine and Vermont treasuries. So the answer is if they had some other forms of income such as income and dividends or whatever, that would be subject to New Hampshire. Their wages from another state, where they work would be subject...they wouldn't pay on that. But there is an offset, so I think that it is treating...right now the problem is that some people are paying some of the highest property tax rates in the nation, and on top of that, they are also paying income tax to the neighboring states, and it is not positive to move out of the state.

SENATOR FRANCOEUR: As you mentioned, those that are working in other states, isn't that a choice that they make when they decide to work there?

SENATOR BELOW: Sure.

SENATOR FRANCOEUR: Thank you.

SENATOR KLEMM: I rise in opposition to this bill. I believe that this bill should be called the Massachusetts Economic Recovery Act. The impact that this bill will have will be immediate, even though the income tax will not become law immediately. All a person has to do is look at the development along our southern tier and see the fact that we don't have an income tax, and it has attracted large companies who employ hundreds of people. Just recently a major employer brought an additional 250 jobs from New Jersey to New Hampshire to the southern tier, and the deciding factor was to allow the people who moved in the fact that we do not have an income tax. It has been said this morning that we lack the political will to solve this problem. Well I don't. But that doesn't mean that I will vote for something that my constituents don't want. Thank you very much.

SENATOR WHEELER: I rise in support of this floor amendment to HB 109. I am the fourth and obviously stealth sponsor of the original HB 109. I have known for the 34 years that I have lived in New Hampshire, which is as long as I have been thinking about tax policy, that the fairest most equitable, most sustainable way to raise revenues for essential state services, including, but not limited to, education and health and human services, is the personal income tax. So it is no surprise to anyone, it should not be a surprise to my constituents. Those who have contacted me have either phoned, email or written to me, and have urged me to support an income tax. Well, it is no surprise that I do indeed support an income tax; however, when I drove into Concord this morning, it was absolutely enveloped in fog...even in Chichester it was sunny. This happens many mornings. You come to Concord and it is all fogged in. On more pleasant mornings I sort of think of Brigadoon, that it only comes alive every 100 years, but today I feel very strongly that we are in the Emerald City. We all have our green glasses on, and we are all willing to suspend reality while we do what we know is the best long term solution. Definitely the income tax is the best long term solution. At some point, we have to click ruby slippers and we have to return to Kansas. I submit to you that that time has happened today. This was the headline in my local paper last night about a city that I represent. "Dover is running out of money". I would feel totally irresponsible if I did not vote for a short term solution that had a chance of becoming law today; therefore, while I will certainly vote enthusiastically for the income tax as embodied in this amendment to HB 109, I also urge your consideration and support for an amendment to HB 572, which we will bring forward, after this vote, which will be a statewide property tax as outlined by Senator King, but with the circuit breaker in so that the most adversely affected people will not be adversely affected. I don't think that we can continue to vote on what we believe in our hearts is the best thing and stand on our principles if our principles aren't flexible enough to stretch to a solution that solves the problem now. Thank you.

SENATOR FERNALD: I want to obviously speak in favor of this amendment. I want to respond to a couple of criticisms that were raised by Senator Klemm. He said that this would be a great benefit to Massachusetts. The situation that we have now is that the people who live in Massachusetts and work here pay Massachusetts income tax. The people who live here and work in Massachusetts also pay Massachusetts income tax. By putting in an income tax, we get to tax the people who live out-of-state and work here, and it is tens of millions of dollars. We do not know the exact number until we actually have an income tax, but it is somewhere between \$70-\$90 million a year that we get, free money, from

out-of-state people who work here. The person who hates this bill the most is the governor of Massachusetts, because he is going to lose \$50 million, perhaps more. The other thing that Senator Klemm said that I want to respond to is the idea that people are coming here because we don't have an income tax. When I ask people why they come to New Hampshire, they tell me it is the quality of life. There are very few who come here because it is tax free. Yes, maybe some big businesses have come for that reason, but when people get here, they realize that the tax free business is all a mirage, because they start paying our property taxes, and they get slaughtered, particularly if they decide to retire here. I think that we should be doing what is right for the people who live here now, to equitably distribute the burden of supporting education rather than continuing to sell this mirage to out-of-state people who come here and find out it isn't true. This is the fairest way to fund the state's educational obligation. I urge you all to support it. Thank you.

SENATOR LARSEN: While I intend to cast my vote for the income tax, I have to admit that it is without any sense of enthusiasm today. Like Senator Wheeler, I am concerned that this is not the yellow brick road that will lead us to some place called home. I am worried that we are losing precious time during which we need to be stabilizing the financial capabilities of our schools, our towns and cities. While some sing the praises of this new revenue source, I regret some of the changes that it will bring. Leaving behind a simpler time when communities supported their local schools, and a crazy patchwork of New Hampshire taxes could support our state's needs. For those lucky enough to afford their property taxes, the simplicity of no income tax was something to brag about, yet we find ourselves in complicated times, which are further complicated by court mandated deadlines. We find more and more households unable to pay their ever increasing property taxes. The courts are right. We owe it to our children and children of this state regardless of where they live, to provide an adequate and hopefully, an excellent education. Yet what will fund that responsibility for the long term? The voters elected us to study the options and make our best judgements. They want the education funding issue resolved. Our cities, towns and schools want the issue resolved. We have studied this issue from all angles this past year. We have even tried to wiggle through some pretty narrow spaces and it hasn't worked. We have a choice today to cast our vote **TAPE CHANGE** years of avoidance and we may in fact end up doing that. We all know that we will be back all too soon grappling with the shortfalls. Clearly the income tax is the only long term solution to stabilizing school funding in New Hampshire. It is a tax based on people's ability to pay. It is elastic enough to grow with inflation and it provides property tax relief, which everyone recognizes as so needed. Some people's fears about the income tax can be resolved with constitutional amendments, which I assume we will discuss today, which require 2/3 vote of agreement by the people. We can limit the rate with constitutional caps. We can dedicate the revenues to education purposes. We can encourage real property tax relief that so many people need. I cast my vote for this long term solution now, because I believe that we must resolve the education funding issue for the long term. Clearly, if we cannot find the political will to resolve this, this year, we will be back again and again until we solve the problem. I am willing to solve it on a short term, I am willing to solve it on a long term. We need to move on this. We need to move on it today. Thank you.

SENATOR J. KING: Even though I am not going to support the bill, I rise to say that I am happy to see that it is being voted on. My sorrow is that it wasn't voted on two months ago, or three months ago, and we wouldn't have the situation that we are in now. The delay or whatever you want to call it...has hurt the state, the schools, the towns and everybody. I am very, very happy that it is coming to a vote. I hope that it is settled within the next few days. Thank you.

SENATOR GORDON: This is a somewhat unique proposal, I think for us, because since I have been in the Senate I have known that we do long range planning, but our long range planning only lasts two years. This is the first time that I have ever been presented with a proposal where somebody has looked out beyond the biennium to say where are we going to be financially in the future? I have no place to hide. I have to tell you that. I represent 32 towns, I represent donor towns, I represent very poor towns. I represent all towns that have schools and/or on this particular lake, but I have no place to hide. I have no easy decisions to make. I, frankly do not like the idea of an income tax. You have all heard my pitch, I most prefer a sales tax. In fact, if I thought that there was any chance that I could get that passed today, I would be bringing forward an amendment to this bill myself, but I have spoken to each one of you individually, at some point in time, and I know that I am not close to the 13 votes to make that happen. I happen to think that a sales tax would have a lot less damaging effect to the economy of this state than an income tax. The one thing that I know is that when I go back today, after today's session...and I go back to the selectmen in those 32 towns, I know the one thing that I am not going to say to them is, I went down to Concord today, I went down to Concord last Friday, and you know, I didn't put a proposal forth and I didn't vote for any proposals that were put on the table. I did nothing. I am not going to do that. I am going to do 'something' because something needs to be done. There are parts of this proposal that I don't like. I found out today that the hardship grants are money in addition to what we have already committed. I am not opposed to hardship grants, but I don't like the idea that all of a sudden today finding myself committing to another \$24 million. I don't particularly like committing it to another \$24 million that doesn't serve a direct purpose, other than just sending it back to the towns. If this money were being made to those communities and they had to come and say that they had a program there to improve the illiteracy of these children, or a reading recovery program, and that they would like us to fund it, I would feel a lot better about it. If they came to us and said that they wanted to do was...they have a program to bring their teacher's salaries in the North Country up to the average level in this state, I would feel a lot better about it. But right now, basically, we are just sending another \$24 million back to the towns for no specific purpose in mind and no assurance that it is going to improve the quality of education. I don't like that, but unfortunately, sometimes you have to compromise, and you have to accept things that in fact that you don't like. I don't like an income tax. I never thought that I would ever be in a position where I would be sitting or standing here as a Senator and voting for an income tax. I know that in the long term, that is better for the state than having the alternative, which we have been presented with here today, and that is a statewide property tax indefinitely. I know that it is a fairer way to raise the funds. I know that it is not a long term solution to the problems of this state, because no matter how much money we raise and no matter how we raise it, there will always be the same

number of people waiting with their hand out saying that they need more money to get the job done. So if anybody thinks that just simply having the income tax is going to solve the problems of this state, frankly, that is not going to happen. The question is, is this is a better plan that has been presented today? Is it a long term solution as opposed to simply another two year biennial delay? I say that it is. With that, I am going to commit my vote to vote for this, as difficult as I might find that to be personally, because I think that it is the best thing that has been offered. I would encourage others to vote for it as well.

SENATOR MCCARLEY: I have to disagree slightly with Senator John King. I think that we have done this. I think that we have done this vote. I believe that this is the third time this year. This is not the first or the second. I don't know how the rest of you have tracked your votes, I have gotten rather curious about my own at this point. I voted no the first time on this because I believed to my core that a yes vote did not move the ball forward one inch. I will point out to the record that I think that I was absolutely right that time. The second time around I voted for it, because I was promised that if it didn't get through the House, we would be done with this. It didn't get through the House, I voted for it, but we are back today for another vote on this. I don't know what that means, and I no longer am listening to people's promises or commitments about what it means or doesn't mean, because I am not sure that any of us know. I think that we all have worked too hard on all of these plans to really know any more what we commit from or to one another. That is sort of too bad. I think that it is undermined to some degree, our abilities to get things done in general. I understand how big this issue is, but I hope that we have not too undermined that ability, because we do have a lot of other things that we have to deal with as well. One thing that I find interesting is that in this, some of the new language, the hardship grants for an example, the strong need to commit to people in order to pick up votes, I think that we will commit to capping things, because we are so fearful about education funding. We know that the world is fearful out there of what we will do with another revenue source. There may be a reason for the people out there to be fearful of that. There may be a reason to see government grow more easily when you provide another broad based tax. A lot of us think that we have a lot of those already in this state. I think that is why I got all of those phone calls yesterday because there is an enormous lack of trust. I am not sure what a yes or no vote on this is going to do. I do believe that as much as this is the long term solution, and I believe that this is the long term solution. I do not believe that this will be law at the end of December. So I challenge as to whether we have, therefore, a long term decision. So it is very hard for me to talk about the right thing...I think boy, a lot of us are tired about talking about the right thing...because I am not real sure what that is, and I am tired of being told what it is. I understand that this is a tough vote for all of us. I think that people are indeed going to vote this conscience this time, but I am fearful that we will be back here very shortly without a long term solution, and I hope that we are all prepared, therefore, to do something. I hope that we do that something today. I hope that we leave ourselves an option in place that is a solid option, that we can be prepared to get out of here, because if we don't, we have failed, and we should go home and we ought not to bother to come back.

SENATOR COHEN: I will be very brief here. As I said before, the people in my district do not want a statewide property tax. I don't want a state-

wide property tax. At the same time, I recognize that we need an interim solution. I am not happy about it. Part of this bill includes an interim solution now. I don't know about the rest of you, but as Senator McCarley just said, we have been back over and over and over again, and an interim solution will guarantee that we are back here again in this exceptionally uncomfortable place that has been grinding us all down. We have an opportunity here to pass an interim solution, coupled with a long term solution here that will resolve the question, enable us to work on other issues, and provide funding for education here. I think that if we say that we know that this is not going to become law...if we don't push for it, you are right, it will be self fulfilling, but if we push for it...I am finding people that I talked to in the House, the people on the street, the public, is more and more supportive of an income tax, the more that they learn about it, and how bad a statewide property tax is, and how it perpetuates the inequities. Support in New Hampshire is growing, make no mistake about it - for an income tax. It is decreasing for a statewide property tax. I think that the House is reflecting the public. Let's give the House a chance. Give them one message, and that is this bill, to resolve it for the interim and the long term. Thank you.

SENATOR F. KING: I am going to vote for this amendment. I would have preferred to think that with careful deliberation, could have found a way to reduce the state's obligation for funding to less than what we were committed to, and to find a way to do that in keeping with the constitution. I think that there is language in this court decision that would lead us to believe that we could do that. However, I now recognize the political reality of where we are. This issue that we had earlier that was voted down was before this body in April. People who were able to support the concept of reducing the grant were no longer able to support that once the money started to flow into the communities. I understand that. What we have done is to create a revenue sharing program for our communities. They have begun to get the checks, and they have started to make good sound decisions on how they would like to spend that money. We are not going to reduce that amount below where it is. So I have to give up on that idea. I also know that given that fact, as I have said earlier, there is no other choice, but to pass some sort of a broad base tax and a statewide property tax isn't it, that means a sales tax or an income tax. I disagree with my friend Senator Gordon. I think that a sales tax would be very detrimental to the economy of the state over time. What we have done today, and what we will do today if this passes...we have done away with the sham of the statewide property tax. We have heard that the statewide property tax was giving 62 percent of the costs of an education back to the communities. That is not what we did. It is almost like what you see in Las Vegas when there is a slighted hand. We didn't do that. What we said to the people is that you could collect your property taxes in two ways, but a property tax is a property tax. As a matter of fact, what we really did under HB 117 is provide 31 percent of the costs of an education, which is not a bad improvement from where we were originally, but 69 percent is still paid locally. If this bill passes today, we will be able to say to our constituents that we are in fact now paying 65 percent of the education given today's costs. That puts us right up there with the top eight or nine states in the country, so we have done an extraordinarily good job if this passes, in sending money back to the state. So up where I come from, you can only get so much milk out of a cow, and I think that I have milked this all that I can milk it. I am going to get a clear statement that this is property tax relief. I am getting a clear statement that poor towns need

more money than rich towns, and they are going to get that money. I am also going to get a cap on the process going forward, which I think that we have to have. Now future Senators sitting in this chamber can easily vote to change that cap, but they will have to make a conscience decision to do that, and that is important to me. So I have gotten all that I am going to get out of the cow. I am going to vote for this bill.

SENATOR FERNALD: Briefly. When I was running for this seat I told people that we needed an income tax for education, and people asked me how I was going to do that? I told them the way that we always make change in the democracy. One vote at a time. The same is true today in the Senate. We are working on a long term solution, and we get there one vote at a time. If you agree that the income tax is our long term solution, then you should vote for it, because the only way that we are going to get the New Hampshire that we want, is to vote for what we believe in. Thank you.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Cohen.

The following Senators voted Yes: F. King, Gordon, Fraser, Below, McCarley, Trombly, Disnard, Fernald, Squires, Pignatelli, Larsen, Russman, Wheeler, Hollingworth, Cohen.

The following Senators voted No: Johnson, Roberge, Francoeur, Krueger, Brown, J. King, D'Allesandro, Klemm.

Yeas: 15 - Nays: 8

Floor Amendment adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Squires moved that the rules of the Senate be so far suspended as to allow a motion to reconsider after the allowed time.

Adopted by the necessary 2/3 vote.

RECONSIDERATION

Senator Squires having voted on the prevailing side moved reconsideration on **CACR 16**, relating to use of statewide property and personal income taxes. Providing that the general court shall use net revenues from statewide property and personal income taxes exclusively for educational purposes, whereby we rereferred it to the year 2000 session in the Education Committee.

Adopted.

CACR 16, relating to use of statewide property and personal income taxes. Providing that the general court shall use net revenues from statewide property and personal income taxes exclusively for educational purposes.

Senator Squires offered a floor amendment.

Sen. Squires, Dist. 12

Sen. F. King, Dist. 1

Sen. Below, Dist. 5

Sen. Larsen, Dist. 15

1999-2164s

04/

Floor Amendment to CACR 16

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

RELATING TO: establishing a restricted education trust fund; establishing a maximum rate on an income tax, and dedicating income tax revenues to education.

PROVIDING THAT: an education trust fund be established, that revenues from a state-run lottery and revenues from the imposition of an income tax shall be deposited into the education trust fund, and that the moneys in such trust fund shall be used exclusively to provide relief from local school property taxes and to fund the state's duty to cherish the interest of public schools under Article 83, Part 2 of the New Hampshire constitution, and shall not be transferred or diverted to any other purpose.

Amend the resolution by replacing all after the resolving clause with the following:

I. That the second part of the constitution be amended by inserting after article 5-b the following new article:

[Art.] 5-c [Maximum Rate of Income Tax Established; Use of Income Tax Revenues Restricted to Educational Purposes.]

(a) The general court shall have the power to provide by statute for the imposition and collection of an income tax which shall not exceed the rate of 4 percent unless authorized by a 3/5 vote of each body of the general court voting separately, and which shall be in accordance with the provisions of this article. The purpose of such income tax is to provide property tax relief for taxpayers in the several cities and towns.

(b) All net revenues, after deducting the necessary costs of collection and administration, received by the state from the imposition of an income tax, including all of the interest earned on such funds, shall be deposited into the education trust fund as established under Article 6-c, of Part 2.

II. That article 6-b of the second part of the constitution be amended to read as follows:

[Art.] 6-b. [Use of Lottery Revenues Restricted to Educational Purposes; ***Moneys Deposited into Education Trust Fund.***] All moneys received from a state-run lottery and all the interest received on such moneys shall, after deducting the necessary costs of administration, ~~be appropriated and used exclusively for the school districts of the state. Such moneys shall be used exclusively for the purpose of state aid to education and shall not be transferred or diverted to any other purpose~~ ***shall be deposited into the education trust fund established under Article 6-c of Part 2.***

III. That the second part of the constitution be amended by inserting after article 6-b the following new article:

[Art.] 6-c. [Education Trust Fund Established.] All moneys designated for the purpose of state aid to education, including state aid for educational adequacy, state-run lottery revenues, and income tax revenues shall be deposited into an education trust fund. Such moneys shall be used exclusively to provide relief from local school property taxes and to fund the state's duty to cherish the interest of public schools under Article 83, Part 2 of the New Hampshire constitution, and shall not be transferred or diverted to any other purpose.

IV. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2000.

V. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2000 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 1999 session of the general court shall be approved.

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

Are you in favor of amending the Constitution to provide that an education trust fund be established, that state aid for educational adequacy, revenues from a state-run lottery, and revenues from the imposition of an income tax, the rate of which shall not exceed 4 percent unless authorized by a 3/5 vote of each body of the general court voting separately, shall be deposited directly into such education trust fund and shall be used exclusively to provide relief from local school property taxes and to fund the state's duty to cherish the interest of public schools under Article 83, Part 2 of the New Hampshire constitution, and shall not be transferred or diverted to any other purpose.

VII. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 1999 General Court" shall be printed in bold type at the top of the ballot.

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

1999-2164s

AMENDED ANALYSIS

This constitutional amendment-concurrent resolution:

I. Establishes a restricted education trust fund.

II. Provides that the general court may, by statute, impose and collect an income tax which shall not exceed the rate of 4 percent unless authorized by a 3/5 vote of each body of the general court voting separately.

III. Requires that state aid for educational adequacy, revenues from a state-run lottery, and revenues from the imposition of an income tax be deposited into such education trust fund to be used exclusively to provide relief from local school property taxes and to fund the state's duty to cherish the interest of public schools under Article 83, Part 2, and shall not be transferred or diverted to any other purpose.

SENATOR SQUIRES: Previous speakers have alluded to the fact that there is support in New Hampshire for an income tax. There is also considerable apprehension about prospects for the future if a tax is simply made open ended and can be used to support the general fund; thus, an expansion of government. But what we are trying to do is quite unique. We are trying to pass, as the bill that we just voted on said, an education income tax. To my knowledge, that has not been done in any other state. Furthermore, we are passing this tax for the specific purpose of reducing the school portion of the local property tax. Now the question becomes how

to do that in such a manner that is not susceptible to the whim of any particular legislature. We all know that a statute, regardless of the original intent, regardless of the specificity, can be changed by the majority vote in this legislature. That is the problem of simply saying that we need a super majority. We create a dedicated fund and so forth, because we can undedicate a fund, and we can amend and delete the section that requires a certain majority or a certain number, and then we can do whatever we want. The public is skeptical, therefore, of our ability to function in a manner in which reflects the original intent of the legislation as we passed it. It mattered to the ability to reflect that intent over time, because people forget and legislators change. The only way to do that, to provide the public with a guarantee that the intent will be maintained over time, is by a constitutional amendment, which the public of course has to adopt. That is what this amendment does. I would like to walk you through it. First of all, and I will go through the various parts, but it establishes the educational trust fund. Just like the highway fund, just like a number of other dedicated funds that are dedicated to a specific purpose, linked to a revenue source. It sets the rate. It defines the purpose of the funds for education and for property tax relief. It makes sure that monies cannot be transferred or diverted from the fund. To begin the specifics by asking you to look on line 20 on page one, at which point we have placed into the constitution a 4 percent rate. The legislature cannot change that rate without a 3/5 majority, which means that we can't, as we could do with a statute, simply by majority vote, change the rate. Now it is a perfectly legitimate question. Why even do that? There are pros and cons of that issue. The reason that I think that it serves the interest of public policy over time is that it is conceivable that some event might occur, which would require action in a timeframe not fitted to the biennial placement of an amendment before the people. I am not sure that we want to put future legislators and the government of the state of New Hampshire in the difficult position for education purposes requiring funds, and the only answer being that they would have to borrow it, in which case then we start spending interest money. The second point of interest, is that the funds from the income tax are deposited in the education trust fund. They do not go through the general fund, they are collected and placed in the educational trust fund. Beginning on line 29 is a technical change. It moves the net revenues received from the lottery into the educational trust fund. To simply simplify the funding source for education. On the next page it sets forth the language that establishes the existence and purpose of the education trust fund. All monies dedicated for the purpose of state aid to education, including state aid for educational adequacy and so forth, shall be deposited in the education trust fund, and they shall be used exclusively to provide relief from local school property taxes, and to fund the state's duty to cherish the interest to public schools under article 83 part two of the New Hampshire constitution, and shall not be transferred or diverted for any purpose. That language deliberately reflects the language in the constitution. And for that language, and for that thought, I am indebted to Senator Brown. It is correct. The closer that we can get this to the constitution, the safer that it is from challenge. It is also mirrored in the language in the income tax bill, also by working with Senator Below. This goes to the voters in November in the year 2000. Beginning on line 18 is the actual language that will appear on the ballot. It should be clear by this language; and it should be clear by this discussion, that the intent of this fund, and the intent of the income tax is to meet the state's obligation and to reduce the local property tax. That is what it says. That lan-

guage is repeated here in the purpose of the educational trust fund and in the preamble to the bill. Then it gives some instructions as to the mechanics of placing it on the ballot. Some of you have asked me about whether or not we need to discuss or place in this bill, language concerning the appearance of the language that would actually go into the constitution. This year...I had forgotten this...I had reviewed this with the secretary of state, we, the legislature, passed a bill which amended 663:3 and it says that "A constitutional question shall include in the text of such question, the text of the article of the constitution as it is proposed to be amended." So this cannot go as some amendments have, before the voters and then the actual language... is not evident or different from in fact the question being asked to be considered. So that is the background and substance of this amendment, and I hope that you will support it.

SENATOR LARSEN: You will see that Senator Below and I have added our names to this CACR 16. I think that originally, it was in fact Senator Below's constitutional amendment. Clearly throughout the education committee's discussion, I don't know if there has ever been disagreement that setting up an educational trust fund and funding it, didn't make a lot of sense. I think that what you have...what we have before us today is a bill, HB 109, which identifies a source of revenue, which potentially means that we will fund education, assuming it goes through the entire process and becomes a revenue source. But what is missing is this piece. It is this critical piece that reintroduces to the public, a sense of trust. The trust that they don't have in the changing whims of legislative bodies. **TAPE CHANGE** constitutional amendment puts the issue back in the hands of the people. I keep looking at this and thinking of the ad that some of us have unfortunately, seen all too often on television where it is accused that politicians are those bears, and they are going to get their paws in the honey pot. Well this prevents the paws in the honey pot. The legislators need to recognize that this reintroduces trust. I urge you to vote yes on CACR 16 as a floor amendment.

SENATOR F. KING: Senator Squires, is it a fact that this is the same concept for a CACR that the Senate passed in 1997, when the 22-2 vote that set up an educational trust fund?

SENATOR SQUIRES: Yes it is. Senator Larsen correctly pointed out that has been a consistent feature all along. This adds the rate question, and it emphasizes to a greater degree that other amendments, the intent of this body to address the issue of the school portion of the property tax.

SENATOR F. KING: **TAPE INAUDIBLE** the fact that the constitutional amendment that was passed in 1997 set up an education trust fund?

SENATOR SQUIRES: Yes it did.

SENATOR D'ALLESANDRO: I rise in opposition to this CACR. I don't think that there is a legislator sitting here that hasn't seen these irrevocable trusts and the trusts that can never be dealt into not dealt into. For example, let's take a look at the highway trust, and as a member of the Public Works Committee in the House, I looked at the 16 times the highway trust has been gone into because of highway related activity. I think the only way to restore confidence and trust in an elected official is to have them do what they say and then hold their feet to the fire. You don't need a constitutional amendment to do that. You need an election. Guess what? We have elections every two years. If you haven't done what you have said that you were going to do for the people, then you don't get reelected two years down the line. If we are going to put everything

into the constitution that holds our feet to the fire, we are going to have a constitution that is greater in scope than the RSA's and those have expanded dramatically in the 25 years that I have been involved in public service. If you are going to do something, do it and then stand by it. Thank you.

SENATOR F. KING: Senator D'Allesandro, could you tell me when the last time there was a constitutional amendment by the citizens of this state?

SENATOR D'ALLESANDRO: I believe that it was when we went to annual sessions. I think that was in the 1984 constitutional convention. I am not sure.

SENATOR F. KING: So you would agree with me that we are not changing our constitution so that it looks like the RSA's?

SENATOR D'ALLESANDRO: Well I guess from that standpoint, they won't look like the RSA's.

SENATOR DISNARD: Senator King, would you believe that I think that it was in the lottery a few years ago, the lottery sweepstakes money was approved by the voters to be used for educational purposes and part of the constitution? I may be wrong, but I am quite sure that is what happened?

SENATOR BROWN: I rise in support of this amendment. I appreciate very much that the drafters did listen to some of my suggestions. I think that we came to some agreement that maybe not perfectly everything that I wanted, but enough so that I can support it and so forth, which is our process here. I would like to point to the highway fund and the sweepstakes fund which are dedicated in our constitution to say to you, that if it was not in our constitution, that these monies could not be diverted, they would have been diverted a whole lot more than the little pieces that we have seen taken out of it. I don't think that anything is perfect, but I think that people need that confidence, that if you are going to impose this big of a change in our tax structure, that they can know that it is going for what we say, what we have said that it is going for. Even though I didn't vote for the income tax, I will support this because I think that it is very important, that at least there is an opportunity for the citizens of this state to say something about what we are doing here. Thank you.

SENATOR KRUEGER: I rise also in support of this. I appreciate the fact first of all, that although I did not vote for the income tax, I recognize the fact that it may be a reality. It might be a reality that may actually help some people. It may be a reality that may help the state of New Hampshire. I am not here to discuss that. I am here to thank Senator Below for including the line in his bill, relative to the property tax, so that people understand that they are paying out of one pocket, but maybe saving out of the other. I would also like to thank Senator Squires for incorporating an accountability. I think that there is a distrust in government. I think that unless we stand and we recognize that, and maybe over the years, we won't have amendments such as this. But I think that it is important for all ends of the spectrum to realize to have it in writing is a level of comfort that certainly many of my constituents would care about. Thank you very much.

SENATOR FRANCOEUR: I sat and looked at this bill, this CACR that Senator Squires brought forth this afternoon. As I looked at it, I found

things that I like and things that I don't like. One of the items that really pops out at me is that it takes a 3/5 vote of each body, but a CACR takes 66 percent of the people voting on it to pass. Why wasn't that equal to the people that are out there voting on the question? Also, the other thing that I noticed as I looked through it is, the power is left in the legislature. To me, I thought the CACR was if we were going to have an income tax that it was capped at 4 percent and it couldn't go anywhere, unless the people decided to allow it to go higher? I haven't had a chance to talk to others, but maybe somebody can bring forth some light today. Is it possible to cap this so that the people out there - if an income tax is passed, that it ends up at no more than 4 percent, and it is their vote that changes it and not ours. Thank you, Madam President.

SENATOR COHEN: Years ago the minister of the local Unitarian Church in Portsmouth, who died tragically a few years ago, said to me that he felt that in politics that there were two things that motivate people. Just two things. Fair and reassurance. I have thought about that since then. People have had a real fear about an income tax. Let's make no mistake about it. People in New Hampshire especially, have had a fear about that. The fear has been based on money not going to education. Once the pipeline starts...you have heard all of this before from your constituents. I have said in the past to these people that I want to provide some reassurance to them. This provides some reassurance. At the cornerstone of our civilization is our federal constitution and our state constitution. People have faith in our federal and state constitution. We don't go about making changes to these things willy-nilly. We put in about 1200 pieces of legislation a year, and the CACR's are very rare. We limited them to something that is very important...that is going to assure the people. It is going to make sure that the people have continued faith. This helps guarantee that people will have faith that the money is going just to education. That is what we are all about. We want a guarantee that this is going to education. I think that at the same time this will help us in the House. Those of us who just supported this want this thing to become law. We need a lot of votes to pass this in the House. I think that this will provide important reassurance to people in the House as well to enable more and more people to vote for this. I urge my colleagues to support this as well.

SENATOR TROMBLY: Senator Squires, on the floor amendment, page two, line nine, "such monies shall be used exclusively to provide relief from local school property taxes, and to fund the state's duty to cherish the interest of public school under article 83." Is the university of New Hampshire a public school for the purposes of this constitutional amendment?

SENATOR SQUIRES: I don't know.

SENATOR TROMBLY: Thank you.

SENATOR WHEELER: I am speaking directly because of the concern expressed in the question asked by Senator Trombly, and also I am opposing this because I am very reluctant to amend our constitution. I am even more reluctant to put restrictive percentages or numbers in the constitution. I think having our salary in the constitution is ridiculous. The four percent may be good, may be bad, but I don't want to put it in the constitution. The way that the people have confidence in a change in the tax structure and money coming back, is through representative government. They have an opportunity every two years to express their opinion about how their will is being carried out by their elected representatives. I don't think that we need to put that in the constitution, the

confidence is there in the electoral process. I am also very concerned about limiting an important revenue source such as an income tax to one cause. It is not clear to me that public schools...and would include the university of New Hampshire. It also talks about relief from local school property taxes. That way if some people construe it to mean that it can only go back to support K-12. I don't want to get into that debate. I feel that we need to support essential state services, that includes public higher education as well as public elementary and secondary education. From my point of view, I have worked for all of the years that I have been in the legislature, for people who need essential health care services and social services, and I would not like to say that education is the only important service of the state that needs to be supported by an income tax. Thank you.

SENATOR BELOW: I rise in strong support of this proposed floor amendment. I think that it is important that we send this on to the House and hopefully give the voters a chance to vote on this. Approximately half of all of our state taxes, state and local taxes in New Hampshire, approximately half of the total sum of state, local, county and government expenditures in this state are for K-12 education. I do think that it is reasonable to say that we are going to dedicate an income tax to that purpose. That and the sweepstakes can become the primary source for funding that huge fundamental obligation that we, in the state and in local government provide. With regard to the question of does this mean only K-12 or what does it mean exactly? I think that it is important to recognize that it is tied to the Supreme Court decision in the Claremont case. They pointed to the fact that we have a duty to cherish the interest of public school under article 83, part II. They defined from their point of view, that that obligation should minimally be primary and secondary education; furthermore, it is the job of the legislature to define the perimeters of an adequate education. I believe that at this point we all understand that to mean K-12, and with K still somewhat optional. So I think that at this point in time, I think that we can all understand that this duty is primarily primary and secondary education; however, the court said that it is for the legislature to define the perimeters of an adequate education. I do believe, as a sponsor of this floor amendment, that the intent is that it is up for the legislature in future periods of government, to determine the perimeters of an adequate education to determine, flush out, what is our duty to cherish the interest of public schools. If in the future, the legislature were to determine that that includes K-13 or K-14 or preschool-14 as part of our duty to cherish the public schools, that that would be the discretion and the responsibility of legislatures in the future. Certainly 100 years ago this duty to cherish the public schools probably was considered to mean through eighth grade or so, and not in fact up to 12th grade. I think that the language here is clear that today it is K-12, but the legislature would have the discretion in the future to determine what is a constitutionally adequate education. Thank you, Madame President.

SENATOR BROWN: Senator Wheeler, when you were talking about all of the other possible uses for an income tax, I kind of saw a bear with its hands on a pot of gold. I wanted to ask you, is it your intention that the income tax, should it pass, be expanded to be used for other things than education?

SENATOR WHEELER: My intention is not to expand the income tax. The income tax kept at a certain percentage will grow and will be able

to do more than it can do then when it is first enacted as our per capita income grows. I would not like to limit that possibility where we might possibly end up with more money than we could use for local public education.

SENATOR GORDON: I am not entirely enthusiastic about the amendment, because we just passed an income tax at 4 percent, and already we are on the very next bill contemplating raising it. I find it very difficult to come up and simply endorse it without commenting. I guess my comments are that I think that it is appropriate to have some type of restriction. I think that if I were to provide a restriction, the restriction that I would rather see is that it would be 4 percent, and that would go back to the people to vote on as opposed to the legislature. But then I guess, what do you actually require of the voters? I guess that if you require a vote of the voters, the vote of the voters ought to be by a majority vote, because we have just adopted an income tax by a majority vote. So actually, I think that perhaps the protection of having the 3/5 vote actually is a higher level of protection in some ways, from the increase than if we perhaps just put it out to the voters and let the voters vote. So in that regard, I guess that there is probably some good reason to doing it that way, but I can tell you one thing, having this amendment is much better than having nothing to go back to my voters and having to say that I basically just voted for an income tax with no protection, and that the legislature can't just arbitrarily decide that we need more money for health and human services, and now we are going to raise more money to give to some other program. So on balance, I think that I have to vote for this and would encourage other people to do so.

SENATOR DISNARD: Senator Squires, would you explain to me, and if you explained it to the body already, I apologize, I wasn't listening close enough I guess, at the top of page two. Why did you cross out, "exclusively for the school districts of the state"?

SENATOR SQUIRES: Because it is redundant. That language since the lottery funds are going into the educational trust funds to be used for a specific purpose...

SENATOR DISNARD: For the exclusive use of the public school district.

SENATOR SQUIRES: Well however the legislature defines what we are talking about adequacy. This language, which in fact, refers to the lottery in its present form, appeared to be redundant.

SENATOR DISNARD: Would you believe that I think that the public would be better served and have more trust in us if we left the terms "school districts" in there somewhere?

SENATOR SQUIRES: I am not sure that I believe that.

SENATOR MCARLEY: I certainly support the idea behind this constitutional amendment. I think that we have a trust factor out there; however, I am not going to be able to support this today, and that is because I was sort of under the impression that we had held all of these amendments because we thought that we would have some idea by January what in the world we would be doing, and then there would be a reason to do this. So this today, feels more like to me, a need to provide trust for the action that we took today when it isn't even law yet. We know that there is some discussion about this very issue of public schools and everything else. I unfortunately, cannot not support this today. I would hope that we might consider the issue of a constitutional amendment at a point when we know what it is that we are actually dealing with.

SENATOR BELOW: I wanted to clarify another point in terms of legislative intent, having worked with Senator Squires on the language. I think that there is a question raised on page two, line 10, where it says that the "money shall be used exclusively to provide relief from local school property taxes and to fund the state's duty to cherish the interest of public schools." The question raised "do the expenditures have to satisfy both purposes or one or the other?" My understanding, and I think that Senator Squire's understanding is, one or the other. For instance, where it was supposed to cover the hardship fund, where the money might go directly to a municipality to offset local school property taxes. So I believe the intent here is that it satisfied one or the other of those two purposes. Thank you.

SENATOR SQUIRES: I wanted to just speak to the two questions that were raised. One from my distinguished colleague from Manchester who advanced the thesis that if the legislature fails to act or do what it says that it was going to do, then everybody gets thrown out. Well, the fact of the matter is, that the legislature failed to do what it said it was going to do in Augenblick, and I don't think that the entire body was replaced. In fact, there may be some people who are here now that were here then. So I don't think that there is a direct correlation between legislative inaction, or a failure to keep their promise in the next election. My second observation is brought to mind by something Senator Wheeler said. The question as to whether or not a percentage belongs here strikes me as one that the public has got to make. That is really the question being asked. If one-third of the public believes that a percentage is not appropriate, then it goes down. I am sure that it is our obligation to send out amendments that are sound, soundly constructed, asks a straight-forward question and then in fact, let the public speak to it. I think that is how the process is intended to work.

SENATOR FRANCOEUR: Senator Squires, when you were drafting this, was there any thought of having the public be the ones that would vote to change the percentage instead of the legislative bodies?

SENATOR SQUIRES: Yes, there was. That is an alternative approach, but on the other hand, to do that, you have the public making tax policy. Now the court decision that came down when we passed the...when we sent the referendum question to the Supreme Court for an advisory question, I think that it was in March. The court stated, to me, anyway, unequivocally, that the legislature cannot delegate its power to tax under our constitution, and thus it seems to me, to avoid this spectra of further legal entanglements at what you see now seems to me, to be more protective of the process than the other one.

SENATOR FRANCOEUR: Thank you.

SENATOR TROMBLY: Senator Below, if this amendment is put to the voters a year from November and it passes and the voters throw all of us out of office, the new Senate and the new House is elected, they repeal the action that we took today. If this passes, would a future legislature be required to enact an income tax by 3/5 vote or by a simple majority vote of the House and Senate?

SENATOR BELOW: A simple majority.

SENATOR TROMBLY: If this passes?

SENATOR BELOW: If this passes, they could enact an income tax. In fact it is rather explicit on line 20 of page one. "The general court shall

have the power to provide by statute" which we do by majority vote, "for the imposition and collection on an income tax." I believe that we have power now. "Which shall not exceed the rate of 4 percent." So as it is, less than 4 percent. If they adopted the statute by a 3/5 vote, they could presumably adopt the whole rate.

SENATOR TROMBLY: Thank you.

SENATOR J. KING: I certainly, if the bill had passed and the income tax was put into effect, I would support this soundly, but I am not going to support it until I see the bill in operation. I cannot see jumping ahead of the game that hasn't even begun yet.

Recess.

Out of Recess.

Floor Amendment adopted.

Question is on ordering to third reading.

A 3/5 vote is necessary.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, Trombly, Disnard, Roberge, Fernald, Squires, Pignatelli, Larsen, Krueger, Brown, Russman, Hollingworth, Cohen.

The following Senators voted No: McCarley, Francoeur, J. King, D'Allesandro, Wheeler, Klemm.

Yeas: 17 - Nays: 6

Adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Brown moved that the rules of the Senate be so far suspended as to allow a motion to reconsider after the allowed time.

Adopted by the necessary 2/3 vote.

RECONSIDERATION

Senator Brown having voted on the prevailing side moved reconsideration on **CACR 17**, relating to establishing a restricted education trust fund. Providing that an education trust fund be established, that all moneys designated for the purpose of state aid to education shall be deposited into such trust fund, and that the moneys in such trust fund shall be used exclusively for state aid to education, whereby we rereferred it to the year 2000 session in the Education Committee.

Adopted.

CACR 17, relating to establishing a restricted education trust fund. Providing that an education trust fund be established, that all moneys designated for the purpose of state aid to education shall be deposited into such trust fund, and that the moneys in such trust fund shall be used exclusively for state aid to education.

Senator Brown offered a floor amendment.

Sen. Krueger, Dist. 16

Sen. Brown, Dist. 17

Sen. Hollingworth, Dist. 23

Sen. Johnson, Dist. 3

1999-2165s

08/04

Floor Amendment to CACR 17

Amend the resolution by replacing the title with the following:

RELATING TO: the state's responsibility to provide to all citizens the opportunity for a public education.

PROVIDING THAT: the general court shall have the exclusive authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision, provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed.

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

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.; ***Exclusive Authority of General Court to Determine Content, Extent, and Funding of Public Education; State's Responsibility to Provide for Public Education; Powers; Duties; Delegation.***] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business

within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

The general court shall have the responsibility to provide to all citizens of the state the opportunity to receive a public education. The general court shall fulfill its responsibility directly or in concert with its political subdivisions through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions. The general court shall provide for the funding of said education through its power to directly impose and levy assessments, rates, and taxes, or through a delegation of such power, in whole or in part, to the political subdivisions of the state, provided that the resulting assessments, rates, and taxes are fair and proportional throughout the state or political subdivision whose legislative body imposes the assessment, rate, or tax. Nothing in this article shall be construed to limit the amount the state or any political subdivision may expend on the funding of education or to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2000.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2000 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2000 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be: Are you in favor of amending article 83 of the constitution to include the following language: "The general court shall have the responsibility to provide to all citizens of the state the opportunity to receive a public education, and in furtherance thereof, it shall have the exclusive authority to determine and set forth the content, the extent, and the funding of that education. The general court shall fulfill its responsibility directly or in concert with its political subdivisions through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions. The general court shall provide for the funding of said education through its power to directly impose and levy assessments, rates, and taxes, or through a delegation of such power, in whole or in part, to the political subdivisions of the state, provided that the resulting assessments, rates, and taxes are fair and proportional throughout the state or political subdivision whose legislative body imposes the assessment, rate, or tax. Nothing in this article shall be construed to limit the amount the state or any political subdivision may expend on the funding of education or to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution"?

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 2000 General Court" shall be printed in bold type at the top of the ballot.

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

1999-2165s

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes or by delegating this power, in whole or in part, to a political subdivision provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the political subdivision in which they are imposed, and that the general court shall have the exclusive authority to determine and set forth the content, extent, and funding of public education in this state.

SENATOR BROWN: The amendment that you have, #2165, is a floor amendment to CACR 17 and it is an amendment that was taken from the language from an amendment that passed this body about a year and a half ago as a response to the Claremont lawsuit. I want to point out to you that the House has an amendment that they are working on by Representative Gene Chandler. I think that it is important that the Senate has a position, to have our own amendment. This amendment passed this body in 1998, and I think that it is also very important to provide the opportunity that those that want a CACR on the ballot to make their case. I am not convinced one way or the other whether this will actually pass with the public. But there are a lot of people out there who want to see an amendment that restores to the legislature the control over public education. I don't have a lot to say and I hope that you will support it. Thank you.

SENATOR DISNARD: Thank you, in essence, this dilutes the authority of the Supreme Court to determine education if it is the state's responsibility to adequately fund it?

SENATOR BROWN: I don't think it takes it all away.

SENATOR DISNARD: It would dilute the authority that has been with us, would you believe, for a few hundred years, check and balance system? Legislature makes the laws, and the Executive Branch interprets them and carries them out, and the Supreme Court interprets them. You're willing to throw that entire heritage out the window?

SENATOR BROWN: Senator Disnard, I think the courts throw two hundred years of school funding heritage out the window with their ruling. This restores what we had prior to that.

SENATOR TROMBLY: I can't support this constitutional amendment for one reason. The people who muted in this process are the people who are the citizens of the state of New Hampshire. This gag amendment does not silence the court, it takes away the right of the people to turn to the courts when they believe the legislature is not doing what it is suppose to be doing as required by the constitution. Remember we are not here dealing with Claremont, because we have passed the law and did not do something about it. It wasn't the technical nonfunding of Augenblick that the court addressed in Claremont. What the court said that the legislature has a duty to educate, to provide that education for the citizens of this state. So while maybe it is said that the intent that this amendment is to take the courts out, when you take the courts out, you are taking the people out, and that is just not right. Thank you, Madam President.

SENATOR KRUEGER: Senator King earlier said that there were a lot of cows up in his district, I think. And what I want to say to you now is that it is time to take the bull by the horns. And we have, in fact, through a very difficult process, come to this end, the end that we came to today, the votes we made today, and the votes that we made weeks ago, and the conversations that we had months ago. And we reacted because, maybe inside of ourselves, not because the court told us. I am the first person, by the way, to admit that most of the discussion that has taken place around this state came because the courts literally kicked us in our legislative rear end. I am telling you, however, that the process of the legislation, the representative form of government that we stand for what we believed in, is what is at stake. There are many people besides the ones called the Senators in this room that said that the court has overstepped its bounds. That is not why we reintroduced this provision. In fact, we watered down this provision. We took out a few words, which in fact, did maintain the importance of the court in representing the people of this state. This is not exactly the amendment that was introduced and passed before. I can't imagine anyone in this room, not wanting to take laws as they come before us. Never doubting for a moment that anyone in this room would deprive children of education, and I think not be willing to accommodate those of us that stood for property tax relief, those of us who stood for certain forms of taxation that they believed fair and equitable. But there is no question in my mind the court, as we know it now, will never be satisfied, and to be whipped by a system is not agreeing to change anything that has served us well. The years and the years the court and the balance of power have served us well is not what are at stake here. The process whereby we came to where we are today worked. I know that it is not over, but it has worked, thank you.

SENATOR FRASER: I am kind of confused now, Senator Krueger. What does this amendment do that the General Court doesn't have any power to change today? What is going on with the bill that I don't understand?

SENATOR KRUEGER: I think that this Constitutional Amendment, I believe, would do exactly what you said. That is why I am comfortable with it, which is why I am hoping that everyone is comfortable with it. Because what it basically says, is that we are basically doing the right thing, but we are not going to be pushed into it by unelected officials. So I agree with you.

SENATOR GORDON: I supported the Constitutional Amendment, which was in large part in this form in the past. I supported it because it reaffirmed a position on the part of the Senate, that it is the duty of the legislature to decide educational policy in this state. I am afraid that what has happened in the recent years and months, is that educational policy in this state has become the province of the court system. With respect to Senator Disnard in his comments, he indicated that shouldn't we preserve the court system or the system of the government that we have had in the past. I believe that what has happened here in the last few years has in fact changed the system. That the court has gone beyond its traditional role in terms of acting as an objective judicial body and has actually has gone further than that to a point that it is deciding educational policy, and that concerns me a great deal. When I supported this amendment originally, there was another sentence in here, or a portion of a sentence that said "that it is up to the legislature to decide in this state what an adequate education is, and that it has the

sole responsibility for doing that". I believe that is consistent with traditional interpretations of the law. I think that the court's interpretation of what appeared in the constitution is a somewhat innocuous phrase of cherish the public schools and seminaries, has resulted in an usurpation of legislative power. I would very much like to see the amendment pass the way it was in the past to make it clear that in fact there is a distinction to the branches of government, and that public policy is to be established in the legislature and not in the courts. This amendment has been offered with that, unfortunately, in my opinion, with that deleted. It would be my hope that if this was passed today that decision would be reconsidered, and that portion of the original amendment as it was proposed a year and half ago, would be reintroduced and included. I think, that probably, from my point of view, is the most important part of the bill. Otherwise, I think what we would be passing today is in effect of what our responsibilities are today, and wouldn't ultimately have any more effect than anything else that we have already done.

SENATOR BELOW: I am going to vote for this. The very phrase that my good colleague just to the north of me was referring to is that the phrase that I found most objectionable when this came over to the House. It is actually found in the floor amendment, it is found in the wording of a question, because it was not deleted, and it is page two, line thirty three, and the phrase which follows after the first sentence of the proposed new language on line twelve. "There is a furtherance there of it being in the General Court to have exclusive authority to determine and set forth the time, the content, extent and funding of education." If this is adopted, I would move to lay the CACR on the table so this discrepancy could be reconciled one way or the other.

SENATOR FERNALD: I think that it is clear to us, and I think that it is becoming more clear to the people of the state, that a statewide property tax is not the long term solution to education funding obligation and a sales tax won't work either. Which means the answer is an income tax. With this amendment, with the income tax that we just passed, and the amendment that we just passed, we are putting the whole thing to the people. If you want an income tax you vote for the last amendment. If you want to try to undo Claremont, you vote for this amendment. So we have done what we thought was best for the people, to get one shot at it with duelling amendments. I think that is democracy in action. I hate this amendment and I will campaign against when we get out there, but I will vote for it today, because we know we have the whole thing out there for the people to decide. Thank you.

Floor Amendment adopted.

Question is on ordering to third reading.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, Roberge, Fernald, Squires, Francoeur, Krueger, Brown, Russman, Klemm, Hollingworth, Cohen.

The following Senators voted No: McCarley, Trombly, Disnard, Pignatelli, Larsen, J. King, D'Allesandro, Wheeler.

Yeas: 15 - Nays: 8

Adopted by necessary 3/5 vote.

Ordered to third reading.

1999-2154-EBA**03/01****Enrolled Bill Amendment to HB 84**

The Committee on Enrolled Bills to which was referred HB 84

AN ACT establishing a committee to study the penalties for driving under the influence of intoxicating liquor or controlled drugs in the state, and the education and treatment services available to offenders.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HB 84**

This enrolled bill amendment changes the reporting date for the committee established by the bill and deletes certain surplus language.

Enrolled Bill Amendment to HB 84

Amend section 4 of the bill by replacing line 1 with the following:

4 Chairpersons. The members of the committee shall elect a chairperson from

Amend section 5 of the bill by replacing line 3 with the following:

senate clerk, the governor, and the state library on or before November 1, 2000.

Senator Trombly moved adoption.

Adopted.**1999-2148-EBA****03/10****Enrolled Bill Amendment to HB 537**

The Committee on Enrolled Bills to which was referred HB 537

AN ACT relative to background checks for firearms purchases.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HB 537**

This enrolled bill amendment corrects a reference in the bill.

Enrolled Bill Amendment to HB 537

Amend RSA 159-D:1 as inserted by section 1 of the bill by replacing line 3 with the following:

the National Instant Criminal Background Check System (NICS).

Senator Trombly moved adoption.

Adopted.**ANNOUNCEMENTS****RESOLUTION**

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

CACR 16, relating to use of statewide property and personal income taxes. Providing that the general court shall use net revenues from statewide property and personal income taxes exclusively for educational purposes.

Question is on the final passage.

A 3/5 vote is necessary.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, Roberge, Fernald, Squires, Krueger, Brown, Russman, Cohen.

The following Senators voted No: McCarley, Trombly, Disnard, Pignatelli, Francoeur, J. King, D'Allesandro, Wheeler, Klemm.

Yeas: 12 - Nays: 9

RECONSIDERATION

Senator Russman having voted with the prevailing side moved reconsideration on **CACR 16**, relating to use of statewide property and personal income taxes. Providing that the general court shall use net revenues from statewide property and personal income taxes exclusively for educational purposes, whereby we ordered it to third reading and final passage.

Adopted.

CACR 16, relating to use of statewide property and personal income taxes. Providing that the general court shall use net revenues from statewide property and personal income taxes exclusively for educational purposes.

Question is on the final passage.

A 3/5 vote is necessary.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, Trombly, Disnard, Roberge, Fernald, Squires, Pignatelli, Krueger, Brown, Russman, Hollingworth, Cohen.

The following Senators voted No: McCarley, Francoeur, J. King, D'Allesandro, Wheeler, Klemm.

Yeas: 16 - Nays: 6

Ordered to third reading.

CACR 17, relating to establishing a restricted education trust fund. Providing that an education trust fund be established, that all moneys designated for the purpose of state aid to education shall be deposited into such trust fund, and that the moneys in such trust fund shall be used exclusively for state aid to education.

Question is on the final passage.

A 3/5 vote is necessary.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, Roberge, Fernald, Squires, Francoeur, Krueger, Brown, Russman, Klemm, Hollingworth, Cohen.

The following Senators voted No: McCarley, Trombly, Disnard, Pignatelli, J. King, D'Allesandro, Wheeler.

Yeas: 15 - Nays: 7

Ordered to third reading.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate bill:

HB 669, relative to the determination of current comparable compensation for persons with gainful earnings who receive disability retirement benefits.

HJR 10, requiring that the United States Marine Corps flag be flown over the state house every November 10 to honor the birth of the Corps. Senator D'Allesandro moved adoption.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the sole purpose Enrolled Bill Reports and amendments, and that when we adjourn we adjourn to the Call of the Chair.

Adopted.

Third Reading and Final Passage

HB 109, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor.

HB 224-FN-A, establishing a joint committee on code enforcement.

HB 615-FN, establishing a registry for brain and spinal cord injuries.

HB 645-FN, relative to telecommunications equipment assistance and the enhanced 911 system.

HB 649-FN, relative to nitrogen oxide emissions from electricity generation.

Adopted.

In recess to the Call of the Chair.

Out of Recess.

1999-2172-EBA

04/09

Enrolled Bill Amendment to HB 501-FN-A

The Committee on Enrolled Bills to which was referred HB 501-FN-A AN ACT relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HB 501-FN-A**

This enrolled bill amendment changes the effective date to upon passage.

Enrolled Bill Amendment to HB 501-FN-A

Amend the bill by replacing section 4 with the following:

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

Senator Trombly moved adoption.

Adopted.

1999-2209-EBA

04/01

Enrolled Bill Amendment to HB 224-FN-A

The Committee on Enrolled Bills to which was referred HB 224-FN-A AN ACT establishing a joint committee on code enforcement.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 224-FN-A

This enrolled bill amendment changes the effective date of the bill to upon passage.

Enrolled Bill Amendment to HB 224-FN-A

Amend the bill by replacing section 2 with the following:
2 Effective Date. This act shall take effect upon its passage.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 363, increasing the bonding limit of the school building authority.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 84, establishing a committee to study the penalties for driving under the influence of intoxicating liquor or controlled drugs in the state, and the education and treatment services available to offenders.

Senator D'Allesandro moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 577, relative to the power of a school district to expend catastrophic special education funds and relative to the exemption of certain unexpected catastrophic special education expenses from the provisions of the municipal budget law.

HB 746, relative to emergency police assistance.

LATE SESSION

Senator Cohen moved that the business of the day being complete that the Senate now adjourn until Wednesday, November 3, 1999 at 10:00 a.m.

Adopted.

Adjournment.

November 3, 1999

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Father David P. Jones, Senate Chaplain.

I have a chain saw at home that is so dull that it reminds me of some of my sermons. To be sure, when I start it up, it makes lots of noise, but I have to push down so hard to get it to cut through a tree limb, that it would probably be easier and quicker and quieter if I just used a simple hand saw. People, especially leaders, can become like my chain saw: worn down by use. The Bible says, "Since a dull axe requires great strength, sharpen the blade." You have been working so hard over here for so long on one big overriding issue, as well as some smaller, but very important ones, that I hope you are remembering to take time to sharpen the blade of your life, lest you become dull and possibly ineffective. Cutting edge leadership requires that. So does your family and your friends. We are living in a malignant climate of excessive busyness and overheated activism. There are some things you have to do here, and soon. Just beware of allowing your vision and your mind and your heart from becoming so dull that you risk hurting yourself, or us, in the process. Sharpen that blade. Let us pray:

Lord, when the sparks of Your love are flying around us, give us each the capacity to see that You're sharpening us with the whetstone of Your will for us. Help us to relax and to let go of the anxiety that always comes when we trick ourselves into thinking that we are the ones in charge and that You're our assistant, rather than seeing the truth, which is the other way around. Amen.

Senator Disnard led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 537, relative to background checks for firearm purchases.

HB 645, relative to telecommunications equipment assistance and the enhanced 911 system.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 224, establishing a joint committee on code enforcement.

HB 501, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton.

HB 577, relative to the power of a school district to expend catastrophic special education funds and relative to the exemption of certain unexpected catastrophic special education expenses from the provisions of the municipal budget law.

Senator D'Allesandro moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in its amendment to the following entitled House Bill sent down from the Senate:

HB 109-FN-A-L, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor.

Senator F. King moved to have **HB 109-FN-A-L**, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 109-FN-A-L, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

HB 346-FN-A, relative to permissible fireworks.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

- REPRESENTATIVES:** Bruce Hunter
- David Welch
- Walter Mikowski
- Steve Vaillancourt

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 346-FN-A, relative to permissible fireworks.

Senator Cohen moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as said members of the Committee of Conference:

- SENATORS:** D'Allesandro, Disnard, Johnson

COMMITTEE REPORTS

HB 704-FN-A, establishing a wildlife damage control program and making an appropriation therefor. Wildlife and Recreation Committee. Vote 6-1. Ought to Pass, Senator D'Allesandro for the committee.

Recess.

Out of Recess.

Senator Russman moved to have **HB 704-FN-A**, establishing a wildlife damage control program and making an appropriation therefor, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 704-FN-A, establishing a wildlife damage control program and making an appropriation therefor.

Recess.

Out of Recess.

TAKEN OFF THE TABLE

Senator Russman moved to have **HB 625-FN-A**, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills, taken off the table.

Adopted.

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

Question is on the committee report of ought to pass.

Adopted.

Senator Johnson offered a floor amendment.

1999-2227s

08/01

Floor Amendment to HB 625-FN-A

Amend RSA 125-L:8 as inserted by section 1 of the bill by replacing it with the following:

125-L:8 Reimbursement of Mandated Costs.

I. The state shall reimburse, through the department, all eligible costs to any solid waste management district or regional refuse disposal district served by a municipal waste combustor required to comply with the emission limits established by this chapter. The department shall reimburse such eligible costs over the same period as any such district has amortized those costs, provided that such amortization period shall not be less than 5 years.

II. The department shall determine the eligible costs to any district served by a municipal waste combustor subject to this chapter and reimburse such eligible costs with prior approval of governor and council.

1999-2227s

AMENDED ANALYSIS

This bill establishes a mercury emissions reduction and control program.

This bill requires that the state reimburse, through the department of environmental services, all eligible costs to any solid waste management district or regional refuse disposal district served by a municipal waste combustor required to comply with the emission limits established by this bill.

This bill also requires the department to conduct a study of the implications of increased mercury levels in the state's ash landfills in order to ensure maximum protection measures from ash contaminants.

SENATOR JOHNSON: I just want to make a couple of comments if I may relative to the amendment. The Air Resources Division, their amendment would have created an unfunded mandate for part of the cost imposed upon the communities by this bill. It takes a position that the obligations imposed on New Hampshire communities by this bill are not mandates.

It also removes all references to mandates from the bill. In one case you will note that it substitutes the word "required" for mandated. It also would require payments to individual cities and towns when a mandate is in fact imposed upon the waste disposal districts, and regional refuse disposal districts, and because individual cities and towns should not incur any obligation directly under this bill, there is no way to determine how much each city and town is to receive. I would ask support for my floor amendment.

SENATOR RUSSMAN: Perhaps some of my colleagues may be able to help me out here procedurally as to where we are on this. What happened was as you recall, is that this came from the House and went to the Senate Environment Committee. We held a hearing not too long ago. We made a committee amendment and brought the bill out as amended. It came here, and after some discussion, we put it back on the table. A couple of things have arisen to my way of thinking. One, if we amend it other than what the House had it, I don't think that the House is going to be here to do anything about the bill. My guess is that they probably are not going to accept it back. I suppose that they could go for a Committee of Conference, potentially, if they are going to be here to vote on it at some other point. So I am not at this point, sure... I did talk to DES this morning, and Ken is out of the country, so I spoke with the other fellow there that has been working on it with him. They talked about allowing it to be amended and sent back to the House. I am concerned about the bill itself, because it is an important bill. Now the other thing is that the way that this language looks to me, it talks about a municipal waste combustor...it doesn't say anything about the one that we are talking about here, and that is a problem, because we are not talking about potentially anyone. Originally this bill was geared to two different plants. It was essentially Concord and Claremont were the two that were involved with this thing as far as reducing the mercury emissions. It looks like the state is now going to step into a situation where we are going to have to spend money on any municipal incinerator that is required to have any emissions update. I know that lobbyist Bouley has been working very diligently on this bill, but I am not sure whether the plan is to have it die because of its own weight and it goes back to the House and doesn't go anywhere. I am not sure if somebody else has some ideas on what will happen in the House if we pass this amendment and we send it back there today. I would be happy to hear about that, and I would be happy to hear from Senator Johnson perhaps, as a sponsor of this amendment, for the record, if this only applies to Claremont. Perhaps he could state that for the record if in fact that is the plan.

SENATOR JOHNSON: Thank you, Senator Russman. I believe...in my opinion, it only applies to Claremont.

SENATOR FRASER: I would like to make a simple observation, Madam President. That is I think that Senator Russman is absolutely correct, that the House probably won't be back to act on a bill if we amend it. It seems to me that we should be acting on the proposed amendment that has been offered by Senator Johnson, and then probably rerefer the bill to have it come out next year when the House can take some definite action. It seems to me that if we pass something today that is not going to get the attention of the House, it is probably going to end up dead. That is my impression.

SENATOR GORDON: Actually I had expressed concerns about the bill at our last session. The primary concern that I had was that there was

a provision that said that any monies that would go back out into the communities, particularly the Claremont communities, would have to go through the legislative fiscal committee before they were dispensed. That concerned me a great deal, because if the communities were entitled to the money, I don't know why the legislature should then decide whether or not we should dispense the funds. I had a separate amendment prepared, but as I read Senator Johnson's amendment, he has already addressed that, so there wouldn't be any need for my subsequent amendment. I did have a couple of other things that I would like to say however, and that was that when I spoke last week, I talked about the idea that this funding should be used for Claremont, but it should also be used for Concord, and those 26 or 27 communities that are part of the Concord disposal facility, but what I subsequently found out is that they are regulated by two different sets of regulations. The Concord facility is regulated by the federal government at this point, and apparently the Claremont, as far as these emissions are concerned, are regulated by the state and therefore, Concord who has already apparently made these upgrades, won't receive any reimbursement because they did it on their own and they are bearing the expense. Now the only ones that we will be paying is Claremont, basically, to do the same type of upgrade that Concord has already done because of circumstances. I understand that there are provisions in the bill now, that some of the operating costs for these upgrades will continue to be paid, and that Concord will benefit somewhat from those continuous operating costs. The other concern that I have is the concern that Senator Russman raised. That is what we are doing is, we are putting a provision, by virtue of this amendment, that says that anything under this chapter will be reimbursed, any improvements under the chapter will be reimbursed, so if we adopt that and put that in the chapter, that means that we can make other requirements under the chapter, and the communities will be automatically entitled to reimbursement without having to legislate that again. That concerns me a great deal. For purposes of moving the bill forward, I am certainly going to vote for Senator Johnson's amendment today, but I think that there needs to be a great deal more discussion, and I would rather not just pass the bill the way that it was and put it into law. I would in fact, like to see some further discussion as to how this bill is going to be implemented.

SENATOR DISNARD: Many of us were very happy...one of the programs of our good governor's is mercury emissions. Try to keep mercury out of the ground, air and waters. Many of us thought that it was good and the people of my area did. I am very nervous when I hear some of the discussions that are being made about a 28-a issue on the one amendment that might have been proposed, the operation of management after it filters, would have had been installed and would it be the responsibility of the communities? That is a 28-a issue. The amount of monies being mentioned or bounced around this morning weren't even realistic. In terms they were very, very high. Then I hear other Senators say that we shouldn't pass this now because procedurally the House may not be acting on it; therefore, starts a stall tactic so that we can wait until next year. We passed this before and we sent it to Finance. We are just conjecturing that the House won't be able to have a Committee of Conference. Let's pass it and find out what they will do. Let's protect our environment as much as we can.

SENATOR RUSSMAN: I have to take issue with my friend and colleague from the remarks made relative to the 28-a issue, and the procedure that we find ourselves in. I hope that after we pass the amendment, which I

suspect that we probably will, and probably should at least for the time being, that somebody will make the motion to rerefer it and we will have additional time. We are in November, and whether it gets passed now or in January, doesn't make an awful lot of difference, and it isn't going to affect the state program from going forward. The attorney general's office came over and said that they were happy to defend it on the 28-a question. The fact of the matter is the contract, which was signed...the municipalities indicated that they would be responsible for any updates that would be required, and that they would pay for this thing. I don't know how else you can make it more clear that if there is a requirement that the state imposes and they have agreed to pay for it, it sure doesn't make it a 28-a argument in my book. Be that as it may, certainly I think that we ought to at least pass the amendment and then, hopefully, someone will rise to rerefer it.

Floor Amendment adopted.

Senator Below moved to rerefer.

SENATOR GORDON: I rise to speak in opposition to the rerefer motion because I think that the bill should be moved along. I think that it should be addressed in the Committee of Conference. As soon as they have the Committee of Conference we can get it done.

SENATOR BELOW: I would urge support for the motion of rerefer. I think that it is extremely unlikely that the House will simply concur with our amendments. It is a substantially different position than what they sent over to us. I think there is simply no harm in rereferring it. There is no particular urgency to the time table on this bill that wouldn't allow us to bring it back in January. In fact, by rereferring it, we will have much quicker action than we would introducing a new bill from scratch.

Question is on the motion to rerefer.

A roll call was requested by Senator Disnard.

Seconded by Senator Francoeur.

The following Senators voted Yes: F. King, Fraser, Below, Roberge, Fernald, Squires, Francoeur, Russman.

The following Senators voted No: Gordon, Johnson, McCarley, Trombly, Disnard, Pignatelli, Larsen, Krueger, Brown, J. King, D'Allesandro, Wheeler, Klemm, Cohen.

Yeas: 8 - Nays: 14

Motion failed.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Trombly moved to have **HB 704-FN-A**, establishing a wildlife damage control program and making an appropriation therefor, taken off the table.

Adopted.

HB 704-FN-A, establishing a wildlife damage control program and making an appropriation therefor.

Question is on the motion of ought to pass.

SENATOR D'ALLESANDRO: I rise in support of the committee report on ought to pass. I think that before I speak to the essence of the bill I

would like to say a few words. No one worked harder to bring compromise to this situation than the chairman of our committee, Senator Disnard. I think that he was diligent and gave more than an extraordinary effort to bring the parties together, because we certainly have a feeling for agriculture in this state, as we do for wildlife in this state. I rise in support of HB 704. Let me briefly explain some of the advantages of HB 704. It provides fencing to provide damage to commercial crops. For example, keeping deer out of orchards, etceteras. It prevents exorbitant requests by cost-sharing the fence expenses of 75 percent from the New Hampshire Fish and Game, and 25 percent from the commercial grower. It establishes a wildlife damage control advisory board that promotes solutions resulting from good dialogue between New Hampshire Fish and Game and the farming community. It assists farmers through the use of educational and technical information, repellents and the loan of direct control and frightening devices. It encourages a non-compensatory recreational solution to wildlife damage problems through the regular hunting season. It provides a requesting farmer with a two-per deer kill permit, which empowers the farmer to take action when he or she sees damage taking place. It repeals outdated game damage laws that were not focused on prevention. It expends no new general funds, but instead appropriates \$350,000 from the Fish and Game Fund of the New Hampshire Fish and Game Department over the biennium. The bill came out of our committee with I believe a 7-1 vote. I urge the Senate to vote for its passage. Thank you, Madam President.

SUBSTITUTE MOTION

Senator Wheeler moved to substitute rerefer for ought to pass.

SENATOR WHEELER: I was the lone vote in the committee. **TAPE CHANGE** in phrasing the distinguished Senator from Claremont for the remarkable work that he did in trying to keep the various parties together, but I want to say where some of this broke down. First of all we had some testimony at the hearing from Representative Almy, and I want to read a little bit of her testimony, because she had given it a great deal of thought. What my concern is, is the repeal of the reimbursement for damage provision. Representative Almy said "the statute on payment of deer damages has been in effect for 60 years since the deer population started to climb from the 19th century. During the last peak in deer population in the 60's and early 70's, the Fish and Game Department cooperated with the farmers in testing and erecting fences, and the farmers cooperated with the Fish and Game Department by agreeing to accede their rights to damage reimbursement when they have had help. Several years ago, Fish and Game made the explicit decision to double the size of the deer herd in 10 years. To do so, they have been forbidding hunting of antlerless deer in many parts of the state. The deer population has been growing, and hungry deer have been attacking the farmer's fencing in ways never seen before. In recent years Fish and Game have only been paying damage reimbursement to farmers when forced to by an external review board." She goes on with a lot of other details which are important, but I won't burden you with them today. She said that she believes that this represents a taking and the unilateral victory of Fish and Game over the orchard and Christmas tree industries of the state, which should also be valued by us. At a time when Fish and Game is increasing the deer herd for its own ends, we should not be repealing the 60-year old statute that alleviates the damages caused to the private sector by those de-

cisions. In a letter that we all received on the Wildlife Committee from the New Hampshire Farm Bureau Federation, they said that they had hoped to come to an agreement to providing some language to amend HB 704 to address serious issues which they believe are present. Even though we're told at the very beginning that Fish and Game would not entertain any attempt to retain the game damage provisions, it later became apparent that no modification to HB 704 would be given serious consideration. They went on to say that agreements were reached regarding rules, but there are some issues here that are too important to be addressed just through the rule-making process. They suggest the interim study, although they posed it as rerefer, because they don't think that the fencing program will be utilized until the working rules are promulgated anyway, so that this delay in the fencing program would not adversely affect farmers. What they go on to say, this is the Farm Bureau still, "We must state how important it is to us to take the time now to correct the bill so that we are assured that these areas of agreement are carried out. We are of the opinion that a relatively slight delay through the rereferral process will not jeopardize any of the other provisions of HB 704. Fish and Game have stated that they will not discuss modification to the HB 704 position on game damage payments. It has long been the policy of the Farm Bureau that farmers should be compensated for damage caused by game animals, and we are not retracting from that position; therefore, we must continue our opposition to the elimination of these payments." So I put it to you, are we now in one fell swoop going to eliminate a 60-year old statute to protect our farmers from game damage because of a policy that Fish and Game has unilaterally enacted. I urge you to support the motion of interim study. Pardon me, that motion can only be offered the second year. The correct motion is rerefer. I forgot what year we were in.

SENATOR F. KING: Senator D'Allesandro, in reading the bill, it appears that the only monetary relief available is for fencing?

SENATOR D'ALLESANDRO: I believe so, but I will defer to Senator Disnard who is thoroughly familiar with this bill. To the best of my knowledge...

SENATOR F. KING: Senator Disnard, it appears that after reading the bill, the only monetary relief that a farmer or a Christmas tree grower would have would be to help in cost sharing in fencing, is that correct?

SENATOR DISNARD: Correct.

SENATOR F. KING: So if a constituent of mine who has a maple sugar orchard and would like to keep the moose out of his 100 acre mountain-side track, the only way that I could help him with that would be to put up a moose-proof fence around his sugar orchard?

SENATOR DISNARD: Shoot it.

SENATOR F. KING: I could use a frightening device I guess. What is a frightening device?

SENATOR TROMBLY: Me.

SENATOR F. KING: I had a moose in my headlights the other morning and I blew my horn, and it didn't scare him a bit.

SENATOR DISNARD: Madam chairman, the clammers, the trappers, the fishermen and almost every other sports person, perhaps not the

hunter, pays for a license. Who owns the animals in the state? I have spoken to this before to this group. Many of us would love to have the industries to come to our area. The federal government says that in 1996, \$6,804,800 the state received expenditures for those who enjoy wildlife watching, for those who hunted, for those who fished, for those who stayed in motels, for those who ate in restaurants, all types of money spent. Why shouldn't the state be responsible for paying these damages? If you were a clammer, would you want to pay for a moose problem up in district one? You heard me say before that the district one commissioner when I was the commissioner of Fish and Game two years ago, because of the people in his district, the restaurateurs and those who owned the motels and the hotels, talked to the Fish and Game Department and the commissioner to not to have so many moose culled during the moose season up there because there wouldn't be as many moose up there and that would cut down on the number of people that come up there and spend their money. So we here, we have groups in the North Country that want the Fish and Game to increase the herd so the people can go up and spend money, and we have other people who have a maple sugar orchard who want the Fish and Game to pay for damage when a moose with his antlers or body runs through and knocks somebody's tubing down. Fish and Game is willing to do anything except pay money from the license to help the landowner; however, we must also understand that the Fish and Game Department receives approximately \$4 million of matching funds from the federal government. If this legislature votes money from the license fees, which is the income for the department, the main income, no general fund money, these matching funds won't be there. Certainly if there is certain types of damage to a crop that brings money in, not every family garden can receive reimbursement. Let the state pay for it. Legislation will be introduced I understand, through another Senator, in January for animal damage control with state funds. Well why should all of the license holders pay for the damage? The state makes money, they should be responsible.

SENATOR WHEELER: Senator Disnard, do you realize that we are not talking about anything new about enacting some new provision for Fish and Game to pay or to reimburse, we are talking about repealing a 60-year old statute? Do you understand further that my motion simply rerefers the bill so that we have further opportunity to discuss whether we are ready to repeal a 60-year old statute?

SENATOR DISNARD: Yes, ma'am, I do understand that and I also understand that for about 20 years this problem has been in front of the legislature, and every year when someone doesn't want it passed, it is rereferred, rereferred. Let's stop rerefering bills and let's sit down and say yes or no.

SENATOR F. KING: Senator Disnard, can you tell me how much Fish and Game has had to pay out from the existing...as the result of the existing law that allows for farmers to...

SENATOR DISNARD: I don't have those figures in front of me right now.

SENATOR F. KING: Do you have any estimate at all? I mean is it more than \$350,000?

SENATOR DISNARD: I don't think so, no.

SENATOR F. KING: So the existing law is not really putting any more impact on the Fish and Game budget than this law would?

SENATOR DISNARD: The existing law...the Fish and Game Department will lose \$4 million of matching funds from the federal government, which the fishermen, hunters and the others who were taxed when they bought equipment, so there would be a loss.

SENATOR F. KING: Have they lost that money in the past? It seems to me that right now under the existing statute, if a farmer feels that he has damage to his crops, he can apply to the Fish and Game for money, and the Fish and Game will reimburse it.

SENATOR DISNARD: It is not that easy. There is a process that they have to go through. There is a committee appointed by the governor that has to review it.

SENATOR F. KING: I am trying to find out if that has been onerous on the money now. If it is putting that money at risk? I am trying...I would like to know how much money they are spending now, I guess.

SENATOR DISNARD: Sir, that is not the point. The point is, sportsmen, hunters, the fishermen, the clammers, the trappers are against reimbursement for certain types of damages, they don't think that it should come out of their license fees. Let the state take care of it. Let the people up in your country who were so happy about making dollars at the restaurants and motels, and hotels, let them help and pay for some of these things.

SENATOR FRANCOEUR: Senator King, on the back page of page six, the fiscal note, it said that the department paid out \$13,800 in fiscal year 1998 and \$6,750 fiscal year 1999.

SENATOR GORDON: Senator Disnard, I am confused as usual, I guess. I represent, in my Senate district, a good portion of the Connecticut River Valley and a good portion of the Pemigwasset River Valley, and some of the best farm land in the state.

SENATOR DISNARD: You are very lucky.

SENATOR GORDON: I am lucky. In representing those farmers, I know that they are all under economic stress. They are all under economic pressure. They are finding it very difficult to stay in business. I am very concerned about doing something today that is going to put an additional strain on them. I guess I am trying to figure out why I should vote for this bill if that is in fact going to do that. I have a couple of questions that I need to ask you. I am trying to figure out what involvement the farm communities had in negotiating this. The first question that I have is has the Department of Agriculture at all, weighed in on this bill? Do they have a position on this bill?

SENATOR DISNARD: No.

SENATOR GORDON: Did they participate at all in the discussions in this bill?

SENATOR DISNARD: The hearings that I attended, no.

SENATOR GORDON: Then I guess I need to ask, how has the farming community been represented in coming to an agreement as to what kind of bill that we are going to put forward here today?

SENATOR DISNARD: We have held several meetings, not against the right-to-know law. For example, we had two members from the House Fish and Game and Wildlife Committee and two members from the Senate Wildlife and Recreation Committee, we had two commissioners, we had orchardists, one orchardist, the president, and the executive director of

the Farm Bureau sit down and discuss the problems. From that it was very evident that the Farm Bureau and the Fish and Game people were not sitting down and talking over all of their problems, not just the game damage. The big problem was relating to the depredation of the deer herd when they came into the orchards and how the conservation officers and different people interpreted the present laws. It was very evident that they hadn't talked. Since then they have been talking. They have been discussing better methods of understanding each other and setting up future meetings. They have all agreed to work together to try and get the rules or through depredation...both sides have agreed that they would work together to try and get the animal damage money through the state. Both sides have agreed to meet and discuss similar problems which they haven't in the past. So in a long winded way, what is happening, except for the money coming out of the fishermen and hunter's pocket, they are meeting and talking together, and they have all said so and we will be better for it today and it will only improve.

SENATOR GORDON: I am trying to figure out how this applies to this particular bill. I am glad that they are talking together. At some point in time, the Farm Bureau, I guess, has been representing the farmers. I have been told that the Farm Bureau at some point-in-time agreed to this and then reneged on the agreement. Is that your opinion?

SENATOR DISNARD: I wasn't at that meeting when they all sat down together.

SENATOR GORDON: Who would have been at that meeting?

SENATOR DISNARD: At that meeting of Fish and Game, Fish and Game commissioners, people from the Farm Bureau. I have heard rumors that there was agreement. I have rumors...I want you to understand what I am saying... I heard rumors that there was an agreement when they left. I have heard rumors that after a meeting they disagreed. I have had different orchardists come up to me as the chairman of the Wildlife and Recreation Committee in the Senate and say that they agree with me, it shouldn't come out of the Fish and Game, but we want to be paid.

SENATOR BROWN: Just a quick question, Senator Disnard. Has anybody suggested some way of splitting the cost partially coming from the licensure and partially coming from the general fund as a compromise?

SENATOR DISNARD: No, but I assume that my good friend, the sponsor of that bill, Senator Trombly, in January, when this comes out, some suggestions that could and should be made. If you understand that \$4 million may be in jeopardy if that license money is used.

Recess.

Out of Recess.

SENATOR TROMBLY: This is truly one of those bills where I wish that it had never been sponsored or needed. As a supporter of sports people in the state and having served for ten years on the House Environment and Agriculture Committee and knowing the needs of the farming community in the state, I had to weigh what was in front of me. I think that if you look at the facts, there is not a lot within the legislation itself, in particularly the fiscal note, which is going to help you, because you get **TAPE INAUDIBLE** a one hand argument on the other hand. If they only spent \$15,000 in abatement over the two years, then the farmers are not suffering the harm. Correct? All the farms in the state and all of the orchardists? That isn't a great deal of money. So a lot of farmers

in fact, wouldn't be hurt if you did away with this program. The converse side of that, the argument against Fish and Game, is that well for heaven's sake, if you people are only paying \$15,000 in two years, what are you afraid of? Why do you need to wipe out wholesale a 60-year statute? Well the problem is this: whether somebody in Washington knew 60-years ago or 5 years ago or 2 years ago, that we were indeed paying that minimal fee of \$15,000, they now know that we are paying damages for animal abatement. You can't do that. It is not allowed. So if we continue this program, Fish and Game can...and what was represented to me, and I believe it, we'll probably lose \$4 million. Now I do have a bill, because I feel very strongly, that farmers should not take it on the chin. Although farming is a business and there is a certain risk and there are changes in agriculture to by the way, that occurred, that have contributed to the problem. Apple trees grow in different heights and deer can eat these apples much more easily than it could when they grew tall. So part of the problem, and the increase in the animal damage has been changes within the agriculture community too, and that is not pointing any blame at farmers. They should make as much money as they can, and they shouldn't suffer the losses that they are suffering, because Senator Disnard is 100 percent right. I firmly believe that the animal wildlife of this state is our resource. I bridle when I hear sports people talk about it as if it is theirs. I bridle when I hear farmers talk about it as if they are enemies. We all benefit from the wildlife, and that is why I put the bill in that would raise and appropriate \$500,000 for what apparently seems to be \$15,000 problem, if you look at that fiscal note. If we can't get \$500,000 from the citizens of the state, whose responsibility it is, quite frankly, to pay for these damages, and not solely the sports people, then where are we going to get \$4 million? Where are we going to get that? We are going to put Fish and Game out of business. That is what has lead me to believe that this legislation needed to pass now. I don't like the wholesale wiping out of damages for farmers. They shouldn't eat that loss so to speak, but the statute on damages doesn't limit how much Fish and Game could pay in claims. So conceivably, and this is what in fact is happening, Madam President, while there were only \$15,000, there are some claims that are working their way through the system for several thousand dollars. It is a program where it was not utilized extensively for 60 years, that it is now being utilized. What tipped my vote in favor of this bill was not only was there a risk of continuing the loss damage payment, which would cost \$4 million, but added onto that if we kept the program in place you would have those additional multi-thousand dollar claims laid against Fish and Game, and they just can't handle it. I say to you as I said before, if you won't give them \$500,000, where are you going to get \$4 million, and then where are you going to get the tens of thousands of dollars that will come after that? It would be a steady bleeding of Fish and Game and we would not be able to staunch the wound. We wouldn't be able to do it. We have this bill and the problem with not passing it now is that those claims are working their way through the system and if we wait, more claims will be processed, and more hemorrhaging from the Fish and Game funds that we didn't see in the past. I do think that there is a certain urgency to this bill now. I am convinced that I think that the facts that were cited to me by the Fish and Game people, which I just told you about, are indeed true. I do also want to tell you that I asked Mr. Vetter at the last hearing on this bill where the rulemaking was, because quite frankly, I agreed with the Farm Bureau, that it is not good enough to say we will

make some rules in the future. Mr. Vetter said that some of the rules have been promulgated and are working their way through the system, and others are close to entering that process. That comforted me somewhat, but not incredibly. I think that this is a two-part vote here today, I really do. If you vote to repeal the damages, you will protect the Fish and Game fund and the sports people. You then need to vote for my legislation next year, because I think that it is only fair that the people of this state pay for these damages. It is a two-part deal. I don't think that we should leave the farmers at risk, but there is an immediacy for HB 704. Thank you, Madam President.

SENATOR GORDON: Senator Trombly, I think that you stated the case particularly well, but I guess that I am wondering why it would be that we would repeal one program without having another program in place? It seems to me that using your argument, wouldn't a better approach be to table this and bring your bill in and connect the two, and send them to the House, so away go the funds, but then there is something there to replenish them?

SENATOR TROMBLY: I think that is a good question. I think that it is two-fold. 1) The number of claims that could be filed, and there are some pending now that could flow and cause the money to flow out of Fish and Game. 2) It is the status of that \$4 million. By repealing it now you guarantee that that money will be safe and that we will have it for Fish and Game. I am not certain, and I don't want to represent to you, Senator Gordon, that I have any information that it is going to be lost tomorrow or the day after. I was convinced by Fish and Game that it was a sufficient urgency to do what I am recommending you to do.

SENATOR GORDON: If I could just follow up on that. It would be like voting for a statewide property tax in the hope that maybe it would be repealed two years from now. But the question is, if in fact we are doing away with these claims, I guess the question is, are we going to lower the fees for licenses in the state at the same time?

SENATOR TROMBLY: No, because I think that the Fish and Game still needs to do what it needs to do, so by repealing this, I don't think that you're giving them any sort of windfall. What you are doing is preventing us from coming in and having to raise more money for Fish and Game. I see it more like planting a seed, maybe an acorn and watering it properly and nurturing it properly, and up will grow a wonderful, strong sturdy tree where everyone can enjoy the shade.

SENATOR LARSEN: Senator Trombly, if we felt as Senator Gordon questioned, that perhaps we would be better off to rerefer this bill, put it into the early January session, and then attach the general fund monies that we are agreeing need to be there, we would then be suspending the game damage rules and laws, but we would be replacing it with the guarantee of other sources of funding. That would only add several weeks onto that process, and is that not perhaps a better guarantee for both entities than to eliminate one without any guarantee of a replacement?

SENATOR TROMBLY: I think that it only guarantees one thing, Senator Larsen, which is that the \$4 million in Fish and Game money could be in jeopardy. I think that is the only certain guarantee that you have in doing that.

SENATOR LARSEN: Have you seen a date in which the \$4 million becomes in jeopardy? How long have they known that we are using these funds for abatements?

SENATOR TROMBLY: The bill addresses abatement, which is the fencing, which is okay. The game damage is not okay. I don't know how quickly the feds could act or would act. I don't know, and I don't want to represent that there is a timeframe. All that I know is that I am sufficiently convinced that I am willing to act today on it and have us do what we need to do next year.

SENATOR BELOW: Senator Trombly, so one concern that I have is that you are saying that there are some pending claims, and by acting on this today, if it becomes law, those pending claims would be voided and we have no way of knowing whether we might be able to pick up those claims in the future with future legislation?

SENATOR TROMBLY: The representations were to me, Senator Below, is that there were claims pending that could cost several thousand dollars to the Fish and Game fund, and this would take care of that problem.

SENATOR BELOW: This would take care of that problem by voiding those claims, by repealing the damage, so what is wrong with the logic of saying shouldn't we have the new program in place so that those pending claims...we don't just discard them, that we respect that there may be some real claim there that we should be picking up, as you say, from the general fund?

SENATOR TROMBLY: There is a real claim there and we can write some legislation to include any claims that were pending at the time that this legislation was passed. I have absolutely no problem with that, to guarantee that those farmers get their reimbursement. Absolutely no problem with that whatsoever. If that is what your concern is, then we can put it into the legislation.

SENATOR BELOW: Can we put it into this?

SENATOR TROMBLY: There is a time sensitivity problem that was expressed to us by Fish and Game, relative to the jeopardy of their fund. They are jeopardizing their \$4 million.

SENATOR GORDON: I just want to follow up on that. With us both being attorneys I guess that you are not commenting on the validity of the claims, it is just that we don't want to have to pay it?

SENATOR TROMBLY: The farmer's claim, correct. I mean there is a very tortuous process that is not fun for either side in the payment of these claims. What happens is that when the claims go in and they get denied and the farmer gets upset, and granted that the sports person gets upset because they are paying for it out of their licenses while the entire citizenry of the state benefit from what is going on.

SENATOR GORDON: Then if there is an apple farmer in Boscawen...

SENATOR TROMBLY: There are.

SENATOR GORDON: Okay... and if they have a claim pending right now and we pass this legislation, the intent of this is to disenfranchise them so that they can't collect?

SENATOR TROMBLY: All that I am saying, Senator Gordon, and I am trying to be precise, because I am telling you the reason for my decision, which is that when I spoke to the people who could answer those types of questions, I didn't get into how many dollar amounts. I was told that one of the things that had to happen for passage was to stop the jeopardizing of the \$4 million, which quite frankly scares me more than anything else. The payment of damages to farmers is not some-

thing to which I object. I think that we have to do that in a very, reasonable and rational way. I am not certain, Senator Gordon, that that exists at this point.

SENATOR WHEELER: Senator Trombly, sorry about the cold pizza, but those of us who eat cold pizza we know that it is all right too. I wondered if you were aware of the fact that last year the legislature passed a bill that as I interpreted it, said that Fish and Game owns all of the wildlife in the state, or at least has control over all of it...

SENATOR TROMBLY: First, I would never agree with everything that the legislature of the last session did. I wouldn't presume because they did it, it was right for the people.

SENATOR WHEELER: It was indeed signed into law. Also, according to the testimony that the Wildlife Committee received, Fish and Game at the end of a year end, has a \$5 million surplus, but at the low point of their cash flow, they only have \$1.5 million, so they don't always have that \$5 million on hand. It is not a department that is really hurting for money. Would you believe that I don't think that there are any facts that would indicate that there is going to be any \$4 million settlements, especially when they have to go through this external review board to get damage anyway.

SENATOR TROMBLY: I would say that if you lose \$4 million, then you are not going to have what you had, and \$4 million is a big chunk of money.

SENATOR WHEELER: Thank you.

SENATOR FERNALD: Since 1935, the state has been reimbursing farmers for crop damage from deer, and we don't seem to have figures on how much that damage has been. I am sure that it has fluctuated over the year. Common sense indicates that the more deer, the more damage. The Fish and Game Department has put in place a plan to double the deer herd in ten years, which means that we can expect the damage to go up, and in fact, apparently that is what has been happening, based on what Senator Trombly said "more claims are being filed for more deer damage than what we used to see." Fish and Game says, "Deer belong to everybody, don't use our money to pay for deer damage." I know on a sort of a strict illegal sense, maybe the deer belong to the people of New Hampshire, but let's talk about reality here and be honest...the Fish and Game Department is in control of the deer herd, and they are controlling it for the benefit of the hunters, and they are making a decision as to how many deer that we are going to have for the hunters and not for the people of New Hampshire as a whole. Not for the farmers, not for the motorists, not for the backyard gardeners, not for the landscapers, they are doing it for the hunters. So to argue that hunter money should not go for deer damage makes no sense to me. What I hear them saying is 'we want to set our policies so that we can have more deer, which the hunters will like, so that we can sell more licenses and get more revenue for our department, but don't touch our money for the damage that it has caused by our decisions. I think that we should rerefer this bill so that we can get some more information by January, as to this \$4 million thing as whether this is matching money. If we have \$15,000 in deer damage, do we lose \$15,000 from the feds or the full \$4 million? Also, are there other funds in Fish and Game that could be earmarked for deer damage, so that they do not affect whatever is supposed to be matching, what is coming from the feds? I will vote in support of rereferral.

SENATOR RUSSMAN: I am glad that we have had something to take up our time this afternoon. There always seems to be something emerge in those areas. Now with regard to the \$4 million, I am not worried about that. We have got Bob Smith and Judd Gregg and John Sununu and Charlie Bass down there, and I think that we don't have to worry about that money. Now, with all kidding aside here, you know that I like to have some levity in the proceedings when we can, at the same time, I think that what has been said here previously, first of all, the farmers are said to be under economic stress. That is probably the understatement of the afternoon. They are under siege in this state. They are under siege across much of America really. We talk about having a Department of Agriculture, and we exempt them from many of the pesticide rules, other rules that farmers can thrive and prosper. Here is an area that they can thrive and prosper. I don't have a lot of farms in my district. There are a couple there, but certainly there are farms in other areas in the state of New Hampshire that deserve to be protected. The notion that they are going to pay for some fencing so that some farmers who have money can afford to fence, and then the other farmers who don't have money next door that can't afford to fence, they are going to be... I don't know if the deer eat them alive, but we'll say that they are going to eat them alive really in terms of what is going to happen. Now they talk about rules coming. Well if the rules are that important, why aren't they here right now? Why can't we rerefer the bill and let the rules go forward? Why can't we rerefer this bill? This is bait and switch to say that we are going to pass this, and then we are going to put out a bill so that we can all sponsor it and look good and say that we are going to give the farmers \$500 million. That bill, I can tell you, that there are those on the House Finance Committee that may not look favorably upon that \$500 million. Oh, I am sorry, it is \$500,000. Well, we wanted to keep them fat for the hunters. I think that clearly, it is a windfall for the Fish and Game Department. They are doing an extraordinary job and Wayne Vetter over there is doing an outstanding job as the director. At the same time, to do away with this particularly now, and to stand up here and say that there are claims coming, there are more and more claims coming to this tortuous process that we want to eliminate, what does that say about our farmers? So I would urge you...if you don't want to put the screws to the farmers, then vote for rereferal. Thank you.

SENATOR GORDON: I find this particular bill very troubling. I find it very troubling for a couple of reasons. One is timing. I just don't know why we are dealing with this bill right now and maybe somebody can explain what the urgency is that has brought this bill to our attention today that says that we have to vote on this and make a decision today, when ordinarily we conduct all our business during the first six months of the year. I guess, I haven't caught on yet. The other issue, and I think that is has been stated pretty clearly at this point in time. This is a matter of policy. Today, we are making, what I think, is a critical important state policy, and that is whether in managing the wildlife in this state and the damage that that creates, whether or not that should be the responsibility of those people who hold Fish and Game licenses. It is a basic policy decision. Should we fund that damage out of licenses or should we fund it out of the general fund? I think that my gut feeling says to me, we probably should fund it out of the general fund, because wildlife benefits the entire population of the state, and not just the hunters. So at that level I say that is fine, but on the other hand, I know the very practical situation here is, and as much as I respect Senator Trombly, I know that there isn't a chance in the world that that bill he has sponsored is going to go

through the House and be funded. We can all sit here and dream, and we can speculate, and I will vote for it, and it will probably come out of the Senate, but I know that I have sponsored a great deal of legislation that came out of the Senate this year, and I haven't seen it since. So I just don't think that it is going to happen. So when you vote, and you take this vote today, what you will be voting to decide is that we are no longer going to fund this damage out of Fish and Game licenses. That we have changed the policy in this state and now it is the responsibility of the general fund. In essence, practically what we have decided is that we really don't want to fund it. We will build some fences, but really we don't want to fund it. We are giving up that responsibility. I want to make that clear.

SENATOR COHEN: I have listened very intently to the discussion today and I kind of reluctantly came to the conclusion that I agree with Senator Gordon, that I think that the money should come out of the general fund. We don't know if that is going to happen. I will certainly support and hopefully co-sponsor the bill that Senator Trombly puts in, but again, the notion of doing away with all of this and not having anything to fall back on, I just think that this is a dangerous position for this state to be in. A question was raised about the suits or cases that are out there being pressing now, would they be squashed? I didn't really hear an answer to that. It seems to me that rereferring this is not a bad idea. It keeps it alive and if we can hopefully...maybe this will be a lever to help pass the Trombly bill on this one. I have been listening to the testimony here and this is not the way that I was intending on voting, but I think that frankly, I have been convinced on this one, so that I hope that we vote to rerefer, and then do whatever is necessary to hold some leverage to pass it so that it comes out of the general fund.

SENATOR GORDON: Senator Cohen, would you believe that I forgot to say when I was talking, that I don't think that it makes any sense to rerefer this bill either, because if we rerefer it, I don't think that it is going to resolve the question. We aren't going to be any further along, so I think that we should vote it up or down?

SENATOR COHEN: Would you believe that I have been involved with this issue for a long time? I have seen it come again and again, and again, but I still think that it is a legitimate issue there that has to be dealt with. It is affecting a great many people. I would hope that we could take it out of the general fund.

Recess.

Out of Recess.

Question is on the substitute motion of rerefer.

A roll call was requested by Senator Gordon.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Below, McCarley, Fernald, Pignatelli, Larsen, Russman, Wheeler, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Trombly, Disnard, Roberge, Squires, Francoeur, Krueger, Brown, J. King, D'Allesandro, Klemm.

Yeas: 8 - Nays: 14

Motion failed.

Question is on the committee report of ought to pass.

Adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Wheeler.

Seconded by Senator Pignatelli.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, McCarley, Trombly, Disnard, Roberge, Francoeur, Larsen, Krueger, Brown, J. King, D'Allesandro, Klemm, Cohen.

The following Senators voted No: Below, Fernald, Squires, Pignatelli, Russman, Wheeler.

Yeas: 16 - Nays: 6

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Larsen moved to have **HB 643-FN-A-L**, transferring the regulation of emergency medical services from the department of health and human services to the department of safety, taken off the table.

Adopted.

HB 643-FN-A-L, transferring the regulation of emergency medical services from the department of health and human services to the department of safety.

SENATOR LARSEN: Some of you will remember the discussion that we had when we put HB 643 on the table. This relates to the emergency medical services being moved from the Department of Health and Human Services to the Department of Safety. As everyone probably remembers, this was approved in the budget, the monetary amounts were in the budget that we passed last June. This essentially, the language that needs to occur so that the employees and all of the other functions are transferred to the Department of Safety. Clearly, it is a bill which needs to pass. It is... I understand from many of the calls that everyone has received, that it is a bill that makes sense. It enables us to have emergency medical services in this state which are Y2K compatible as well as all of the other benefits of this bill. The reason that it had been placed on the table, as some of you may recall, is because we were discussing an amendment also relating to health and human services that 18 employees had been frozen at a 1994 pay level because of the passage of HB 32. We were trying to correct that injustice and inequity in an amendment. In the weeks that have been passed since we have done that, it has become very clear that there is truly an injustice. House Bill 2, essentially made people in a similar class, those who had been demoted and frozen, in HB 2 in other departments were unfrozen by HB 2. We did that last June. Because of HB 32 specifying 18 employees remaining at their pay level at labor grades from 1994, those people even though HB 32 unfroze everyone else's salaries for other departments, those people in HB 32 who were frozen because of the passage of that law, remain at 1994 pay levels, and do not get salary increases. They have been coming to work for five years now with no hope of a salary adjustment, even though people in an identical situation in a different department of our state got raises. There is an unfairness here that must be addressed. I understand that we need to pass this bill now and that is why I am making the motion to take it off the table. I hope that you will all recognize the injustice that occurred because we didn't complete the job in HB 2. We didn't address those 18 employees in health and human services. I am asking for

your help next session. We will try to amend it in a way that is fair and straightforward and get the House to concur or to work with us to correct this. I urge you to vote ought to pass on this. It is an unamended version that we are taking off of the table. A simple ought to pass on HB 643 will send this bill to the governor and it will become law. Thank you.

Question is on the motion of ought to pass.

Adopted.

Ordered to third reading.

VETO

To the Honorable Members of the General Court: July 7, 1999

I have this day vetoed SB 103, making certain changes in the insurance laws.

I am vetoing this bill because Sections 3 and 4 include an upgrade of the salary for the assistant insurance commissioner. I believe we need to conduct a comprehensive review of the unclassified salary structure for state officials rather than address individual salaries on a piecemeal basis. The Legislature has passed HB 414, which authorizes such a study. I will sign HB 414 when it reaches my desk.

I would support enactment into law of the remaining sections of SB 103 and have so advised the sponsor of this legislation.

Respectfully submitted,
Jeanne Shaheen

SENATOR WHEELER: I called commissioner Rogers because this had originally been a request of the Insurance Department, to see how she wanted us to...hoped that we would act on this. She informed us that they had been able to make the changes that they needed to make and that we can go ahead and sustain the veto. It is fine with her.

Question is on notwithstanding the governor's veto.

Motion failed.

Veto sustained.

Recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed a bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 999-FN-A-L, establishing a uniform education property tax to provide funding for an adequate public education and providing education property tax hardship relief to low and moderate income taxpayers.

SUSPENSION OF THE RULES

Senator D'Allesandro moved that the Rules of the Senate be so far suspended as to allow an introduction of a bill after the deadline.

Adopted by the necessary 2/3 vote.

SUSPENSION OF THE RULES

Senator D'Allesandro moved that the Rules of the Senate be so far suspended as to referral to committee, holding of a public hearing, a committee report, and notice in the calendar and further move that **HB 999** be on second reading at the present time.

Adopted by the necessary 2/3 vote.

HB 999-FN-A-L, establishing a uniform education property tax to provide funding for an adequate public education and providing education property tax hardship relief to low and moderate income taxpayers.

SENATOR D'ALLESANDRO: I would like to speak in the affirmative for HB 999 as amended, and go over some of the items that are in this piece of legislation. We have all had a chance to look at the legislation and look at the floor amendment that came over to us. In breaking down the aspects of the legislation, it contains a hardship provision in terms of abatement. It funds an adequate education using basically the surplus, the phase-in money, reinstating the \$6.60 property tax and upping the lapses to \$10 million. It provides that the commissioner of revenue be given an exemption from rules, in order to staff up to handle these abatement claims and it sunsets that provision. It also has language in it that allows for the purchase of a software package that will aid the legislature and the Department of Revenue in terms of forecasting all aspects of revenue and other associated activity. The bill also contains a severability clause and the sunset provision for both the property tax and the adequacy as of January 2, 2003. That coincides basically with a report from the adequacy commission, which will be delivered in December of 2000 and that report... to look at what we have done, to evaluate what we have done, and to make recommendations on how we can improve that process. I don't think that anyone was absolutely convinced at the perfection of the initial piece of legislation. We did something that we have never done before. We took funding education to a new level and we put together a formula to determine how these grants would be distributed. What we found out in that process is that much of the information that we received wasn't as detailed. That database wasn't as complete as it should be. We took the capital budget and appropriated it to the Department of Education, \$1 million. Six hundred thousand new dollars and a \$400,000 lapse so that they could bring themselves up to speed in terms of bringing the best information possible to the legislature, so that the decision making process could be enhanced. That is in motion at the present time. We created the Adequacy Commission that has a timeframe as I said, December 2000, to look at what we have done and to make a recommendation. There is also a tax equity commission. Those things have been in place. We realize that it is an evolving process. We also realize that we have a commitment to the 200,000 youngsters who attend public school in the state of New Hampshire. We are not backing away from that commitment. In my opinion, what we are doing is reemphasizing that commitment, and emphasizing the fact that we have a short term solution in place, and that we have to develop a long term solution. That has got to come. We recognize that and nothing in this bill negates that commitment. That commitment is still law. It is still in the law. As a result of that, I think that we have done in this piece of legislation, what we had to do in order to sustain something and to

bring that forward. It is most important that we move, and we move quickly, as we have a number of things happening in the state of New Hampshire, and they are negative. They are negative as they affect the education of all of the children in the state of New Hampshire. Thank you very much.

SENATOR BELOW: I rise in reluctant support of HB 999. I believe, and I suspect that many of you may share the belief, that reliance, primarily on a statewide property tax as our main source of funding, the state's share of public education is a really bad idea. But part of what this amendment does is recognizes that that is the practical thing to do at this point, and it recognizes that it is not a permanent solution by having an explicit sunset of the \$6.60 rate, so that we will in the next biennium, after the next election, have to reconsider just what we are doing with the statewide property tax. It also leaves in place for the time being, the formula for adequacy, which we all recognized was also an interim formula that can and should be improved upon, and we are going to look toward the adequacy commission for some direction on how we can improve that formula for calculating and distributing the adequacy amount. What we can speculate on is that coming into the next biennium and the next budget, that we are going to have to adopt, or that the legislature, after the next election, will have to adopt, is going to have to face some further revenue to fund our obligation. Doug Hall from the New Hampshire Center for Public Policy Study has estimated that the current formula is going to raise the adequacy cost to something like \$972,000,000 in the next biennium. A more conservative estimate which we assume might just go up by inflation and pupil growth in two years, that would be in the order of \$910,000,000. Whether it is \$910,000,000 or \$972,000,000 we are going to, with the present revenues committed to the education trust fund, have a shortfall on the order of about \$150,000,000-\$210,000,000 in the first year of the next biennium, with the current revenue structure. If we continue to rely on the statewide property tax to make up that difference, we would be looking at a \$9-\$12 statewide property tax to do the job just two-years from now, but we recognize that, and recognize that this is going to get us through this year and next year. There is a small revenue gap left in the current budget and there are some ideas on how we can resolve that. We can look at those in January. But I think that the most important part of this compromise is the recognition that we need to be better prepared in the next legislative session, to make better informed decisions. That comes in section 23 of the bill, in which the legislative budget assistant, in consultation with the Fiscal Committee, has directed to issue a request for proposals for the development and acquisition of a complete system of tax policy simulation and forecasting models for the state of New Hampshire, including all necessary database development and training. Then it furthers requires the Fiscal Committee to select in contract for the services of an independent consultant to provide those services, to deliver the system of tax policy simulation and forecasting models. That is very important because the legislative branch, in fact, the administrative branch, the executive branch of our government had been lacking in the analytical tools to objectively look at all of our different tax policy options, whether it is a sales tax, consumption tax, an income tax, a circuit breaker on the property tax, all of these have been beyond our ability to accurately forecast and analyze the different policy alternatives that might be available to us. So I think that this is an important step in helping provide us with analytical tools that we can come back and

look towards a long term resolution based on better information and a more solid evidence of the consequences of our possible policy choices. So I would like to conclude and urge the adoption of the HB 999.

In recess.

Senator Russman in the chair.

SENATOR KRUEGER: I rise in opposition to this floor amendment. I cannot tell you how strongly I feel about this. I feel that we all have tried. We have all lost. The people who supported the income tax lost, people like me who wanted a constitutional amendment, we lost, and what do we have instead? We have something that I believe that is worse than those two options. This may be hard for the people in this room to believe, but I would at this moment, support an income tax before I would support this abomination. The reason it is an abomination is because, think about it, we all know that they are going to throw out this hardship clause. We all know that the courts know that this is constitutional. The only reason this is in here is to get it through that House over there. It is gone. It is history. Even with it, the landlord in the trailer park is going to raise the rent. This hurts the poor. This really hurts the poor. This hurts business. When you hurt business you hurt everyone. You heard Senator Below refer to the fact that this has no cap. We will need more money. Adequacy may go up. We may be at \$9, we may be at \$10. I have even heard \$14 today. And you know what? That means that those of us that do not have a donor town in our list of towns that we represent, probably, and I predict many of us will, be moving across. We will become those donor towns. I can really see them. I spoke to many people yesterday at the polls. What happens? Some may disagree, but I truly believe with all my heart in Manchester, was a tax revolt. When the people in Manchester thought that they were going to get money back from the state for property tax relief, and when they were told by the current mayor that they weren't going to get that relief, they revolted...anything, and that is nothing to say bad about the incoming mayor, but anyone, any program would have been better than that. Broken promises and more money. I have to laugh, because the amount of new money generated by this crazy plan is very small. This is take it out of this pocket and send it to the state, and let's make sure that we slime off some off of the top for the bureaucrats and then send it back to the grateful people who are going to say oh thank you, heaven of tax relief God out there, and we, are going to be grateful forever, meanwhile education is going to improve. We all know in this room, that is not going to happen. I know that I have been scorned and I have been told yes, are you going to let the schools close. You know what? We all know that they won't close. We all know that could have already happened, and it didn't. Could the towns send out tax bills? Yes they could. Would the people pay? I believe if they understood this they would do anything. I am not just talking about donor towns, because you are going to see in Bow, you are going to see in Dunbarton, you are going to see in some of my towns, people who this is going to affect in a negative way. You are going to see people suffer for reasons that we know to be a fact, or there wouldn't have been the surge in this body to defeat a very similar bill, Fred King's bill, a while ago. There wouldn't have been the interest in the income tax if this had been all right. This is a sad commentary, in my mind of us, in a corner, in a box, that we didn't create, because a bill that was flawed from the beginning, HB 117, came over here and this is the worst band-Aid fix. I don't have the answer and I know that is the

primary criticism aimed at people like me who say don't do it. Just don't get on this train. This piece of legislation, and I have to laugh because my colleague from Manchester, Senator D'Allesandro, reminded me when I told him that I thought that this was the worst piece of legislation ever to come out of this body, that no at a time Catholics couldn't serve and therefore, I wouldn't have been here, so maybe it isn't quite the worst. But certainly, it is up there. Certainly without question, if the people out there understood what we were doing today, and the amount of fortitude that it would take to defeat this, they would encourage us, I am certain, to defeat this horrible, horrible tax that we are putting on the people of New Hampshire. Remember friends, remember, because the fate will be ratcheted up some night at midnight when there is not enough money in the coffers and the people in their town meetings will not be able to say no we can't afford this, no we can't do this, no we can't afford that because they will be told that we need the money. Thank you.

SENATOR F. KING: I think that the opportunity for ideological rhetoric has passed. I suppose that I should have some degree of satisfaction today because I was one of two voices back in the spring that advocated for an interim plan with some opportunity for the legislature to continue to do their work in the future, while the commissions continue their work. I wanted to sunset the bill that was being discussed. That is what we have today. We have an interim plan with sunsets in it. The commissions will be allowed to continue to do their work and come back. But I really am not pleased with the outcome, because I think that we passed a bill, because our higher obligation was to do the job and go home and not leave it for somebody else to do. Since we weren't able to do that, at least the House didn't concur with our solution, we now have to continue the work. I guess that I would hope that we would start that work in January, and this legislature continue to work to find a permanent solution, and not leave it to the next legislators that come in. I just want to leave you with a thought as you go home and enjoy your Thanksgiving turkey, that what we have in place is a statewide property tax that some people obviously feel is the ultimate solution, but clearly it is not going to be the answer. If we were to allow it to go forward to 2005, and have the growth that would take place to close the deficit, we would probably have somewhere between \$9 and \$11 property tax. All of a sudden we would see a town like Bedford become a donor town, and be donating \$2.1 million for the cost of education in the state. We would see Moultonborough, who is now donating \$4 million, go to \$10 million as their contribution. We would see Gilford suddenly become a donor town, and in 2005 they would be paying \$2.3 million. Lebanon would be paying \$2.2 million. Hollis, it would be doing \$1.4 million. The decision will have to be made sometime, whether we are going to continue to spend \$825 million, or whether the adequacy commission can find another way to satisfy the Supreme Court and deal with the real issue, which is those towns that can't afford an education and reduce the adequacy amount, or we are going to have to raise substantial amounts of money. If we have to do that then this body has already made that decision. There is only one choice at the price of \$825 million and that is the income tax. Clearly nothing else will do it. So even though it would appear that my beliefs prevail, I am very disappointed today that we haven't got the job done, and I think that we shouldn't be proud of anything today. We have to solve the problem and let the schools go forward. So let's vote for this and go home and try to enjoy our turkey.

SENATOR SQUIRES: If the school funding issue as a patient came to me for treatment, the best that I could say about this therapy is that it is palliative. This is a medical term which means "to extenuate or excuse to alleviate without curing." Regrettably, I am also forced to admit that this "alleviate without curing" also applies to the legislature and to the executive branch, whose pain and suffering is now diminished. That leaves only the families, or in this case **TAPE CHANGE** the court's decision. The body politic will not however, wonder for very long about a number of important consequences that will inevitably follow an affirmative vote. It is now the official policy of the state of New Hampshire to fund 70 percent of the cost of the public education from the property tax, while the remaining 30 percent comes from the general fund. This figure comes from the simple calculation of the cost of the public education is \$1.4 billion, and the general fund supports \$425 million. True, this is an improvement from the level of 7 percent, but it is a far cry from what it should or could have been. We are in truth, tinkering with the same system that gave rise to the problem in the first place. 2). The statewide property tax is going to stimulate a kind of class warfare between the cities and towns who are deemed to be "poor" and that means that you have a low per capita income, a low property equalized valuation and high tax rates, and the "rich" towns with high per capita incomes, high equalized valuations and low tax rates." I have no confidence that the so called "hardship" measures in this bill will have a significant impact, but I have absolute confidence that for renters and residents of mobile home parks, for those people, they're going to see a significant increase in their monthly expense. 3). Because the property tax is relatively inelastic and cannot keep up with the annual increases in the cost of public education, the tax will rise, as will others, including, in all likelihood, the business profits and business enterprise levies. Contributing to the cost of public education will be the pressure for teacher's salaries and building renovations, as well as the continued growth of the school population. 4). We are about to embark on a significant cutback in general fund resources, as lapses and surplus move into the education problem. Left unsaid, is the source of building aid. Left unsaid will be issues such as affordable housing, health insurance, pharmaceutical costs, long term care, Medicaid provider payments, salary support of direct care providers, the family court system, along with a myriad of other programs. I have to say, Madam President, that when I heard discussions that we were going to pass a \$500,000 increase in general fund revenues to help farmers with agricultural damages, that is impossible. We couldn't pass a \$500,000 assessment to help primary care providers for people with disabilities. 5). We can take no pride in consigning the lion's share of the tobacco settlement as well as the so called "signing bonus" to support public education. 6). The public may well inquire as to the wisdom of committing all future surplus (assuming there are any) to public education, while wondering what will happen if there is a deficit. 7). If the validity of the "equalized" evaluation is challenged in court and is found lacking, the pressures of the past three weeks will seem mild compared to the calamity that will result if the statewide property tax is found unconstitutional. The problem with palliative measures is that the underlying problem is not addressed. And so it is today that we will vote for this bill, because there isn't any other choice. The cities and towns simply have to be able to send out their tax bills without which they cannot meet their financial obligations. History will show, I believe, that our attempts to address the 1997 Supreme Court Decision was one of the

missed opportunities. Thus, it remains for a future legislative body to accomplish that which eluded us, a fundamental change in the revenue structure of New Hampshire and our public education. Such an achievement will someday allow a legislature to say with pride: "We cured the problem." I deeply regret that I cannot make this claim. Thank you.

SENATOR COHEN: I will vote against this bill. It is based on the absurd assumption that the injustices, which the Supreme Court recognized as being caused by excessive property taxes, can be addressed by imposing another property tax. This is absurd. We know that as enrollments and inflation increase, as they surely will, the rate of the statewide property tax must and will increase with them, just as surely as property tax rates have risen in cities and towns throughout New Hampshire, year after year after year. We all know that \$6.60 is a minimum. It is a starting place unfortunately. Those who want to reverse the Supreme Court and keep the status quo, will not need a constitutional amendment, because in time, continual increases in the statewide property tax weight will bring us right back to where we were before the justices issued their decision in December of 1997. In the meantime, taxpayers across the state of New Hampshire will suffer. The most onerous burdens will fall, as we know, on those least able to bear them. The poor and moderate income people in New Hampshire may not own property, but since all property is taxed, they pay property taxes as part of their rent. Those will be factored into their bills. All the discussions about special abatements, transition grants phase-ins, hardship provisions, circuit breakers, which I fear, will be meaningless. The plight of renters is simply not addressed. Earlier today I got a note from an employee right here in the State House and it said, "How are we going to help renters who can least afford this, i.e. me? I will have to move if you consider this." One of the cities that I represent is the city of Portsmouth, and almost 60 percent of the property of the city of Portsmouth are rental properties. Almost 60 percent. The tenants include not only the senior citizens on fixed incomes and young families on small incomes, but I hope that it occurs to us that tenants include many, many small businesses. I hope that we keep that in mind as we think about the effects of the statewide property tax on New Hampshire's economy. I hope that we will consider the residents of mobile home parks, whose ground rents will necessarily increase to defray the higher and higher property taxes. Again, nothing has been done to ease the burden. One positive step in this bill is that section 23, that will help us in the future, that we obviously had such a good time with this that we want to come back and revisit it again, but that will enable us to have better resources and data. This software will be meaningful, and I am pleased that that is part of the bill. We all understand that this bill is just another interim plan, and I believe that the most that I can do to make sure that it is only an interim plan and that it never becomes a permanent system for funding public schools, is to vote against it, and that is what I am going to do. I won't take any questions either.

SENATOR PIGNATELLI: I will vote to support this bill. I wish that I could be as enthusiastic in my support, but I cannot. I am pleased that a consensus seems to be building around this short-term solution because action is needed now. I hope though, that we as a state, have not squandered the historic opportunity to create a tax system that is stable and fair. Thank you very much.

SENATOR WHEELER: I rise in support of HB 999 because inaction has ceased to be an option. Even if I were a gambling woman, I would not

gamble that the schools that I represent would not close. It is not up to me to assume that risk for them. What I read in the newspaper and what I hear from the schools that I represent is that they need help now. They needed it before now. For some of us who know that the income tax must be our long-term solution, the perfect has become the enemy of the possible. **TAPE INAUDIBLE** should not be our style. I have never played chicken, and I don't remember taking a dare, and I certainly don't stand at the edge of a cliff in a gale force wind when the earth is crumbling under my feet, yet that is exactly what everyone in this room is doing who opposes this bill today. No Senator in this room today has the luxury of just saying no. We would all like to say no, those of us that support an income tax, but we have a responsibility to do something for our constituents today. We owe it to our constituents, to our school children, to our school boards, to our town and city councils, and yes, to our property taxpayers. To pass an interim solution today, to do what we were sent here to do, to make government work for the people that we represent, and not to perpetuate a stalemate that does a disservice to all of us. Thank you.

SENATOR BROWN: I oppose HB 999. There are moments of opportunity but for some reason, we in the legislature consistently miss these opportunities. The clock is ticking and as time passes, the solution for this dilemma gets further and further out of our reach. If we can't find the solution now, then when? When are we going to repeal the statewide property tax and build a consensus? Under what conditions, if not these conditions, are we going to build the votes that we need to solve this problem? I think that it was Winston Churchill who said that "People are always stumbling over the truth, but don't worry, they quickly pick themselves up and brush themselves off and keep going." We seem to be doing that. The truth is, that the court ruling, which we are trying to fix, is not the real problem, and until we face the real problem, we won't find a solution. The court ruling is a symptom of the problem. The problem is the disparity, the unfairness, the excessive burden of funding public education on property taxes here in New Hampshire, and creating another property tax, and telling ourselves that it is only for an interim period of time when I can tell you standing here right now, if we can't change it now, we are not going to change it three years from now. That is not the solution, it only makes it worse. Thank you.

SENATOR TROMBLY: I think that Noah built his ark before it started to rain, and we didn't do that. But I don't bemoan the fact that this is a temporary solution. I don't have crocodile tears coming from my eyes because it is not the solution that I wanted on a long-term basis. I have heard from the people who live in the Winnisquam school district. They are running out of money in a couple of weeks. I have heard from the people who teach and administer and send their children to the Merrimack Valley school district, they will run out of money next week. I have heard the people who are educated in the John Stark school system and the Shaker Regional school district system, they are running out of money now. They don't have time to listen to speeches that are delivered today which should have been delivered in May as to what you support as an alternative, but you didn't vote for it then. That is what created this crisis. But it is politics. Madam President, we couldn't reach a consensus, because the people in this room have divergent views. Some could support gambling, others couldn't. Some supported an income tax, others couldn't. Some could support an abatement on your house, others

couldn't. That is the political reality of what the voters gave us after the last election. We began this process with high property taxes, bad schools, and no sign of relief for anyone in this state. And, where have we ended? The people in my district, and in most of the cities and towns in this state, are going to have property tax relief, or more money to spend on their children's education. I was at Merrimack Valley today and someone asked a question "What would you do to improve education?" The kid said, "You know what? We need desks." There are 10 and 11 graders who are sitting at desks made for elementary school children. They said that they also need books. Some children in the Merrimack Valley school district system can't take their books home to do homework because they have to share them with the next class. This bill goes a long way in helping those people that live in those cities and towns to buy their children the basic necessities to learn. I won't apologize for that. It is not the plan that I supported, but it does provide relief. It is not a long-term solution, but whether or not we do something, is in our hands. I would say this to Senator Krueger, your speech reminded me of two fictional characters, and you will be proven to be either one of the two, and we will help you that way. When I was in college, I was a classics major, Madam President, I studied Latin and Greek. Then there was a story of Cassandra, who was a daughter of the King Priam, the King of Troy. Advances were made on her by Apollo, who she didn't like, so she rejected them and he gave her the gift of prophecy. She could tell the future, but because she rejected him, she was doomed that no one would ever believe what she said. After the Sack of Troy, King Agamemnon the leader of the Greeks took her home as a prize. As they were stepping off the ship in Greece, she said, "don't go home, you will die." And of course he didn't believe her. He went home and found out that his wife, after many long years of the Trojan War had taken up with a loved one. While he took a bath, they killed him. There is another fictional character, Senator Krueger, that you may or may not be. That is Chicken Little. What you have said is true. If we do nothing. If we do nothing, Senator Krueger, next year...if we did do what the last session did, of this legislature, which was nothing, we will prove you to be Cassandra, but if we take the opportunity, because no one has taken the time or the obligation or the responsibility away from us, this plan does not say that if we pass it, you must not do anything else...if we seize that opportunity to work together, then you will be Chicken Little. I hope that we prove you wrong. I sincerely do. Thank you, Madam President.

SENATOR KRUEGER: Senator Trombly, I always thought that I was Helen of Troy, but I guess not. I do have a couple of questions for you in all fairness. Is it not true that an income tax did in fact pass out of this body? I just want to make it real clear about that.

SENATOR TROMBLY: Yes.

SENATOR KRUEGER: Second question, is it not the fault of the school board, the desk? Is it not the fault of the school boards in those towns that you referred to? That breaks my heart as a former teacher I need to let you know that. But, is it not their fault too?

SENATOR TROMBLY: I think that if I answered that question in the affirmative, it would be like saying, can a child who is a developmentally disabled child who is not given the proper tools, is it their fault that they didn't learn? No. The Merrimack Valley school district is made up of five towns. Well one is Concord and four towns. They are relatively

poor towns. They did the best with what they could do. That is what the school board tried to do. They worked within the resources that they had. This provides the tools for them to do the job.

SENATOR KRUEGER: Do you believe in your heart of hearts, however, that this piece of legislation, will in fact, not hurt some of the people in your district?

SENATOR TROMBLY: I don't know what you mean by the word "hurt" and I do not believe that any legislation that we pass is so universally good or benevolent that somebody somewhere doesn't get hurt. So I think that probably the answer to your question is yes, it could have that unintended affect for someone somewhere, but I think that every single thing that we do does that.

SENATOR KRUEGER: Would you believe that Chicken Little would not have worked so hard to get a constitutional amendment through this body?

SENATOR TROMBLY: I do.

SENATOR FERNALD: So this is the end of the great New Hampshire tax debate. We have determined that the state's educational obligation is \$825 million, which means that our choice came down to two things in the last two weeks. Do we support an income tax, which means that everybody would contribute to education, the same percentage of their income after exemptions, or do we do a statewide property tax, which means that the rich people in Amherst or Hollis or Peterborough, pay less tax at the expense of the average people in Moultonborough or New Castle or Hampton? I am very sorry to say that we are going to take the second choice today. I am equally sorry to say that I am going to vote for it, because it is the only choice that we have left. I am sure that this choice is going to be unpopular with the people of New Hampshire, and so I want to close this great New Hampshire tax debate with a message to those people. If you were counting on real property tax relief in New Hampshire, then make sure that you blame the people who did not vote for the choice that would give you that, an income tax. If you come from a property rich town and feel put upon by this choice, then look to the people who forced us into this choice that we don't want to make.

SENATOR LARSEN: I think like most of the speakers today, I regret with all of you that we are doing an interim measure instead of a long-term measure that will correct the school funding of this state. But as all of you know, it was the court's decision recently that pulled apart the property tax that had passed in HB 117 and said that we must in effect, make another choice, or reinstitute that same choice in a very short amount of time. We were given very few choices. All of you recognize that the only solution that this legislature has for revenue to become immediately available to the schools, is a statewide property tax. An income tax doesn't bring the money fast enough for December when the schools need it or the needs for January. A sales tax or any of the other proposals would not bring in the revenues that keeps our schools open. We all recognize that we have no choice. School districts that we were given a list of not long ago, that face closure without our action include Manchester, running out of local money by mid November. Woodstock, November 1, last date of local school payment. Wolfboro, November 15, New Durham, Dover, Merrimack Valley, Exeter and Salem, are just a few on the list, who without this have no ability to keep their schools open into the future. We have no choice. Given that we have no

choice, we have tried to make the best of it. We tried to make the best of it first by putting the state on a firm financial footing. The statewide property tax brings the money to keep the schools open long enough for us to figure out another solution. We have to not forget that 80 percent of the towns benefit from this grant program. It is not a good solution, but there are a lot of towns and cities who will be able to buy the textbooks. The city of Concord's kids share textbooks. My daughter shares a textbook. It is not just the poor communities that are scraping along. This bill has at least four good points to it. It stabilizes our financial footing. It reduces the education funding gap that we have been working so hard to reduce, by more than \$70 million. It is good because it sunsets the statewide property tax on January 2, 2003. That means that by the end of the session on 2002 we had better have done our homework. We had better corrected this problem, because we know even in the year 2001, we are going to be short of money. So that is our job. The fourth good thing is, that we will have, as we debate this into the future, because of this bill, we will have adequate information from the computer modeling and simulation programs to be able to forecast revenue into the future, so that the future discussions will be based upon information that shows where revenue will come and what families can provide them and where towns and cities could be helped. The kind of data that we need to make the wisest decisions that we can has not been available to us. Senator Below has been faxing to Washington to try and get accurate information. We will have that with this bill. Those are four good points, but the best point is that we are stepping up to the plate today to be financially responsible legislators. We were sworn to do that, and we are doing it today. It is our only choice. I am voting for it.

SENATOR GORDON: I am reminded today that I have been sitting in this seat for five years now, and my predecessor was Wayne King. When I found out that he wasn't going to run, I decided to run, and was fortunate enough to be elected. He decided not to run because he wanted to run for governor. Some of you may remember the center of his message when he ran for governor. His message was that "the property tax is unfair, and that we need to have a statewide uniform property tax." The voters had an opportunity to decide whether they liked his message. They, overwhelmingly, rejected that message just five years ago. Here we are today, adopting that plan that he had proposed. Here we are in a situation where we have had this long debate as Senator Fernald mentioned, over education. This is where it ends. We got into this debate because we were over reliant on one form of taxation, the property tax, and now in order to solve this problem at the end of this 11 or 18 months of debate or two years...what we have decided to do was to adopt the property tax. It was unfair, and now we are adopting a tax which is more fair, but it still has those inherent inequities. What we are going to do today is adopting a tax plan which is just as I have said in the past, is uniformly unfair. It is also an engine. It is an engine on idle at \$6.60, which wouldn't be bad if it were our foot on the throttle, unfortunately, it isn't. It isn't going to stay at \$6.60, and we all know that. It is going to rise, and it is going to continue to rise and at that point in time instead of those 43 towns or however many donor towns out there, you are going to see more donor towns, and soon enough more than half the towns are going to be donor towns, and there is going to be just as much discontent as there is right now. As far as this hardship provision that I have seen in here, I have read it. I know that when I don't like a bill ev-

everything is unconstitutional, and I know that when you like a bill everything is fine. But I have to tell you that I don't see how this can pass constitutional muster. I can't see how just because you live in a donor town and your taxes go up, that you can be similarly situated in a nondonor town and find yourself in a circumstance where you have the exact circumstances, and that is constitutional. I just don't see how the court is going to do it. It provides great political cover. We will all probably have the opportunity to use that at some point in time in the future, but I just don't think that it works. I am disappointed today because this has been characterized as a compromise. I am having a hard time finding out where the compromise is. This is HB 999. We worked so very hard during most of our year here to come up with what we considered to be our Senate position, so that we could go into those Committee of Conferences and hammer in that Senate position and go in there and negotiate. Then here, we are conceding to the House. Basically we don't have a Senate position. We are adopting the House position. So when we vote on this bill today, we basically conceded. This isn't a compromised bill. If it is, I don't know where the two sides are. I guess the thing that concerns me the most is everybody characterizes this as a temporary thing that we have to do today. We really don't have a choice, and that this is a temporary thing, no problem. The fact is, that we all know that it is a permanent solution. Once we passed that Fish and Game bill today, there wasn't anybody in here that really believed, well I hope that there wasn't anybody in here today that really believed that we were going to raise that half a million dollars in the future, except for Senator Trombly. I mean, it just isn't going to happen, because people don't view it that way. The problem is that in two-years now, we haven't found the political will to come up with the right solution to this problem. We did in the Senate. We did have a Senate position by the way, which somehow has evaporated. I would like to see us put on this bill, the Senate, and have a Committee of Conference and then let the people of the state say which one do we choose? But we are not going to do that from what I can see, because the votes are not there, and for whatever reason, don't have the political backbone or the political will to do it at this point in time. The fact is, that that property tax is going to become the permanent solution until at some point in time, there is going to be another crisis, whether it is precipitated by the court or precipitated by a taxpayer revolt, to make us do something to change it. Certainly that was the House's intent originally, to make this a permanent solution. They certainly didn't want to sunset. They have a sunset in here, and we all know about sunset. We have sunsetted the Rooms and Meals tax as I remember. So I am going to vote against it today. If somebody wanted to come in with an income tax and hang it on this bill and make that the Senate position and send it back to the House and have a Committee of Conference and negotiate over this thing, I would be happy to do that. I think that this is bad. I think that it is bad for the state. The fact is that rather than Cassandra or Chicken Little, we know that there are other people out there that have given warnings. Paul Revere gave a warning. I think that all of us should look legitimate here and see the warnings, and see the writing on the wall, and see what is really happening here. I know that we are faced with a crisis **TAPE CHANGE** it is the only thing on the table. I want to give the Senate President due here today, because when we voted on this thing, we came in and we said that to put the statewide property tax on the table, and we put the income tax on the table, and we made our choices... which one do you want?

Stand up and make your choice... but then you look at what the House has done. They voted on the income tax separately and then said that there must be something better, and then they came back a week later with a statewide property tax and said that this is the only thing that you have to vote for. I give the Senate President her due, her credit, that I think that she handled it very well in the Senate. In summary, I am going to vote against this because I just don't think that it is the right thing to do. It is not in the best interest of this state in the long term, and I would encourage other people to vote against it as well.

SENATOR JOHNSON: I stand here in a very difficult situation. I will be very brief because I don't think that there is anything in this piece of legislation that is positive. It is all negative. I stand here with 11 donor towns out of 23 towns, so obviously, I have a big concern as to what is going to happen to those donor towns. I think that Fred King's bill was the bill that we should have passed as an interim plan. I think that it would have got us through in a much better fashion. I also look back at the adequacy commission that I chaired, which started out with a \$630 million adequacy number, and I think that is where we should have started, and we wouldn't have had all of this mischief today, because we knew that that was a start, and it would increase as the year went by, but that is past history. So I really at this point, don't know how I am going to vote. I have been listening to all of the discussion, and I am concerned about the shortfall that is in this bill, and also the shortfall that will be even greater next year. I guess that I will continue to listen, and I may have to in the end, I may have to vote for a live dog rather than a dead lion. Thank you.

SENATOR J. KING: I am going to support it. I have listened this year, last year, eight years ago, ten years ago, eleven years ago. It has been pretty much the same old song. If the guts that are present in the Senate today were here ten years ago, we wouldn't have had something like the Augenblick Formula, we might have had something like this. This is something that happened in the last two years. This is something that has been going on for the last 50 years in the state of New Hampshire. We have done something today that has addressed it, and we are not done with it. It is going to be picked up two years from now and there is going to be food for thought there. The Senate, although I didn't agree with it, I voted in a different way, voted to get the income tax out of here. They did it. We don't have to apologize to anybody in the Senate. It is right across that hall there...is where it didn't happen. On many occasions, that is how it has happened in the past. We had what was known as the Augenblick Formula. That was passed and only 50 percent of it was funded, and we have been trying to live and bring that up-to-date. So we have been living this for a long time. We have come closer and done better in the last two years here, addressing the issue, and I think that it will be addressed before it is done, in a proper and safe manner, whether it is an income tax, a floppy tax or some other, as long as it is funded adequately and fairly. I am going to vote for this so that the students, schools, communities and everybody else won't be in a confusion out there and disheartened. They shouldn't be disheartened, because we have done more for education in this Senate body than has ever been done probably in the state of New Hampshire.

SENATOR D'ALLESANDRO: I will be very brief. I came to this legislative arena about 27 years ago with some opportunity. I continue to express optimism. I think that a negativity flowing around this hall is awful. It is disgusting. We did something that has never been done in the history

of this state. We changed the way that we deal with education. We ought to be proud of that. We knew that it was an interim solution. We knew it was going to have to change. We said without equivocation, we do not have the data that we need, we have got to get better data. We don't have the data that we need in terms of looking at property taxes, and looking at taxes in general. We now are supplying the money to do that. Can't we be proud of that? I have got 20,000 students in the district that I represent. They are going to go to school tomorrow and they are going to go to school the next day, and the next day, because we did something today. I will be back here in two years, God willing, to make other decisions, and I will be proud of those decisions, and I will make them with good conscience, but I am not going to stand up here and say damn it, we didn't do this and we didn't do that, I am sorry about this and I am sorry about that.. every once in a while we have to be proud of something that we did. I drive home at night and I say, damn it, I am a Senator. I grew up in a tenement house in east Boston on the third floor. I would be dead today if a fireman didn't save my life when I was two years old when my house was burning to the ground. My family lost everything. There was nothing for the D'Allesandro family. We were spread out across the city, my four brothers and myself had to live with relatives. We had to live with neighbors. They gave us clothes. So damn it, I am proud to be here. I am proud to vote on things, and I stand behind what we are doing today, because it is the right thing to do now. We have opportunities to do other things. Each one of us has that opportunity. I had a different opinion about the tax. You people, many of you, had a different opinion about some ideas that I had, but I am still here, and I am still participating in the process. I am not going to turn anything off, and I am voting for this today, because I believe that it is the right thing to do now. As I said, 20,000 kids sitting in the schools in Manchester and Goffstown, need me and need you, in order to continue their education. Thank you.

Adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Francoeur.

Seconded by Senator Larsen.

The following Senators voted Yes: F. King, Johnson, Fraser, Below, McCarley, Trombly, Disnard, Fernald, Squires, Pignatelli, Larsen, J. King, Russman, D'Allesandro, Wheeler, Klemm.

The following Senators voted No: Gordon, Roberge, Francoeur, Krueger, Brown, Hollingworth, Cohen.

Yeas: 16 - Nays: 7

Adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the adoption of the amendments to the following entitled House Bills sent down from Senate:

HB 294-FN-L, relative to state aid to municipalities for closure of certain municipal incinerators.

HB 649-FN, relative to nitrogen oxide emissions from electricity generation.

TAKEN OFF THE TABLE

Senator Below moved to have **HB 572-FN-A**, relative to the apportionment provisions of the business profits tax, taken off the table.

Adopted.

HB 572-FN-A, relative to the apportionment provisions of the business profits tax.

Question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Trombly moved to have **HB 375**, relative to substitutions for disqualified and deceased candidates, taken off the table.

Adopted.

HB 375, relative to substitutions for disqualified and deceased candidates.

Question is on the committee report of ought to pass.

SUBSTITUTE MOTION

Senator Trombly moved to substitute rerefer for ought to pass.

SENATOR TROMBLY: I rise to speak very briefly. This is an important part of election reform with us coming up to the filing periods for candidacies. I think that if we can rerefer it back to the committee, the bill will not be lost and time will not be lost at the beginning of the year, and we will be able to address this in January.

Adopted.

HB 375 is rereferred to the Executive Departments and Administration Committee.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 746, relative to emergency police assistance.

Senator D'Allesandro moved adoption.

Adopted.

ANNOUNCEMENTS**RESOLUTION**

Senator Cohen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time.

Adopted.

LATE SESSION

Senator Cohen moved that the Senate be in recess for the sole purpose of Enrolled Bills Reports and amendments, and that when we adjourn we adjourn to the Call of the Chair.

Adopted.

Third Reading and Final Passage

HB 572-FN-A, relative to the apportionment provisions of the business profits tax.

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

HB 643-FN-A-L, transferring the regulation of emergency medical services from the department of health and human services to the department of safety.

HB 704-FN-A, establishing a wildlife damage control program and making an appropriation therefor.

HB 999-FN-A-L, establishing a uniform education property tax to provide funding for an adequate public education and providing education property tax hardship relief to low and moderate income taxpayers.

Adopted.

In recess to the Call of the Chair.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 999-FN-A-L, establishing a uniform education property tax to provide funding for an adequate public education and providing education property tax hardship relief to low and moderate income taxpayers.

Senator D'Allesandro moved adoption.

Adopted.

1999-2235-EBA

04/10

Enrolled Bill Amendment to HB 643-FN-A-LOCAL

The Committee on Enrolled Bills to which was referred HB 643-FN-A-LOCAL

AN ACT transferring the regulation of emergency medical services from the department of health and human services to the department of safety.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 643-FN-A-LOCAL

This enrolled bill amendment corrects certain RSA and other references in the bill.

Enrolled Bill Amendment to HB 643-FN-A-LOCAL

Amend section 5 of the bill by replacing line 1 with the following:

5 Unclassified Salary. Amend RSA 94:1-a, I by inserting in group N the following: director of

Amend RSA 153-A:7, II(a) as inserted by section 6 of the bill by replacing line 2 with the following:

medical services medical control board, and the trauma medical review committee, in accordance with

Amend paragraph IV of section 12 of the bill by replacing line 3 with the following:
 first-appointed director of emergency medical services shall be at step 1 of RSA 94:1-a, I, group N.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 294, relative to state aid to municipalities for closure of certain municipal incinerators.

Senator D'Allesandro moved adoption.

Adopted.

1999-2238-EBA

03/01

Enrolled Bill Amendment to HB 704-FN-A

The Committee on Enrolled Bills to which was referred HB 704-FN-A AN ACT establishing a wildlife damage control program and making an appropriation therefor.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 704-FN-A

This enrolled bill amendment changes a date to avoid retroactive application of a reporting provision and clarifies certain references in the bill.

Enrolled Bill Amendment to HB 704-FN-A

Amend RSA 207:22-b, III as inserted by section 4 of the bill by replacing line 2 with the following:
 beginning in 2000, to the governor, the senate president, the speaker of the house, and the

Amend RSA 207:22-c, II(d) as inserted by section 4 of the bill by replacing line 3 with the following:
 shall make its determinations based on urgency of need for damage relief and any other factors

Amend paragraph II of section 9 of the bill by replacing line 1 with the following:

II. The executive director of the fish and game department may accept and expend federal funds and funds from any other

Senator D'Allesandro moved adoption.

Adopted.

1999-2237-EBA

05/09

Enrolled Bill Amendment to HB 649-FN

The Committee on Enrolled Bills to which was referred HB 649-FN AN ACT relative to nitrogen oxide emissions from electricity generation.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 649-FN

This enrolled bill amendment corrects the numbering of a subparagraph.

Enrolled Bill Amendment to HB 649-FN

Amend section 4 of the bill by replacing lines 2 and 3 with the following:

by inserting after subparagraph (zzz) the following new subparagraph:
(aaaa) Moneys received by the department of environmental services under RSA 125-

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 572, relative to the apportionment provisions of the business profits tax.

HB 643, transferring the regulation of emergency medical services from the department of health and human services to the department of safety.

Senator D'Allesandro moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled has examined and found correctly Enrolled the following entitled House and/or Senate Bill:

HB 649, relative to nitrogen oxide emissions from electricity generation.

HB 704, establishing a wildlife damage control program and making an appropriation therefor.

Senator D'Allesandro moved adoption.

Adopted.

Recess

Out of Recess.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 615-FN-A, establishing a registry for brain and spinal cord injuries.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Larry Emerton
Neal Kurk
Robert Mercer
Tom Donovan

**SENATE ACCEDES TO REQUEST FOR A
COMMITTEE OF CONFERENCE**

HB 615-FN-A, establishing a registry for brain and spinal cord injuries. Senator Squires moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Squires, Krueger, Fernald

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate:

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

And requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Jeb Bradley
Teri Norelli
Jeff MacGillivray
Gary Gilmore

**SENATE ACCEDES TO REQUEST FOR A
COMMITTEE OF CONFERENCE**

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

Senator Russman moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Pignatelli, Cohen

SENATOR TROMBLY: I rise to object to the establishment of a Committee of Conference on HB 625-FN-A.

COMMITTEE OF CONFERENCE REPORTS

1999-2247-CofC

03/09

Committee of Conference Report on HB 346-FN-A, an act relative to permissible fireworks.

Recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 160-C:3, IV as inserted by section 14 of the bill by replacing it with the following:

IV. Buildings used for the sale of permissible fireworks shall be dedicated solely to the sale and storage of permissible fireworks and items relating to the sale and promotion of fireworks provided for in rules adopted by the commissioner pursuant to RSA 541-A and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5.

Amend the bill by inserting after section 19 the following and renumbering the original sections 20 and 21 to read as 21 and 22, respectively:

20 Applicability; Approved Fireworks. All items listed as permissible fireworks in RSA 160-B:1, V-b on the effective date of this act and all items recommended for approval by the permissible fireworks review committee within the first 60 days after the effective date of this act shall be temporarily classified as permissible fireworks for purposes of RSA 160-C. Temporary classification pursuant to this section shall expire 90 days after the effective date of this act.

The signatures below attest to the authenticity of this Report on CofC to HB 346-FN-A, an act relative to permissible fireworks.

*Conferees on the Part
of the Senate*

Sen. D'Allesandro, Dist. 20

Sen. Disnard, Dist. 8

Sen. Johnson, Dist. 3

*Conferees on the Part
of the House*

Rep. Welch, Rock. 18

Rep. Hunter, Hills. 7

Rep. Mikowski, Rock. 29

Rep. Vaillancourt, Hills. 44

SENATOR D'ALLESANDRO: I think that it is really self explanatory. If you look at the amended RSA 160-C:3, "Buildings used for the sale of permissible fireworks shall be dedicated solely to the sale and storage of permissible fireworks and items relating to the sale and promotion of fireworks provided for in rules adopted by the commissioner, pursuant to RSA 541-A, and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5." And the second insertion is "All items listed as permissible fireworks in RSA 160-B:1, V-b on the effective date of this act and all items recommended for approval by the permissible fireworks review committee within the first 60 days after the effective date of this act, shall be temporarily classified as permissible fireworks for purposes of RSA 160-C. Temporary classification pursuant to this section shall expire 90 days after the effective date of this act." We had an amicable Committee of Conference and it seemed that the conferees agreed that this was an acceptable practice at this time.

SENATOR FERNALD: Senator D'Allesandro, is the objective here fire safety? Is that what this is all about?

SENATOR D'ALLESANDRO: Yes. In terms of the recognition of those that are acceptable by the Fire Marshall in the Committee and the posting of those items for sale, yes.

SENATOR FERNALD: Thank you.

Senator D'Allesandro moved adoption.

Adopted.

2000-3005-CofC

01/09

Committee of Conference Report on HB 615-FN-A, an act establishing a registry for brain and spinal cord injuries.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by deleting section 8 and renumbering the original sections 9-13 to read as 8-12, respectively.

The signatures below attest to the authenticity of this Report on HB 615-FN-A, an act establishing a registry for brain and spinal cord injuries.

*Conferees on the Part
of the Senate*

Sen. Squires, Dist. 12
Sen. Krueger, Dist. 16
Sen. Fernald, Dist. 11

*Conferees on the Part
of the House*

Rep. Emerton, Hills. 7
Rep. Mercer, Hills. 27
Rep. Kurk, Hills. 5
Rep. Donovan, Sull. 11

SENATOR SQUIRES: This bill started out in the House. The idea was to create a registry for patients with head injuries, brain trauma and to some extent, spinal cord trauma. As originally proposed in the House, it had an appropriation of \$200,000 to accomplish this goal. The House Finance Committee stripped away the appropriation and passed the bill and sent it to us. We debated it, and it went on to our Finance Committee. We inserted into this bill, \$1, believing that the effort to collect this data is well worth it. The state has an unknown number of head injuries every year. It is an area that results, for many people, in permanent disability. You may or may not be aware that there is currently a waiting list for patients with head injuries...this is based on a financial criteria. This waiting list is now the subject of a lawsuit that came in about two weeks ago. As a consequence, it is even more important to try to understand the magnitude of this problem. The Senate put in \$1 and also made some additions. A technical correction to the budget, which the LBA acknowledged, had no impact on the overall budget. There was a correction to a position in the Department of Resources and Economic Development. The position exists... the person exists, the salary exists, but the position was created. So we sent this bill to the House, who failed to agree, and requested a Committee of Conference to which I was appointed. Yesterday the discussions took place and to be perfectly blunt about it, the House will not accede to the \$1. The reason being is that it opens the potential this year for spending from what might otherwise of been lapses in the Department of Health and Human Services, and secondly, it inserts a new item line in the budget, which according to the believers in this position, has not been subject to public scrutiny. So the question becomes, is the dollar worth sacrificing the bill? Is it possible for the Department of Health and Human Services to collect some data, at least using this as a rationale about the extent and magnitude of head injuries in New Hampshire? We came to the conclusion that it was. That that is a worthy goal. Thus, we acceded to the House position in this matter and took out the \$1 and agreed to the rest of the bill as amended by the Senate. This is not what we should have done, frankly. But it was all that was achievable. So I am asking us to support the Committee of

Conference bill to at least establish, as public policy, the necessity to pursue this problem, correct the budget. It isn't even a deficiency, it is just an error. Correct the problem in Resources and Economic Development and pass it as we recommend it. Thank you.

SENATOR MCCARLEY: Senator Squires, as I understand it, what is left in the bill relative to the brain injury council, it is established, but there is no funding to do the research that is needed in terms of collecting the data going forward?

SENATOR SQUIRES: Sadly, that is correct.

SENATOR MCCARLEY: You know, we all spend a lot of time in here and we periodically just have things that where you reach a point, where you have to stand on something. This may be one that surprises some of you, but I am going to have to vote no on this. I understand that we are fixing something with Resources and Economic Development, and I understand that we are sort of making a statement, but this is not enough of a statement to have not allowed a \$1 line item...so going forward in the budget process, based on this problem and concerns, and I have a constituent who is very concerned about this. As much as I would like to do something a little bit on this bill, I am going to have to vote no, because the House should have acceded on this one. They should have given this. This is a critical issue for the people involved in this. We are talking about a \$1 line item. So I hope that Resources and Economic Development and HHS can muddle through if this doesn't work, but I can't actually support this. I appreciate your work, Senator Squires, but I can't do it.

SENATOR D'ALLESANDRO: Senator Squires, it is my understanding that in this bill, there is also the funding for the governor's commission on disability, is that true?

SENATOR SQUIRES: That is correct.

SENATOR D'ALLESANDRO: If we don't pass this bill, the governor's commission on disability would not be functioning, is that correct?

SENATOR SQUIRES: It may well be, Senator D'Allesandro, I am not sure about that. If we don't pass the bill, these other issues will have to be addressed in some manner, there is no doubt in mind about that. The immediate impact, I am not sure about that one. I am sure that we have a flawed budget, and we have an issue with Resources and Economic Development.

SENATOR GORDON: Senator McCarley, I am trying to figure out how to vote on this because I support the bill, and I supported the original bill in committee and when it was here before us on the floor, but I have constituents, again, that this is very important too. I find myself in a terrible dilemma because, while I support the idea of having the original bill in the Senate position, I also don't want to send a message out to the people who supported this bill originally that I don't support their cause. I guess I am wondering how it will be interpreted out there, and whether you have any indication as to how my constituents might feel if I vote no on this bill today? So I am wondering, wouldn't it be better to...rather than for us to vote against this bill today, to assign a new Committee of Conference, and if we can't agree with the House, not to sign off on the House as opposed to voting against this bill today?

SENATOR MCCARLEY: To answer, I would certainly agree with assigning a new Committee of Conference, and to further elaborate just a little

bit, because I believe that you were asking about if I knew the feelings about some of the people concerned? I had a discussion as recently as last night, and certainly the person asked me to please be supporting to the Senate position on the bill, and they felt very strong about that. So, from my perspective, I don't know how it will be interpreted, but I would be in full support of trying to appoint a new Committee of Conference.

SENATOR FERNALD: I was on the Committee of Conference with Senator Squires. The \$1 that was in the bill as we passed it, is a symbolic \$1. Senator McCarley stated that she is going to vote no, which is, I think, a symbolic vote on a symbolic \$1. I appreciate symbolic votes. I think that there is a time for symbolic votes, but I think that we would be throwing out the baby with the bath water if we take a symbolic vote here on our \$1. I think that we should vote for the Committee of Conference Report, and in the next biennium, if we think that this is important enough to have some real money attached to it, rather than a symbolic \$1, then we can work on it then.

Senator Squires moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives is ready to meet with the honorable Senate in Joint Convention for the purpose of hearing an address from Presidential candidate Steve Forbes.

In recess for Joint Convention.

Out of Recess.

2000-3006-CofC

08/01

Committee of Conference Report on HB 625-FN-A, an act relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on HB 625 FN-A, an act relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

*Conferees on the Part
of the Senate*

Sen. Russman, Dist. 19
Sen. Pignatelli, Dist. 13
Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Bradley, Carr. 8
Rep. Norelli, Rock. 31
Rep. MacGillivray, Hills. 21
Rep. Gilmore, Straf. 11

SENATOR RUSSMAN: I am pleased to announce that the Committee of Conference was able to reach an agreement. We did end up concurring with the House position. It does exempt Claremont from the process and therefore, no money would have to be spent on them. We would urge you to support the Committee of Conference Report. I think that

this is the right thing to do in terms of air quality issues in New Hampshire. If the federal government at some point, decides to do something about the Claremont incinerator and the amount of mercury that they release into our atmosphere, at that time, perhaps, we will have to take a look at what the state should or should not pay to help Claremont with that decision. At this point, it is clear that we have an opportunity here for no money cost to the state to eliminate, by almost three times, the amount of mercury that the Penacook plant emits into the air of New Hampshire, and we ought to take advantage of that. This also does a study for ash facilities, and so on and so forth, and that would be a good thing as well. So we would urge you to support the Committee of Conference Report. I would be happy to take any questions if there are any.

SENATOR DISNARD: I rise in opposition and request your vote against the Committee of Conference Report. I understand, and I hope that you heard correctly, the previous speaker, with emphasis, was stated, "no money would have to be spent on them." On them... is Sullivan county. What we are saying is, or what I heard is, my interpretation is "let's pollute Sullivan county." Never mind that the state of New Hampshire complains because we are polluted by the Midwest, never mind what messages we are giving the Vermonters, because now we are not going to have any emission controls or scrubbers installed in Claremont. The incinerator was forced by the state of New Hampshire on these communities. What does that say? What are we saying here? We are saying that... I believe that the legislators are here to protect all of the citizens. Why should we say because it is a small community, a poor community, or highest illiteracy rate, the highest rate of divorces, the highest rate of pregnancies of any county in the state, the lowest income... what are we saying... "to hell with you"... excuse my language ladies, "the heck with you, we are going to tell you... we are going to study you next year." Do you people honestly believe, when you tell me or when the state tells me that Claremont II funding in several years will be at least \$400 million in the hole. Am I hearing that the Senate will next year vote on an amount of money to install a scrubber if the federal government says that the Claremont area needs one? We are talking over \$1 million. Are you aware that evidently the people in Concord, according to testimony, do not care that they are going to have to spend \$40,000 a year to continue these scrubbers which they already have installed, because their incinerator was built with the latest state of the art. I don't believe that the people in this area, even though it is only \$40,000 a year, are going to agree to pay that kind of money. Have you ever heard the state say that something is going to be \$40,000, and not be \$200,000 in a few years? Do you really believe what the state tells you? I think that we had better take a good look at it. It is a 21-a issue. We are being polluted, and do you care? I talked to some of the members of the committee and I asked them what they would do if it was their community, wouldn't you stick up for it, wouldn't you stick up for your voters? Their answer was "yes". I am sticking up for my voters, and I hope that you will consider it too. How would you feel if it was in your area and you are telling my people, to heck with them, you can be polluted with the mercury, we don't care. On March 8, Robert Varney indicated, and he is talking about HB 625, which proposes a mercury emissions and control program, and he goes on to say how bad the mercury emissions are controlled. Now the House committee says that they don't care. They don't give a darn. You wait a few years and we will have to study it. We hope that the federal government comes in and then you will have to pay all of the costs. Thank you very much.

SENATOR F. KING: Senator Russman, my question is, are we passing a piece of legislation today that sets a different standard for two communities, relative to state requirements?

SENATOR RUSSMAN: No. This comes to be because the Concord Plant is 500,000 tons and the Claremont Plant is less than 250 tons. The federal standards, which are already in effect relative to 500,000 ton plants, the amount of mercury that would be reduced has been done. The state has asked Concord to spend the \$40,000, which they have agreed to do, to lower it from .080 down to .28 milligrams per dry standard cubic meter of material. So it is like trying to compare apples and oranges. There are in the pipeline, if you will, standards that the feds are promulgating for a smaller incinerator, such as the one in Claremont. Certainly the one in Concord has been operating extraordinarily well. You almost never hear any problems associated with it. They have been willing to step up to the plate. The issue is that we can reduce it from this .080 standard down to .028 standard. Almost three times lower just by the introduction of this carbon into the system that would further reduce that, which is a dramatic increase. Technology is right there, it is already installed. I am told that they are willing to do this, and this bill does require that. Without it, we don't. You are talking about air quality issues here. Sure there are lots of things that we could pass and do to improve air quality in New Hampshire. Some of them are feasible and some aren't, but you have to be reasonable, and it has to be done step by step. Obviously, there is no federal mandate at this point on Claremont. While it would be nice to say, 'yes, do it' and let the state pay for it, the House isn't going to do it. So there really aren't two separate standards, if you will, they are two different facilities.

SENATOR F. KING: I am a little confused. I thought that I heard earlier on this day that this carbon treatment for the plant up the road is not a federal requirement and is something that the state wants to have done?

SENATOR RUSSMAN: That is true.

SENATOR F. KING: So it does seem that we are willing to impose a new requirement on Concord and not a new requirement on Claremont. You have indicated that they are willing to do that?

SENATOR RUSSMAN: Yes.

SENATOR F. KING: If they are willing to do that, then why do we need the legislation to set up another standard, or are they not willing to do it unless we pass the law?

SENATOR RUSSMAN: I don't know that. I haven't talked with them about that, if they would do it without the law. I am told that we need the law to have it done, and so that is why the law is before us today.

SENATOR F. KING: To have it down to force them to do it?

SENATOR RUSSMAN: Yes.

SENATOR F. KING: Thank you.

SENATOR JOHNSON: I rise in support of Senator Disnards' position on this piece of legislation. I have towns in my district who are going to be affected and he is absolutely correct. It is going to cost over \$1 million. I believe that where this is mandated by the state, by statute, that those towns should not be penalized to pay that million dollars plus, to make this happen. I think that it is a state responsibility, and I am going to vote no.

SENATOR COHEN: I would have preferred a better bill. The Senate came out with a better bill. The Senate position was a better bill. It is a state responsibility. I agree that... my understanding is that the state did force this on the town, the city of Claremont. I also understand, and I think that we all recognize that sometimes we cannot let the perfect get in the way of the good. Others have said that. This protects the people of Claremont. This does not force Claremont to pay for this. It is a state responsibility. The entire state is affected by the pollution. The state should pay. The state must pay. Are we going to get it in this bill that the House has sent? No, we are not. But we are not mandating. We are protecting the people of Claremont. We are certainly not saying to the people of Claremont, "the heck with you." We are not forcing payment by the people of Claremont. Will the state pay in 2000? It is highly unlikely. Will the state pay in 2001? I think that there is a pretty good chance. We have to do something now. This will significantly cut down on emissions that we have to cut down on. We have to do something about these emissions now. Is it a perfect bill? No. The Senate's version certainly would have been better, but I think that this is protecting the people of Claremont from having to pay a disproportionate share. Down the road a piece, the state has to do something about this. I think that this is the vehicle that would enable this. I urge my colleagues to support this imperfect good bill.

SENATOR DISNARD: Senator Cohen, would you believe your philosophy and my philosophy differs on the word protect?

SENATOR COHEN: Yes, if you say so, Senator.

SENATOR DISNARD: You are speaking about protecting \$1. I am speaking about protecting human life. I am concerned about this continued pollution. Evidently, the way that you speak, you would think more about the buck. I think that we have to think about human life, and start looking at who we are going to protect.

SENATOR COHEN: Well, I thank you for the opportunity to clarify that. I think that we need to look...I feel very strongly...we need to look at not just the dollars. The dollars are here now. The emissions go on for a long time and affect generations for who knows how long. We have to do something about that. There is no question. We can't let this situation stand. It has been a big issue to the people of Claremont and the region for a long, long time. It is the state's responsibility. I am not going to let this rest. The state has a responsibility to do something about this, not for the dollars, but for the pollution. Thank you for that opportunity to address that.

SENATOR TROMBLY: I think that the people of Claremont need protection from this compromise. I think that mercury reduction in the air is a good thing. I think that doing it statewide is a good thing. I don't think that saying that we will require the cleanup of the least polluting in favor of deferring cleanup of the most polluting plant is a good compromise. It is a bad deal. I was in the House in 1979, 81, 83 & so on. We talked about **TAPE CHANGE** it was becoming a problem. We couldn't burn it anymore. That is what precipitated the problem, putting these emissions into the air. We didn't handle that very gracefully down here in Concord, but we handled it as best we could. We said, "bury it or burn it in an incinerator." Neither one of those worked very well, but I don't think that you can deal effectively with solid waste. Landfills leach, incinerators emit into the air. So what are we supposed

to do here today? We are supposed to believe in our hearts that allowing Concord to reduce a small percentage is a step forward. It is not. This is not an environmental question you are being asked to decide today. Don't think it. The environmental position is you are supposed to be cleaning up the worst offender first, and if it costs the state money, so be it. The state has spoken on that issue in the closure of landfills and cleaning up our water and in other instances, cleaning up our air. We have assumed that burden. But for some reason, we are supposed to sacrifice. Yes, I think that Senator Disnard is right. We are to sacrifice the people who breathe that air and, Senator Disnard, they don't just live in your county, they live where I live too. I live a mile from the Concord plant. We are saying to those people, you are expendable until the federal government acts. What a unique argument made in this chamber. We will defer consideration of this issue until Washington tells us what we are going to do. I know that there are some Senators sitting in this chamber where that argument is anathema, because they believe as I believe, these issues should be resolved on the local level. The Claremont incinerator, the Concord incinerator, does not just affect those two towns because they are in compacts. It affects more than those people in that area. What a funny position that we have where somehow I feel, because I am arguing that we need to clean up the bigger mess now, together with the smaller mess, and somehow I am not quite right on this issue for the environment. I think that I am right. I think that Senator Disnard is right. If the House position is we are not going to deal with the folks because we cannot afford it, that is the House position. We had this argument once before, and we resolved it in favor of the Senate position that said that the responsible thing to do is to clean up the big problem now and treat everybody, Senator King, everybody in this state, the same. I think that this bill does treat people differently in different areas of the state. It can't help but do it when you say that we are going to clean up emission in Concord, but we are not going to touch Claremont until Uncle Sam comes in. You know something? Some of you people laughed at me last session when I said that I was going to vote to do away with the game damage abatement fund in favor of trying to get some money out of this Senate, this year. You laughed at me. I said well, "\$500,000 is all that I am going to ask." Heck, I will take \$50,000 folks. Some of you still don't agree with me that I will get it. What makes you think that we are going to get \$2 million out of a different Senate and a different governor, and a different House, two years after the federal government mandates to these poor people in Claremont, and that compact that they have to pay the piper, and it comes out of their tipping fees and the cost that we passed directly onto the citizens? There will be nobody, no intervening, to absorb that cost. It goes directly against the taxpayer. So I am going to vote against this.

SENATOR FERNALD: Senator Russman, I apologize if I am covering low ground, but I don't have the bills here in front of me. I just want to make sure that I understand the situation. The bill provides for a .028 milligram limit on mercury. Is that correct?

SENATOR RUSSMAN: Out of this plant here in Concord, yes, and they do that by injecting carbon into the mix.

SENATOR FERNALD: The House version excluded Claremont from that tougher regulation on mercury?

SENATOR RUSSMAN: Yes. They are two separate things, because the .028 was for Concord, it wasn't for Claremont. It is two separate things. It is like trying to compare two separate standards. The only reason that we are here today on this bill is because the federal standard worked with the plant that was polluting the worst first, which is the 500,000 ton plant, which is the Concord plant. So that is what it deals with. The other bill which...frankly, I disagree, and the attorney general's office disagrees, that it is a 28-a problem. These people formed their union, they agreed to pay for any...themselves, and frankly, Concord has already done that, to my understanding, they have already paid for the updates to their plant. They paid it. Okay? But the Claremont people, and I respect the Claremont people, but they want everyone else to pay now, even though the Concord people already paid it; we didn't hear a word about that, but they paid it without any question, and Claremont people want it paid for. It is two separate things. We did go after the worst plants first, and the technology is already installed by adding the carbon...you don't have to add it and save \$40,000 a year, and there will be that much more mercury put out into the air. This is a clear environmental opportunity for the people of New Hampshire, and the air quality that the people breathe here in New Hampshire.

SENATOR FERNALD: But the .028 limit is not going to apply to the Claremont facility, is that correct?

SENATOR RUSSMAN: That is true.

SENATOR FERNALD: It will apply to the Concord, Penacook facility?

SENATOR RUSSMAN: Yes.

SENATOR FERNALD: But the Penacook facility is already subject to that limit under the federal law?

SENATOR RUSSMAN: No. They are subject to a .080 limit, okay? What happened is, the feds came in on the 500,000 tons and said that we have to meet a certain limit. That technology...if you want to go a little further, and the state is asking you to do a little more than what the federal standard would do. This would actually lower the federal standard that actually applies to that plant, so that for the \$40,000 a year, you can actually reduce it again by almost three times what the federal standard is. So if nothing happens and you vote the bill down, and it meets the federal standard of .080, if this passes, they will lower the standard to .028, which is quite a reduction from .080, and that it is the reason for doing it. Concord has agreed to do that. It wasn't a big argument frankly, it wasn't a big deal until such time as the people of Claremont said, 'well gee, why don't we get it paid for somehow by the state'. People down here in Concord have already stepped up to the plate and did it when the federal mandate came through. Frankly, I happen to feel that when the federal mandate comes through, if it ever does come through, the people in Claremont **TAPE INAUDIBLE**. That ought to be their thing. Again, you can say that if it were my district, I probably wouldn't feel that way, maybe not, but Concord has already done it so again, if we are going to be even handed here, we ought to do what we are trying to do here today.

SENATOR FERNALD: The House version, Committee of Conference, is that going to lower the limit that is applicable to the Claremont facility?

SENATOR RUSSMAN: No. Claremont is out, that is why there is no money due to them because they are not involved with it at this point.

SENATOR FERNALD: Does this limit apply to anybody other than Concord, the new limit?

SENATOR RUSSMAN: No. What it is, the people of Claremont, because they are not getting what they want, they don't even want this stuff, they want to kill this to make the point, well, if you aren't going to give us what we want, then we don't want any environmental cleanup, period. Now you can hide behind it and say that you want us to do it all, and if you don't want to pay to do it all, then you are not doing enough. I think that is ridiculous to say that. Here is an opportunity to get some cleaner air, and it is the way to do it.

SENATOR FERNALD: The only difference that we are going to see is what comes out of the Concord pipe?

SENATOR RUSSMAN: That is correct. That is the only one that this bill affects.

SENATOR LARSEN: Because Concord has come up so frequently, I felt that it was important to speak, and also to have spoken with the Concord Co-op, which I did make some calls as this discussion was taking place earlier in the day. It is true that Concord has in fact, in prior years, put in the emissions controls that are necessary to reduce the mercury emissions from the plant. In fact, Concord is retrofitting another \$8 million, \$4 million of which is going toward mercury emission controls. Concord has to do this, because it is a larger plant and has to meet the federal standards. Claremont, on the other hand, as much as we would like to in the Senate's position, to have pulled it along and said that Claremont also, even though it is smaller, should have these lower emissions, because the people in the Claremont area and across this state deserve to know that the emissions from those stacks are safe. The goal of this whole effort, of course, is to reduce the mercury emissions for our state. To reduce the human health hazards, as well as the pollutants that are getting into our lakes and rivers. The mercury pollution is a significant pollution that does not clear up quickly. It takes a long time to get it out of our environment. It is important that we start to work on it now, because even though we are working on getting it out, it is going to take a lot of years to totally get out of the cycle of our environment. So our choice here today, in my mind, is, we already know that the House has absolutely refused to put in money for Claremont. Claremont wanted the additional monies to pay cleaning up mercury emissions. The House refused. House Finance put a stop to it. The House Speaker's office said no. We heard that in the Committee of Conference. Then our choice is, do we encourage further emission mercury reductions in what are in effect statewide, because Concord's stacks blow in different directions on different days, we have to be conscious that Concord's mercury emissions, in fact, can be further reduced at a very minimal cost. I would like to see, and I would very much like to work in this session, to get Claremont along on this, but at the present time, the Concord Co-op, it isn't just Concord, there are 27 communities that are already spending \$4 million in this area for mercury reduction. For an additional \$40,000, divided by 27 communities, we can further reduce the mercury emissions in this state. It is not just Concord, and it is not just Boscawen, it blows everywhere. We can take a baby step that is good for this state by voting yes for this bill. I very much would like to be supporting Claremont. I would like to be saying that we are going to get Claremont with the money to make those emission reductions, but we at times, as all of you know, sitting here over the years, we have to take the steps that we can to

make positive changes, and sometimes they are incremental, sometimes they are not the big steps that we would like to see. This is an incremental change. I understand that the Concord Cooperative, part of Concord's incinerator program, is not opposing this, and that we can in fact make some changes for the good in reducing mercury emissions in our state. So with great difficulty from my esteemed colleague, Senator Disnard, I can commit to you that I will continue to support Claremont's funding, but I think that for a minimal cost, we can help reduce mercury emissions in our state, and I think that it is worth voting yes on. I urge you to all think about that. Thank you.

SENATOR SQUIRES: Senator Larsen, if the bill were not to pass, would the Concord Cooperative go ahead and do it anyway?

SENATOR LARSEN: I understood that Concord is doing its \$8 million retrofit, and \$4 million of which is for mercury reduction. I did not understand that they had committed to that \$40,000 extra to bring it down to .028. I don't know if they would do it voluntarily or not. I don't sit on that committee, so I don't know that detail. I understood that they were just doing what they had to do for federal standards, but they would willingly do the additional carbon injection for an additional \$40,000 a year divided by 27 communities.

SENATOR GORDON: I represent some of the 27 communities in the Concord Cooperative, and have the privilege of sitting on the board when it was founded. It is my understanding, or at least it has been represented to me today, that the Concord plant is in fact cooperative. That it has in fact, through its own tipping fees and through its own assessments through its communities, has raised the funds necessary in order to meet federal standards. I also believe that it was represented to Senator Russman this morning, that they are quite willing to go forward, I believe, with the \$40,000 operating expense each year in order to comply with what is proposed in this bill. My issue is this: that is, I support the bill, the initial bill, and the concept that we should have a state standard which we should apply. I believe that is the correct policy and it should be adopted, and put into place in the state. But what is happening with this bill is that we have decided that we are going to adopt a policy and then after we have adopted the policy we are going to exempt the single offender, which is Claremont. We are going to do that because apparently, we don't have the will to supply the funds that are needed to do the upgrade. So rather than deal with this complicated issue of funding, what we have done is exempted. Now living east of the Claremont plant, that is a fairly great concern to me. I am telling you that I just think that is the wrong thing to do. What I hear is that the Concord plant is willing to do it voluntarily anyway. There is a guy who lives in Bristol, he is an electrician, his name is Skip Bouy. Before he decided to vote for me as a Senator, he said, "Ned, before you vote on any bill, I would just like you to ask one simple question...is this really necessary?" I guess I am standing here asking myself that question. The fact is, I can't find any good answer to that. I can't find a yes. It seems to me right now that we are voting on a bill without a purpose, because despite what other people argue, this isn't going to do one thing in the state of New Hampshire to reduce emissions or mercury. Not one thing. If at a point in time we could wrestle with the issue of how we are going to do that, then we can come forward with legislation and address how we are going to do that. My biggest concern is that it should be apparent to everyone that this doesn't do anything. I am just wondering why everybody is so anx-

ious to pass it. That is what gets me concerned, because perhaps there is another reason that I am not seeing here. That is an even greater concern. I want to do what is right and I want to do what is environmentally correct, and I want to limit mercury pollution, but I just can't see how my voting for this bill today is going to do one bit of difference.

SENATOR RUSSMAN: Senator Gordon, I don't know if you are aware of this, but it was not said that they were going to do it anyway. I think that the issue was, could they do it? I guess the answer is obviously, they could do it, but it is unlikely that a community is going to be able to spend money without some kind of a mandate, or requirement to have to spend it. Certainly they are not going to go out and spend \$40,000 a year when they don't have to. Do you have any other reason to believe other than that, because that wasn't what I meant to say at all?

SENATOR GORDON: Well I am glad that you asked that question, because it was represented earlier to me that there is no mandate, and the state doesn't have any obligation to provide funding for it. Now what I am hearing is in fact, that the state has to give them a mandate to spend the money. It just seems to me that those two positions are pretty inconsistent. If the state has a responsibility to provide money to Claremont, otherwise we are going to exempt them...why shouldn't the state have a responsibility to provide money to Concord? Or maybe we should exempt them both from the bill?

SENATOR WHEELER: I am assuming that the importance of this is that it is a legislative policy that will be established in response to a quest by one of our state departments from DES to work with their mercury reduction strategy. We are also working on a regional basis with a goal of 50 percent of reduction in mercury emissions by 2003. I see this as an environmental issue rather than a financial or political issue, although it has all of those other components. But certainly the environmental position can never be to do nothing, when there is a possibility of doing something that will make a difference. That is what I mean by not letting the perfect become the enemy of the good. It is my understanding that the bill, as signed off on by the Committee of Conference, would result in about a 20 percent reduction in our mercury emissions. That is something, that is not nothing. That is moving forward towards our goal of 2003. Therefore, from an environmental point of view, I urge us all to go forward, even though it is not as far forward as we would like to go, standing still will result in going backwards. Thank you.

SENATOR J. KING: About a month ago we sat in here and discussed this at a great length. First of all, we didn't agree with it in its original state, but we decided to amend it. There was a reason for that. I think that it was a very good vote when we did it. I don't remember what the vote was, but we did vote for the bill that we wanted. I, myself, see no reason at this time, for changing my mind. I was more convinced the last time when we did change it than I am with this one here. This is not a compromise at all; therefore, I am going to vote no.

SENATOR PIGNATELLI: **TAPE INAUDIBLE** and if someone asked me if I am happy with this Committee of Conference Report and the way that this bill ends up being? My answer is no, but when I look at the possibility of having nothing compared to having something, and something that reduces the pollution in our environment, I have to go with what is going to reduce the pollution in our environment. My question to you, all of you is, why aren't you going with that position as well? We

know that it is not the Senate's position, we know that it wasn't what we wanted. It isn't even what the Committee of Conference from the House wanted, there were only two people on the Committee of Conference that wanted to go with this. The other two members of the House Committee of Conference wanted to go with our position, but we couldn't convince two of the members on the House Committee of Conference to see it our way. So the question to me is, do I do what I think is right for our environment in our state and right for the air that we breathe, and take a small step, or do I scuttle the whole thing, and we bring a bill back next year, and bring a bill back the following year and meanwhile, the emissions in our environment continue to rise, and they don't just rise for the one year, they are in our air for 30 to 50 years? So when it comes to a choice for me to take a small step now to improve our environment or to kill the bill and hope that next year something passes, I have to go with taking the small step, to protect our environment right now. I urge you to do the same. Thank you.

SENATOR BELOW: Our choices are accept or reject the Committee of Conference Report. We all, I think, agree with the original Senate position, which was far superior. Rejecting the Committee of Conference Report represents a principle defense of the original Senate's position. There is a logic to that and I respect that, and I am tempted to vote that way. On the other hand, every gram, every ounce, every pound of mercury that goes up the stack of the Concord, Penacook incinerator, comes back down to the earth, lakes and streams. It persists in the environment, it bio-accumulates, and ends up in our food. Rejecting the Committee of Conference Report means that we miss an opportunity to reduce a few pounds of mercury that go into the environment otherwise. There is a question of well, the towns are saying that they are amendable to this. The \$40,000 cost is a very small incremental cost for almost a 2/3 reduction in that emission, and 20 percent of the state emissions, because they are already spending the \$4 million for the capital improvements and for a certain amount of reductions. It is a small incremental cost. The towns are willing to pay for that. Why can't we count on the company to do it? There is a simple reality. It is not the towns that own the plant, it is a private corporation that owns the plant, and they have a fiduciary responsibility to not incur cost that they don't need to incur. The fact is that they may be amenable to this if we pass the law... the towns are agreeable to pay for it, but if we don't do it, there is no assurance that we will eliminate those grams, ounces or pounds of mercury that will otherwise go into the environment. I think that there is logic to both positions, but it makes sense to pass this.

SENATOR TROMBLY: Senator Below, you want me to believe that it is your position that the people who live in the towns in the Concord Cooperative would actually consider it a breach of the fiduciary duty if the people who run that plant incurred simply \$40,000 to make their air quality better? Who is going to enforce this breach of a fiduciary duty that you want us to be afraid of?

SENATOR BELOW: Not the towns. The stockholders of the private for profit company that operates that plant.

SENATOR TROMBLY: Would it not be a breach of the fiduciary duty of the directors, if the argument directed to the stockholders was that we went to the legislature and told them to mandate the spending of this money, when a bill that would have avoided that mandate was opposed by us in the Senate. Isn't that a breach of the fiduciary duty?

SENATOR BELOW: I don't think that that has occurred. I haven't heard the company that owns the plant supporting this legislation. What I have heard is that the towns that have the contract with the company that owns the plant, being amenable to this, not objecting to it. In fact, according to Senator Larsen, some of them support it. But there is a difference between the private for profit company that owns and operates the plant and the nonprofit municipal entity that is the solid waste district.

SENATOR TROMBLY: Senator Gordon, you mentioned that you were involved in the formation of the compact. Is that a democratic vote of the representatives of the towns as to the direction of the plant? How do these decisions as to whether they want it or they don't want, to get made?

SENATOR GORDON: The towns in fact, do have an organization which was formed, which does have representation from the communities. It does contract with a private provider to operate the plant, that in fact does own the plant.

SENATOR TROMBLY: Senator Gordon, if the towns indeed, wanted to do this voluntarily, they could do that through this board?

SENATOR GORDON: They certainly could elect to have that done.

SENATOR TROMBLY: Thank you.

SENATOR FERNALD: I have been listening to the debate and I feel like I am in kind of a muddle. I want to say a couple of things that I hope will maybe get rid of some of the muddle. It was suggested that this bill won't do anything, but my understanding is that this bill will lower the limit on the Concord/Penacook plant from .08 to .028. Nearly a 2/3 reduction, and I think that is significant. There was a statement about mandates, and what is a mandate and what isn't a mandate? There is a difference between a mandate that implicates 28-a of the constitution, because it is a mandate on a town, and a mandate that applies to private industry and doesn't implicate 28-a. I think that is a false issue here. I would like to do more than what this bill does. It doesn't appear to be possible at this time. I think that the small step is something that we should do. I will throw out a suggestion in my speech here that there has been some statement that we should stick with our position. I voted for that position, but I didn't feel 100 percent confident about it at the time, because it was a 100 percent of the capital cost that the state was going to pick up. On other environmental issues like landfill closure, the state has not picked up 100 percent. So when we have been talking about fairness here, I don't think that we're looking at what we have done in the past on other environmental issues that involve municipalities. I think that it would be wise for the Claremont area towns to come back and ask for some percentage that is similar to what the state has picked up on other environmental capital costs, that are environmental protection, and I would support such a bill and this session that will begin this afternoon. Thank you.

SENATOR COHEN: I do appreciate the courtesy of allowing me to speak a second time. Thank you very much. Senator Trombly said that the people of his district are affected by this. Well the people of my district are also affected by mercury in the air. My family is affected by Mercury in the air. Mercury is very bad stuff. This is not such a small step. This is a significant step. We are very significantly reducing the mercury emissions into the air. This is something that we absolutely have to do. Senator Gordon spoke about our will. Well we passed, in my opinion, a much better bill. We have the will, unfortunately, the House at this point doesn't, but we can't do nothing. This is not just a small step. This is

significant. We have to do something here. Again, this is not perfect, but this is pretty darn good. We have to do something here, and I urge my colleagues to pass this good bill.

Senator Russman moved adoption.

A roll call was requested by Senator Disnard.

Seconded by Senator McCarley.

The following Senators voted Yes: Fraser, Below, Roberge, Eaton, Fernald, Squires, Pignatelli, Larsen, Russman, Wheeler, Klemm, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, McCarley, Trombly, Disnard, Francoeur, Krueger, Brown, J. King, D'Allesandro.

Yeas: 12 - Nays: 11

Adopted.

TAKEN OFF THE TABLE

Senator Below moved to have **HB 109-FN-A-L**, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor.

Adopted.

Senator Below moved to rerefer.

A roll call was requested by Senator Francoeur.

Seconded by Senator Trombly.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Below, Trombly, Disnard, Roberge, Eaton, Fernald, Squires, Pignatelli, Larsen, Krueger, Brown, Russman, D'Allesandro, Wheeler, Cohen.

The following Senators voted No: Francoeur, Klemm.

Yeas: 19 - Nays: 2

Adopted.

HB 109 is rereferred to the Ways and Means Committee.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 346-FN-A, an act relative to permissible fireworks.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 615-FN-A, establishing a registry for brain and spinal cord injuries.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled House Bill:

HB 625-FN-A, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

2000-3023-EBA**January 7, 2000****05/09****Enrolled Bill Amendment to HB 625-FN-A**

The Committee on Enrolled Bills to which was referred HB 625-FN-A AN ACT relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE**Explanation to Enrolled Bill Amendment to HB 625-FN-A**

This bill renumbers a new RSA chapter to avoid duplication with an RSA chapter inserted by 1999, 220.

Enrolled Bill Amendment to HB 625-FN-A

Amend section 1 of the bill by replacing lines 2-5 with the following: after chapter 125-L the following new chapter:

CHAPTER 125-M**MERCURY EMISSIONS REDUCTION AND CONTROL PROGRAM****125-M:1 Findings and Purpose.**

Amend section 1 of the bill by replacing line 50 with the following:

125-M:2 Definitions.

Amend section 1 of the bill by replacing line 80 with the following:

125-M:3 Mercury Reduction and Control Program. The department shall develop a mercury

Amend section 1 of the bill by replacing line 94 with the following:

125-M:4 Rulemaking Authority. The commissioner shall adopt rules, under RSA 541-A relative

Amend section 1 of the bill by replacing line 100 with the following:

125-M:5 Compliance.

Amend RSA 125-M:5, I as inserted by section 1 of the bill by replacing line 8 with the following:

250 tons per day but not less than 100 tons per day which are subject to RSA 125-M:3, I shall submit

Amend section 1 of the bill by replacing line 118 with the following:

125-M:6 Enforcement.

Amend section 1 of the bill by replacing line 121 with the following:

125-M:7 Variances. Any variance granted under this chapter shall be granted by the

Senator Trombly moved adoption.

Adopted.**January 7, 2000****2000-3024-EBA****04/01****Enrolled Bill Amendment to HB 346-FN-A**

The Committee on Enrolled Bills to which was referred HB 346-FN-A AN ACT relative to permissible fireworks.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 346-FN-A

This enrolled bill amendment corrects a reference.

Enrolled Bill Amendment to HB 346-FN-A

Amend the bill by replacing line 3 of section 17 with the following: fireworks review committee established by RSA 160-B:23 and repealed by section 21 of this act.

Senator Trombly moved adoption.

Adopted.

2000-3056-EBA

08/10

Enrolled Bill Amendment to HB 615-FN-A

The Committee on Enrolled Bills to which was referred HB 615-FN-A
AN ACT establishing a registry for brain and spinal cord injuries and making appropriations to the department of resources and economic development and the governor's commission on disability.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 615-FN-A

This enrolled bill amendment corrects numbering of certain new RSA sections.

Enrolled Bill Amendment to 615-FN-A

Amend section 6 of the bill by replacing line 1 with the following: 6 New Sections; Duties; Registry Established. Amend RSA 137-K by inserting after section 3

Amend section 6 of the bill by replacing line 3 with the following:

137-K:4 Duties. The commissioner shall:

Amend section 6 of the bill by replacing line 11 with the following:

137-K:5 Brain and Spinal Cord Injury Registry Established. There shall be established in the

Amend section 6 of the bill by replacing line 14 with the following:

137-K:6 Reporting. All facilities shall provide a report to the brain and spinal cord injury

Amend section 6 of the bill by replacing line 16 with the following:

137-K:7 Disclosure; Confidentiality.

Amend section 6 of the bill by replacing line 22 with the following:

II. Analyses and compilations of data prepared under RSA 137-K:4 which do not disclose the

Amend section 6 of the bill by replacing lines 26-28 with the following: RSA 137-K:6.

137-K:8 Maintenance of Reports. Reports provided to the brain and spinal cord injury registry under RSA 137-K:6, and analyses and data prepared under RSA 137-K:4 shall be maintained by the

Amend section 6 of the bill by replacing line 30 with the following: available to persons as prescribed in RSA 137-K:7.

Senator Trombly moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 346, relative to permissible fireworks.

HB 615, establishing a registry for brain and spinal cord injuries and making appropriations to the department of resources and economic development and the governor's commission on disability.

HB 625, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills.

Senator D'Allesandro moved adoption.

Adopted.

Adjourned to the call of the chair.

SENATE JOURNAL

SUBJECT INDEX

The index on the pages immediately following refers to bills and resolutions by number. Some of the subjects are in amendments rather than the original bills. Other subject matter is referenced to page numbers. The numerical index following this index gives page references to all amendments and action on numerical bills and resolutions.

A

Abortion , partial-birth, prohibited; penalty	SB 54
Accountants , laws amended to conform to uniform accountancy act	HB 626
Acknowledgments , justice of the peace, requirements	SB 111
Actions and proceedings	
civil, right to jury trial in child custody cases	CACR 18
civil rights act, enforcement by attorney general	SB 189
criminal, environmental audits, discovery	HB 306
defense and indemnification of state officials for computer-related year 2000 problems; board of claims jurisdiction	HB 605
each party may request that one judge not be assigned to a case	SB 57
land sales full disclosure purchase deposits held in escrow accounts, district courts exclusive jurisdiction where amount in controversy is \$5,000 or less	SB 146
replevin, writs, securities acceptable as bond expanded	HB 205
representation by citizen not an attorney, provisions amended	SB 172
sovereign immunity for state and municipalities in claims arising from duty to provide an adequate education	HB 113
structured settlements	
plaintiffs rights to designate broker and insurance company	HB 470
requirements; court approval of certain transfers	SB 66
transfer of payment rights, approval by superior court or labor commissioner; requirements	SB 126
trustee process, study	SB 26
Adjutant general , capital improvements appropriation	HB 25
Administrative procedures	
licensing board disciplinary proceedings, record made by certified court stenographer on request of a party; oral proceedings, transcript, time to provide	SB 224
Administrative services department	
administrative attachments, commission on the status of men	HB 553
capital improvements appropriation; various lapse dates extended	HB 25
parking garage repairs capital improvements appropriation increased	HB 25am
reimbursement to counties for providing prisoner custody in courthouses, appropriation	HB 738
state building energy cost reductions, debt services and contract times extended	HB 2am
Adoption	
open, establishing in NH, study	HB 58
prohibition against homosexuals adopting removed	HB 90
who may adopt amended	SB 56
Adoption and Safe Families Act of 1997 , termination of parental rights	
after finding of child abuse, time reduced	HB 67
Advertising	
outdoor lighting regulation, study	HB 727
rent-to-own agreements, provision changed	HB 422
Agriculture	
alternative, impact on native wildlife, study extended	HB 73

Agriculture (cont.)

commercial property, wildlife damage control program, mitigation, fencing, depredation permits	HB 704
farming, and farm defined	HB 225
fertilizers, sludge, application, funds transferred from state aid grants to sludge testing program	SB 195
historic structures, barn preservation fund, matching grants program	HB 395
land use management to protect farmland, study membership increased; duties and reporting date extended	HB 288
markets, and food department	
agricultural fairs, state aid, appropriation; distribution formula	SB 145
capital improvements appropriation	HB 25
commercial feeds, fee requirement changed	HB 229
commission on domestic animals, name changed to division of animal industry; state veterinarian to be director	SB 21
commissioner, testing domestic animals for disease, costs included in fee ...	SB 37
ginseng cultivation and sale licensed and regulated	HB 238
orchards and tree farms, payment for damages done by moose from moose management fund	SB 194
presumption that agricultural uses are permitted; a purpose of zoning ordinances is to preserve agriculture	HB 97
seed sterilization technology, study	HB 291

Air pollution

clean indoor air in state buildings, definitions; deadlines	HB 426
electric power generators, nitrogen oxide emission requirements; payments in lieu of emission reduction	HB 649
emissions reduction credits trading program, allocations by environmental services	HB 383
future federal legislation urged not to use baseline emissions to punish early adopters of control technology	HJR 2
gasoline	
additives including MTBE, comparative risks, study	HB 592
additives including MTBE, federal government urged to eliminate requirement	HJR 9
containing MTBE, sale prohibited	SB 71
reduction in sulfur content urged	SJR 1
greenhouse gas emissions, voluntary reductions registry	SB 159
municipal incinerators, state aid for closure costs	HB 294

Aircraft, rescue and fire fighting training facility; appropriation HB 25am

Alan B. Shepard memorial wing at Christa McAuliffe planetarium,
capital improvements appropriation HB 25

Alcohol

and drug abuse	
prevention services, study	HB 650
substance abuse treatment delivery system, study extended	SB 19
and substance abuse services bureau, methadone maintenance treatment pilot program in Manchester	SB 197
education and abuse prevention fund, from percentage of profits from liquor sales	SB 153

Alcoholic beverages

driving while intoxicated. See: Motor vehicles, DWI	
licenses, off-site, catering, golf facilities	SB 73
malt, small manufacturers, direct distribution to retailers	HB 443

Allenstown, 1999 meeting legalized HB 736

Alton, 1999 meeting legalized HB 744am

Ambulatory surgical facilities

definition amended	SB 214
impact on community hospitals, study; moratorium on new facilities	SB 183
structure, study	HB 545

American Red Cross, disaster leave for state employees who are certified disaster relief volunteers SB 136

Animals. See also: Wildlife

- commercial feeds, fee requirement changed HB 229
- commission on domestic animals, name changed to division of animal industry; state veterinarian to be director SB 21
- companion animal neutering fund, portion allocated to education grants by pet overpopulation committee SB 92
- cruelty to
 - appeal from conviction, bond may be required to maintain future interest in the animal SB 59
 - livestock, taking into temporary custody, veterinarian to accompany investigating officer SB 30
- domestic, testing by agriculture commissioner, costs included in fee SB 37
- lost property and strays, chapter repealed HB 688
- wildlife damage control program, mitigation, fencing, depredation permits; for commercial agricultural property HB 704

Apprenticeship programs, ratio of apprentices to journeymen HB 741

Appropriations

- capital improvements; reduced if revenue is less than expected HB 25
- operating budget
 - 1998 and 1999, surplus transferred to education trust fund HB 2am
 - 2000 and 2001 HB 1
 - 2000 and 2001, trailer bill HB 2
- deficit in education trust fund financed through new sources of revenue and not through budget reductions SR 7
..... SR 8

Approved Industries, Inc., charter reinstated HB 218

Aquatic weeds, exotic, introduction to NH waters, penalties HB 421

Archery, crossbow permits for persons with permanent physical disability HB 552

Armed forces

- bridges in Concord named Korean, World War II, and Vietnam veterans memorial bridges SB 155
- Civil War battle sites, repair and construction of NH monuments, study HB 538
- gold star mother's day, first Sunday after Easter HB 258
- NH residents, free fish and game licenses, clarification of terms SB 41
- special number plates
 - may be retained by surviving spouse of POWs and Pearl Harbor survivors HB 525
 - permanently disabled veterans, exempted from reestablishing status HB 92
- US Marine Corps flag to be flown over the state house every November 10th HJR 10
- veterans
 - access to education in UNH system, study HB 454
 - cemetery, procedures for burials and funerals HB 301
 - credit in retirement system for military service SB 216
 - home, capital improvements appropriation HB 25
- World War II memorial
 - appropriation SB 12
 - Congress urged to authorize construction SR 5

Asbestos, removal from state buildings; appropriation HB 1

Ash landfills, study HB 625am

Ashland, special meeting in 1999 authorized HB 745

Attachments, trustee process, study SB 26

Attorney general

- charitable trust filing fees, restricted revenue HB 1
- enforcement of civil rights act SB 189

Attorneys

affidavit of mortgage discharge	SB 110
court cases, representation by citizen not an attorney, provisions amended ..	SB 172
Auburn municipal incinerator, state aid for closure costs	HB 294
Augenblick formula. See: Foundation aid	
Automated information system, NH Internet site, advisory board to study	HB 670
Automated teller machines, disclosure of fees charged to customer's bank account required	SB 79
Automatic external defibrillation, emergency medical services use, liability limited	SB 67

B**Bail and recognizances**

bail recovery agents, licensing	HB 658
release of defendant pending trial, finding of dangerousness, preventive detention or restrictive conditions	HB 216

Ballot law commission

meetings, 3 members required to be present	HB 60
members, political contributions prohibited	HB 61

Banks

accounts of customer's that use ATMs, disclosure of fees required	SB 79
commissioner, to receive copies of reports required to be filed with federal regulators	HB 79am
examinations, tiered fee schedule	SB 27
federal government urged not to adopt rules requiring banks to monitor customers' banking habits	HCR 7
mortgages	
discharge by affidavit of attorney	SB 110
first and second mortgage home loans, study	HB 451
funds exchanged at real estate closings, requirements	HB 322
mutual savings, reorganization by merger into mutual holding companies, procedure	HB 80
safe deposit boxes, abandoned, procedure for opening changed	HB 79
savings, investments	
certain municipal obligations legal despite not being backed by the ability to levy taxes	HB 111
limitations	HB 80

Barns, preservation fund, matching grants program	HB 395
--	---------------

Beaches, protection of waterfront properties from erosion, study	HB 2am
---	---------------

Beer. See Alcoholic beverages, malt

Belknap county, family division of the courts established	HB 707am
--	-----------------

Beverage manufacturers, license revoked, plan for remediation, provisional license, time limits	SB 28
--	--------------

Bingo, assistance at games, restriction on days repealed	HB 739
---	---------------

Biosolids. See: Sludge

Birds

chukar partridge, open hunting season	HB 520
wildlife damage control program, mitigation, fencing, depredation permits; for commercial agricultural property	HB 704

Birth control, insurance coverage for contraceptive drugs and services required	SB 175
--	---------------

Births, midwives council established; continuing education requirements	HB 720
--	---------------

Blaisdell, Sen. Clesson. See: President

Boards and commissions, general court performance audit and oversight
 committee, member added; procedures changed..... HB 603

Boats. See also: Ski craft
 auxiliary marine patrol officers, authority to detain persons, conditions SB 87
 mooring permit requirements extended to all state waters on a graduated
 basis SB 46
 motor, DWI
 certain laws consistent with motor vehicle DWI laws HB 203
 implied consent, alcohol concentration tests, presence of certifying
 scientist at hearings HB 367
 navigation safety fund from unrefunded motor vehicle road toll and
 various fees HB 245
 permit system for out-of-state vessels temporarily using NH waters, study SB 75
 safety education required HB 449

Body piercing, disposable single-use needles required SB 140am

Boisselle, Father Aime, guest chaplain 866-867

Bonds
 revenue
 capital improvements appropriation HB 25
 Manchester, to finance employee pension system SB 81
 regional vocational education centers, biennial amount limited SB 207
 school building authority, limit increased HB 363
 sewage treatment plants, state guarantee, limit reduced HB 492
 Umbagog Lake campground purchase SB 62
 surety
 cruelty to animals, appeal from conviction, bond to maintain future
 interest in the animal SB 59
 writ of replevin, securities acceptable HB 205

Boundaries, fences, updating NH laws, study extended HB 583

Bounty hunters, licensing HB 658

Bow and arrow, crossbow permits for persons with permanent physical
 disability HB 552

Brain and spinal cord injuries, registry established HB 615

Breast feeding in public authorized HB 441

Brew pubs, small manufacturers, direct distribution to retailers HB 443

Bridges
 bridge on route 135 (Haverhill and Bath) named Raymond S. Burton
 bridge HB 89am
 covered railroad bridge in Contoocook village, Hopkinton, repairs
 required to restore, study HB 501
 in Concord named Korean, World War II, and Vietnam veterans memorial
 bridges SB 155

Bridgewater municipal incinerator, state aid for closure costs HB 294

Brooks-Patch, Rosalie, secretarial supervisor, thanked for organizing
 paperwork for the calendar 463

Budget
 capital improvements; reduced if revenue is less than expected HB 25
 operating
 1998 and 1999, surplus transferred to education trust fund HB 2am
 2000 and 2001 HB 1
 2000 and 2001, trailer bill HB 2
 deficit in education trust fund financed through new sources of revenue
 and not through budget reductions SR 7
 SR 8

Buildings
 code enforcement joint committee established HB 224

Buildings (cont.)

- connection to public water system required SB 231
 outdoor lighting regulation, study HB 727

Buros Institute for Assessment, Consultation and Outreach,
certification of food safety classes for food service

- establishments SB 28am

Burton, Raymond S., bridge named for HB 89am

Business corporations

- consent required for use of similar name by other entities HB 563
 late reinstatement of charters after dissolution, procedure HB 56

Business enterprise tax

- 2/3 majority required to increase rate HB 684am
 rate increased, portion to education trust fund; 2/3 majority required
 to increase deleted HB 117am

Business finance authority

- loans to local development organizations, state guarantee SB 222
 NH business investment fund, qualified investment capital companies
 may invest SB 222
 state guaranteed bonds, priority to economically distressed areas
 of the state HB 412am

Business profits tax

- apportionment factors adjusted HB 572
 credits for job creation, capital investment, and research and
 development SB 211
 rate increased, portion to education trust fund HB 117am

Businesses, small

- exempted from certain safety program requirements under workers'
 compensation HB 471
 health insurance purchasing alliance act SB 162
 loans for technical improvements for persons working at home, study SB 90

C

C. A. B. Real Estate, Inc., charter reinstated HB 210

Candia municipal incinerator, state aid for closure costs HB 294

Canterbury municipal incinerator, state aid for closure costs HB 294

Capital improvements appropriations; reduced if revenue is less
 than expected HB 25

Carroll county

- family division of the courts established HB 707am
 superior court capital improvement appropriation lapse dates extended HB 25

Cats, companion animal neutering fund, portion allocated to education
 grants by pet overpopulation committee SB 92

Celebrate New Hampshire Culture, Inc., participation in Smithsonian
 Festival of American Folklife; appropriation HB 494

Cemeteries

- plots, rights of ownership, study HB 664
 veterans, procedures for burials and funerals HB 301

Certificate of need board

- and ambulatory surgical facilities, study HB 545
 meetings to take place on state property; standard of need, expenditure
 amount raised SB 120
 members added, terms
 limited; meetings to take place on state property SB 214
 meetings to take place on state property; standard of need, expenditure
 amount changed HB 657

Charitable gift annuities defined; exempted from practice of business of insurance HB 442

Charitable organizations
 definition amended for purposes of holding raffles HB 729
 employment discrimination law applicable when there are more than 6 employees HB 551

Charitable trusts
 filing fees restricted revenue HB 1
 health care, community benefits plan required; criteria; community needs assessment SB 69
 solicitation campaign records, no right to transfer, sell, or rent SB 78

Charter schools
 amendment of area agreement when one district votes to adopt HB 503
 application limitation by executive council district removed HB 231
 establishment
 application to state board of education, procedure HB 690
 procedures amended SB 152

Charters
 cities, amendment to allow mayor to vote at city council meetings HB 490
 corporations, late reinstatement after dissolution, procedure HB 56
 reestablished, Laconia airport authority HB 244
 reinstated
 Approved Industries, Inc. HB 218
 C. A. B. Real Estate, Inc. HB 210

Children. See also: Juvenile delinquents; Minors
 abused or neglected
 child in placement, return to custody of parent, standards applicable SB 24
 health and human services, disclosure of information, conditions SB 220
 health and human services investigations, procedures and standards, study SB 65
 reporting requirements, exceptions for counselors in certain circumstances SB 98
 termination of parental rights, time reduced; termination after conviction of certain crimes HB 67
 adoption, establishing open adoption in NH, study HB 58
 child care advisory committee, membership and duties changed HB 438
 court cases in family division of the courts HB 707
 custody
 jurisdiction transferred from superior to district courts SB 209
 or support issues, seminars for parents, additional positions; appropriation HB 576
 right to jury trial CACR 18
 day care
 early childhood program personnel, certification; fees HB 726
 new household members, criminal record checks, compliance process; school age programs located in schools exempt from certain documentation requirements SB 200
 dental care, medicaid reimbursement rate set SB 134
 early childhood education commission, study HB 532
 education, parents as teachers pilot program in Sullivan county SB 170
 firearms, methods of reducing violent incidents, study SB 163
 foster care
 1999 supplemental appropriation HB 374am
 prohibition against homosexuals as foster parents removed HB 90
 in need of services
 and delinquent, supervision and enforcement of services by juvenile corrections department SB 229
 petition, summons and notice, time to appear changed HB 356am
 purposes, family protection and responsibility; diversion defined; procedures HB 719

Children (cont.)

incest victim under age 18, no statute of limitations; victim under age 16, minimum and maximum sentences	SB 143
indecent exposure or lewdness in the presence of a child, penalties increased; registration as sexual offender	SB 158
infants, breast feeding in public authorized	HB 441
seat belt law, enforcement as a secondary offense repealed; driver under 18, license not suspended for first offense	HB 94
support enforcement, use of Social Security number on various license applications	SB 137
penalties for non-support increased	SB 201
uniform child custody jurisdiction act, guardianship of minors included in custody proceedings	SB 112
wellness and primary prevention services, family resource centers	SB 223
youth, and families division, transfer of funds for training of social workers and juvenile service officers	HB 2am

Chiropractors

examiners board, duty to define certain terms; unlawful practice; monitoring by health and human services commissioner repealed	HB 586
self-referrals under managed care insurance; comparable fees required	SB 147

Christa McAuliffe planetarium, Alan B. Shepard memorial wing, capital

improvements appropriation	HB 25
----------------------------------	-------

Chukar partridge, open hunting season

HB 520

Cigarettes

determination of amount of additional tax that would go to education trust fund	HB 117am
health insurance premiums may be adjusted for users of tobacco products	SB 55
minors, use or possession, revocation or denial of driver's license	SB 179
settlement. See: Tobacco products, settlement	
tax rate increased	HB 112

Cities, charters, amendment to allow mayor to vote at meetings of

city council	HB 490
--------------------	--------

Civil rights act, enforcement by attorney general

SB 189

Civil Rights Day, name changed to Martin Luther King, Jr.

Civil Rights Day	SB 80
------------------------	-------

.....	HB 68
-------	-------

Civil War, repair and construction of NH monuments, study

HB 538

Claims adjusters, continuing education requirement, workers' compensation

continuing education removed	SB 106
------------------------------------	--------

Claims against NH

board of claims jurisdiction over computer-related year 2000 problems	HB 605
nonprofit entity operating NH hospital, indemnification, date extended	HB 515

Claremont, state conservation land, Sullivan county authorized to lay

a sewer force main	HB 609
--------------------------	--------

Claremont II. See also: Education, funding

sense of the Senate requesting swift action by the House on money bills, remarks	18-22
---	-------

Clerk

assistant, Tammy Wright nominated and elected	6
Gloria Randlett, nominated and elected	6

Coast guard

clarification of terms for free fish and game licenses	SB 41
facilities, mutual use, study	HB 2am

Code enforcement, joint committee established; chaired by chairperson

of the board of fire control	HB 224
------------------------------------	--------

- Cohen, Sen. Burton J.**
 elected temporary presiding officer 2-3
 remarks regarding District 16 election and straight ticket voting 24
- Cold River, segments protected under rivers management and protection program** SB 91
- Collective bargaining**
 public employees
 policy and definitions changed; grievance procedures strengthened;
 unfair labor practices clarified SB 202
 teacher's grievance for failure to be renominated not subject to
 arbitration HB 341
 state employees, joint committee on employee relations, members,
 order changed and member added; alternates HB 2am
- Colleges and universities**
 assistance to national guard members extended; report HB 675
 regional community-technical colleges, trustees board, duties expanded SB 117
 scholarships, excellence in higher education endowment trust fund SB 204
- Columbine High School, Littleton CO, expressing shock and sympathy for killings of students** SR 6
- Commemorative quarter, NH, inclusion of state motto and Old Man of the Mountain urged in final design** HCR 13
- Commercial feeds, fee requirement changed** HB 229
- Committee re-referrals**
 agriculture, presumption that agricultural uses are permitted HB 97
 alcohol education and abuse prevention fund from percentage of profits
 from liquor sales SB 153
 ATMs, disclosure of fees charged to customer's bank account required SB 79
 boats
 mooring permit requirements extended to all state waters on a
 graduated basis SB 46
 safety education required HB 449
 business finance authority loans to local development organizations,
 state guarantee SB 222
 children, dental care, medicaid reimbursement rate set SB 134
 dental board terms and references updated HB 448
 dental care for adults on medicaid SB 205
 disabled, direct care providers, salaries increased; appropriation SB 36
 disaster leave for state employees who are certified Red Cross disaster
 relief volunteers SB 136
 dogs, minimum shelter standards SB 29
 domestic relations, termination, property settlement on determination
 whether relationship existed SB 185
 drugs, prescription, discounts and rebate agreements for low-income
 persons SB 225
 education
 adequate, quality standards; districts in need of assistance,
 identification and corrective action plans SB 219
 charter schools, establishment, application to state board of education,
 procedure HB 690
 duty to provide responsibility of general court; funding may be
 delegated; local taxation fair and proportional CACR 23
 funding, income tax and statewide property tax HB 109
 higher, incentive grant program, part-time students eligible;
 appropriation HB 311
 higher, parents as scholars program, assistance to certain parents of
 dependent children SB 208
 homestead act, tax allowance paid by state SB 127
 parents as teachers pilot program in Sullivan county, early childhood
 education SB 170

Committee re-referrals (cont.)

education (cont.)

- regional vocational centers, bonds, biennial amount limited SB 207
- special, court-ordered placements, costs paid by state SB 210

elections

- absentee voting, affidavits submitted with applications SB 94
- ballots, straight ticket voting repealed SB 116
- campaign financing, voluntary expenditure limitations, time limit HB 228
- disqualified or deceased candidate, deadline for substitution HB 375
- primaries, filing on last day, personal filing requirement repealed HB 366

electric power

- escrow of utility payments under certain circumstances HB 314am
- rate reduction financing, purpose and findings SB 196

excavating sand dunes, alteration permit requirement, Seabrook Beach

- village district and certain Hampton Beach lots exempt SB 72

felons prohibited from possessing dangerous weapons, clarification HB 360

fish and game commissioners, limit on members who have not held

- hunting, fishing, or trapping licenses SB 144

gambling, electronic games of chance at racetracks SB 203

gasoline containing MTBE, sale prohibited SB 71

geologists licensing requirements SB 181

governor and senators, 4 year terms CACR 20

guardians of minors, standby and emergency guardianship proxies,

- appointment and duration HB 723

homeless prevention fund to replace housing assistance trust fund;

- surcharge on real estate transfer tax to fund SB 128

human rights commission, number for quorum changed HB 75

incest, victim under 18, no statute of limitations; victim under 16,

- sentences SB 143

insurance, accident and health

- chiropractors, comparable fees and self-referrals SB 147

- coverage for infertility treatments SB 52

- grievance procedure, external review process HB 640

- small employer health insurance purchasing alliance act SB 162

judicial branch employees included in public employee labor relations act;

- collective bargaining SB 85

juvenile corrections department, supervision and enforcement of services

- for juvenile delinquents and children in need of services SB 229

libraries, public, trustees' authority over funds; appointment of alternates SB 89

motor vehicles, DWI, third conviction, mandatory one year prison sentence... SB 88

physician assisted suicide SB 44

Port of Portsmouth expansion, excavating, mitigation of environmental

- effects included in appropriation SB 178

public assistance from another state, period subtracted from eligibility

- in NH SB 84

public employee collective bargaining, policy and definitions changed;

- grievance procedures strengthened; unfair labor practices

- clarified SB 202

railroads, revitalization of northern line between Concord and Lebanon

- encouraged HJR 6

real estate practice act, various amendments SB 226

rent-to-own agreements, advertising provisions changed HB 422

retirement system

- credit for military service SB 216

- group II, members who retired before April 1, 1987, spousal benefits;

- right to elect optional retirement allowance SB 228

- group II, minimum allowance increased; supplemental allowance SB 186

securities offerings by mutual funds, filing fees for combined prospectus SB 11

ski craft definition changed SB 61

sludge, land application, notice, quality certification, and record keeping

- requirements; dioxin limitations SB 218

Committee re-referrals (cont.)

- Social Security
 - numbers, use on driver's licenses and for child support enforcement SB 137
 - System, Congress and the President urged to preserve and perpetuate SCR 2
- sovereign immunity for state in claims arising from duty to provide an
 - adequate education HB 113
- status of men commission established HB 553
- structured settlements
 - plaintiffs right to designate broker and insurance company HB 470
 - requirements; court approval of certain transfers SB 66
 - transfer of payment rights, approval by superior court or labor
 - commissioner; requirements SB 126
- taxes
 - county treasurers collection enforcement powers same as local tax collector SB 86
 - exemptions, to foster commercial and industrial construction in
 - economically depressed municipalities SB 76
 - inheritance, repealed HB 542am
 - technology support for the disabled, appropriation SB 176
 - telecommunications tower on Mount Kearsarge, removal required SB 132
 - tobacco products settlement funds, distribution to tobacco use prevention
 - fund, health care fund, and counties SB 206
 - town meeting, official ballot form, times for meetings HB 251
 - trusts, testamentary, institutional funds management, appropriation of
 - appreciation SB 97
- water
 - public systems, connection of buildings required SB 231
 - supply land protection program SB 135
- workers' compensation, pre-approval of payment for medical services,
 - procedure SB 96

Common carriers. See: Motor carriers

Communications services tax, rate set for biennium HB 596am

Community residences, certain residents, personal needs allowance
increased; appropriation HB 653

Community-technical colleges. See: Regional community-technical colleges

Commuter income tax repealed HB 109

Computers

- harassment transmitted by, penalty HB 345
- integration of technology at state, county, and municipal levels, study SB 124
 - HB 599am
- Internet sites, real estate brokers, identification requirements SB 226
- NH automated information system Internet site, advisory board to study HB 670
- pornography and child exploitation added to crimes requiring
 - registration of sexual offenders HB 706am
- productivity gains from investments in computers, criteria and
 - reports by health and human services commissioner HB 2am
- state agency information technology plans, review by information
 - technology management division
 - and approval of capital budget overview committee before
 - expenditure of certain funds HB 25am
 - before expenditure of certain funds HB 1
- state sovereign immunity for computer-related problems; board of
 - claims jurisdiction HB 605

Concord

- bridges named Korean, World War II, and Vietnam veterans
 - memorial bridges SB 155
- municipal waste facility, mercury emissions limits HB 625
- revitalization of northern rail line between Concord and Lebanon
 - encouraged HJR 6
- Turtle Pond, OHRV speed limit on frozen surface; enforcement HB 403

Condominiums

- act, study HB 252
- associations, financial records, access by members; termination of
common services; due process protections HB 732

Confidential information

- certain telephone utility records provided to PUC SB 141
- children, abused or neglected, information disclosure by health and
human services SB 220

Conservation

- of natural, cultural, and historical resources, commission to determine
feasibility of public-private partnership, additional duties HB 685
- water supply land protection grant program SB 135

Conservation officers

- fish and game, injured in the line of duty, compensation SB 47
- Wayne T. Saunders, injured in the line of duty, annual and sick leave
time restored SB 47

Constitutional amendment proposals

- ballot question to include text of the article as it is proposed to be
amended; any voter's guide must be approved by the appropriate
policy committees HB 292
- education
 - duty to provide responsibility of general court; funding may be
delegated; local taxation fair and proportional CACR 23
 - duty to provide responsibility of general court; funding may be
delegated; local taxation proportional and reasonable CACR 17
 - trust fund; income tax, maximum rate; funds dedicated to education CACR 16
- governor and senators, 4 year terms CACR 20
- judges, 5 year renewable terms; judges and sheriffs age limitation
repealed CACR 19
- jury trial in child custody cases CACR 18
- municipal home rule
 - powers HB 468
 - right to exercise powers unless specifically prohibited CACR 6

Constitutional convention, question presented to voters in 2000 HB 743

Construction equipment, motor vehicle registration fees restricted HB 698am

Consumer credit, leasing, finance charge statements in conformity with
Regulation M satisfy disclosure requirements HB 80

Consumer protection

- health care quality; collection, review, and dissemination of information to
consumers, study HB 624
- insurance
 - department, health insurance consumer assistant HB 602
 - health independent hotline for complaints SB 183
 - managed care, grievance procedure, external review process HB 640
 - managed care, grievances, provider and covered person's assistance
program SB 190
 - rent-to-own agreements, advertising provision changed HB 422
 - residential ratepayers advisory board HB 274
 - sale of consumer goods and services, disclosure of telephone number
required HB 435
 - telemarketers fraud and abuse prevention act SB 174
 - telephone companies, cramming prohibited HB 325

Consumers' cooperative associations, consent required for use of
similar name by other entities HB 563

Continuing care communities, temporary certificates repealed SB 104

Contoocook village, Hopkinton, covered railroad bridge, repairs required to
restore, study HB 501

Contraceptives, insurance coverage for drugs and services required SB 175

Contractors
 independent
 excluded from definition of employee under certain labor laws HB 69am
 inconsistencies in statutes, study SB 32am
 state construction, competitive bidding, additional requirements SB 221

Cooperative marketing associations, consent required for use of
 similar name by other entities HB 563

Corporations
 business
 consent required for use of similar name by other entities HB 563
 late reinstatement of charters after dissolution, procedure HB 56
 voluntary, consent required for use of similar name by other entities HB 563

Corrections
 department
 assistant commissioner to assume duties when commissioner is
 unable to perform such duties HB 601
 capital improvements appropriation; various lapse dates extended HB 25
 commissioner, 4 year term HB 397
 prisoners
 custody while in the courthouse the responsibility of sheriffs,
 deputies, and bailiffs HB 715
 good conduct credits to reduce minimum sentence of those convicted
 of nonviolent crimes SB 122

Council on resources and development
 duties and report on deterrence of sprawl HB 208
 member added HB 671

Counties
 prisoner custody in courthouses, reimbursement by administrative
 services; appropriation HB 738
 sheriffs
 age limit repealed CACR 19
 deputies, and bailiffs responsible for custody of prisoners while in
 the courthouse; and for court security HB 715
 inter-community emergency assistance by special reaction teams HB 746
 tobacco settlement funds, portion credited to SB 206

County commissioners, vacancy filled until next biennial election of
 county officers HB 604

County treasurers, collection of taxes, enforcement powers same
 as local tax collector SB 86

Court stenographers, record of licensing board disciplinary proceedings
 made at request of a party SB 224

Courts. See also: District courts; Judges, Judicial branch; Probate courts;
 Superior courts; Supreme court
 children in need of services, diversion defined HB 719
 district and superior, each party may request that one judge not be
 assigned to a case SB 57
 family division established; jurisdiction HB 707
 guardian ad litem, appointment and supervision, procedures and
 standards, study SB 130
 judges
 5 year renewable terms; age limit repealed CACR 19
 review by governor and council every 5 years; hearing SB 133
 judicial branch employees included in public employee labor relations
 act; collective bargaining SB 85
 juries. See: Juries and jurors
 juvenile delinquents, diversion and intervention programs HB 721

Courts (cont.)

penalty assessments, increased; portion for victims' assistance fund increased	HB 652
prisoner custody in courthouses, administrative services reimbursement to counties, appropriation	HB 738
proceedings, representation by non-attorneys, provisions amended	SB 172
sheriffs, deputies, and bailiffs responsible for custody of prisoners while in the courthouse; and for court security, except in the supreme court	HB 715
superior court, judges, number and whether they may be assigned to hear supreme court appeals, study	SB 209

Credit. See: Consumer credit; Loans

Crime and criminals

felons, right to vote; prisoners, absentee ballots from previously established domicile, not place of confinement	SB 157
prisoners, voting, absentee ballots from previously established domicile, not place of confinement	HB 213

Criminal code

cruelty to animals	
appeal from conviction, bond may be required to maintain future interest in the animal	SB 59
livestock, taking into temporary custody, veterinarian to accompany investigating officer	SB 30
firearms, taking from a police officer, penalty	HB 236
fraud, identity fraud, definitions, penalty	HB 687
gambling business, penalties	SB 227
harassment transmitted by computer, penalty	HB 345
incest, victim under age 18, no statute of limitations; victim under age 16, minimum and maximum sentences	SB 143
indecent exposure and lewdness in the presence of a child, penalties increased; registration as sexual offender	SB 158
murder	
attempt, solicitation, and conspiracy, penalties increased	HB 714
partial-birth abortion added	SB 54
non-support of child or spouse, penalties increased	SB 201
reckless conduct involving laser pointing devices, penalty	HB 272
sale of paint ball guns to minors, penalty	HB 302
sentences	
extended term of imprisonment, law enforcement officer defined	HB 601am
good conduct credits to reduce minimum sentence of those convicted of nonviolent crimes	SB 122
restitution to victims to have priority	HB 652
sexual assault, sexual contact definition changed	HB 706
sexual offenders	
against children, registration, incest and computer crimes added	HB 706am
registration, change of name or alias, written notification to police	HB 215

Criminal procedure

release of defendant pending trial, finding of dangerousness, preventive detention or restrictive conditions	HB 216
sex offenders, whether defendants rights are protected by the criminal justice system, study	HB 357

Criminal records. See: Records, criminal

Crossbows, permits for persons with permanent physical disability

HB 552

Cruelty to animals

appeal from conviction, bond may be required to maintain future interest in the animal	SB 59
livestock, taking into temporary custody, veterinarian to accompany investigating officer	SB 30

Cultural resources, commission to determine feasibility of public-private partnership to conserve, additional duties HB 685

Cultural resources department

 Celebrate New Hampshire Culture, Inc., participation in the Smithsonian Festival of American Folklife, appropriation HB 494

 commissioner, member of council on resources and development HB 671

 historical resources division, matching grant program to preserve historic agricultural structures HB 395

 repairs required to restore the covered railroad bridge in Contoocook village, Hopkinton, study HB 501

Currency, NH commemorative quarter, inclusion of state motto and Old Man of the Mountain urged in final design HCR 13

Custody, children

 jurisdiction transferred from superior to district courts SB 209

 non-custodial parent notified of petition in child in need of services cases HB 356

 right to jury trial CACR 18

 seminar for parents involved in custody or support issues, additional positions; appropriation HB 576

D

Damages done to trees by moose, payment from moose management fund SB 194

Dams

 construction authorized, Rand Pond in Goshen HB 93

 safety, environmental services commissioner administrative fine authority expanded to violation of rules HB 362

Day care, children

 certification of personnel; fees HB 726

 new household members, criminal record checks; compliance procedure; school age programs located in schools exempt from certain documentation requirements SB 200

Deaf persons

 issues affecting, study HB 456

 telecommunications equipment assistance program; funding from relay service trust fund HB 645

Death

 cemetery plots, rights of ownership, study HB 664

 transfer of human remains to next of kin rather than funeral director SB 17

 uniform transfer on death security registration act, mutual fund shares included as securities SB 123

 with dignity, physician assisted suicide SB 44

Defense and indemnification

 state and municipal officers, claims from duty to provide adequate education HB 113

 state officials for computer-related year 2000 problems; board of claims jurisdiction HB 605

Defibrillation, automatic external, emergency medical services use, liability limited SB 67

Definitions

 adjustment, manipulation, and subluxation in chiropractic examiners rules HB 586

 charitable organizations for purpose of holding raffles HB 729

 cramming in telephone billing HB 325

 current comparable compensation HB 669

 diversion HB 719

 intervention HB 721

 domestic employee under workers' compensation HB 742

 employee HB 69

 farm, agriculture, farming HB 225

Definitions (cont.)

federal aid primary system	HB 463am
law enforcement officer in extended term of imprisonment statute	HB 601am
sexual contact	HB 706
ski craft, changed	SB 61
teleradiology	SB 53

Dental board, terms and references updated HB 448

Dental care

adults on medicaid included in medical assistance	SB 205
children, medicaid reimbursement rate set	SB 134
state employee insurance plan, participation of part-time district and probate court judges	SB 115

Developmentally disabled, direct care providers

health and human services commissioner authorized to transfer funds to increase salaries	HB 2am
salaries increased; appropriation	SB 36

Dillant-Hopkins airport, various capital improvement appropriation

lapse dates extended	HB 25
----------------------------	-------

Dioxin, sludge containing, land application, limitations SB 218

Disabled

chronic physical and mental disabilities, plan to address needs developed by insurance department	SB 212
crossbow hunting permit for persons with permanent physical disability	HB 552
developmental and acquired disabilities, direct care providers, salaries increased; appropriation	SB 36
developmentally, direct care providers, health and human services commissioner authorized to transfer funds to increase salaries	HB 2am
employment, Congress urged to pass Work Incentives Improvement Act of 1999	SR 10
governor's commission, appropriation changed	HB 615am
improved employment opportunities with the state, study	SB 180
medicaid eligible, health and human services to study options for transitional health coverage for persons trying to work	SB 183am
minors, motor vehicle driver's license, waiver of certain education requirements	HB 616am
technology support; appropriation	SB 176
telecommunications equipment assistance program; funding from relay service trust fund	HB 645
veterans, permanently, exempted from reestablishing status for special number plates	HB 92

Disasters

emergency response and recovery fund; appropriation	HB 608
leave for state employees who are certified Red Cross disaster relief volunteers	SB 136

Discovery, criminal proceedings, environmental audits HB 306

Discrimination

civil rights act, enforcement by attorney general	SB 189
employment, law applicable to nonprofit organizations with more than 6 employees	HB 551
human rights commission, number for quorum changed	HB 75

Diseases

chronic physical and mental disabilities, plan to address needs developed by insurance department	SB 212
glaucoma, optometrists may treat	SB 108
testing domestic animals by agriculture commissioner, costs included in fee	SB 37

District courts

domestic relations jurisdiction transferred from superior courts	SB 209
--	--------

District courts (cont.)

- flexible scheduling which may include evening sessions required HB 278
- judges
 - each party may request that one judge not be assigned to a case SB 57
 - part-time, participation in state employee health and dental insurance plans SB 115
- jurisdiction over land sales full disclosure purchase deposits held in escrow accounts, amount in controversy \$5,000 or less SB 146
- sheriffs, deputies, and bailiffs responsible for custody of prisoners while in the courthouse, and for court security HB 715

Divorce

- absolute, certain grounds repealed HB 324
- children, custody or support issues, seminar for parents, additional positions; appropriation HB 576
- jurisdiction transferred from superior to district courts SB 209
- wills revoked by, certain heirs affected SB 16

Dogs

- companion animal neutering fund, portion allocated to education grants
 - by pet overpopulation committee SB 92
- minimum shelter standards; penalties SB 29

Domestic employees defined under workers' compensation HB 742**Domestic relations**

- court cases
 - in family division of the courts HB 707
 - transferred from superior to district courts SB 209
- divorce, absolute, certain grounds repealed HB 324
- support
 - child or spouse, penalties for non-support increased SB 201
 - spousal, when living apart; attachment of either spouse's property HB 420
- termination, property settlement on determination whether relationship existed SB 185

Domestic societies, examination by insurance commissioner,

- time changed SB 107

Domestic violence

- counselors, duty to report child abuse, exceptions in certain circumstances SB 98
- law revised HB 722
- release of defendant pending trial, finding of dangerousness, preventive detention or restrictive conditions HB 216

Doorkeeper, Emile Martineau nominated and elected 7**Dover, Hilton Park property of the city, study SB 43****Dredging. See: Excavating****Drinking water, water supply land protection grant program SB 135****Driver education**

- reciprocity, NH minimum standards must be met HB 554
- safety department responsible for life and safety issues HB 566

Drugs

- abuse, treatment delivery system study
 - extended SB 19
 - pilot program for opioid agonist therapy added SB 197
- administration of medicine in residential care facilities, supported residential care facilities included in pilot program; assessment of residents every 6 months SB 22
- and alcohol abuse prevention services, study HB 650
- dispensing by optometrists broadened SB 108
- driving under influence. See: Motor vehicles, DWI
- prescription
 - discounts and rebate agreements for low-income persons SB 225

Drugs (cont.)

prescription (cont.)

managed care plans that provide, formulary provisions	HB 408
medical assistance, municipalities or counties charged same as state	SB 183
off-label use defined; insurance coverage required	SB 167
Durham municipal incinerator, state aid for closure costs	HB 294
Dyner , Rev. Canon Marthe F., guest chaplain	1555-1556

E

Ear piercing , single-use prepackaged sterilized devices required	SB 140
--	--------

Easements , water supply land protection program	SB 135
---	--------

East Kingston school district, 1999 meeting legalized	HB 532am
--	----------

Eastern Line , passenger railroad service, reestablishing, study	HB 444
---	--------

Economic development

commercial and industrial construction in economically depressed municipalities, tax exemptions	SB 76
districts, municipal, computation of tax increments, current assessed value	HB 684am

Education

adequate

determination of per pupil cost and grant	HB 117am
---	----------

determination of per pupil cost and grant, municipality instead of district used; dates changed	HB 300
--	--------

funding, state responsible for instructional costs; school districts responsible for operational costs; education improvement fund; foundation aid repealed	SB 50
---	-------

method of determining cost; adequate education and education financing reform commission, duties; foundation aid repealed	SB 49
--	-------

quality standards; school districts in need of assistance, identification and corrective action plans	SB 219
--	--------

sovereign immunity for state and municipalities, claims arising from duty to provide	HB 113
---	--------

state grants for 2000 and 2001, foundation aid repealed	SB 48
---	-------

charter schools

amendment of area agreement when one district votes to adopt charter school	HB 503
--	--------

application limitation by executive council district removed	HB 231
--	--------

establishment, application to state board of education, procedure	HB 690
---	--------

establishment, procedures amended	SB 152
---	--------

choice, parental choice scholarships	HB 633
--	--------

department

administrative attachment, commission on early childhood education	HB 532
--	--------

capital improvements appropriation	HB 25
--	-------

commissioner, emergency expenditure authorization to school boards, notice to revenue administration	HB 262
---	--------

distribution of federal forest land funds to school districts	HB 364
---	--------

duty to provide responsibility of general court; funding may be delegated; local taxation proportional and reasonable	CACR 17
.....	CACR 23

early childhood

laboratory school at technical institute; appropriation	HB 25am
---	---------

program personnel, certification; fees	HB 726
--	--------

facilities, NH health and education facilities authority, name changed from NH higher educational and health facilities authority; meetings by telephone	SB 191
--	--------

foundation aid repealed	HB 117am
-------------------------------	----------

funding

adequate education and education financing reform commission established; duties	SB 48
---	-------

Education (cont.)

funding (cont.)

- adequate education grants, cooperative school districts, credited
 - as if they were foundation aid HB 265am
- adequate education, technical amendments HB 684am
- deficit financed with new sources of revenue and not through budget
 - reductions SR 7
 - SR 8
- electronic games of chance at racetracks SB 203
- homestead act, tax allowance paid by state SB 127
- income tax and statewide property tax HB 109
- interim provisions for 1999 meetings; state guarantee of tax
 - anticipation notes HB 100
- personal income tax, maximum rate; funds dedicated to education CACR 16
- state guarantee of tax anticipation notes to cover school expenses
 - for 1999 HB 734am
- statewide property tax; excess payments, phased in collection HB 117am
- statewide property tax, excess payments, phased in collection
 - amended HB 745am
- statewide property tax; excess payments, phased in collection,
 - technical amendments HB 300
- statewide property tax; hardship relief HB 999
- statewide taxes, referendum, choice of 2 plans SB 51
- validity of municipal obligations and indebtedness and savings banks
 - investments in municipal obligations despite Claremont
 - lawsuit deadline HB 111
- higher
 - assistance to national guard members extended; report HB 675
 - excellence in higher education endowment trust fund; scholarships SB 204
 - fund, excess receipts may be spent HB 1
 - incentive grant program, part-time students eligible; appropriation HB 311
 - parents as scholars program, assistance to certain parents of
 - dependent children SB 208
 - public, study committee, report to regional community-technical
 - college system commissioner SB 117am
 - veterans' access to education in UNH system, study HB 454
- interstate school districts, agreements regarding certification standards,
 - assessment programs, and high school approval SB 230
- kindergarten
 - alternative programs, authorized in cooperative school districts HB 295
 - programs established in certain years, reimbursement rates HB 300
- parents as teachers pilot program in Sullivan county, early childhood
 - education SB 170
- pupils
 - expulsion for possession of paint ball gun HB 302
 - good behavior recognized HCR 2
 - withdrawal from school, 60 day notice requirement removed SB 119
- school building authority, bonding limit increased HB 363
- special
 - catastrophic costs paid by state SB 49am
 - catastrophic costs, school districts' authority to expend funds
 - reflecting total costs; unexpected catastrophic costs exempted
 - from provisions of municipal budget law HB 577
 - court-ordered placements, costs paid by state SB 210
 - definition changed; age of developmentally delayed child changed HB 488
 - federal government urged to fully fund its share of costs SR 4
 - HCR 6
 - municipal budget to disclose reimbursements for costs SB 129
- state board
 - certification standards, rulemaking authority revised SB 18
 - term of office reduced; consecutive terms increased HB 358

Education (cont.)

teachers. See: Teachers

trust fund, budget surplus in year ending June 30, 1999, transferred to HB 2am
 vocational regional centers, bonds, biennial amount limited SB 207

Elderly

federal government urged to ensure that Medicare options are available HCR 9
 long-term care institute, long-term care specialist position established SB 15
 Older Americans Act, President and Congress urged to extend SB 23
 SR 9
 residential care facilities, supported, included in administration of
 medicine pilot program; assessment of residents every 6 months SB 22

Elections

absentee voting affidavits submitted with applications SB 94
 ballot law commission
 meetings, 3 members required to be present HB 60
 members, political contributions prohibited HB 61
 ballots
 examined and counted prior to opening of polls in the presence of certain
 officials HB 253
 straight ticket voting, repealed SB 116
 campaign financing
 study HB 689am
 voluntary expenditure limitations for governor and US Congress,
 time limit HB 228
 candidates may not receive nomination of more than one party HB 381
 checklists
 maintenance and integrity, study HB 227
 statewide voter registration database, integration of technology,
 study HB 599am
 felons, right to vote; prisoners, absentee ballot from previously
 established domicile, not place of confinement SB 157
 general, November 2000, question regarding constitutional convention
 presented to voters HB 743
 moderator pro tempore to supervise voting when moderator is
 disqualified because name is on ballot for another position HB 78
 presidential primaries
 date, flexibility in selection; filing dates changed HB 399
 order of candidates' names decided by random drawing HB 374
 vice president removed from ballot SB 39
 primaries
 change of registration back to undeclared after voting in
 primary removed HB 64
 disqualified or deceased candidate, deadline for substitution HB 375
 filing on last day, personal filing requirement repealed HB 366
 petitions and filing fees waived for Congressional candidates HB 223
 prisoners, voting, absentee ballots from previously established
 domicile, not place of confinement SB 157
 HB 213
 Senate District 16, remarks by Sen. Cohen regarding straight
 ticket voting 24
 voter identification required HB 411

Electric power

escrow of utility payments under certain circumstances HB 314am
 generators, nitrogen oxide emission requirements; payments in lieu of
 emission reduction HB 649
 ISO-New England
 FERC urged to change membership structure HJR 8
 urged to adopt policies to further restructuring HJR 3
 lighting, outdoor lighting regulation, study HB 727
 nuclear decommissioning funds, Congress and IRS urged to broaden
 taxpayers ability to make tax-deductible contributions HCR 11

Electric power (cont.)
nuclear station property tax repealed SB 184
rate reduction financing, purpose and findings SB 196
renewable energy sources, ways to promote, study HB 402
residential ratepayers advisory board, duties HB 274
restructuring
rate reduction financing and stranded cost recovery, declaration of
purpose and findings HB 464
supreme court stranded costs case, prompt decision urged SCR 1

Electronic customer services terminals (ATMs), disclosure of fees
charged to customer's bank account required SB 79

Electronic gambling at pari-mutuel racetracks SB 203

Emergencies
disaster leave for state employees who are certified Red Cross disaster
relief volunteers SB 136
inter-community assistance by police special reaction teams HB 746
vehicular pursuit by police, written policies required HB 519

Emergency management
compact, name changed to emergency management assistance compact
and northeastern American/Canadian emergency management
assistance compact HB 665
emergency response and recovery fund; appropriation HB 608
office
capital improvements appropriation HB 25
match of federal funds for storms and floods in 1995 and 1998;
appropriation HB 234

**Emergency medical and trauma services, regulation transferred from
health and human services to safety department HB 643**

**Emergency medical services, automatic external defibrillation, liability
limited SB 67**

Emissions reduction credits trading program
allocations by environmental services HB 383
electric power generators, nitrogen oxide emissions requirements;
payments in lieu of reductions HB 649

Employment. See: Labor

**Endangered species conservation act, wildlife allocated funds cannot be
classified as game species SB 154**

Energy
and community service office, disallowed federal reimbursed costs;
appropriation HB 2am
electric power
escrow of utility payments under certain circumstances HB 314am
generators, nitrogen oxide emission requirements; payments in lieu
of emission reduction HB 649
ISO-New England, FERC urged to change membership structure HJR 8
ISO-New England urged to adopt policies to further restructuring HJR 3
nuclear decommissioning funds, Congress and IRS urged to broaden
taxpayers ability to make tax-deductible contributions HCR 11
rate reduction financing, purpose and findings SB 196
residential ratepayers advisory board, duties HB 274
restructuring, rate reduction financing and stranded cost recovery,
declaration of purpose and findings HB 464
restructuring, supreme court stranded costs case, prompt decision urged ... SCR 1
nuclear station property tax repealed SB 184
renewable sources, ways to promote, study HB 402

**Enhanced 911 system, member added to commission; service providers
required to transfer emergency calls HB 645**

Entertainment , events, sale of tickets by stopping motor vehicles on public ways prohibited	SB 20am
Environment , greenhouse gases, US Senate urged to improve Kyoto protocol ...	HCR 8
Environmental audits , discovery in criminal proceedings; penalty waivers not allowed in certain circumstances	HB 306
Environmental Protection Agency	
future air pollution legislation urged not to use baseline emissions to punish early adopters of control technology	HJR 2
urged to eliminate requirement for MTBE and other gasoline additives	HJR 9
Environmental quality , land use management to protect, study membership increased; duties and reporting date extended	HB 288
Environmental services department	
air pollution, allocations in emissions reduction credits trading program	HB 383
annual report on solid waste reduction goals	HB 230
capital improvements appropriation; various lapse dates extended	HB 25
commissioner	
dam safety, administrative fine authority expanded to violation of rules ...	HB 362
duties regarding MTBE gasoline additive	SB 70
particulate matter registry, creation of, study	SB 159am
transfers among accounts	HB 1
electric power generators nitrogen oxide emission requirements; emission reduction fund	HB 649
greenhouse gas emissions, voluntary reductions registry	SB 159
hazardous waste	
and water quality violations at traffic bureau facility (Concord); appropriation	HB 331am
facilities, exemptions from certain requirements; rulemaking	HB 557
transportation enforcement authority increased	HB 556
laboratory analysis for water, fees changed	HB 561
mercury emissions reduction and control program for municipal incinerators; ash landfills, study	HB 625
shellfish, determination of areas where harvesting may take place transferred from health and human services	SB 215
solid waste facility orders filed with registry of deeds	HB 558
water pollution	
and waste disposal enforcement authority expanded	HB 410
programs, state aid grants, funds transferred to sludge testing program ..	SB 195
water supply land protection grant program	SB 135
Erosion , protection of waterfront properties, study	HB 2am
Escheat , unclaimed and abandoned property, times and procedures changed; civil action removed	HB 688
Excavating	
port authority may dredge harbors and channels	HB 355
Port of Portsmouth, mitigation of environmental effects included in appropriation	SB 178
sand dune alteration permit requirement, Seabrook Beach village district and certain Hampton Beach lots exempt	SB 72
tax, and excavation activity tax, applicability clarified	HB 666
Executive council . See also: Governor and council	
districts, charter school application limitation removed	HB 231
hearing before appointment of public utilities commissioner	HB 318
Executors and administrators	
waiver of administration expanded; procedures	SB 25
wills filed with no administration when there are no assets	SB 139
Exotic aquatic weeds , introduction to NH waters, penalties	HB 421
Eye care	
certain employees exempted from ophthalmic dispensers licensing	SB 164
optometrists may treat glaucoma	SB 108

F

- Facsimile transmissions**, candidate for primary may file by fax on
last day HB 366
- Fairs**, agricultural, state aid, appropriation; distribution formula SB 145
- Family**
dead bodies may be released to next of kin rather than funeral director SB 17
division of the courts established; jurisdiction HB 707
resource centers, wellness and primary prevention services SB 223
therapists, services covered by insurance SB 177
- Farms**
agriculture, and farming defined HB 225
land use management to protect, study membership increased; duties
and reporting date extended HB 288
presumption that agricultural uses are permitted; a purpose of zoning
ordinances is to preserve agriculture HB 97
- Fax transmissions**, candidate for primary may file by fax on the last day HB 366
- Federal Communication Commission** urged to adopt telephone number
conservation policies SR 3
- Federal Energy Regulatory Commission** urged to change membership
structure of ISO-New England HJR 8
- Federal forest lands**, funds distributed by education department rather
than state treasurer; time changed HB 364
- Federal funds**, Wallop-Breaux, repealed HB 418
- Federal government** urged
not to adopt rules requiring banks to monitor customers' banking habits HCR 7
to ensure that Medicare options are available to elderly HCR 9
to fully fund its share of special education costs SR 4
..... HCR 6
to prohibit reintroduction of wolves in northeastern US, especially NH HJR 1
- Federal lands**, White Mountain National Forest
continued management as part of national forest system urged HJR 7
retention of traditional uses and impact of change in designation, study HB 431
- Federal welfare reform**, financial impact on NH towns and cities, study SB 14
- Felons**
prohibited from possessing firearms and dangerous weapons, clarification ... HB 360
right to vote; prisoners, absentee ballots from previously established
domicile, not place of confinement SB 157
- Fences**, updating NH laws, study extended HB 583
- Fernald**, Sen. Mark D., remarks regarding pronunciation of President
Hollingworth's name 1555
- Fertilizers**, sludge, land application, funds transferred from state aid
grants to sludge testing program SB 195
- Festival of American Folklife**, NH participation
appropriation HB 494
remarks by Sen. Larson 1330
- Fines**, administrative
environmental services commissioner, dam safety, authority expanded to
violation of rules HB 362
optometrists board HB 313
- Fire marshal**, heating equipment installers, voluntary licensing SB 198
- Fire standards and training division**, aircraft rescue and fire fighting
training facility; appropriation HB 25am
- Firearms**
children, methods of reducing violent incidents, study SB 163
felons prohibited from possessing, clarification HB 360

Firearms (cont.)

- paint ball guns, sale to minors, penalty; expulsion of pupils for possession ... HB 302
 purchase, criminal history record checks by safety department;
 confidentiality; funding from federal grants HB 537
 taking from police officer, penalty HB 236

Firefighters, retired, with certain benefits, supplemental allowance SB 186

Fireworks, permissible

- items added to list; sale of reloadable aerial shells prohibited HB 513
 sale; consumer and display, regulation HB 346

Fish and game

- commission, duties identified and established, study SB 160
 commissioners, qualifications, limit on members who have not held
 hunting, fishing, or trapping licenses SB 144
 conservation officer Wayne T. Saunders, injured in the line of duty,
 annual and sick leave time restored SB 47
 conservation officers injured in line of duty, compensation SB 47
 department
 capital improvements appropriation HB 25
 name changed to wildlife department SB 213
 port authority, and safety services division, study of mutual use of
 coast guard facilities HB 2am
 endangered species conservation act, wildlife allocated funds cannot
 be classified as game species SB 154

executive director

- decisions reviewed by appeal panel; procedures SB 142
 design of vanity plates or decals for OHRVs HB 559
 time for biennial report changed; reporting on certain accounts
 changed or repealed HB 418

fishing, habitat fee required; purpose HB 574

fund, estimate of unrestricted revenue HB 1

hunting, open season for chukar partridge HB 520

licenses

- crossbow permit for persons with permanent physical disability HB 552
 fishing habitat fee HB 574
 free for residents in armed forces, clarification of terms SB 41
 lifetime, minors under age 16 eligible HB 710
 moose management fund, payment for damages done by moose to trees SB 194
 shellfish, determination of areas where harvesting may take place
 transferred to environmental services from health and
 human services SB 215
 wildlife damage control program, mitigation, fencing, depredation
 permits; for commercial agricultural property HB 704
 wolves, reintroduction to NH prohibited HB 240

Flags, US Marine Corps flag to be flown over the state house every

November 10th HJR 10

Food, production or service, license revoked, plan for remediation,

provisional license, time limits SB 28

Forbes, Steve, presidential candidaye, joint convention speaker 1709

Forests

federal lands, funds distributed by education department rather than
 state treasurer HB 364

White Mountain National Forest

continuation as part of national forest system urged HJR 7

retention of traditional uses and impact of change in designation,
 study HB 431

Foster care

1999 supplemental appropriation HB 374am

prohibition against homosexuals as foster parents removed HB 90

Foundation aid, repealed SB 48
 SB 49
 SB 50
 HB 117am

Fraser, Sen. Leo W., Jr., remarks in remembrance of his wife, Pat 29

Fraternal benefit societies, domestic, examination by insurance commissioner, time changed; foreign, fees changed SB 107

Fraud, identity, definitions, penalty HB 687

Fuel, oil discharge cleanup fund, fee increased; prevention added to purpose; funds transferred from oil pollution control fund HB 495

Funeral directors and embalmers, dead bodies may be released to next of kin rather than funeral director SB 17

G

Gambling
 bingo and lucky 7, assistance, restriction on days repealed HB 739
 business, penalties SB 227
 electronic games of chance at racetracks SB 203
 promotional games at gas stations, prohibition repealed HB 447
 raffles, charitable organization definition amended HB 729

Gap Mountain, Monadnock advisory commission, acceptance of gifts, legal existence clarified HB 248

Gardner, William, secretary of state
 nominated and elected temporary presiding officer 1549
 remarks on reading election returns 7

Garnishment, trustee process, study SB 26

Gas, natural and propane, heating equipment installers, voluntary licensing SB 198

Gasoline
 additives including MTBE, comparative risks, study HB 592
 containing MTBE
 federal government urged to eliminate requirement for oxygenate additives HJR 9
 safe drinking water standard established; lower concentrations and waivers sought SB 70
 sale prohibited SB 71
 reduction in sulfur content urged SJR 1
 stations, promotional games prohibition repealed HB 447

General court. See also: House of representatives; Senate
 duty to provide education; funding may be delegated; local taxation fair and proportional CACR 23
 proportional and reasonable CACR 17
 employees, salaries increased HB 2am
 legislative budget assistant, capital improvements appropriation HB 25am
 members, compensation and reimbursement for expenses, study HB 728
 performance audit and oversight committee, member added; procedures changed HB 603

General fund
 1999 undesignated surplus to education trust fund; estimates for biennium ending 2001 adjusted HB 999
 estimate of unrestricted revenue HB 1

Geologists, licensing requirements SB 181

Gilford school district, 1999 meeting legalized HB 744am

Ginseng, cultivation and sale licensed and regulated HB 238

Glaucoma, optometrists may treat SB 108

Gold star mother's day, first Sunday after Easter HB 258

Golf facilities, off-site catering liquor license	SB 73
Goshen, authorized to construct dam on Rand Pond	HB 93
Governor	
4 year term	CACR 20
and council	
authority to secure federal funds for capital improvements	
appropriations	HB 25
judges, review every 5 years; hearing	SB 133
candidates, voluntary expenditure limitations, time	HB 228
commission on disability, appropriation changed	HB 615am
proclamations, gold star mother's day, first Sunday after Easter	HB 258
vetoes	
insurance law amendments; salaries changed	SB 103
PUC commissioners and general counsel prohibited from employment	
as lobbyists for 1 year	HB 527
Grafton county, family division of the courts established	HB 707
Great ponds, boat moorings permit requirements extended to all state	
waters on a graduated basis	SB 46
Greenhouse gases	
US Senate urged to improve Kyoto protocol	HCR 8
voluntary emission reductions registry	SB 159
Groundwater, impact of sludge application at reclamation sites, research	
by UNH office of sponsored research, appropriation	HB 546
Guardian ad litem, appointment and supervision procedures and	
standards, study	SB 130
Guardians of minors	
and estates of minors, standby and emergency guardianship proxies;	
appointment and duration	HB 723
jurisdiction of probate court under uniform child custody	
jurisdiction act	SB 112

H

Hampton Beach	
certain lots exempted from sand dune alteration permit requirement	SB 72
master plan for seacoast parks required	HB 672
Hampton-Seabrook harbor, port authority to report on justifications	
for Army Corps of Engineers to release state from obligation	
to dredge	HB 2am
Harassment transmitted by computer, penalty	HB 345
Harbors, port authority may dredge	HB 355
Hate crimes, civil rights act, enforcement by attorney general	SB 189
Hazardous waste	
cleanup fund, failure to file required report; fees; penalties	HB 410
facilities, exemptions from certain requirements; definitions repealed	HB 557
fuel oil discharge cleanup fund, fee increased	HB 495
mercury	
emission reduction and control program for municipal incinerators;	
ash landfills, study	HB 625
source reduction and recycling issues, study	HB 340
Northern New England low-level radioactive waste management	
compact repealed	HB 263
traffic bureau facility (Concord), violations, appropriation	HB 331am
transportation, environmental services enforcement authority	
increased	HB 556
Head start, certification of personnel; fees	HB 726
Health access corporation, affordable insurance for the uninsured	SB 183

Health and human services department

1999 federal funds lapse to general fund; supplemental appropriations;
 list of additional personnel reductions HB 374am
 1999 supplemental appropriations HB 684am
 administrative attachments, hypnotherapists board SB 149
 capital improvements appropriation; lapse dates extended HB 25
 certification of early childhood program personnel; fees HB 726
 child abuse or neglect investigations, procedures and standards, study SB 65
 child care advisory committee, membership and duties changed HB 438
 commissioner
 annual reports on class 90 grants HB 619
 authority to waive restroom requirement for certain restaurants HB 206
 authorized to accept and expend additional revenues, fill authorized
 unfunded positions, and transfer funds to increase salaries HB 2am
 brain and spinal cord injuries registry established; duties; report HB 615
 criteria for measuring productivity gains from investments in
 computers; reports HB 2am
 disclosure of information regarding child abuse or neglect SB 220
 duties regarding midwives HB 720
 homeless volunteers at shelters, pilot program for free meals;
 rulemaking SB 100
 monitoring of rulemaking by chiropractic examiners board repealed HB 586
 emergency medical services regulation transferred to safety department HB 643
 food production and service, license revoked, plan for remediation,
 provisional license, time limits SB 28
 Glenciff home for the elderly, various capital improvements
 appropriations changed HB 25am
 health status of citizens, assessment, biennial report SB 183
 juvenile delinquents and children in need of services, supervision and
 enforcement transferred to juvenile corrections department SB 229
 medical assistance recipients, cross-match for third party liability
 purposes SB 114
 negotiated risk agreements when patients desire to remain in a facility
 over the recommendation of the department, study HB 307
 organization, study SB 169
 outpatient prescription drug cost reduction and coverage expansion
 program for low-income persons; discounts and rebate
 agreements SB 225
 parents as scholars program, postsecondary education assistance to
 certain parents of dependent children SB 208
 persons with developmental and acquired disabilities, direct care
 providers, salaries increased; appropriation SB 36
 shellfish, determination of areas where harvesting may take place
 transferred to environmental services SB 215
 substance abuse treatment delivery system study
 extended SB 19
 review of pilot program for opioid agonist therapy added SB 197am
 technology support for disabled; appropriation SB 176
 tobacco settlement funds
 portion distributed for long-term medicaid costs SB 206am
 to tobacco use prevention fund SB 206
 vital records, fees increased; improvement fund, purposes expanded;
 advisory committee membership changed; reports SB 192

Health care

assisted suicide, death with dignity SB 44
 charitable trusts, community benefits plan required; criteria;
 community needs assessment SB 69
 chiropractors, self-referrals under managed care insurance; comparable
 fees required SB 147
 chronic illnesses and disabilities, plan to address needs developed by
 insurance department SB 212

Health care (cont.)

emergency and trauma services, regulation transferred from	
health and human services to safety department	HB 643
facilities	
ambulatory surgical facilities, definition amended	SB 214
ambulatory surgical facilities, impact on community hospitals, study	SB 183
ambulatory surgical facilities, study	HB 545
certificate of need, standards, expenditure amount changed	HB 657
certificate of need, standards, expenditure amount raised	SB 120
financial arrangements with physicians and insurance companies, study	HB 82
medicaid enhancement tax, rate for biennium ending 2001	HB 55
negotiated risk agreements when patients desire to remain in a facility	
over the recommendation of health and human services, study	HB 307
NH health and education facilities authority, name changed from	
NH higher educational and health facilities authority;	
meetings by telephone	SB 191
fund	
50% of health and human services operating budget surplus	
transferred to	SB 183
limitations, certain transfers to require 2/3 vote; amount of principal	
to remain the same at end of biennium as at the beginning	SB 40
portion of tobacco settlement funds credited to	SB 206
hypnotherapists, licensing and regulation	SB 149
infertility treatments, insurance coverage	SB 52
long-term care specialist position established in long-term care institute	SB 15
managed care, grievance procedure, external review process	HB 640
medical utilization review entities may adopt National Committee for	
Quality Assurance standards; preferred provider organizations	
deleted from licensure requirements	SB 104
planning process, recommendations adopted	SB 183
practice of medicine, medical directors whose utilization review decisions	
affect health care services provided to individuals	SB 199
quality; collection, review, and dissemination of information to consumers,	
study	HB 624
women, study, members added and reporting date extended	HB 214
Health council, joint, policies and procedures, study	HB 530
Health maintenance organizations	
accountability; external grievance appeal process	SB 199
coverage for	
infertility treatments	SB 52
off-label use of prescription drugs	SB 167
services of physical, occupational, and speech therapists, study	SB 166
group policies, coverage for contraceptive drugs and services required	SB 175
self-referrals to chiropractors, conditions; comparable fees required	SB 147
Health service corporations	
coverage for	
infertility treatments	SB 52
off-label use of prescription drugs	SB 167
services of physical, occupational, and speech therapists, study	SB 166
group policies, coverage for contraceptive drugs and services required	SB 175
self-referrals to chiropractors, conditions; comparable fees required	SB 147
Health services planning and review board	
certificate of need, meetings to take place on state property; standard of	
need, expenditure amount raised	SB 120
members added, terms	
limited; meetings to take place on state property	SB 214am
meetings to take place on state property	HB 657
study	HB 545
Healthy kids corporation, subcommittee to study affordable insurance	
for the uninsured	SB 183

Hearing impaired
 issues affecting deaf community, study HB 456
 telecommunications equipment assistance program; funding from
 relay service trust fund HB 645

Heating equipment installers, voluntary licensing SB 198

Herbicides, aerial spraying, buffer or no-spray zones around sensitive areas ... SB 68

Higher education fund, excess receipts may be spent HB 1

Highway fund, estimate of unrestricted revenue HB 1

Highways
 bridges
 bridge on route 135 (Haverhill and Bath) named Raymond S. Burton
 bridge HB 89am
 in Concord named Korean, World War II, and Vietnam veterans
 memorial bridges SB 155
 class V, roads maintained and repaired by towns for 5 years HB 593
 class VI, uniform provisions HB 573
 I-93 and NH International Speedway, Concord and Bow, borrow-a-lane
 project for overflow traffic, appropriation HB 2am
 junkyards, local regulation along all highways; federal aid primary system
 redefined HB 463
 restricted use driveway at New Hampshire International Speedway,
 transportation commissioner authority to layout and approve SB 156
 route 11, Rochester to Claremont; and route 140, Alton to Tilton,
 upgrade study HB 541
 sale of tickets to entertainment or sports events by stopping motor
 vehicles on public ways prohibited SB 20am
 seasonal weight limitation postings, effect on economy, study HB 365
 speed limit statute revised HB 651
 US route 1 traffic circle in Portsmouth, safety improvements, study SB 42
 US route 2, US Secretary of Transportation urged to include as a
 designated border corridor highway HCR 4

Hilton Park, made property of city of Dover, study SB 43

Historical preservation, state heritage collections committee, disposal
 of items by sale or auction; actions of committee require
 vote of 6 members HB 686

Historical resources
 commission to determine feasibility of public-private partnership to
 conserve, additional duties HB 685
 historic agricultural structures, barn preservation fund, matching
 grant program HB 395

Holidays
 Civil Rights Day, name changed to Martin Luther King, Jr.
 Civil Rights Day SB 80
 HB 68
 Washington's birthday, certain part-time state employees, holiday pay SB 193

Hollingsworth, Sen. Beverly. See: President

Home health care, 1999 supplemental appropriation HB 374am

Home rule
 authority to towns, after passage of constitutional amendment HB 468
 municipalities right to exercise powers unless specifically prohibited CACR 6

Home solicitation sales, disclosure of telephone number required HB 435

Homeless
 ending homeless council, goal to eliminate homelessness by 2005 SB 171
 prevention fund to replace housing assistance trust fund; surcharge on
 real estate transfer tax to fund SB 128
 volunteers at shelters, pilot program for free meals SB 100

Homestead , education homestead act, allowance against school taxes paid by state	SB 127
Homicide attempt, solicitation, and conspiracy, penalties increased	HB 714
partial-birth abortion added	SB 54
Homosexuals , adopting or being foster parents, prohibition removed	HB 90
Hopkinton , Contoocook village, covered railroad bridge, repairs required to restore, study	HB 501
Hospital, NH claims arising from clinical operation, indemnification, date extended	HB 515
persons not competent to stand trial to be held in custody during evaluation for commitment process; time limits	HB 270
Hospitals ambulatory surgical facilities, definition amended	SB 214
certificate of need board and ambulatory surgical facilities, study	HB 545
standards, expenditure amount changed	HB 657
standards, expenditure amount raised	SB 120
community, impact of ambulatory surgical facilities on, study	SB 183
financial arrangements with physicians and insurance companies, study	HB 82
health care charitable trusts, community benefits plan required; criteria; community needs assessment	SB 69
quality; collection, review, and dissemination of information to consumers, study	HB 624
medicaid enhancement tax, rate for biennium ending 2001	HB 55
waste, mercury emissions reduction and control program	HB 625
House of representatives , officers listed	24-25
Housing assistance trust fund replaced with homeless prevention fund; surcharge on real estate transfer tax to fund	SB 128
ending homeless council, goal to eliminate homelessness by 2005	SB 171
homeless volunteers at shelters, pilot program for free meals	SB 100
minimum standards, landlord may not rent premises in violation; remedies; liability for damages	SB 101
Human rights commission employment discrimination law applicable to nonprofit organizations with more than 6 employees	HB 551
number for quorum changed	HB 75
Hunting . See Fish and game	
Hypnotherapists , licensing and regulation	SB 149

I

Ice storm of January 1998 , emergency management office, match of federal disaster funds; appropriation	HB 234
Identity fraud , definitions, penalty	HB 687
Incest added to crimes requiring registration of sexual offenders	HB 706am
victim under age 18, no statute of limitations; victim under age 16, minimum and maximum sentences	SB 143
Incinerators , municipal, state aid for closure costs	HB 294
Income tax flat rate education income tax	HB 109
interest and dividends, repealed	HB 109
maximum rate; funds dedicated to funding education	CACR 16
Indecent exposure , penalties increased; registration as sexual offender	SB 158

Independent System Operator-New England

- FERC urged to change membership structure HJR 8
- urged to adopt policies to further electric power restructuring HJR 3

Individuals with Disabilities Education Act, federal government

- urged to fully fund its share of special education costs SR 4
- HCR 6

Industrial construction, tax exemption in economically depressed municipalities

SB 76

Information technology management division, review of state agency

- information technology plans before expenditure of certain funds HB 1
- HB 25am

Inheritance tax

- extension of time for payment, interest may be waived SB 45
- repealed HB 542am

Institutional funds management, testamentary trusts, appropriation of

- appreciation SB 97

Insurance

accident and health

- affordable insurance for the uninsured, study by healthy kids
 - corporation subcommittee SB 183
- benefits for retired teachers SB 187
- carriers, cross-match with health and human services medical
 - assistance recipients for third party liability SB 114
- chronic illnesses and disabilities, plan to address needs developed
 - by insurance department SB 212
- consumer assistant in insurance department HB 602
- coverage for infertility treatments SB 52
- coverage for off-label use of prescription drugs SB 167
- coverage for services of physical, occupational, and speech therapists,
 - study SB 166
- financial arrangements among hospitals, physicians and insurance
 - companies, study HB 82
- group policies, continuing coverage provisions clarified SB 105
- group policies, coverage for contraceptive drugs and services required SB 175
- health care quality; collection, review, and dissemination of information
 - to consumers, study HB 624
- HMO accountability; external grievance appeal process SB 199
- long-term care institute, long-term care specialist position established SB 15
- managed care, carriers to allow participating providers time to review
 - proposed contracts HB 333
- managed care, grievance procedure, external review process HB 640
- managed care, grievances, provider and covered person's assistance
 - program SB 190
- managed care, plans that provide prescription drugs, formulary
 - provisions HB 408
- managed care, reports on exclusive arrangements, specific
 - dates deleted SB 103
- managed care, self-referrals to chiropractors; conditions; comparable
 - fees required SB 147
- medical utilization review entities may adopt National Committee for
 - Quality Assurance standards; preferred provider organizations
 - deleted from licensure requirements SB 104
- mental health benefits, coverage for marriage and family therapist
 - services SB 177
- mental health counselors, clinical, coverage for services SB 58
- premiums may be adjusted for users of tobacco products SB 55
- small employer health insurance purchasing alliance act SB 162
- standardized benefits SB 183
- state employees, participation of part-time district and probate
 - court judges SB 115

Insurance (cont.)

accident and health (cont.)	
ways to encourage carriers to insure individuals from the non-group market, study	HB 473am
women's health care study, members added and reporting date extended	HB 214
charitable gift annuities, issuance exempted from practice of business of insurance	HB 442
claims adjusters continuing education requirement, workers' compensation continuing education removed	SB 106
dental, state employees, participation of part-time district and probate court judges	SB 115
department	
commissioner, examination of domestic societies; time changed; foreign societies, fees changed	SB 107
consumer hotline for health insurance complaints	SB 183
continuing care communities, temporary certificates repealed	SB 104
health insurance consumer assistant	HB 602
plan to address the needs of persons with chronic illnesses and disabilities	SB 212
salaries changed; examinations, removal of records, requirements	SB 103
liability, motor vehicles. See: Motor vehicles, liability insurance	
life, group policies, termination, procedure	SB 104
limited travel agent licensing for agents of common carriers	HB 638
premium tax, estimated liability less than \$100, payment in full required on March 1	SB 102
Interest , small loans, rate on loans under \$1,500 same as loans over \$1,500	SB 99
Interest and dividends tax . See: Income tax, interest and dividends	
Internal Revenue Service , urged to broaden taxpayers ability to make tax deductible contributions to nuclear decommissioning funds	HCR 11
Internet	
harassment transmitted by computer, penalty	HB 345
NH automated information system site, advisory board to study	HB 670
sites, real estate brokers, identification requirements	SB 226
Interstate compacts	
emergency management compact changed to emergency management assistance compact and northeastern American/Canadian emergency management assistance compact	HB 665
Northern New England low-level radioactive waste management compact repealed	HB 263
Investment trusts , consent required for use of similar name by other entities	HB 563
ISO-New England	
FERC urged to change membership structure	HJR 8
urged to adopt policies to further electric power restructuring	HJR 3

J

Jeanne Shaheen and Donna Sytek hunger program, free meals for homeless volunteers at shelters	SB 100
Jet skis . See: Ski craft	
Johnson , Sen. Carl R., remarks in support of new President	1555
Joint board , geologists licensing added	SB 181
Joint health council , policies and procedures, study	HB 530
Joint tenants , motor vehicle certificates of title, rights of survivorship, designation	SB 138

Jones, Rev. David P., chaplain	
prayer on organizational day	1
presentation of Senate picture with President Blaisdell in thanks for help after death of President Blaisdell	1591
remarks of praise by Sen. McCarley	1554
Judges	
5 year renewable terms; age limit repealed	CACR 19
part-time district and probate court, participation in state employee health and dental insurance plans	SB 115
restricted from interrupting jury deliberations	HB 570
review by governor and council every 5 years; hearing	SB 133
superior court	
cases assigned randomly	SB 151
number, and whether they may be assigned to hear supreme court appeals, study	SB 209
superior or district courts, each party may request that one judge not be assigned to a case	SB 57
supreme court, quorum of 3 required for sessions	HB 667
Judgments, personal injury or wrongful death, structured settlement agreements, plaintiffs rights to designate broker and insurance company	HB 470
Judicial branch	
appropriation reduction	HB 1
court security officer positions abolished, except at supreme court	HB 715
employees included in public employee labor relations act; collective bargaining	SB 85
judges and employees, salaries increased	HB 2am
Junkyards, local regulation along all highways	HB 463
Juries and jurors	
judge restricted from interrupting deliberations	HB 570
right to jury trial in child custody cases	CACR 18
Justice of the peace	
acknowledgments, requirements	SB 111
service of summons in eviction case	SB 101
Juvenile corrections department, supervision and enforcement of services for juvenile delinquents and children in need of services	SB 229
Juvenile delinquents	
diversion and intervention defined; programs; parental responsibility	HB 721
references changed to age 17; parole authority	SB 150
Juvenile parole board administratively attached to youth development services	SB 150
K	
Keene, Dillant-Hopkins airport, various capital improvement appropriation lapse dates extended	HB 25
Kindergarten	
alternative programs, authorized in cooperative school districts	HB 295
programs established in certain years, reimbursement rates	HB 300
King, Martin Luther, Jr., Civil Rights Day to replace Civil Rights Day	SB 80
.....	HB 68
Kittery, ME, to Newburyport, MA, reestablishing railroad passenger service, study	HB 444
Klein, Rabbi Richard L., guest rabbi	1332
Korean veterans memorial bridge, Concord, named	SB 155
Kyoto protocol, US Senate urged to improve	HCR 8

L

Labor

- apprenticeship programs, ratio of apprentices to journeymen HB 741
 disabled, Congress urged to pass Work Incentives Improvement
 Act of 1999 SR 10
 employee defined under certain labor laws; independent contractor
 excluded HB 69
 employer self-funded health insurance plans, notices required SB 183
 employment discrimination law applicable to nonprofit organizations
 with more than 6 employees HB 551
 independent contractors, inconsistencies in statutes, study SB 32am
 persons working at home, small business loans for technical
 improvements, study SB 90
 public employee collective bargaining
 judicial branch employees included SB 85
 policy and definitions changed; grievance procedures strengthened;
 unfair labor practices clarified SB 202
 teacher's grievance for failure to be renominated not subject to
 arbitration HB 341
 small employer health insurance purchasing alliance act SB 162
 state employees
 collective bargaining, joint committee on employee relations, members,
 order changed and member added; alternates HB 2am
 improved employment opportunities for the disabled, study SB 180
 termination of employee, written notice of reason may be required SB 82
- Laconia** airport authority, charter reestablished HB 244
- Lake Umbagog**, acquisition of Umbagog Lake campground by DRED;
 appropriation SB 62
- Lakes**. See: Great ponds
- Lamprey regional solid waste cooperative**, state aid for closure costs HB 294
- Land and community heritage commission**, additional duties HB 685
- Land appeals**. See: Tax and land appeals board
- Land conservation investment program**, land in Claremont,
 Sullivan county authorized to lay a sewer force main HB 609
- Land sales full disclosure**, purchase deposits held in escrow accounts,
 district courts jurisdiction, amount in controversy
 \$5,000 or less SB 146
- Land use**
 management to protect the state's farmland, rural character, and
 environmental quality, study membership increased; duties and
 reporting date extended HB 288
 sprawl
 avoidance, land use management committee to study HB 288
 defined; duties of state agencies, office of state planning, and council
 on resources and development HB 208
 effects, study by office of state planning HB 207
 water supply land protection program SB 135
- Landfills**, ash, study HB 625am
- Landlord and tenant**
 evictions
 simultaneous service of demand for rent and notice to quit HB 54
 summons may be served by police officer, notary public, or justice
 of the peace SB 101
 property left by voluntary departed tenant, no requirement to hold; voucher
 payments by state or county accepted; violations of minimum
 housing standards SB 101
 utilities, security deposit on tenant's meters allowed HB 581

Larson, Sen. Sylvia
 nominated for President 1549-1552
 remarks 1554-1555
 regarding NH exhibit at Smithsonian Institution 1330

Laser pointing devices, reckless conduct, penalty HB 272

Law enforcement
 inter-community emergency assistance by special reaction teams HB 746
 officers
 emergency response and vehicular pursuits, written policies required HB 519
 firearms, taking from police officers, penalty HB 236
 personnel files, complaints that are not of major importance removed;
 rulemaking SB 148
 service of summons in eviction case SB 101

Leases
 consumer credit, finance charge statements in conformity with
 Regulation M satisfy disclosure requirements HB 80
 equipment, agreements by municipal governing bodies HB 327
 motor vehicles, settlement costs restricted; notice regarding voiding of
 warranties; penalties HB 331
 real estate, witness requirement removed; validation of leases since
 1981 which were not witnessed SB 109

**Lebanon, northern rail line between Concord and Lebanon, revitalization
 encouraged** HJR 6

Legacies and successions. See: Inheritance tax

Lewdness, penalties increased; registration as sexual offender SB 158

**Liability limited, emergency medical services use of automatic external
 defibrillation** SB 67

**Libraries, public, trustees, authority over funds; unexpended funds
 non-lapsing; appointment of alternates** SB 89

Licenses
 alcoholic beverages. See: Alcoholic beverages, licenses
 bail recovery agents HB 658
 common carrier agents, limited travel agent licensing HB 638
 emergency medical care providers and vehicles HB 643
 fish and game. See: Fish and game, licenses
 gambling, electronic games of chance at racetracks SB 203
 geologists SB 181
 ginseng growers and dealers HB 238
 hypnotherapists SB 149
 midwives; continuing education requirement HB 720
 motor vehicle rental business HB 117am
 nonresident real estate brokers SB 217
 occupational, boards, records of disciplinary proceedings made by
 certified court stenographers at request of party SB 224
 ophthalmic dispensers, certain employees exempted SB 164
 revoked, food production or service, plan for remediation, provisional
 license, time limits SB 28
 securities broker-dealers, issuer-dealers, and investment advisers,
 reporting and application requirements HB 373
 teleradiology, required for certain physicians SB 53
 voluntary, heating equipment installers SB 198
 x-ray technicians, study SB 60

Liens
 self-service storage facilities SB 93
 taxes, transfer without vote of legislative body for 1999 calendar
 year only HB 734am

Lights and lighting, outdoor lighting regulation, study HB 727

Limitation of actions , criminal prosecutions, no limit for incest with victim under age 18	SB 143
Limitation of liability . See: Liability, limited	
Limited liability companies , consent required for use of similar name by other entities	HB 563
Lincoln municipal incinerator , state aid for closure costs	HB 294
Liquor commission	
capital improvements appropriation	HB 25
percentage of liquor sale profits to alcohol education and abuse prevention fund	SB 153
Litchfield municipal incinerator , state aid for closure costs	HB 294
Little Harbor , in New Castle, dredging, mitigation of environmental effects, appropriation	SB 178
Little Monadnock . See: Monadnock advisory commission	
Littleton, CO , expressing shock and sympathy for killings of students at Columbine High School	SR 6
"Live free or die" , inclusion urged in final design for NH commemorative quarter	HCR 13
Loans , small, interest rates on loans under \$1,500 same as loans over \$1,500	SB 99
Lobbyists , PUC commissioners and general counsel prohibited from employment as lobbyists for 1 year	HB 527
Long-term care specialist position established in long-term care institute	SB 15
Low-level radioactive waste , Northern New England compact repealed	HB 263
Lucky 7 , assistance, restriction on days repealed	HB 739

M

McAuliffe , Christa, planetarium, Alan B. Shepard memorial wing, capital improvements appropriation	HB 25
McCarley , Sen. Caroline	
remarks in praise of Chaplain David Jones	1554
thanks to Rosalie Brooks-Patch for organizing paperwork for the calendar	463
Managed care	
accountability; external grievance appeal process	SB 199
carriers to allow participating providers time to review proposed contracts	HB 333
grievance procedure, external review process	HB 640
grievances, provider and covered person's assistance program	SB 190
insurers, reports on exclusive arrangements, specific dates deleted	SB 103
prescription drug plans, formulary provisions	HB 408
self-referrals to chiropractors; conditions; comparable fees required	SB 147
Manchester	
employees retirement system	
amendments	SB 161
bonds	SB 81
methadone maintenance treatment pilot program	SB 197
Marine Corps flag to be flown over the state house every November 10th	HJR 10
Marine patrol , auxiliary	
authority to detain persons, conditions	SB 87
qualifications and authority	HB 245
Marital masters	
each party may request that one master not be assigned to a case	SB 57am
transferred from superior to district court	SB 209

Marriage

- spousal support when living apart; attachment of either spouse's property..... HB 420
- therapists, services covered by insurance SB 177
- wills revoked by divorce, certain heirs affected SB 16

Martin Luther King, Jr. Civil Rights Day, to replace Civil Rights Day..... SB 80
 HB 68

Martineau, Emile, nominated and elected doorkeeper 7

Meals and rooms tax

- motor vehicle rentals added, revenue to education trust fund HB 117am
- temporary rate made permanent HB 596am

Medicaid

- dental care included in medical assistance SB 205
- enhancement tax, rate for biennium ending 2001 HB 55
- nursing home residents, personal needs allowance increased; appropriation HB 653
- reimbursement rate set for children's dental care SB 134

Medical assistance

- 1999 supplemental appropriation HB 374am
- dental care for adults on medicaid included SB 205
- drugs, municipalities or counties charged same as state SB 183
- recipients, health insurance carriers cross-match for third party liability purposes SB 114

Medical utilization review entities may adopt National Committee for Quality Assurance standards; preferred provider organizations deleted from licensure requirements SB 104

Medicare, options, federal government urged to ensure availability to elderly HCR 9

Medicine

- administration in residential care facilities, supported residential care facilities included in pilot program; assessment of residents every 6 months SB 22
- board, physician effectiveness program to aid impaired physicians; funded from fees HB 486
- practice of, medical directors whose utilization review decisions affect health care services provided to individuals SB 199

Men, commission on the status of, established; duties HB 553

Mental health, insurance coverage for services of

- clinical mental health counselors, SB 58
- marriage and family therapists SB 177

Mentally ill

- chronic disabilities, plan to address needs developed by insurance department SB 212
- persons not competent to stand trial to be held in custody during evaluation for commitment process; time limits HB 270

Mercury

- emissions, reduction and control program for municipal incinerators; ash landfills, study HB 625
- source reduction and recycling issues, study HB 340

Methadone maintenance treatment pilot program in Manchester SB 197

Methyl tertiary butyl ether. See: MTBE

Midwives council established; continuing education requirement HB 720

Millennium bug, year 2000 computer problems, state sovereign immunity; board of claims jurisdiction HB 605

Mining, sand and gravel, excavation tax and excavation activity tax, applicability clarified HB 666

Minors

driver's license	
supervised driving time required	HB 491am
waiver of certain education requirements for disabled	HB 616am
guardians, standby and emergency guardianship proxies, appointment and duration	HB 723
guardianship, jurisdiction of probate court under uniform child custody jurisdiction act	SB 112
tobacco products, use, prevention and education, study	HB 369
under age 16, eligible for lifetime fish and game licenses	HB 710
under age 18	
revocation or denial of driver's license for use or possession of tobacco products	SB 179
victims of incest, no statute of limitations	SB 143

Model act, tobacco manufacturers not entering master settlement

agreement	SB 168
-----------------	--------

Monadnock advisory commission, acceptance of gifts, legal existence

clarified	HB 248
-----------------	--------

Moose management fund, payment for damages done by moose to trees SB 194**Mortgages**

discharge by affidavit of attorney	SB 110
first and second mortgage home loans, study	HB 451
funds exchanged at real estate closings, requirements	HB 322

Motor carriers, agents, limited travel agent licensing HB 638**Motor vehicle road toll, boats, portion of unrefunded tolls to navigation**

safety fund	HB 245
-------------------	--------

Motor vehicles

agriculture and farming defined	HB 225
antique, reduced registration fees restricted, date added	HB 639
certificate of title, joint tenancy with rights of survivorship, designation	SB 138
child seat belt law, enforcement as a secondary offense repealed; driver under 18, license not suspended for first offense	HB 94
division, deputy director position established	HB 2am
driver's license	
driver education, reciprocity, NH minimum standards must be met	HB 554
driver education, safety department responsible for life and safety issues	HB 566
driver training fund, study	HB 616am
examinations conducted by safety department personnel	HB 491
minors, disabled, waiver of certain education requirements	HB 616am
minors, revocation or denial for use or possession of tobacco products	SB 179
minors, supervised driving, time required	HB 491am
reckless or unlawful operation, suspension or revocation for 7 years	HB 584
revoked or suspended, driving after and involved in collision, penalty increased	HB 204
Social Security number recorded on application; penalties for disclosure	SB 137

DWI

administrative license suspension, hearing examiners recommendations, review and appeal	HB 584
implied consent, alcohol concentration tests, presence of certifying scientist at hearings	HB 367
penalties; education and treatment services, study	HB 84am
police reports to attorney general when charges are not filed	SB 121
third conviction, mandatory one year prison sentence	SB 88
emergency response and vehicular pursuit by police, written policies required	HB 519
fines, unrestricted general fund	HB 1

Motor vehicles (cont.)

- inspections
 - requirements, study SB 35
 - sticker fees increased; inspector positions established; appropriation HB 676
- junkyards, local regulations along all highways HB 463
- leases, settlement costs restricted; notice regarding voiding of warranties;
 - penalties HB 331
- liability insurance
 - coverage for medical costs, minimum increased HB 469
 - uninsured motorist coverage, over and above other insurance coverage SB 95
- motor oil discharge cleanup fund extended HB 495
- number plates
 - special, Pearl Harbor survivor and POW, may be retained by
 - surviving spouse HB 525
 - special, walking disabled, permanently disabled veterans exempted
 - from reestablishing status HB 92
 - temporary, issuance required HB 477
- registration fees for construction equipment restricted HB 698
- rentals added to meals and rooms tax, revenue to education trust fund .. HB 117am
- retail installment sales contracts, requirements SB 118
- speed limits, statute revised HB 651
- sports events at NH International Speedway, ticket scalping prohibited SB 20
- stopping on public ways to sell tickets to sports or entertainment
 - events prohibited SB 20am
- trucks, seasonal weight limitation postings, effect on economy, study HB 365
- Motorcycles**, antique, reduced registration fees restricted, date added HB 639
- Mount Kearsarge** telecommunications tower, removal required SB 132
- Mount Monadnock**. See: Monadnock advisory commission
- MTBE** gasoline additive
 - and other additives, comparative risks, study HB 592
 - federal government urged to eliminate requirement for use HJR 9
 - gasoline containing, sale prohibited SB 71
 - safe drinking water standard established; lower concentrations and
 - waivers sought SB 70
- Municipal budget law**
 - disclosure of reimbursements for special education costs SB 129
 - notice to revenue administration regarding school boards' emergency
 - expenditures HB 262
- Municipal economic development and revitalization districts**,
 - computation of tax increments, current assessed value HB 684am
- Municipal finance act**
 - bonds and notes, 3/5 vote required in towns and school districts with
 - official ballot form of meeting HB 487
 - lease agreements for equipment HB 327
 - validity of obligations and indebtedness despite being based on school
 - portion of tax rate HB 111
- Murder**
 - attempt, solicitation, and conspiracy, penalties increased HB 714
 - partial-birth abortion added SB 54
- Mutual funds**
 - securities offerings, filing fees for combined prospectus SB 11
 - shares included as securities in uniform transfer on death security
 - registration act SB 123

N

- Names**, prisoners, parolees, persons on probation, and sex offenders required to
 - register, name change restrictions SB 125
 - HB 215

National Committee for Quality Assurance, standards may be adopted by medical utilization review entities..... SB 104

National forests
lands, funds distributed by education department rather than state treasurer HB 364
White Mountain National Forest
continuation as part of the system urged HJR 7
retention of traditional uses and impact of change in designation, study... HB 431

National guard, postsecondary educational assistance extended; report..... HB 675

National parks, designation of White Mountain National Forest as national park opposed HJR 7

Natural resources, commission to determine feasibility of public-private partnership to conserve, additional duties HB 685

Navigation safety fund, portion of unrefunded motor vehicle road tolls and various fees credited to HB 245

Nebraska University, Buros Institute for Assessment, Consultation and Outreach, certification of food safety classes for food service establishments SB 28am

New England Independent System Operator
FERC urged to change membership structure HJR 8
urged to adopt policies to further electric power restructuring HJR 3

New Hampshire
business investment fund, established by business finance authority; qualified investment capital companies may invest SB 222
commemorative quarter, inclusion of state motto and Old Man of the Mountain urged in final design HCR 13
health and education facilities authority, name changed from NH higher educational and health facilities authority; meetings by telephone ... SB 191
monuments at Civil War battle sites, repair and construction, study HB 538
public radio encouraged to extend its broadcast signal to northern NH HCR 5am

New Hampshire International Speedway
motor sports events, ticket scalping prohibited SB 20
restricted use driveway, transportation commissioner authority to layout and approve SB 156am

Newburyport, MA, to Kittery ME, reestablishing railroad passenger service, study HB 444

Nitrogen oxide emissions from electric power generators, requirements; payments in lieu of reductions HB 649

Nonprofit organizations
employment discrimination law applicable when there are more than 6 employees HB 551
taxpayers may choose whether to fund through their taxes SB 31

Northeastern American/Canadian emergency assistance compact HB 665

Northern New England low-level radioactive waste management compact repealed HB 263

Notary public, service of summons in eviction cases SB 101

Nottingham municipal incinerator, state aid for closure costs HB 294

Nuclear stations
decommissioning funds, Congress and IRS urged to broaden taxpayer's ability to make tax-deductible contributions HCR 11
property tax repealed SB 184
..... HB 117am

Nursing homes
health care charitable trusts, community benefits plan required; criteria; community needs assessment SB 69
residents, personal needs allowance increased; appropriation HB 653

O

Occupational licensing and regulation

- boards, disciplinary proceedings, record made by certified court
stenographer at request of a party SB 224
- early childhood program personnel HB 726

Occupational therapists, services, insurance coverage, study SB 166**Off highway recreational vehicles**

- speed limit on frozen surface of Turtle Pond in Concord; enforcement HB 403
- vanity plates or decals HB 559

Oil

- fuel oil discharge cleanup fund, fee increased; prevention added to
purpose; funds transferred from oil pollution control fund HB 495
- heating equipment installers, voluntary licensing SB 198
- pollution control fund, portion transferred to fuel oil discharge
cleanup fund HB 495

Old Man of the Mountain inclusion urged in final design for NH

- commemorative quarter HCR 13am

Older Americans Act, President and Congress urged to extend SB 23

- SR 9

Operating budget

- 1998 and 1999, surplus transferred to education trust fund HB 2am
- 2000 and 2001 HB 1
- trailer bill HB 2
- deficit in education trust fund financed through new sources of revenue
and not through budget reductions SR 7
- SR 8

Ophthalmic dispensers licensing, certain employees exempted SB 164**Opticians exempted from ophthalmic dispensers licensing** SB 164**Optometrists**

- board, certificates changed to licenses; practice regulation updated;
administrative fines HB 313
- dispensing of medications broadened; treatment of glaucoma allowed SB 108

Ossipee municipal incinerator, state aid for closure costs HB 294**Outdoor lighting regulation, study** HB 727

P

Packaging, toxic, reduction, exemptions, expirations extended; glass

- and ceramic packaging HB 558

Paint ball guns, sale to minors, penalty; expulsion of pupils for possession ... HB 302**Paramedics, regulation transferred from health and human services to**

- safety department HB 643

Parent and child

- child in placement, return to custody of parent, standards applicable SB 24
- exemption from inheritance tax removed HB 542
- family resource centers, wellness and primary prevention services SB 223
- infants, breast feeding in public authorized HB 441
- parental choice scholarships HB 633
- parents as teachers pilot program in Sullivan county, early childhood
education SB 170
- seminar for parents of children involved in custody or support issues,
additional positions; appropriation HB 576
- termination of parental rights after finding of child abuse, time reduced;
termination after conviction of certain crimes HB 67

Parents as scholars program, postsecondary education assistance to

- certain parents of dependent children SB 208

Pari-mutuel racetracks , electronic gambling machines	SB 203
Parking , walking disabled, special number plates, permanently disabled veterans exempted from reestablishing status	HB 92
Parks , state, seacoast, master plan by DRED required	HB 672
Parole , parolees name change restrictions	SB 125
.....	HB 215am
Partnerships , consent required for use of similar name by other entities	HB 563
Partridge , chukar, open hunting season	HB 520
Pearl Harbor survivors, special number plate may be retained by surviving spouse	HB 525am
Pease development authority , state bond guarantee reduced; state guarantee of bank financing repealed	HB 2am
Pelham municipal incinerator, state aid for closure costs	HB 294
Penalty assessments increased; portion for victims' assistance fund increased	HB 652
Performance audit and oversight committee , member added; procedures changed	HB 603
Personal injuries , structured settlements	
plaintiffs rights to designate broker and insurance company	HB 470
requirements; court approval of certain transfers	SB 66
transfer of payment rights, approval by superior court or labor commissioner; requirements	SB 126
Personal property	
in self-service storage facilities, liens	SB 93
recovery, writ of replevin, securities acceptable as bond expanded	HB 205
Personal watercraft . See: Ski craft	
Pesticides , herbicides, aerial spraying, buffer or no-spray zones around sensitive areas	SB 68
Pets , companion animal neutering fund, portion allocated to education grants by pet overpopulation committee	SB 92
Physical therapist services, insurance coverage, study	SB 166
Physicians and surgeons	
abortion, partial-birth abortion prohibited; penalty	SB 54
assisted suicide, death with dignity	SB 44
effectiveness program to aid impaired physicians; funded from fees	HB 486
financial arrangements with hospitals and insurance companies, study	HB 82
health care quality; collection, review, and dissemination of information to consumers, study	HB 624
participating providers under managed care, time to review proposed contracts	HB 333
practice of medicine, to include medical directors whose utilization review decisions affect health care services provided to individuals	SB 199
teleradiology defined, licensure required	SB 53
Pistols and revolvers	
children, methods of reducing violent incidents, study	SB 163
felons prohibited from possessing, clarification	HB 360
purchase, criminal history record checks by safety department; confidentiality; funding from federal grants	HB 537
taking from a police officer, penalty	HB 236
Pittsfield municipal incinerator, state aid for closure costs	HB 294
Plainfield village water district, 1999 meeting legalized	HB 744
Planetarium , Alan B. Shepard memorial wing, capital improvements appropriation	HB 25

Planning boards

- appeals, date changed HB 562
- developments of regional impact, regulatory options, study SB 156am

Planning office, state

- duties, deterrence of sprawl HB 208
- effects of sprawl, study HB 207

Plymouth municipal incinerator, state aid for closure costs HB 294**Police**

- emergency response and vehicular pursuits, written policies required HB 519
- firearms, taking from police officer, penalty HB 236
- inter-community emergency assistance by special reaction teams HB 746
- personnel files, complaints that are not of major importance removed;
rulemaking SB 148
- service of summons in eviction cases SB 101

Pollution. See: Air pollution; Oil pollution; Water, pollution**Pornography, computer, added to crimes requiring registration of**

- sexual offenders HB 706am

Port authority

- capital improvements appropriation; various lapse dates extended HB 25
- dredging of harbors and channels authorized HB 355
- Port of Portsmouth expansion, excavating, mitigation of environmental
effects included in appropriation SB 178
- report on justifications for Army Corps of Engineers to release state from
obligation to dredge Hampton-Seabrook harbor HB 2am
- safety services division, and fish and game department, study of mutual
use of coast guard facilities HB 2am

Portsmouth

- municipal incinerator, state aid for closure costs HB 294
- port expansion, excavating, mitigation of environmental effects included
in appropriation SB 178am
- US route 1 traffic circle, safety improvements, study SB 42

Postsecondary education commission, incentive grant program,

- part-time students eligible; appropriation HB 311

President**Sen. Clesson Blaisdell**

- nominated and elected 3-4
- remarks on election 4-6
- remarks on death of Pat Fraser, Sen. Fraser's wife 29

Sen. Sylvia Larsen nominated 1549-1552**Sen. Beverly Hollingworth**

- nominated and elected (RC) 1552-1553
- remarks regarding Junie Blaisdell 1553-1554

Presidential primary candidate, Steve Forbes, speaker to joint convention 1709**Prisoners****custody in courthouses**

- administrative services reimbursement to counties, appropriation HB 738
- sheriffs, deputies, and bailiffs responsible HB 715

felons, right to vote; absentee ballots from previously established domicile,

- not place of confinement SB 157
- HB 213

good conduct credits to reduce minimum sentence for those convicted of

- nonviolent crimes SB 122

name change restrictions SB 125

- HB 215

**Privacy, federal government urged not to adopt rules requiring banks to
monitor customers' banking habits HCR 7****Privileged information. See: Confidential information**

Probate courts

guardians of minors, appointment of standby and emergency guardianship proxies	HB 723
judges, part-time, participation in state employees health and dental insurance plans	SB 115
jurisdiction clarified under uniform child custody jurisdiction act	SB 112
name change restrictions for prisoners, persons on probation or parole, and sexual offenders required to register	SB 125
.....	HB 215
persons not competent to stand trial to be held in custody during evaluation period; time limits	HB 270
powers of appointment in wills or trusts deemed to be special power of appointment unless specifically stated	SB 64
self-proved wills from out-of-state and under uniform international wills act, self-proved in this state	SB 139

Probation , persons on probation, name change restrictions	SB 125
.....	HB 215am

Professional licensing and regulation. See: Occupational licensing and regulation

Promotional games at gas stations, prohibition repealed	HB 447
--	--------

Property

in self-service storage facilities, liens	SB 93
lost, and strays, chapter repealed	HB 688
unclaimed and abandoned, escheat, times and procedures changed; civil action removed	HB 688

Property tax, statewide

for funding education	
excess payments, phased in collection	HB 117am
excess payments, phased in collection amended	HB 745am
excess payments, phased in collection, technical amendments	HB 300
hardship relief	HB 999
restricted to funding education	CACR 16

Psychologists, marriage and family therapist services covered

by insurance	SB 177
--------------------	--------

Public assistance. See also: Medical assistance

financial impact of federal welfare reform on NH towns and cities, study	SB 14
from another state, period subtracted from eligibility in NH	SB 84
medicaid reimbursement rate set for children's dental care	SB 134
parents as scholars program, postsecondary education assistance to certain parents of dependent children	SB 208

Public employee labor relations board

additional public alternate member	HB 524am
joint committee on employee relations, members, order changed and member added; alternates	HB 2am

Public employees, collective bargaining

judicial branch employees included	SB 85
policy and definitions changed; grievance procedures strengthened; unfair labor practices clarified	SB 202
teacher's grievance for failure to be renominated not subject to arbitration	HB 341

Public health, ear piercing, single-use prepackaged sterilized devices

required	SB 140
----------------	--------

Public Service Company of NH

escrow of utility payments under certain circumstances	HB 314am
finance order for rate reduction financing prohibited unless certain conditions are met	SB 196
settlement agreement, testimony and exhibits, filing with PUC urged	HB 464am

Public utilities

commission

- authority over mergers, acquisitions, and issuance of stock changed HB 527
- commissioners and general counsel, prohibition on future employment
 - as lobbyists shortened HB 527
- consumer advocate, term; additional staff; residential ratepayers
 - advisory board, duties HB 274
- hearing by executive council before appointment of commissioner HB 318
- recovery of rate proceeding costs by utilities and other parties HB 318
- review of restructuring plan that includes securitization; testimony
 - and exhibits regarding settlement agreement with PSNH,
 - filing requested HB 464am
- supreme court, prompt decision in case regarding electric power
 - restructuring stranded costs urged SCR 1
- telephone number conservation policy principles HB 388
- dig safe requirements and penalties changed HB 527am
- electric power
 - escrow of utility payments under certain circumstances HB 314am
 - generators, nitrogen oxide emission requirements; payments in
 - lieu of emission reduction HB 649
 - ISO-New England, FERC urged to change membership structure HJR 8
 - ISO-New England urged to adopt policies to further restructuring HJR 3
 - rate reduction financing, purpose and findings SB 196
 - restructuring, rate reduction financing and stranded cost recovery,
 - declaration of purpose and findings HB 464
- property tax
 - definitions; technical amendments HB 684am
 - revenue to education trust fund HB 117am
- railroads, 2 member crew required on trains SB 34
- security deposit on tenant's meters allowed HB 581
- telephone companies
 - certain records provided to PUC exempt from right to know law SB 141
 - rates and charges, cramming prohibited; certain charges may
 - be blocked HB 325
- underground damage prevention system, exceptions; notification;
 - penalties HB 464am
- water, termination of water service repealed SB 231

R

- Racing**, electronic games of chance at racetracks SB 203
- Radio**, NH public, encouraged to extend its broadcast signal to
 - northern NH HCR 5am
- Radioactive waste**, low-level, Northern New England compact
 - repealed HB 263
- Radiology**, licensing of
 - physicians providing teleradiology services SB 53
 - x-ray technicians, study SB 60
- Raffles**, charitable organization definition amended HB 729
- Railroads**
 - 2 member crew required on trains SB 34
 - on leased state lands, exempt from local taxation, subject to
 - railroad tax; apportionment and distribution HB 709
 - passenger service between Newburyport, MA and Kittery, ME,
 - reestablishing, study HB 444
 - revitalization of northern line between Concord and Lebanon
 - encouraged HJR 6
- Rand Pond**, Goshen, dam construction authorized HB 93
- Randlett**, Gloria, nominated and elected clerk 6
- Raymond S. Burton** bridge named HB 89am

Real estate

brokers, nonresident, licensing requirements	SB 217
commission, practices regarding 1-4 family dwellings, rulemaking	SB 74
land sales full disclosure, purchase deposits held in escrow accounts, district court jurisdiction, amount in controversy \$5,000 or less	SB 146
leases, witness requirement removed; validation of leases since 1981 which were not witnessed	SB 109
mortgages, funds exchanged at closings, requirements	HB 322
practice act, various amendments; exempted classes expanded; age for licensure; supervision of office; advertising regulations	SB 226
transfer tax	
rate increased; revenue to education trust fund	HB 117am
surcharge for homeless prevention fund	SB 128

Records

charitable trust solicitation campaigns, no right to transfer, sell, or rent	SB 78
criminal, history check	
child care agencies, new household members	SB 200
for firearm purchases by safety department; confidentiality; funding from federal grants	HB 537
licensing board disciplinary proceedings, record made by court stenographer at request of a party	SB 224

Recycling, mercury, study	HB 340
--	---------------

Red Cross, disaster leave for state employees who are certified

disaster relief volunteers	SB 136
----------------------------------	--------

Referenda, statewide taxes to fund education; choice of 2 plans	SB 51
--	--------------

Regional-community technical colleges department

capital improvements appropriation; various lapse dates extended	HB 25
early childhood laboratory school at technical institute, appropriation	HB 25am
report on national guard educational assistance	HB 675
trustees board, duties expanded	SB 117

Register of deeds

justice of the peace acknowledgments to be recorded with, requirements	SB 111
orders regarding solid waste facilities filed by environmental services	HB 558

Religious organizations, employment discrimination law exemptions	HB 551am
--	-----------------

Rent-to-own agreements, advertising provision changed	HB 422
--	---------------

Replevin, writs, securities acceptable as bond expanded	HB 205
--	---------------

Residential care facilities

certain residents, personal needs allowance increased; appropriation	HB 653
supported, included in the administration of medicine pilot program; assessment of residents every 6 months	SB 22

Resources and development council

duties and report on deterrence of sprawl	HB 208
member added	HB 671

Resources and economic development department

acquisition of Umbagog Lake campground, appropriation	SB 62
capital improvements appropriation	HB 25
commissioner, White Mountain National Forest land, continued multiple use promoted	HB 431
master plan for seacoast parks required	HB 672
Moose Brook, construction of recreational vehicle sites; appropriation	HB 25am
organization and function, study	HB 535
removal of telecommunications tower on Mount Kearsarge required	SB 132
travel and tourism development	
division established	SB 113
office, appropriation changed	HB 615am
office, name changed from vacation travel office	SB 131

Restaurants

- license revoked, plan for remediation, provisional license, time limits SB 28
 seating 5 or fewer, restroom requirement may be waived HB 206

Retirement system

- 1999 supplemental appropriation HB 374am
 credit for military service, conditions SB 216
 credit for prior service, time extended for purchase HB 88
 death benefits, 10 years of creditable service SB 182
 disability retirement benefits
 burden of proving causation to the member applying for benefits HB 66
 current comparable compensation defined HB 669
 receipt of unreduced social security disability benefits, notification
 removed HB 634
 group II
 health insurance benefits, application SB 187
 members who retired before April 1, 1987, spousal benefits; right to
 elect optional retirement allowance SB 228
 minimum allowance increased; supplemental allowance; spousal
 acknowledgment of election of optional allowance SB 186
 inactive members, granting of vested deferred retirement status HB 620
 optional allowances, provision for spouse as beneficiary; payment of
 converted allowance on remarriage of former spouse SB 173
 teachers, health insurance benefits SB 187

Revenue administration department

- commissioner
 inheritance tax, extension of time for payment; waiver of interest SB 45
 temporary rulemaking; administrative and computer costs,
 reimbursements to towns; appropriations HB 684am
 notification regarding emergency expenditures by school boards HB 262
 technical amendments HB 596

Revenue, unrestricted, estimates HB 1

Rifles and shotguns, felons prohibited from possessing, clarification HB 360

Right to die, physician assisted suicide SB 44

**Right to farm, presumption that agricultural uses are permitted; a purpose
 of zoning ordinances is to preserve agriculture** HB 97

**Right to know law, exemption for certain telephone utility records
 provided to PUC** SB 141

**Riven Dell school district, rules suspended for introduction of
 a bill (SB 230)** 424

Rivers

- management advisory commission, membership increased HB 249
 management and protection, Cold River, segments protected SB 91
 protection of waterfront properties from erosion, study HB 2am

Road rules

- child seat belt law, enforcement as a secondary offense repealed;
 driver under 18, license not suspended for first offense HB 94

DWI

- administrative license suspension, hearing examiners
 recommendations, review and appeal HB 584
 implied consent, alcohol concentration tests, presence of
 certifying scientist at hearings HB 367
 police reports to attorney general when charges are not filed SB 121
 third conviction, mandatory one year prison sentence SB 88
 sale of tickets to entertainment or sports events by stopping motor
 vehicles on public ways prohibited SB 20am
 speed limits, statute revised HB 651

Rockingham county, family division of the courts established HB 707

Roll calls

election of President. Hollingworth, 14; Larsen, 8	1553
SB 39, eliminating the voting column for vice-president on the presidential primary ballot. Question, adopt majority report of ought to pass. Yeas, 8; Nays, 16	143
SB 45-FN-A, allowing a waiver of interest for the time period of an extension of the date of payment of the legacies and successions tax. Question, adopt committee report of ought to pass. Yeas, 21; Nays, 3	137
SB 49-FN-A-L, relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education, and making an appropriation therefor. Question, adopt committee amendment. Yeas, 16; Nays, 7	113
SB 50-FN-A-L, relative to the state's responsibility to provide an adequate education. Question, remove from table. Yeas, 9; Nays, 11	1100
SB 52, requiring insurance coverage for infertility treatments. Question, order to third reading. Yeas, 12; Nays, 12	839
Question, order to third reading. Yeas, 15; Nays, 8	968
SB 54-FN, relative to partial birth abortion. Question, adopt committee amendment. Yeas, 8; Nays, 16	1034
Question, Indefinitely postpone. Yeas, 13; Nays, 11	1034
SB 55, relative to health insurance for persons who use tobacco products. Question, adopt majority report of ought to pass. Yeas, 5; Nays, 19	542
SB 68, establishing minimum 400 foot buffer zones around sensitive areas from application of herbicides. Question, adopt committee amendment. Yeas, 10; Nays, 13	984
Question, adopt floor amendment. Yeas, 15; Nays, 9	987
SB 71, establishing a ban on MTBE in gasoline as of January 1, 2000. Question, order to third reading. Yeas, 15; Nays, 9	991
SB 80, relative to adding the name of Martin Luther King, Jr. to Civil Rights Day. Question, adopt motion of ought to pass. Yeas, 19; Nays, 5	558
SB 82, relative to the termination of employees. Question, adopt floor amendment. Yeas, 12; Nays, 8	1105-1106
SB 88-FN, relative to penalties for third driving while intoxicated offenses. Question, adopt majority report of ought to pass. Yeas, 20; Nays, 4	573
SB 108, relative to the dispensing of medications by optometrists. Question, adopt split committee amendment. (Gordon) Yeas, 10; Nays, 14	1067
Question, adopt split committee amendment. (Squires) Yeas, 13; Nays, 11	1075
Question, refer to committee. Yeas, 10; Nays, 14	1076
SB 122, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence. Question, adopt motion of ought to pass. Yeas, 15; Nays, 9	435
SB 133-FN, establishing a process for reviewing judges. Question, adopt committee report of inexpedient to legislate. Yeas, 17; Nays, 7	435
SB 134-FN, relative to Medicaid reimbursement rates and dental care. Question, adopt committee report of ought to pass. Yeas, 23; Nays, 0	474
Question, adopt motion of ought to pass. Yeas, 19; Nays, 5	657
SB 143-FN, relative to penalties for incest. Question, adopt motion of ought to pass. Yeas, 24; Nays, 0	601
SB 147, relative to self-referrals for chiropractic care under managed care organizations. Question, lay on table. Yeas, 16; Nays, 8	889
Question, order to third reading. Yeas, 11; Nays, 11	1079
Question, lay on table. Yeas, 12; Nays, 10	1079-1080
Question, remove from table. Yeas, 10; Nays, 10	1090
Question, adopt committee amendment. Yeas, 18; Nays, 4	1170

Roll calls (cont.)

SB 163, establishing a commission to study methods for reducing violent incidents involving children and guns. Question, adopt committee amendment. Yeas, 21; Nays, 3	783
SB 175-FN, requiring insurance coverage for prescription contraceptive drugs and devices and for contraceptive services. Question, adopt committee amendment. Yeas, 14; Nays, 9	911
SB 183-FN-A, establishing a New Hampshire health access corporation and continually appropriating a special fund and making an appropriation therefor, requiring the department of health and human services to make a biennial report on the health status of New Hampshire residents, relative to certain transfers to the health care fund, and relative to rates for pharmaceutical services. Question, adopt motion of ought to pass. Yeas, 17; Nays, 6	875
SB 189-FN, relative to the establishment of a civil rights act. Question, adopt committee amendment. Yeas, 18; Nays, 5	451
Question, adopt committee amendment. Yeas, 24; Nays, 0	878
Question, order to third reading. Yeas, 21; Nays, 3	878
SB 194-FN-A, dedicating certain sums in the moose management fund for the payment for damage done by moose to certain trees. Question, substitute ought to pass for inexpedient to legislate. Yeas, 16; Nays, 8	587
Question, reconsideration of ought to pass. Yeas, 13; Nays, 10	818
SB 199, establishing certain standards of accountability for health maintenance organizations and other entities providing health insurance through a managed care system. Question, adopt floor amendment. Yeas, 6; Nays, 18	1029
Question, order to third reading. Yeas, 20; Nays, 4	1029
SB 205-FN, expanding medical coverage to pay dental assistance for adults on Medicaid. Question, adopt committee amendment. Yeas, 20; Nays, 3	551
Question, adopt motion of ought to pass. Yeas, 19; Nays, 5	879
SB 208-FN, establishing a "parents as scholars" program. Question, adopt motion of ought to pass. Yeas, 18; Nays, 6	610
SB 213-FN, changing the name of the fish and game department to the wildlife department. Question, adopt motion of inexpedient to legislate. Yeas, 21; Nays, 3	588
SB 214-FN, establishing new procedures under the certificate of need law for certain ambulatory surgical facilities. Question, adopt split committee amendment. (Squires) Yeas, 11; Nays, 11	1040
Question, adopt split committee amendment. (Wheeler/Fernald) Yeas, 12; Nays, 10	1050
SB 218-FN-L, regulating the land application of sewage sludge. Question, adopt committee amendment. Yeas, 7; Nays, 15	1005
Question, adopt floor amendment. Yeas, 7; Nays, 15	1007
Question, refer to committee. Yeas, 14; Nays, 10	1008
SB 219-FN-L, establishing a procedure for providing educational improvement assistance to local school districts. Question, adopt committee amendment. Yeas, 13; Nays, 11	1060
SB 221-FN, relative to competitive bidding for state construction contracts. Question, adopt committee amendment. Yeas, 8; Nays, 14	1084
SB 227-FN, establishing a gambling business felony. Question, substitute rerefer for ought to pass with amendment. Yeas, 8; Nays, 16	925
Question, order to third reading. Yeas, 17; Nays, 7	925
Question, concur with House amendment. Yeas, 18; Nays, 5	1427
SR 1, requesting an opinion of the justices concerning the constitutionality of SB 51-FN-A-L. Question, adopt motion of ought to pass. Yeas, 13; Nays, 10	78
SR 4, calling on the President and the Congress to fully fund the federal government's share of the average per pupil expenditure in public elementary and secondary schools in the United States under the Individuals with Disabilities Education Act. Question, adopt the resolution. Yeas, 23; Nays, 0	124

Roll calls (cont.)

SR 8, declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget. Question, adopt the resolution. Yeas, 12; Nays, 8	1094
HB 1-A, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 2000 and June 30, 2001. Question, adopt motion of ought to pass. Yeas, 20; Nays, 4	1280
HB 25, making appropriations for capital improvements. Question, order to third reading. Yeas, 17; Nays, 4	1328
HB 90, removing the prohibition on adoption and foster parenting by homosexual persons. Question, adopt motion of ought to pass. Yeas, 18; Nays, 6	654
HB 109-FN-A-L, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor. Question, suspend the rules to allow committee report not previously advertised. Yeas, 21; Nays, 3	385
Question, adopt Finance committee floor amendment. Yeas, 15; Nays, 9	422
Question, adopt F. King floor amendment. Yeas, 8; Nays, 15	1621
Question, adopt Below floor amendment. Yeas, 15; Nays, 8	1649
Question, adopt motion to rerefer. Yeas, 19; Nays, 2	1720
HB 112-FN-A, increasing the tobacco tax and imposing the tax on all types of tobacco products. Question, lay on table. Yeas, 8; Nays, 16	154-155
Question, send to Finance committee. Yeas, 16; Nays, 8	155
Question, adopt floor amendment. Yeas, 11; Nays, 13	242
Question, lay on table. Yeas, 18; Nays, 6	242
Question, adopt F. King floor amendment. Yeas, 2; Nays, 21	274
Question, adopt Brown floor amendment. Yeas, 6; Nays, 17	286
Question, adopt first part of Gordon floor amendment. Yeas, 5; Nays, 19	328
Question, adopt D'Allesandro floor amendment. Yeas, 6; Nays, 17	384
Question, adopt D'Allesandro/Trombly floor amendment. Yeas, 12; Nays, 11	534
Question, adopt Johnson floor amendment. Yeas, 21; Nays, 2	535
Question, adopt Johnson floor amendment. Yeas, 6; Nays, 17	538
Question, reconsideration. Yeas, 13; Nays, 11	611
Question, adopt floor amendment. Yeas, 14; Nays, 10	647
Question, adopt F. King floor amendment. Yeas, 11; Nays, 13	704
Question, adopt Fernald floor amendment. Yeas, 15; Nays, 9	708
Question, adopt committee amendment. Yeas, 14; Nays, 9	1409
Question, order to third reading. Yeas, 13; Nays, 10	1411
HB 117-FN-A-L, establishing a uniform education property tax and a utility property tax, increasing the business profit and real estate transfer taxes, and including other sources of revenue to provide funding for an adequate public education and making an appropriation therefor. Question, order to third reading. Yeas, 14; Nays, 8	737
Question, adopt conference committee report. Yeas, 16; Nays, 8	777
HB 240, prohibiting the reintroduction of wolf populations to the state of New Hampshire. Question, adopt floor amendment. Yeas, 14; Nays, 9	855
HB 265, relative to the student trustees on the university system of New Hampshire board of trustees. Question, adopt floor amendment. Yeas, 16; Nays, 6	1197-1198
HB 291, establishing a study committee for seed sterilization technology or "terminator" technology. Question, adopt committee amendment. Yeas, 15; Nays, 9	1246
HB 333, relative to contracts between participating providers and managed care entities. Question, adopt motion of ought to pass. Yeas, 12; Nays, 11	1268

Roll calls (cont.)

HB 341, relative to the process for nonrenewal of teacher contracts. Question, adopt committee amendment. Yeas, 12; Nays, 10	1345
Question, order to third reading. Yeas, 17; Nays, 5	1346-1347
HB 487, relative to the adoption of bonds or notes in certain school districts and municipalities. Question, ought to pass. Yeas, 14; Nays, 8	1200
HB 535, establishing a committee to study the department of resources and economic development. Question, adopt motion of ought to pass. Yeas, 16; Nays, 7	974
HB 546, providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied. Question, adopt committee amendment. Yeas, 6; Nays, 16	1255
Question, order to third reading. Yeas, 22; Nays, 1	1255
HB 596, making technical corrections to certain laws administered by the department of revenue administration and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001. Question, adopt majority amendment. Yeas, 7; Nays, 17	1262
Question, adopt floor amendment. Yeas, 16; Nays, 8	1264
HB 605-FN, affirming sovereign immunity for the state and its political subdivisions as it relates to the "year 2000 problem". Question, adopt motion of ought to pass. Yeas, 9; Nays, 14	1391
HB 625-FN-A, relative to mercury emissions reduction and control programs and a study of mercury in ash landfills. Question, adopt motion to rerefer. Yeas, 8; Nays, 14	1674
Question, adopt conference committee report. Yeas, 12; Nays, 11	1720
HB 626-FN, relative to revising the laws regulating accountancy. Question, adopt floor amendment. Yeas, 14; Nays, 8	1359
Question, order to third reading. Yeas, 23; Nays, 0	1359
HB 633-FN-L, establishing parental choice scholarships. Question, adopt motion to rerefer. Yeas, 11; Nays, 12	1354
Question, adopt committee report of inexpedient to legislate. Yeas, 14; Nays, 9	1354
HB 661-L, relative to the scope of abatement appeals. Question, adopt motion of ought to pass. Yeas, 4; Nays, 16	1460
HB 704-FN-A, establishing a wildlife damage control program and making an appropriation therefor. Question, substitute rerefer for ought to pass. Yeas, 8; Nays, 14	1685
Question, order to third reading. Yeas, 16; Nays, 6	1685-1686
HB 727-FN, establishing a committee to study the problems and possible regulation of outdoor lighting. Question, order to third reading. Yeas, 15; Nays, 6	1156
HB 728-FN, establishing a commission to study the compensation of members of the legislature and the reimbursement for expenses. Question, adopt motion of ought to pass. Yeas, 7; Nays, 16	1393
HB 734-FN-L, relative to state guarantees of tax anticipation notes issued by municipalities, and relative to teacher non-renewals for the 1999-2000 school year. Question, adopt committee amendment. Yeas, 24; Nays, 0	453-454
HB 743, requiring that the question relative to the necessity for a convention to revise the New Hampshire constitution be presented to the voters in the November 2000 general election. Question, adopt committee report of ought to pass. Yeas, 10; Nays, 12	1564
HB 999-FN-A-L, establishing a uniform education property tax to provide funding for an adequate public education and providing education property tax hardship relief to low and moderate income tax payers. Question, order to third reading. Yeas, 16; Nays, 7	1700
HCR 10, requesting Congress to give priority to preserving Social Security and ensuring that it continues as universal and mandatory for all workers. Question, adopt committee report of ought to pass. Yeas, 23; Nays, 0	1563

Roll calls (cont.)

CACR 6, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law. Question, ought to pass. Yeas, 19; Nays, 3	1368
CACR 16, relating to establishing a restricted education trust fund; establishing a maximum rate on an income tax, and dedicating income tax revenues to education. Providing that an education trust fund be established, that revenues from a state-run lottery and revenues from the imposition of an income tax shall be deposited into the education trust fund, and that the money in such trust fund shall be used exclusively to provide relief from local school property taxes and to fund the state's duty to cherish the interest of public schools under Article 83, Part 2 of the New Hampshire constitution, and shall not be transferred or diverted to any other purpose. Question, order to third reading. Yeas, 17; Nays, 6	1659
Question, final passage. Yeas, 12; Nays, 9	1666
Question, final passage. Yeas, 16; Nays, 6	1666
CACR 17, relating to the state's responsibility to provide to all citizens the opportunity for a public education. Providing that the general court shall have the exclusive authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, on whole, or part, to a political subdivision, provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed. Question, order to third reading. Yeas, 15; Nays, 8	1664
Question, final passage. Yeas, 15; Nays, 7	1666
CACR 19, relating to 5-year renewable terms for all state judges and the age limit for state judges and county sheriffs. Providing that all state judges be commissioned for renewable 5-year terms and that there shall be no age limit for state judges and county sheriffs. Question, adopt motion of inexpedient to legislate. Yeas, 18; Nays, 6	569
CACR 20, relating to the election of governor and senators. Providing that beginning with the 2002 general election, and every 4 years thereafter, the governor and senators shall be elected. Question, adopt motion to rerefer. Yeas, 13; Nays, 10	969

Rooms and meals tax. See: Meals and rooms tax

Rules, Senate

amended and printed	31-39
deadlines, amended	170, 942, 945, 1556
rules of the 1997-1998 session adopted with amendments	10-18
suspended for introduction of bill relative to the Riven Dell school district (SB 230)	424

Rumney kindergarten program, reimbursement rate HB 300

Rural electrification associations, consent required for use of similar name by other entities HB 563

Russman, Sen. Richard L., remarks on

conducting debates with decorum and civility	157
conserving energy by not wearing a tie	1305-1306

S

Safe deposit boxes, abandoned, procedure for opening changed HB 79

Safety department

capital improvements appropriation; various lapse dates extended	HB 25
commissioner, boating safety education rulemaking	HB 449
criminal history record checks for firearm purchases; confidentiality; funding from federal grants	HB 537

Safety department (cont.)

- deputy director of motor vehicles division, position established HB 2am
- Dover Point substation, capital improvements appropriation increased HB 25am
- driver education life and safety issues, authority HB 566
- emergency medical services division; regulation transferred from
 - health and human services HB 643
- gaming enforcement division SB 203
- personnel to conduct driver's license examinations HB 491

Personnel services division

- boats, various fees credited to and continually appropriated HB 245
- port authority, and fish and game department, study of mutual use of
 - coast guard facilities HB 2am

Salem, employees pension plan authorized SB 161am

Sales

- consumer goods and services, disclosure of telephone number required HB 435
- gasoline containing MTBE, prohibited SB 71
- motor vehicle retail installment sales contracts, requirements SB 118
- permissible fireworks HB 346
- tickets to entertainment or sports events, stopping motor vehicles on
 - public ways prohibited SB 20

Sand and gravel, excavation tax and excavation activity tax, applicability clarified HB 666

Sand dunes, alteration, Seabrook Beach village district and certain Hampton Beach lots exempted from permit requirements SB 72

Saunders, Wayne T., fish and game conservation officer injured in the line of duty, annual and sick leave time restored SB 47

Savings banks, investment limitations HB 80

School boards, emergency expenditures, notice to revenue administration HB 262

School districts

- area
 - amendment when one district votes to adopt charter school and open enrollment HB 503
 - minimum length of agreement; review of withdrawal plan, time limit extended HB 250
 - minimum length of agreement; withdrawal date; manner of addressing sending districts school boards' interests SB 77

cooperative

- adequate education grants credited as if they were foundation aid HB 265am
- alternative kindergarten programs authorized HB 295
- meetings, optional term for election of moderator SB 38
- education funding reimbursement anticipation notes HB 117am
- elections, recount procedures same as town elections HB 284
- foundation aid repealed SB 48
- SB 49
- SB 50
- HB 117am

interstate, agreements regarding certification standards, assessment programs, and high school approval SB 230

joint maintenance agreements, study SB 13

meetings

- interim provisions for 1999; state guarantee of tax anticipation notes HB 100
- official ballot form, bonds or notes, 3/5 vote required HB 487
- official ballot form, more than one special meeting per year allowed SB 188
- official ballot form, multi-town districts, additional polling places in
 - 1999 and 2000 HB 344
- official ballot form, rescission, wording of question clarified HB 268
- special, authorized to deal with education funding HB 111
- operational costs of education the responsibility of school districts;
 - instructional costs the responsibility of the state SB 50

School districts (cont.)

pupils

expulsion for possession of paint ball gun.....	HB 302
good behavior recognized	HCR 2
withdrawal from school, 60 day notice requirement removed	SB 119
quality standards; adequate education, districts in need of assistance, identification and corrective action plans	SB 219
regional vocational centers, bonds, biennial amount limited	SB 207
school building authority, bonding limit increased	HB 363
special education catastrophic costs, authority to expend funds reflecting total costs; unexpected catastrophic costs exempted from provisions of municipal budget law	HB 577
teachers. See: Teachers	

Schools

adequate education

and education financing reform commission established; duties	SB 48
method of determining cost; adequate education and education financing reform commission; duties; foundation aid repealed.....	SB 49
state responsible for instructional costs; school districts responsible for operational costs; education improvement fund; foundation aid repealed	SB 50
technical amendments	HB 684am
administrative units, plan for organization, hearing date changed; plans for organization or withdrawal, procedure	HB 428

charter

amendment of area agreement when one district votes to adopt a charter school	HB 503
application limitation by executive council district removed	HB 231
establishment, application to state board of education, procedure	HB 690
establishment, procedures amended	SB 152
choice, parental choice scholarships	HB 633
Columbine High School, Littleton, CO, expressing shock and sympathy for killings of students	SR 6

funding

adequate education and education financing reform commission established; duties	SB 48
adequate education, technical amendments	HB 684
personal income tax, maximum rate; funds dedicated to education	CACR 16
state guarantee of tax anticipation notes	HB 100
state guarantee of tax anticipation notes to cover expenses for 1999	HB 734am
statewide property tax, excess payments, phased in collection	HB 117am
statewide property tax, excess payments, phased in collection amended	HB 745am
statewide property tax, excess payments, phased in collection, technical amendments	HB 300
statewide property tax, hardship relief	HB 999
statewide taxes, referendum; choice of 2 plans	SB 51
preschool programs, certification of personnel; fees	HB 726

Seabrook Beach village district, exempted from sand dune alteration
permit requirement

SB 72

Seabrook-Hampton harbor, port authority report on justifications for
Army Corps of Engineers to release NH from obligation
to dredge

HB 2am

Seacoast

protection of waterfront properties from erosion, study	HB 2am
state parks, master plan required	HB 672

Seat belts, child passenger restraint law, enforcement as a secondary
offense repealed; driver under 18, license not suspended for
first offense

HB 94

- Secretary of state**
 bail recovery agents, registration HB 658
 flexibility in selecting presidential primary date HB 399
- Securities**
 broker-dealers, issuer-dealers, and investment advisers, reporting and
 application requirements HB 373
 offerings by mutual funds, filing fees for combined prospectus SB 11
 registration, uniform transfer on death security registration act,
 mutual fund shares included as securities SB 123
- Seed sterilization technology, study** HB 291
- Senate**
 debates, remarks by Sen. Russman regarding decorum and civility 157
 election returns
 read and committee selected to examine 7-10
 report of select committee 18
 members
 4 year terms CACR 20
 committee assignments 25-28
 newspapers provided 18
 salary and mileage payment 18
 rules
 amended and printed 31-39
 deadlines, amended 170, 942, 945, 1556
 of the 1997-1998 session adopted with amendments 10-18
 suspended for introduction of bill relative to the Riven Dell school
 district (SB 230) 424
 sense of the Senate regarding Claremont II and swift action on
 money bills 18-22
 staff introduced 30-31
- Sentences**
 DWI, third conviction, mandatory one year prison sentence SB 88
 extended term of imprisonment, law enforcement officer defined HB 601am
 minimum
 and maximum for incest with victim under age 16 SB 143
 good conduct credits to reduce for those convicted of nonviolent crimes ... SB 122
 murder, attempt, solicitation, and conspiracy, penalties increased HB 714
 restitution to victims to have priority HB 652
- Sergeant-at-arms, Henry Wilson nominated and elected** 6-7
- Settlements, structured**
 plaintiffs right to designate broker and insurance company HB 470
 requirements; court approval of certain transfers SB 66
 transfer of payment rights, approval by superior court or labor
 commissioner; requirements SB 126
- Sewage treatment plants, state guarantee, limit reduced** HB 492
- Sexual assault**
 counselors, duty to report child abuse, exceptions in certain circumstances SB 98
 sex offenders convicted of certain crimes, name change restrictions SB 125
 HB 215
 sexual contact definition changed HB 706
- Sexual offenders**
 registration
 change of name or alias, written notification to police HB 215
 incest and computer crimes added HB 706am
 persons convicted of indecent exposure or lewdness SB 158am
 whether constitutional rights are protected by the criminal justice
 system, study HB 357
- Shaheen, Jeanne, and Donna Sytek hunger program, free meals for
 homeless volunteers at shelters** SB 100

Shellfish , determination of areas where harvesting may take place transferred from health and human services to environmental services	SB 215
Shepard , Alan B., memorial wing at Christa McAuliffe planetarium, capital improvements appropriation	HB 25
Sheriffs	
age limit repealed	CACR 19
deputies, and bailiffs responsible for court security except in the supreme court	HB 715
Ski craft , definition changed	SB 61
Slot machines at pari-mutuel racetracks	SB 203
Sludge	
disposal regulated by town, town not excluded from use of wastewater treatment plant	SB 218
land application	
at reclamation sites, impact on groundwater, research by UNH office of sponsored research; appropriation	HB 546
notice, quality certification, and record keeping requirements; dioxin limitations	SB 218
testing program in environmental services, funds transferred from state aid grants	SB 195
Small businesses	
exempted from certain safety program requirements under workers' compensation	HB 471
health insurance purchasing alliance act	SB 162
loans for technical improvements for persons working at home, study	SB 90
Smithsonian Institution , Festival of American Folklife, NH participation	
appropriation	HB 494
remarks by Sen. Larson	1330
Smoking	
minors, tobacco use	
or possession, revocation or denial of driver's license	SB 179
prevention and education, study	HB 369
settlement. See: Tobacco products, settlement	
Social clubs , recognized as charitable organizations by the IRS, raffles	HB 729
Social Security	
Act, Congress urged to amend to prohibit recoupment of state tobacco settlement funds	SR 2
.....	HCR 12
Numbers, use on driver's licenses and for child support enforcement	SB 137
System	
Congress and the President urged to preserve and perpetuate	SCR 2
Congress urged to preserve	HCR 10
Solid waste	
facilities	
municipal incinerators, mercury emissions reduction and control program; ash landfills, study	HB 625
municipal incinerators, state aid for closure costs	HB 294
orders from environmental services filed with registry of deeds	HB 558
permits, approval by environmental services, time exception	HB 558
management, waste reduction goals changed; diversion and source reduction added; annual report by environmental services	HB 230
toxics in packaging, reduction, exemptions, expirations extended	HB 558
Sovereign immunity , state	
and municipalities, claims arising from duty to provide adequate education	HB 113
computer-related year 2000 problems; board of claims jurisdiction	HB 605

- Special education**
 catastrophic costs
 paid by state SB 49am
 school districts' authority to expend funds reflecting total costs;
 unexpected, exempted from provisions of municipal budget law HB 577
 court-ordered placements, costs paid by state SB 210
 definition changed; age of developmentally delayed child changed HB 488
 federal government urged to fully fund its share of costs SR 4
 HCR 6
 municipal budget to disclose reimbursements for costs SB 129
- Speech therapist services, insurance coverage, study** SB 166
- Spinal cord and brain injuries, registry established** HB 615
- Sports, events, sale of tickets by stopping motor vehicles on public
 ways prohibited** SB 20
- Sprawl**
 avoidance, land use management committee to study HB 288
 defined; duty of state agencies, office of state planning, and council on
 resources and development HB 208
 effects, study by office of state planning HB 207
- Springfield kindergarten program, reimbursement rate** HB 300
 transfer of funds HB 265am
- Stalking, release of defendant pending trial, finding of dangerousness,
 preventive detention or restrictive conditions** HB 216
- State agencies**
 general court performance audit and oversight committee, member
 added; procedures changed HB 603
 information technology plans, review
 and approval by information technology management division before
 expenditure of certain funds HB 1
 by information technology management division and approval of
 capital budget overview committee before expenditure of
 certain funds HB 25am
 policy to deter sprawl HB 208
- State buildings**
 clean indoor air, definitions; deadlines HB 426
 energy cost reductions, debt services and contract times extended HB 2am
 office space available, agencies renting private space required to occupy HB 1
- State contracts, construction, competitive bidding, additional requirements** SB 221
- State employees**
 certain part-time, holiday pay for working on Washington's birthday SB 193
 collective bargaining, joint committee on employee relations, members,
 order changed and member added; alternates HB 2am
 disaster leave for certified volunteers of American Red Cross SB 136
 expenses for out-of-state trips, advance authorization repealed HB 2am
 health and dental insurance plans, participation of part-time district
 and probate court judges SB 115
 improved employment opportunities for the disabled, study SB 180
 laid-off, rehiring, date extended HB 2am
 positions abolished HB 1
 salaries increased HB 2am
 unclassified. See: State officials
- State fairs, state aid, appropriation; distribution formula** SB 145
- State heritage collections committee, disposal of items by sale or
 auction; actions of committee, vote of 6 members required** HB 686
- State house complex, space needs, study; appropriation** HB 89
- State lands, leased to railroads, exempt from local taxation; railroad tax,
 apportionment and distribution** HB 709

State library , advisory board to study NH automated information system Internet site	HB 670
State motto , inclusion in final design for NH commemorative quarter urged ...	HCR 13
State officials	
corrections commissioner, 4 year term	HB 397
expenses for out-of-state trips, advance authorization repealed	HB 2am
salaries	
changed, insurance department	SB 103
increased	HB 2am
structure, study	HB 414am
wardens of state prisons	HB 601
State police , enforcement of gambling business prohibition; proceeds of forfeited property used for enforcement	SB 227
State prisons	
commissaries, surcharge for victim assistance fund	HB 652
good conduct credits to reduce minimum sentence of those convicted of nonviolent crimes	SB 122
northern NH correctional facility, warden's salary in unclassified personnel group	HB 2am
superintendents replaced with wardens; warden of Northern NH facility, salary	HB 601
wardens, appointment process	HB 397am
State veterinarian , director of animal industry division	SB 21
Status of men commission established; duties	HB 553
Statute of limitations . See: Limitation of actions	
Statutory construction , farm, agriculture, farming defined	HB 225
Storage , self-service, liens	SB 93
Strafford kindergarten program, reimbursement rate	HB 300
Stratford , adequate education grant for fiscal years 2000 and 2001; transfer of funds	HB 265am
Structured settlements	
plaintiffs right to designate broker and insurance company	HB 470
requirements; court approval of certain transfers	SB 66
transfer of payment rights, approval by superior court or labor commissioner, requirements	SB 126
Studies	
agriculture	
alternative, impact on native wildlife, extended	HB 73
seed sterilization technology	HB 291
alcohol and drug abuse prevention services	HB 650am
ambulatory surgical facilities, structure	HB 545am
ash landfills by environmental services	HB 625am
boats, permit system for out-of-state vessels temporarily using NH waters	SB 75
bridges, covered railroad bridge in Contoocook village, repairs required to restore	HB 501
cemetery plots, rights of ownership	HB 664
certificate of need board	HB 545am
children	
and guns, methods of reducing violent incidents	SB 163
early childhood education commission	HB 532
Civil War battle sites, repair and construction of NH monuments	HB 538
coast guard facilities, mutual use	HB 2am
condominium act	HB 252am
conservation of natural, cultural, and historical resources, commission to determine feasibility of public-private partnership, additional duties	HB 685

Studies (cont.)

courts
statewide family division..... HB 707am
superior court judges, number and whether they may be assigned
to hear supreme court appeals..... SB 209

deaf community issues HB 456

education
higher, veterans' access to education in the UNH system HB 454am
tax fairness for funding public education HB 117am

elections
campaign financing HB 689am
maintenance and integrity of checklists HB 227

energy, renewable sources, ways to promote HB 402

federal welfare reform, financial impact on NH towns and cities SB 14

fences, updating NH laws, extended HB 583

fish and game commission duties identified and established SB 160

gasoline additives including MTBE, comparative risks HB 592

general court, members, compensation and reimbursement
for expenses HB 728am

guardian ad litem, appointment and supervision procedures and
standards SB 130

health and human services
child abuse or neglect investigations, standards and procedures SB 65
department organization SB 169
options for transitional health coverage for disabled persons
trying to work SB 183am

health care quality; collection, review, and dissemination of information
to consumers HB 624

herbicides, aerial spraying, residual effects SB 68am

highways
route 11, Rochester to Claremont; and route 140, Alton to Tilton,
upgrades HB 541
seasonal weight limitation postings, effect on economy HB 365
US route 1 traffic circle in Portsmouth, safety improvements SB 42

Hilton Park made property of Dover SB 43

hospitals, physicians, and insurance companies, financial arrangements HB 82

insurance, accident and health
affordable, for the uninsured SB 183
coverage for services of physical, occupational, and speech
therapists SB 166
ways to encourage carriers to insure individuals from the non-group
market HB 473am

joint health council, policies and procedures HB 530

labor, independent contractors, inconsistencies in statutes SB 32am

land use management to protect the state's farmland, rural character,
and environmental quality, membership increased; duties and
reporting date extended HB 288

mercury source reduction and recycling issues HB 340

minors tobacco use prevention and education HB 369

mortgages, first and second mortgage home loans HB 451am

motor vehicles
driver training fund HB 616am
DWI, penalties, education and treatment services available HB 84am
inspection requirements SB 35

negotiated risk agreements when patients desire to remain in a facility
over the recommendation of health and human services HB 307

NH automated information system Internet site, advisory board HB 670

open adoption, establishing in NH HB 58

outdoor lighting regulation HB 727am

particulate matter registry, creation of SB 159am

railroad passenger service, reestablishing between Newburyport,
MA and Kittery, ME HB 444

Studies (cont.)

regulatory options for development of major projects	SB 156am
resources and economic development department, organization and function	HB 535
school districts, joint maintenance agreements	SB 13
sex offenders, whether constitutional rights of defendants are protected by the criminal justice system	HB 357
small business loans for technical improvements for persons working at home	SB 90
sprawl, effects, study by office of state planning	HB 207
state employees, improved employment opportunities for the disabled	SB 180
state house complex, space needs; appropriation	HB 89
state officials, salary structure	HB 414am
substance abuse treatment delivery system extended	SB 19
review of pilot program for opioid agonist therapy added	SB 197am
Sullivan county regional refuse disposal district	HB 379
technology, integration at state, county, and municipal levels	SB 124
.....	HB 599am
trustee process	SB 26
waterfront properties, protection from erosion	HB 2am
White Mountain National Forest land, retention of traditional uses and impact of change in designation	HB 431
women's health care, members added and reporting date extended	HB 214
x-ray technicians, licensing	SB 60
zoning appeals, date of decision	HB 562am
Substance abuse treatment delivery system study extended	SB 19
review of pilot program for opioid agonist therapy added	SB 197am
Suicide, assisted, death with dignity	SB 44
Sulfur content in gasoline, reduction urged	SJR 1
Sullivan county parents as teachers pilot program	SB 170
regional refuse disposal district, study	HB 379
state conservation land in Claremont, authority to lay a sewer force main ...	HB 609
Superior courts Carroll county, capital improvement appropriation lapse dates extended	HB 25
domestic relations jurisdiction transferred to district courts	SB 209
judges cases assigned randomly	SB 151
each party may request that one judge not be assigned to a case	SB 57
number and whether they may be assigned to hear supreme court appeals, study	SB 209
seminars for parents of children involved in custody or support issues, additional positions; appropriation	HB 576
tax abatement appeals, court may increase assessment	HB 661
Support children enforcement, use of Social Security number on various license applications	SB 137
or spouse, penalties for non-support increased	SB 201
seminar for parents involved in custody or support issues, additional positions; appropriation	HB 576
spousal, when living apart; attachment of either spouse's property	HB 420
Supreme court. See also: Judicial branch chief justice, the board of the public employer for judicial branch collective bargaining	SB 85
court security officer positions retained	HB 715
family division of the courts established in certain counties; expansion to all counties, study	HB 707

Supreme court. (cont.)

judicial branch appropriation reduction HB 1
 opinion requested, constitutionality of tax plan referendum regarding
 education funding (SB 51) SR 1
 prompt decision in case regarding electric power restructuring stranded
 costs urged SCR 1
 quorum of 3 required for sessions HB 667
 superior court judges assigned to hear supreme court appeals, study SB 209

Sutton municipal incinerator, state aid for closure costs HB 294

Sweepstakes commission, fiscal committee approval of new programs
 and consultants; transfer of funds HB 1

Sytek, Donna, and Jeanne Shaheen hunger program, free meals for
 homeless volunteers at shelters SB 100

T

Tax and land appeals board, abatement appeals, board may increase
 assessment HB 661

Taxes

abatement appeals, superior court or tax and land appeals board may
 increase assessment HB 661

boat tax collection fees to safety services division HB 245

business enterprise
 2/3 majority required to increase rate HB 684am
 rate increased; portion to education trust fund; 2/3 majority
 required to increase deleted HB 117am

business profits
 apportionment factors adjusted HB 572
 credits for job creation, capital investment, and research and
 development SB 211
 rate increased, portion to education trust fund HB 117am

communications services, rate set for biennium HB 596am

commuter income, repealed HB 109

county treasurers powers to enforce collection same as local
 tax collector SB 86

education homestead act, tax allowance paid by state SB 127

excavation and excavation activity, applicability clarified HB 666

exemptions, to foster commercial and industrial construction in
 economically depressed municipalities SB 76

fair and proportional local taxation to provide education CACR 23

income
 flat rate education income tax HB 109
 interest and dividends, repealed HB 109
 maximum rate; funds dedicated to education CACR 16

inheritance
 extension of time for payment, interest may be waived SB 45
 repealed HB 542am

insurance premium, estimated liability less than \$100, payment in
 full required on March 1 SB 102

liens, transfer without vote of the legislative body for 1999 calendar
 year only HB 734am

meals and rooms
 motor vehicle rentals added, revenue to education trust fund HB 117am
 temporary rate made permanent HB 596am

medicaid enhancement, rate for biennium ending 2001 HB 55

nuclear station property, repealed SB 184
 HB 117am

proportional and reasonable local taxation to fund education CACR 17

railroads, on leased state lands, exempt from local taxation;
 apportionment and distribution of railroad tax HB 709

Taxes (cont.)

- real estate transfer
 - rate increased; revenue to education trust fund HB 117am
 - surcharge for homeless prevention fund SB 128
- statewide property tax HB 109
 - for education funding; excess payments, phased in collection HB 117am
 - for education funding, excess payments, phased in collection
 - amended HB 745am
 - for education funding, excess payments, phased in collection,
 - technical amendments HB 300
 - for education funding; hardship relief HB 999
 - to fund education; choice of 2 plans SB 51
- tax equity and efficiency commission
 - appropriation reduced HB 300
 - tax fairness for funding public education, study HB 117am
- tax policy simulation and forecasting models, fiscal committee
 - contract with a consultant HB 999
- taxpayers may choose whether to fund nonprofit organizations
 - through their taxes SB 31
- tobacco products
 - prohibition against direct state tax while tobacco tax is in
 - effect repealed HB 109
 - HB 117am
 - rate increased HB 112
- towns, state guarantee of tax anticipation notes to cover school
 - expenses for 1999 HB 734am
- utility property
 - definitions changed; technical corrections HB 684am
 - revenue to education trust fund HB 117am

Teachers

- failure to be renominated
 - notification date changed HB 251
 - notification date temporarily suspended HB 734am
- procedures amended; grievance not subject to collective
 - bargaining arbitration HB 341
- retired, health insurance benefits SB 187
- salaries, state responsible for the costs SB 50

Technical institute

- and colleges. See also: Regional community-technical colleges
- early childhood laboratory school; appropriation HB 25am

Technology

- integration at state, county, and municipal levels, study SB 124
 - HB 599am
- support for disabled; appropriation SB 176

Telecommunications

- equipment, assistance program for the disabled, funding from relay
 - service trust fund HB 645
- FCC urged to adopt telephone number conservation policies SR 3
- integration of technology at state, county, and municipal
 - levels, study SB 124
 - HB 599am
 - tower on Mount Kearsarge, removal required SB 132
 - utility poles subject to municipal taxation, exemption extended HB 596am

Telemarketers, fraud and abuse prevention act SB 174

Telephone companies

- certain records provided to PUC exempt from right to know law SB 141
- communications services tax, rate set for biennium HB 596am
- cramming prohibited; certain charges may be blocked HB 325
- poles subject to municipal taxation, exemption extended HB 596am

Telephone companies (cont.)

telephone number conservation

FCC urged to adopt policies SR 3

PUC policy principles HB 388

Telephones

businesses required to disclose telephone number under consumer

protection act HB 435

emergencies, enhanced 911 system, member added to commission;

service providers required to transfer emergency calls HB 645

facsimile transmissions, candidate for primary may file by fax on last day ... HB 366

telecommunications equipment assistance program for the disabled,

funding from relay service trust fund HB 645

telecommunications tower on Mount Kearsarge, removal required SB 132

telemarketers fraud and abuse prevention act SB 174

Teleradiology defined; licensure required SB 53**Ticket scalping** for motor sports events at NH International Speedway

prohibited SB 20

Tobacco products

determination of amount of additional tax that would go to education

trust fund HB 117am

minors, use

or possession, revocation or denial of driver's license SB 179

prevention and education, study HB 369

settlement

Congress urged to enact legislation to prohibit the federal government

from recouping state settlement funds SR 2

..... HCR 12

funds, distribution to tobacco use prevention fund; health care fund,

counties, and health and human services for long-term

medicaid costs SB 206

funds, portion to education trust fund HB 117am

funds, portion to tobacco use prevention fund HB 112am

model act covering manufacturers not part of the settlement

agreement SB 168

tax

prohibition against direct state tax while tobacco tax is in

effect repealed HB 109

..... HB 117am

rate increased HB 112

users' health insurance premiums may be adjusted SB 55

Tourism, and travel development

division established in DRED SB 113

office

appropriation changed HB 615am

name changed from vacation travel office SB 131

Town meeting

official ballot form

bonds or notes, 3/5 vote required HB 487

first and second sessions, procedures; operating budget defined;

one-time expenditures HB 261

optional times for meetings HB 251

rescission, wording of question clarified HB 268

special, authorized to deal with education funding HB 111

Towns

economic development districts, computation of tax increments,

current assessed value HB 684am

economically depressed, tax exemptions to foster commercial and

industrial construction SB 76

elections. See: Elections

Towns (cont.)

financial impact of federal welfare reform, study	SB 14
highways, class V, maintained and repaired by towns for 5 years	HB 593
home rule	
effective after passage of constitutional amendment	HB 468
right to exercise powers unless specifically prohibited	CACR 6
incinerators, state aid for closure costs	HB 294
junkyards, local regulation	HB 463
lease agreements for equipment	HB 327
police, inter-community emergency assistance by special reaction teams	HB 746
sludge disposal, towns that regulate may not be excluded from use of wastewater treatment plants	SB 218
taxes	
state guarantee of tax anticipation notes to cover school expenses for 1999	HB 100
.....	HB 734am
telecommunication utility poles subject to taxation, exemption extended	HB 596am
validity of obligations and indebtedness despite being based on school portion of tax rate	HB 111
zoning. See: Zoning	

Toxic packaging, reduction of toxics, exemptions, expirations extended;

glass and ceramic packaging	HB 558
-----------------------------------	--------

Transportation department

capital improvements appropriation; various lapse dates extended	HB 25
commissioner	
asbestos removal from state buildings, appropriation	HB 1
authority to layout and approve restricted use driveway at NH International Speedway	SB 156am
transfers among accounts	HB 1
state house complex space needs, study; appropriation	HB 89
traffic bureau facility (Concord), hazardous waste and water quality violations, appropriation	HB 331am

Trauma services. See: Emergency medical and trauma services**Travel agents, limited licensing for common carrier agents** HB 638**Travel and tourism development**

division established in DRED	SB 113
office	
appropriation changed	HB 615am
name changed from vacation travel office	SB 131

Treasurer, state

federal forest land funds distribution transferred to education department	HB 364
investments in municipal or district obligations	HB 100
payments to state must be in US dollars; borrowing limit increased; excess bond premiums paid to general fund; duties of deputy treasurers	HB 412

Trees, damage done by moose, payment from moose management fund SB 194**Trials**

jury	
judge restricted from interrupting deliberations	HB 570
right to jury trial in child custody cases	CACR 18
proceedings, representation by non-attorneys, provisions amended	SB 172

Trombly, Sen. Rick A., sense of the Senate regarding Claremont II and

swift action by House on money bills	18-22
--	-------

Trucks. See: Motor vehicles, trucks**Trust companies**

examinations, tiered fee schedule	SB 27
---	-------

Trust companies (cont.)
 incorporation petition and limitations on securities changed HB 80

Trusts
 powers of appointment deemed to be special power of appointment
 unless specifically stated SB 64
 testamentary, institutional funds management, appropriation of
 appreciation SB 97
 uniform trustees' powers act, certificate of power to convey property SB 165

Turtle Pond, Concord, OHRV speed limit on frozen surface; enforcement HB 403

U

Umbagog Lake campground, acquisition by DRED, appropriation SB 62

Unemployment compensation
 benefits, calculations changed; high unemployment period,
 added benefits HB 485
 employment, exemption for certain part-time contract employees SB 32

Uniform laws
 accountancy act, laws amended to conform with HB 626
 child custody jurisdiction, guardianship of minors included in custody
 proceedings SB 112
 institutional funds management, testamentary trusts, appropriation
 of appreciation SB 97
 transfer on death security registration act, mutual fund shares
 included as securities SB 123
 trustees' powers act, certificate of power to convey property SB 165

United States
 Congress
 and IRS urged to broaden taxpayers ability to make tax deductible
 contributions to nuclear decommissioning reserve funds HCR 11
 and President urged to extend Older Americans Act SB 23
 SR 9
 and President urged to preserve and perpetuate Social Security System SCR 2
 candidates, primary petitions and filing fees waived HB 223
 candidates, voluntary expenditure limitations, time HB 228
 urged to authorize construction of World War II memorial SR 5
 urged to eliminate requirement for MTBE and other gasoline additives HJR 9
 urged to enact legislation to prohibit federal government from
 recouping state tobacco settlement funds SR 2
 HCR 12
 urged to pass the Work Incentives Improvement Act of 1999 SR 10
 urged to preserve Social Security HCR 10

Fish and Wildlife Service, urged to prohibit reintroduction of wolves in
 northeastern US HJR 1

Marine Corps, flag to be flown over the state house every November 10th HJR 10

President and Congress
 urged to extend Older Americans Act SB 23
 SR 9
 urged to preserve and perpetuate Social Security System SCR 2

Senate urged to improve the Kyoto protocol on greenhouse gases HCR 8

Transportation Secretary urged to include US route 2 as a designated
 border corridor highway HCR 4

University of NH
 office of sponsored research, impact on groundwater of sludge application at
 reclamation sites HB 546

system
 board of trustees, 2 student members; elected on rotating basis HB 265
 capital improvements appropriation; competitive bids HB 25
 report on national guard educational assistance HB 675
 veterans' access to education, study HB 454

V

Vacation travel office

name changed to travel and tourism development office	SB 131
references replaced with travel and tourism development division	SB 113

Veterans

access to education in UNH system, study	HB 454
bridges in Concord named Korean, World War II, and Vietnam	
veterans memorial bridges	SB 155
cemetery, procedures for burials and funerals	HB 301
credit in retirement system for military service	SB 216
home, capital improvements appropriation	HB 25
permanently and totally disabled, exempted from reestablishing status	
for special number plates	HB 92
POWs and Pearl Harbor survivors, special number plate may be	
retained by surviving spouse	HB 525
World War II memorial, appropriation	SB 12
Veterinarian , state, director of animal industry division	SB 21
Veterinarians board , practices and procedures amended	SB 83
Victims assistance fund , penalty assessment portion increased;	
surcharge at state prison commissaries credited to	HB 652
Video gambling machines at racetracks	SB 203
Vietnam veterans memorial bridge , Concord, named	SB 155
Vital records , fees increased; improvement fund, purpose expanded;	
advisory committee membership changed; reports	SB 192
Voluntary corporations . See: Corporations, voluntary	
Volunteers , homeless, at shelters, pilot program for free meals	SB 100

W

Wages , time and one half for overtime, exception repealed	HB 69
Walking disabled , parking, special number plates, permanently disabled	
veterans exempted from reestablishing status	HB 92
Wallop-Breaux federal funds , account repealed	HB 418
Wardens , state prisons, appointment process	HB 397am
Washington's Birthday , holiday pay for certain part-time state	
employees	SB 193
Waste . See also: Hazardous waste; Sewage; Solid waste	
disposal	
enforcement authority of environmental services expanded	HB 410
sewage treatment plants, state guarantee, limit reduced	HB 492
Sullivan county regional refuse disposal district, study	HB 379
towns that regulate disposal of sludge may not be excluded from	
use of wastewater treatment plants	SB 218
reduction, solid waste goals changed; diversion and source reduction	
added	HB 230
Water	
laboratory analysis fees changed	HB 561
pollution	
comparative risks of gasoline additives including MTBE, study	HB 592
enforcement authority of environmental services expanded	HB 410
fuel oil discharge cleanup fund, fee increased	HB 495
funds transferred from state aid grants to sludge testing program	SB 195
impact of application of sludge at reclamation sites on groundwater,	
research by UNH office of sponsored research; appropriation	HB 546
sewage treatment plants, state guarantee, limit reduced	HB 492
sludge, land application, notice, quality certification, and record	
keeping requirements; dioxin limitations	SB 218

Water (cont.)

- public systems, buildings, connection required SB 231
- safe drinking water standard for MTBE established; lower
concentrations and waivers sought SB 70
- services, security deposit on tenants meters allowed HB 581
- supply, land protection grant program SB 135
- treatment plants, towns that regulate sludge disposal may not be
excluded SB 218

Waters

- boats, mooring permit requirements extended to all state waters on
a graduated basis SB 46
- dam safety, environmental services commissioner administrative fine
authority expanded to violation of rules HB 362
- introduction of exotic aquatic weeds, penalties HB 421
- pesticides, residual effects, measuring and monitoring, appropriation SB 68am
- protection of waterfront properties from erosion, study HB 2am
- rivers management advisory commission, membership increased HB 249

Weapons. See also: Firearms

- dangerous, felon prohibited from possessing, clarification HB 360

"Webster", NH automated information system Internet site, advisory

- board to study HB 670

Weeds, exotic aquatic, introduction to NH waters, penalties HB 421**Wellness and primary prevention council established SB 223****Wentworth kindergarten program, reimbursement rate HB 300****Wetlands, sand dune alteration permit requirement, Seabrook Beach**

- village district and certain Hampton Beach lots exempt SB 72

White Mountain National Forest

- continued management as part of national forest system urged HJR 7
- retention of traditional land uses and impact of change in
designation, study HB 431

Wildlife

- damage control program, mitigation, fencing, depredation permits;
for commercial agricultural property HB 704
- department, name changed from fish and game department SB 213
- endangered species conservation act, wildlife allocated funds
cannot be classified as game species SB 154
- native, impact of alternative agriculture on, study extended HB 73
- wolves
 - federal government urged to prohibit reintroduction in northeastern
US, especially NH HJR 1
 - reintroduction to NH prohibited HB 240

Wills

- filed with no administration when there are no assets SB 139
- powers of appointment deemed to be special power of appointment
unless specifically stated SB 64
- revocation by divorce, certain heirs affected SB 16
- self-proved, from out-of-state and under uniform international wills act,
self-proved in this state SB 139
- testamentary trusts, institutional funds management, appropriation of
appreciation SB 97

Wilson, Henry, nominated and elected sergeant-at-arms 6-7**Wilton municipal incinerator, state aid for closure costs HB 294****Windham municipal incinerator, state aid for closure costs HB 294****Witnesses, real estate leases, requirement removed; leases since 1981**

- which were not witnessed validated SB 109

Wolfeboro municipal incinerator, state aid for closure costs HB 294

Wolves

- federal government urged to prohibit reintroduction in northeastern US, especially NH HJR 1
- reintroduction to NH prohibited HB 240

Women

- health care
 - insurance coverage for contraceptive drugs and services required SB 175
 - insurance coverage for infertility treatments SB 52
 - study, members added and reporting date extended HB 214
- infants, breast feeding in public authorized HB 441

Work Incentives Improvement Act of 1999, Congress urged to pass SR 10

Workers' compensation

- appeals board, attorney members, compensation increased HB 606am
- benefits paid same day each month SB 33
- domestic employee defined HB 742
- managed care programs, review by labor commissioner; procedures HB 606am
- pre-approval of payment for medical services, procedure SB 96
- small business exempted from certain safety program requirements HB 471
- worker employed by 2 or more employers, payments clarified SB 63

World War II

- memorial
 - appropriation SB 12
 - Congress urged to authorize construction SR 5
- veterans memorial bridge, Concord, named SB 155

Wright, Tammy, nominated and elected assistant clerk 6

Wrongful death, structured settlement agreements, plaintiffs rights to designate broker and insurance company HB 470

X

X-ray technicians, licensing, study SB 60

X-rays, licensing of physicians providing teleradiology services SB 53

Y

Year 2000 computer problems, state sovereign immunity; board of claims jurisdiction HB 605

Youth development center, responsibility of juvenile corrections department SB 229

Youth development services department

- 1997 renovations appropriation, expenditure delayed for approval of long range capital planning and utilization committee HB 25am
- administrative attachments, juvenile parole board; age of delinquents changed to 17 SB 150
- capital improvements appropriation; various lapse dates extended HB 25
- repealed; replaced by juvenile corrections department SB 229
- Tobey school elevator, appropriation HB 25am

Z

Zoning

- appeals, date of decision, study HB 562am
- boards of adjustment, rehearing and appeal procedures, date changed HB 562
- ordinances, agricultural preservation a purpose; presumption that agricultural uses are permitted HB 97
- sprawl
 - avoidance, land use management committee to study HB 288
 - defined; duties of state agencies, office of state planning, and council on resources and development HB 208
 - effects, study by office of state planning HB 207

SENATE JOURNAL

NUMERICAL INDEX

This index, arranged by bill and resolution number, gives page numbers for all action in the Senate on each numbered bill and resolution. They are listed in the following order:

SB	Senate Bills
SJR	Senate Joint Resolution
SCR	Senate Concurrent Resolution
SR	Senate Resolution
HB	House Bills
HJR	House Joint Resolution
HCR	House Concurrent Resolution
CACR	Constitutional Amendment Concurrent Resolution

To find a bill by its subject see the Subject Index immediately preceding this Numerical Index. All matters not relating to bills and resolutions will be found in the Subject Index.

The abbreviations listed below are used in the Numerical Index.

adop	adopted
am	amended, amendment
Cap Budget	referred to Capital Budget committee
Com	re-referred to committee
conc	concurring
conf	conference committee
Econ Dev	referred to Economic Development committee
enr	enrolled
Finance	referred to Finance committee
H	House
intro	introduced, introduction
IP	indefinitely postponed
K	killed (inexpedient to legislate)
LT	laid on the table
nonconc	nonconcurring
opin	opinion
psd	passed
RC	roll call
rcmt	recommitted
recon	reconsideration, reconsidered
rej	rejected
rep	report
req	request, requested
S Ct	New Hampshire Supreme Court
SO	special order
study	referred to interim study committee
wthd	withdrawn, withdrew, withdrawal

SENATE BILLS

SBs 1-10, not introduced.

SB 11-FN, relative to the filing fee for securities in a combined prospectus offered for sale in New Hampshire by a mutual fund. (Sen. Fraser, Dist 4; Rep. Francoeur, Rock 22: Banks)

44, Finance 159-160, psd 656, 738, H Com 1431

SB 12-FN-A, relative to the World War II memorial campaign and making an appropriation therefor. (Sen. Cohen, Dist 24 et al: Public Affairs)

44, Finance 137-138, psd 161-162, 169, H conc 1311, enr 1525 (Chapter 242)

SB 13, establishing a committee to study joint maintenance agreements in school districts. (Sen. Johnson, Dist 3: Education)

First new title: relative to the bonding authority of joint boards in joint maintenance agreements and relative to the eligibility of joint maintenance agreement districts for school building aid.

Second new title: establishing a committee to study joint maintenance agreements in school districts.

44, am 594-595, psd 648, conc H am 1131-1132, enr 1142 (Chapter 115)

SB 14, establishing a committee to study the financial impact of federal welfare reform on the cities and towns of New Hampshire. (Sen. D'Allesandro et al: Public Institutions, Health and Human Services)

New title: establishing a committee to study the impact of federal welfare reform on the cities and towns of New Hampshire.

44, LT 143-145, am 168, psd 169, H conc 1129, enr 1141 (Chapter 94)

SB 15-FN-A, creating a position within the insurance department. (Sen. Squires, Dist 12; Rep. Kurk, Hil 5: Insurance)

New title: creating a position within the insurance department and making an appropriation therefor.

44, am & Finance 834-835, K 1163

SB 16, relative to revocation of wills by divorce. (Sen. Gordon, Dist 2: Judiciary)

44, psd 135, 157, conc H am 1178, enr 1226 (Chapter 148)

SB 17, relative to funeral arrangements. (Sen. Brown, Dist 17: Public Affairs)

44, am 163-165, psd 169, H conc 860, enr am 865, enr 944 (Chapter 62)

SB 18, relative to the rulemaking authority of the state board of education regarding certain educational personnel. (Sen. Disnard, Dist 8: Education)

44, am 454-455, psd 538, H conc 970, enr 973 (Chapter 82)

SB 19, extending the reporting date of the state substance abuse treatment delivery system committee. (Sen. Wheeler, Dist 21 et al: Public Institutions, Health and Human Services)

44-45, am 145-146, psd 158, H conc 860, enr 861 (Chapter 38)

SB 20, limiting the price for resale of tickets to motor sports events at the New Hampshire International Speedway to the original purchase price. (Sen. F. King, Dist 1 et al: Energy and Economic Development)

First new title: relative to the sale or resale of tickets to motor sports events at the New Hampshire International Speedway.

Second new title: relative to soliciting or selling tickets to entertainment or sports events on public ways.

45, LT 132-133, am 1106, psd 1108, conc H am 1334-1335, enr 1524 (Chapter 243)

SB 21, relative to domestic animals. (Sen. Wheeler et al: Wildlife and Recreation)

45, psd 155, 158, conc H am 1132, enr 1142 (Chapter 116)

SB 22, relative to the pilot program relative to the administration of medication in residential care facilities. (Sen. Wheeler, Dist 21; Rep. Emerton, Hil 7: Public Institutions, Health and Human Services)

45, am 467-469, psd 538, H conc 1130, enr 1142 (Chapter 117)

SB 23, urging the President and Congress to extend the Older Americans Act for a 3-year period. (Sen. Wheeler, Dist 21 et al: Internal Affairs)

45, psd 163, 169 (See SR 9)

- SB 24**, extending the application of certain provisions of the child protection act to all children in out-of-home placements. (Sen. Gordon, Dist 2: Judiciary)
45, psd 663, 738, conc H am 1178, enr 1226 (Chapter 149)
- SB 25**, expanding the waiver of administration under the law regarding decedents' estates. (Sen. Gordon, Dist 2: Judiciary)
45, am 439-441, psd 538, conc H am 1178, enr 1226 (Chapter 150)
- SB 26**, establishing a committee to study trustee process. (Sen. Gordon, Dist 2; Rep. Keans, Str 16: Judiciary)
45, psd 135, 158, conc H am 1178, enr 1227 (Chapter 151)
- SB 27**, relative to assessment fee schedules for trust companies and banks. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10: Banks)
45, psd 439, 538, conc H am 1336, enr am 1518-1519, enr 1529 (Chapter 269)
- SB 28**, relative to food production and distribution and food service licensure. (Sen. Wheeler, Dist 21; Rep. Emerton, Hil 7: Public Institutions, Health and Human Services)
45, am 469-470, psd 538, conc H am 1335, enr am 1525-1526, enr 1547 (Chapter 307)
- SB 29-LOCAL**, relative to the proper sheltering of dogs. (Sen. Cohen, Dist 24 et al: Wildlife and Recreation)
45, am 813-815, psd 821, H Com 1431
- SB 30**, relative to the cruelty to animals law. (Sen. Cohen, Dist 24 et al: Wildlife and Recreation)
45, am 580-581, psd 589, nonconc H am, conf 1107, 1224-1225, rep adop 1424-1425, enr 1547 (Chapter 308)
- SB 31-LOCAL**, allowing property taxpayers to choose whether to participate in the funding of nonprofit organizations through their property taxes. (Sen. Brown, Dist 17: Ways and Means)
45, K 925-926
- SB 32**, relative to an employer exemption under the unemployment compensation laws. (Sen. Brown, Dist 17: Insurance)
- New title**: exempting employers of certain part-time contractors from providing unemployment compensation, and establishing a study committee to analyze ways to reconcile inconsistencies within the statutes with regard to independent contractors.
45, psd 835-836, 862, conc H am 1333, enr 1525 (Chapter 244)
- SB 33**, requiring workers' compensation indemnity benefits to be paid on the same date each month. (Sen. Trombly, Dist 7: Insurance)
46, K 541
- SB 34**, requiring at least 2 crew members on trains. (Sen. Trombly, Dist 7: Transportation)
46, K 176
- SB 35**, establishing a study committee to investigate motor vehicle inspection requirements. (Sen. Trombly, Dist 7: Transportation)
46, psd 176, 245, H nonconc 969
- SB 36-FN-A**, relative to salary increases for care providers for persons with developmental and acquired disabilities and making an appropriation therefor. (Sen. Squires, Dist 12 et al: Public Institutions, Health and Human Services)
46, Finance 146-147, psd 162, 169, H Com 1310
- SB 37-FN**, relative to fees for testing of domestic animals for disease. (Sen. Wheeler, Dist 21 et al: Wildlife and Recreation)
46, Finance 155, psd 162, 169, H conc 1312, enr am 1509, enr 1525 (Chapter 245)
- SB 38**, relative to the optional term for election of a cooperative school district moderator. (Sen. Squires, Dist 12: Public Affairs)
46, psd 139, 158, H conc 970, enr 973 (Chapter 75)
- SB 39**, eliminating the voting column for vice-president on the presidential primary ballot. (Sen. McCarley, Dist 6; Sen. J. King, Dist 18: Public Affairs)
46, K (RC) 139-143

- SB 40**, relative to the health care fund. (Sen. Squires, Dist 12: Finance)
46, am 117-118, psd 126, H nonconc 1432
- SB 41**, correcting a reference in provisions relating to hunting and fishing licenses for members of the armed services. (Sen. Johnson, Dist 3: Wildlife and Recreation)
New title: clarifying references in provisions relating to hunting and fishing licenses for members of the United States army, navy, marines, air force, and coast guard.
46, psd 155-156, 158, conc H am 861, enr 944 (Chapter 63)
- SB 42-LOCAL**, establishing a committee to study safety improvements at the U.S. Route 1 traffic circle in the city of Portsmouth. (Sen. Cohen, Dist 24 et al: Transportation)
46, psd 176-177, 245, H conc & enr am 1130, enr 1141 (Chapter 95)
- SB 43**, creating a commission to research making Hilton Park in the city of Dover property of that city. (Sen. Wheeler, Dist 21; Rep. Gilmore, Str 11: Energy and Economic Development)
46, psd 133, 158, H nonconc 1129
- SB 44-FN**, relative to physician aid-in-dying for certain persons suffering from a terminal condition. (Sen. Wheeler, Dist 21; Rep. Guest, Graf 10: Judiciary)
56, Com 441
- SB 45-FN-A**, allowing a waiver of interest for the time period of an extension of the date of payment of the legacies and successions tax. (Sen. Russman, Dist 19 et al: Judiciary)
47, Finance (RC) 135-137, psd 162-163, 169, H conc 1233, enr 1329 (Chapter 178)
- SB 46-FN**, relative to the applicability of mooring permit requirements. (Sen. Johnson, Dist 3 et al: Wildlife and Recreation)
47, rcmt 581, Com 815
- SB 47-FN**, relative to compensation for time lost by fish and game conservation officers for injuries received in the line of duty, and restoring certain leave time for a conservation officer injured while on duty on August 19, 1997. (Sen. F. King, Dist 1 et al: Wildlife and Recreation)
New title: relative to restoring certain leave time for a conservation officer injured while on duty on August 19, 1997.
47, Finance 552-553, psd 656, 738, nonconc H am, conf 1277, 1331, rep adop 1500, 1516, enr 1547 (Chapter 309)
- SB 48-FN-LOCAL**, relative to establishing an adequate education and education financing reform commission and relative to state grants for educational adequacy for fiscal years 2000 and 2001, and making appropriations therefor. (Sen. Squires, Dist 12: Education)
47, K 83
- SB 49-FN-A-LOCAL**, relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education, and making an appropriation therefor. (Sen. McCarley, Dist 6; Sen. D'Allesandro, Dist 20: Education)
47, am (RC) & Finance 83-113, K 1388
- SB 50 FN-LOCAL**, relative to the state's responsibility to provide an adequate education. (Sen. Gordon, Dist 2; Rep. R. McKinley, Str 2: Education)
56, LT 113-114, (RC) 1100, K 1107
- SB 51-FN-A-LOCAL**, establishing a referendum for a new taxation plan to fund public education. (Sen. Below, Dist 5 et al: Public Affairs)
56, rules suspended & LT 67-68, K 1107
- SB 52**, requiring insurance coverage for infertility treatments. (Sen. Cohen, Dist 24; Rep. M. Fuller Clark, Rock 36: Insurance)
56, am & LT (RC) 836-839, am (RC) 966-968, psd 971, H Com 1310
- SB 53-FN**, relative to licensure of physicians providing teleradiology services in this state. (Sen. Wheeler, Dist 21 et al: Public Institutions, Health and Human Services)
56, psd 470-473, 539, conc H am 1334, enr 1525 (Chapter 246)
- SB 54-FN**, relative to partial-birth abortion. (Sen. Francoeur, Dist 14 et al: Public Institutions, Health and Human Services)
56, IP (2 RCs) 1030-1035

- SB 55**, relative to health insurance for persons who use tobacco products. (Sen. Francoeur, Dist 14 et al: Insurance)
57, K (RC) 541-542
- SB 56**, amending the law relative to who may adopt. (Sen. Squires, Dist 12: Judiciary)
57, am 441-442, psd 539, H conc 970, enr 973 (Chapter 76)
- SB 57**, permitting challenges to judges. (Sen. Roberge, Dist 9 et al: Judiciary)
57, rcmt 569-570, am 961-962, psd 971, H nonconc 1182
- SB 58**, allowing clinical mental health counselors to obtain third party payment for services rendered which would otherwise qualify for such payments. (Sen. D'Allesandro, Dist 20: Insurance)
57, psd 542-543, 558, conc H am 1333, enr am 1526, enr 1547 (Chapter 310)
- SB 59-LOCAL**, relative to bonding of animal owners convicted of animal cruelty. (Sen. Wheeler, Dist 21; Sen. Roberge, Dist 9: Wildlife and Recreation)
57, rcmt 436-438, am 815-816, psd 821, H conc & enr 1226 (Chapter 152)
- SB 60**, establishing a committee to study the licensure of radiographers and radiologic technicians. (Sen. Wheeler, Dist 21; Rep. Nordgren, Graf 10: Public Institutions, Health and Human Services)
New title: establishing a committee to study the licensure of radiographers and radiologic technologists.
57, psd 166, 169, conc H am 969, enr am 1110, enr 1141 (Chapter 96)
- SB 61**, relative to the definition of ski craft. (Sen. Johnson, Dist 3: Wildlife and Recreation)
57, Com 581-582
- SB 62-FN-A-LOCAL**, relative to the acquisition of Umbagog Lake Campground in Cambridge, New Hampshire, and making an appropriation therefor. (Sen. F. King, Dist 1 et al: Wildlife and Recreation)
57, Finance 167, psd 873, 944, conc H am 1412, enr 1529 (Chapter 270)
- SB 63**, relative to applicability of workers' compensation to persons employed by 2 or more employers. (Sen. Cohen, Dist 24: Insurance)
57, K 543
- SB 64**, relative to powers of appointment. (Sen. Gordon, Dist 2 et al: Judiciary)
57, am 251-252, psd 422, H conc 1130, enr 1142 (Chapter 118)
- SB 65**, establishing a study committee to review field activities conducted by the department of health and human services relative to children, youth and families. (Sen. Gordon, Dist 2 et al: Public Institutions, Health and Human Services)
57, psd 166-167, 169, H conc & enr 778 (Chapter 29)
- SB 66**, relative to structured settlements. (Sen. McCarley, Dist 6: Judiciary)
57, Com 916-917
- SB 67**, limiting liability resulting from the use of automatic external defibrillation. (Sen. Gordon, Dist 2; Rep. Pilliod, Bel 3: Judiciary)
57, psd 570, 589, conc H am 1309, enr am 1526-1527, enr 1547 (Chapter 311)
- SB 68**, establishing minimum 400 foot buffer zones around sensitive areas from application of herbicides. (Sen. Russman, Dist 19 et al: Environment)
New title: establishing minimum 300 foot buffer zones around sensitive areas from application of herbicides, authorizing a study of environmental effects from residual herbicides and making an appropriation therefor.
57, am (2RCs) & Finance 977-987, am 1163-1164, psd 1179, H nonconc 1432
- SB 69-LOCAL**, relative to health care charitable trusts and community benefits. (Sen. Wheeler, Dist 21 et al: Executive Departments and Administration)(Vacate to Public Institutions, Health and Human Services)
58, com changed 66, rcmt, 601-604, LT 795-798, am 855-860, psd 862, conc H am 1336, enr 1548 (Chapter 312)
- SB 70**, changing the safe drinking water standard for MTBE. (Sen. Wheeler, Dist 21 et al: Environment)
New title: relative to prevention of MTBE contamination of drinking water and groundwater.
58, psd 565-566, 589, nonconc H am, conf 1277-1278, 1309, rep adop 1500-1502, 1516, enr am 1537-1538, enr 1546 (Chapter 313)

- SB 71**, establishing a ban on MTBE in gasoline as of January 1, 2000. (Sen. Wheeler, Dist 21 et al: Environment)
New title: prohibiting the use of MTBE as an additive in gasoline.
 58, rcmt 566-567, am (RC) 987-991, psd 1108, H Com 1233
- SB 72**, exempting certain portions of Seabrook Beach Village District and certain portions of Hampton Beach from certain provisions of the excavating, filling, and construction permit laws. (Sen. Hollingworth, Dist 23; Sen. J. King, Dist 18: Environment)
 58, LT 247-248, 260, Finance 1103, Com 1388
- SB 73**, relative to eligibility for off-premise liquor licenses. (Sen. McCarley, Dist 6 et al: Ways and Means)
 58, psd 926-927, 944, H nonconc 1311
- SB 74**, relative to the rulemaking authority of the real estate commission concerning practices relating to certain dwellings. (Sen. Fraser, Dist 4: Executive Departments and Administration)
 58, psd 114, 126, H conc 1233, enr 1329 (Chapter 179)
- SB 75**, relative to out-of-state boats. (Sen. Johnson, Dist 3: Transportation)
New title, establishing a committee to study the establishment of a permit system for vessels registered in another state temporarily using the waters of New Hampshire.
 58, psd 177-178, 245, conc H am 970, enr 1141 (Chapter 97)
- SB 76-LOCAL**, allowing certain municipalities to offer tax exemptions to foster commercial and industrial construction. (Sen. F. King, Dist 1 et al: Ways and Means)
 58, am 927-932, psd 944, H Com 1431
- SB 77**, relative to authorized regional enrollment area schools. (Sen. Fraser, Dist 4; Rep. Millham, Bel 4: Education)
 58, am 455-457, psd 539, conc H am 970, enr am 1109, enr 1142 (Chapter 119)
- SB 78**, clarifying charitable trust solicitation campaign records. (Sen. Hollingworth, Dist 23: Executive Departments and Administration)
New title: relative to contract requirements between a paid solicitor and a charitable trust.
 58, am 133-134, psd 158, conc H am 1336, enr 1525 (Chapter 247)
- SB 79**, requiring vendors who operate electronic customer service terminals to disclose to customers if they place floor holds on or charge other fees to the bank accounts of customers using ATM cards at such terminals. (Sen. J. King, Dist 18 et al: Banks)
 58, Com 947
- SB 80**, adding the name of Martin Luther King, Jr. to Civil Rights Day. (Sen. Hollingworth, Dist 23 et al: Public Affairs)
 59, SO 454, psd (RC) 553-558, 559, H conc 1130, enr 1142 (Chapter 105)
- SB 81**, permitting the city of Manchester to issue bonds to finance unfunded liability of the city's employee pension system. (Sen. Krueger, Dist 16: Banks)
 59, am 564-565, psd 589, conc H am 962, enr 1141 (Chapter 98)
- SB 82**, relative to the termination of employees. (Sen. J. King, Dist 18 et al: Executive Departments and Administration)
 59, LT 114-117, 819-820, 964-965, am (RC) 1103-1106, psd 1108, H nonconc 1311
- SB 83**, relative to the regulation of the practice of veterinary medicine. (Sen. Wheeler, Dist 21 et al: Executive Departments and Administration)
 59, rcmt 833, am 951-953, psd 971, conc H am 1332, enr am 1538-1539, enr 1546 (Chapter 314)
- SB 84**, relative to eligibility for welfare benefits. (Sen. Francoeur, Dist 14 et al: Public Institutions, Health and Human Services)
 59, Com 604
- SB 85-FN**, including the judiciary as a public employer under the public employee labor relations act. (Sen. F. King, Dist 1 et al: Insurance)
 59, psd 544, 559, H Com 1310
- SB 86**, relative to enforcement of the collection and payment of county taxes by the county treasurer. (Sen. F. King, Dist 1: Ways and Means)
 59, psd 577-578, 589, H Com 1431

- SB 87**, relative to the authority of the auxiliary marine patrol. (Sen. Johnson, Dist 3: Transportation)
59, K 178
- SB 88-FN**, relative to penalties for third driving while intoxicated offenses. (Sen. Francoeur, Dist 14 et al: Judiciary)
59, Finance (RC) 570-573, psd 873-874, 944, H Com 1431
- SB 89-LOCAL**, relative to library trustees. (Sen. Hollingworth, Dist 23; J. King, Dist 18: Executive Departments and Administration)
59, psd 161, 169, H Com 1431
- SB 90**, establishing a committee to study and investigate the needs for small business loans to pay for technical improvements for persons working at home. (Sen. Trombly, Dist 7: Energy and Economic Development)
59, psd 831, 862, H nonconc 1311
- SB 91**, designating segments of the Cold River as protected under the rivers management and protection program. (Sen. Disnard, Dist 8 et al: Environment)
59-60, psd 161, 169, H conc 860, enr 863 (Chapter 64)
- SB 92-FN**, relative to education grants funded by the companion animal neutering fund. (Sen. Wheeler, Dist 21 et al: Wildlife and Recreation)
60, psd 167, 169, H nonconc 1182
- SB 93**, relative to self-storage facility liens. (Sen. Blaisdell, Dist 10 et al: Judiciary)
New Title: relative to self-service storage facility liens.
60, am 442-445, psd 539, conc H am 1413, enr am 1539-1540, enr 1546 (Chapter 315)
- SB 94**, relative to absentee voter affidavits. (Sen. Trombly, Dist 7; Rep. Buckley, Hil 44: Public Affairs)
60, LT 785-790, am 1101-1103, psd 1108, H Com 1233
- SB 95**, relative to uninsured motor vehicle coverage. (Sen. Cohen, Dist 24: Insurance)
60, K 880-881
- SB 96**, relative to pre-approval of payment of medical services by workers' compensation insurers. (Sen. Cohen, Dist 24: Insurance)
60, Com 881
- SB 97**, relative to testamentary trusts which are institutional funds. (Sen. Cohen, Dist 24: Banks)
60, Com 565
- SB 98**, relative to a counselor's duty to report child abuse. (Sen. Cohen, Dist 24: Judiciary)
60, K 427-428
- SB 99**, allowing the same interest rates and charges on small loans under \$1,500 as is allowed on small loans over \$1,500. (Sen. D'Allesandro, Dist 20: Banks)
60, psd 160, 169, H conc 1312, enr am 1512, enr 1524 (Chapter 248)
- SB 100 -FN-A-LOCAL**, establishing a pilot program to provide homeless people with free meals in exchange for volunteer work and continually appropriating certain funds for this purpose. (Sen. D'Allesandro, Dist 20; Rep. M. Fuller Clark, Rock 36: Public Institutions, Health and Human Services)
60, K 473
- SB 101**, relative to landlord-tenant obligations. (Sen. Disnard, Dist 8: Public Affairs)
60, am 165-166, psd 169, nonconc H am, conf 1130-1131, 1225, rep adop 1502-1503, 1516 (unable to agree)
- SB 102**, relative to premium tax penalties. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10: Insurance)
New title: relative to payment of the premium tax.
60, am 544-545, psd 559, H conc 1432, enr 1529 (Chapter 271)
- SB 103**, making certain changes in the insurance laws. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10: Insurance)
60, am 545, psd 559, H conc 1312, enr 1441, veto sustained 1687
- SB 104**, making a variety of changes in certain insurance laws. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10: Insurance)
60, psd 545-546, 559, H conc 1312, enr am 1509, enr 1525 (Chapter 249)

- SB 105**, relative to continuation of coverage of health insurance. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10: Insurance)
60, psd 546, 559, conc H am 1413, enr am 1540, enr 1546 (Chapter 316)
- SB 106**, relative to continuing education for insurance adjusters. (Sen. Fraser, Dist 4; Sen. Blaisdell, Dist 10: Insurance)
61, K 546
- SB 107**, relative to fees for examination of domestic societies. (Sen. J. King, Dist 18 et al: Insurance)
New title: relative to fees for examination of domestic societies and foreign societies.
61, am 173-174, psd 245, H conc 1312, enr 1441 (Chapter 215)
- SB 108**, relative to the dispensing of medications by optometrists. (Sen. Gordon, Dist 2 et al: Executive Departments and Administration)(Vacated to Public Institutions, Health and Human Services)
New title: relative to the co-management of patients with primary open-angle glaucoma and establishing a glaucoma co-management committee.
61, com changed 78, am (3 RCs) 1060-1076, psd 1108, H nonconc 1311
- SB 109**, deleting the witnessing requirement for notices of lease. (Sen. Gordon, Dist 2: Judiciary)
61, psd 252, 423, H conc 970, enr 973 (Chapter 77)
- SB 110**, allowing for discharges of mortgages by affidavit of a New Hampshire attorney. (Sen. Gordon, Dist 2: Judiciary)
61, psd 428-429, 438, H conc 1312, enr 1441 (Chapter 216)
- SB 111**, relative to requirements for acknowledgments and jurats by justices of the peace. (Sen. Gordon, Dist 2: Judiciary)
61, am 253, psd 423, conc H am 1178-1179, enr 1226 (Chapter 153)
- SB 112**, relative to the guardianship of minors. (Sen. Gordon, Dist 2 et al: Judiciary)
61, am 253-254, psd 423, conc H am 1179, enr am 1276, enr 1428 (Chapter 217)
- SB 113**, establishing a division of travel and tourism development within the department of resources and economic development. (Sen. Hollingworth, Dist 23 et al: Executive Departments and Administration)
61, psd 172, 245, conc H am 1412-1413, enr am 1540-1541, enr 1546 (Chapter 317)
- SB 114**, relative to health carrier disclosure of third party liability. (Sen. McCarley, Dist 6 et al: Insurance)
61, am 547, psd 559, H conc 1432, enr 1547 (Chapter 318)
- SB 115**, relative to participation by certain judges in the state employee group health and dental insurance programs. (Sen. Gordon, Dist 2: Insurance)
61, psd 134, 158, H nonconc 1311
- SB 116**, eliminating straight ticket voting. (Sen. J. King, Dist 18 et al: Public Affairs)
61, psd 454, 539, H Com 1233
- SB 117**, relative to the duties of the board of trustees of the community-technical college system. (Sen. Johnson, Dist 3: Education)
New Title: relative to the duties of the board of trustees of the community-technical college system and relative to reports made to the commissioner of the regional community-technical college system.
61, psd 160, 245, conc H am 970, enr 1141 (Chapter 99)
- SB 118**, relative to requirements for retail installment contracts for motor vehicle sales. (Sen. Fraser, Dist 4: Transportation)
61, psd 147-148, 158, H conc 1312, enr 1441 (Chapter 218)
- SB 119**, relative to the withdrawal of a pupil from school. (Sen. J. King, Dist 18 et al: Education)
61, psd 160-161, 245, H conc 860, enr 861 (Chapter 39)
- SB 120**, relative to the health services planning and review board. (Sen. Squires, Dist 12; Rep. Emerton, Hil 7: Public Institutions, Health and Human Services)
62, K 798
- SB 121**, requiring reports to the department of justice following certain DWI arrests and refusals to take alcohol concentration tests. (Sen. Johnson, Dist 3: Judiciary)
62, am 445-446, psd 539, H nonconc 969

- SB 122**, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence. (Sen. J. King, Dist 18 et al: Judiciary)
62, LT 429-434, psd (RC) 435, 438, H nonconc 1131
- SB 123**, allowing nontestamentary transfer on death of mutual fund shares under the uniform transfer on death (TOD) security registration act. (Sen. Wheeler, Dist 21 et al: Banks)
62, K 160
- SB 124**, establishing a committee to study the integration of technology at the state and municipal level. (Sen. Below, Dist 5; Rep. N. Kaen, Str 7: Internal Affairs)
New title: establishing a committee to study the integration of technology at the state, county, and municipal level.
62, psd 250-251, 423, nonconc H am, conf 1131, 1225, rep adop 1503-1504, 1516, enr 1548 (Chapter 319)
- SB 125**, prohibiting prison inmates and persons on probation or parole from changing their names. (Sen. Larsen, Dist 15 et al: Judiciary)
New title: placing restrictions on name changes for certain felons.
62, am 254-255, psd 423, H nonconc 1432
- SB 126**, requiring approval of the superior court or, in the case of workers' compensation, the labor commissioner, as a precondition to transfer of any structured settlement payment rights. (Sen. Blaisdell, Dist 10: Judiciary)
62, Com 916-917
- SB 127-FN-A-LOCAL**, establishing a local property tax education homestead allowance against school taxes on residential real estate, establishing a fund to reimburse municipalities for such exemptions, and making an appropriation therefor. (Sen. Brown, Dist 17 et al: Ways and Means)
62, Com 932
- SB 128**, replacing the housing assistance fund trust fund with a homeless prevention fund. (Sen. D'Allesandro, Dist 20 et al: Public Institutions, Health and Human Services)
62, rcmt 174-175, Com 843
- SB 129 -LOCAL**, requiring towns to disclose any reimbursements received to offset special education expenditures. (Sen. Gordon, Dist 2 et al: Education)
New title: requiring school districts to disclose any reimbursements received to offset special education expenditures.
62, am 655-656, psd 738, H conc 1233, enr 1329 (Chapter 180)
- SB 130**, establishing a committee to study issues regarding procedures and standards for selection and supervision of court-appointed guardians ad litem. (Sen. Gordon, Dist 2 et al: Judiciary)
63, am 255, psd 423, H conc & enr 778 (Chapter 30)
- SB 131-FN-A**, appropriating funds to the office of travel and tourism. (Sen. Trombly, Dist 7; Sen. Cohen, Dist 24: Finance)
First new title: updating the name of the office of vacation travel to the office of travel and tourism in nonconforming RSA sections.
Second new title: changing the name of the office of travel and tourism to the office of travel and tourism development, and updating outdated references to the office of vacation travel.
63, am 874, psd 944, conc H am 1333, enr 1525 (Chapter 250)
- SB 132**, requiring the removal of the telecommunications tower on Mount Kearsarge. (Sen. Trombly, Dist 7; Sen. Below, Dist 5: Environment)
63, Com 869-870
- SB 133-FN**, establishing a process for reviewing judges. (Sen. Brown, Dist 17; Sen. Roberge, Dist 9: Judiciary)
63, K (RC) 434-435
- SB 134-FN**, relative to medicaid reimbursement rates and dental care. (Sen. Wheeler, Dist 21 et al: Public Institutions, Health and Human Services)
63, Finance (RC) 473-474, psd (RC) 656-658, 738, H Com 1310
- SB 135-FN**, relative to water supply land protection grants. (Sen. Russman, Dist 19 et al: Environment)
63, LT 248, Finance 260-261, am 567-568, psd 589, H Com 1310

- SB 136-FN**, allowing certain state employees to take paid leave to participate in disaster relief service work. (Sen. Fraser, Dist 4: Executive Departments and Administration) 63, Com 172
- SB 137-FN**, relative to use of social security numbers in child support enforcement and in the issuance of driver's licenses. (Sen. Squires, Dist 12: Public Institutions, Health and Human Services) 63, am 474-478, psd 539, H Com 1226
- SB 138**, relative to joint tenancy with rights of survivorship. (Sen. Gordon, Dist 2: Judiciary) 63, psd 446, 539, H conc 970, enr 973 (Chapter 79)
- SB 139**, relative to self-proved wills and making reference changes. (Sen. Gordon, Dist 2: Judiciary) 63, psd 435-436, 438, H conc 970, enr am 1010, enr 1141 (Chapter 100)
- SB 140**, relative to ear piercing. (Sen. Squires, Dist 12: Public Institutions, Health and Human Services)
First new title: relative to ear and body piercing.
Second new title: relative to ear piercing.
 63, am 175-176, psd 245, nonconc H am, conf 1277, 1331, H rej rep, new conf 1509-1510, rep adop 1511-1512, 1516, enr 1548 (Chapter 320)
- SB 141**, relative to information not subject to the right-to-know law. (Sen. Fraser, Dist 4 et al: Judiciary) 63, psd 574, 589, H conc & enr 1226 (Chapter 154)
- SB 142**, establishing a process for appeal of decisions of the executive director of fish and game. (Sen. Disnard, Dist 8 et al: Wildlife and Recreation) 63, K 168
- SB 143 -FN**, relative to penalties for incest. (Sen. Brown, Dist 17: Judiciary) 64, rcmt 436, Finance (RC) 600-601, am 1164, psd 1179, H Com 1431
- SB 144**, relative to qualifications for members of the fish and game commission. (Sen. Wheeler, Dist 21 et al: Wildlife and Recreation) 64, Com 1100
- SB 145 -FN-A**, relative to state financial aid for state fairs, and making an appropriation therefor. (Sen. Blaisdell, Dist 10 et al: Wildlife and Recreation) 64, Finance 582-583, psd 658, 738, H nonconc 1311
- SB 146**, granting district courts exclusive jurisdiction over actions involving real estate purchase deposits held in escrow accounts. (Sen. Cohen, Dist 24 et al: Judiciary)
New title: granting district courts exclusive jurisdiction over actions involving certain real estate purchase deposits held in escrow accounts.
 64, am 466-467, psd 539, H nonconc 1183
- SB 147**, relative to self-referrals for chiropractic care under managed care organizations. (Sen. Wheeler, Dist 21 et al: Insurance) 64, LT (RC) 881-889, am & LT (2 RCs) 1076-1080, (RC) 1090, Finance 1107, am (RC) 1165-1170, psd 1179, H Com 1311
- SB 148**, relative to the content of personnel files of police officers. (Sen. Roberge, Dist 9: Judiciary) 64, K 574
- SB 149 -FN**, regulating the practice of hypnotherapy. (Sen. Roberge, Dist 9 et al: Public Institutions, Health and Human Services) 64, K 798
- SB 150**, making certain reference changes to the department of youth development services. (Sen. J. King, Dist 18 et al: Public Institutions, Health and Human Services) 64, am 255-258, psd 423, H conc 1226, enr am 1276-1277, enr 1428 (Chapter 219)
- SB 151**, relative to assignment of judges. (Sen. Roberge, Dist 9 et al: Judiciary) 64, rcmt 574-575, K 917
- SB 152 -LOCAL**, relative to the procedures for establishing a charter school. (Sen. D'Allesandro, Dist 20: Education) 64, psd 457, 539, H conc 1130, enr 1141 (Chapter 101)

- SB 153 -FN-A**, requiring that a percentage of gross revenues from liquor sales be placed into and continually appropriated to a special fund for alcohol education and abuse prevention programs. (Sen. Gordon, Dist 2 et al: Ways and Means)
New title: requiring that a percentage of profits derived by the liquor commission be placed into and continually appropriated to a special fund for alcohol education and abuse prevention and treatment programs.
 64, am & Finance 932-935, psd 1170, 1180, H Com 1431
- SB 154**, relative to wildlife species under the endangered species conservation act. (Sen. Wheeler, Dist 21; Sen. Cohen, Dist 24: Wildlife and Recreation)
 64, K 816
- SB 155**, relative to the naming of certain bridges in the city of Concord. (Sen. Larsen, Dist 15 et al: Transportation)
 65, psd 178-179, 245, H conc 1130, enr 1141 (Chapter 102)
- SB 156**, granting the commissioner of transportation authority to layout and approve the construction of a restricted use driveway onto a public highway. (Sen. F. King, Dist 1: Transportation)
New title: granting the commissioner of transportation authority to layout and approve the construction of a restricted use driveway onto a public highway in Canterbury and creating a legislative study committee to consider options for addressing the development of major projects which have statewide or significant regional impacts, such as the New Hampshire International Speedway.
 65, am 1096-1099, psd 1108, H nonconc 1232-1233
- SB 157**, clarifying that a prisoner's right to vote absentee is in his or her town or city of former residence. (Sen. Larsen, Dist 15 et al: Public Affairs)
 78, LT 1091, K 1108
- SB 158 -FN**, relative to indecent exposure. (Sen. J. King, Dist 18 et al: Judiciary)
New title: relative to definitions and penalties for indecent exposure and inclusion in certain sexual offender registry classifications.
 79, am & Finance 917-918, LT 1119, am 1174, psd 1180, nonconc H am, conf 1433, rep adop 1503, 1516, enr am 1541-1542, enr 1546 (Chapter 321)
- SB 159**, relative to early reduction of greenhouse gases. (Sen. Cohen, Dist 24 et al: Environment)
 79, psd 567, 589, conc H am 1232, enr 1441 (Chapter 220)
- SB 160**, establishing a committee to study and identify or establish the duties of the fish and game commission. (Sen. Disnard, Dist 8 et al: Wildlife and Recreation)
 79, psd 553, 559, conc H am 861, enr 973 (Chapter 78)
- SB 161-LOCAL**, relative to amending the contributory pension system for employees of the city of Manchester. (Sen. D'Allesandro, Dist 20 et al: Insurance)
New title: relative to amending the contributory pension system for employees of the city of Manchester and authorizing the town of Salem pension plan.
 79, psd 134-135, 158, conc H am 971, enr am 1110, enr 1141 (Chapter 103)
- SB 162**, establishing the voluntary small employer health insurance purchasing alliance. (Sen. Fraser, Dist 4; Sen. Trombly, Dist 7: Insurance)
New title: providing for the licensure and regulatory oversight of voluntary small employer health insurance purchasing alliances.
 79, am 889-900, psd 944, H Com 1311
- SB 163**, establishing a commission to study methods for reducing violent incidents involving children and guns. (Sen. Cohen, Dist 24 et al: Judiciary)
 79, am (RC) 781-784, psd 821, conc H am 1309, enr am 1542, enr 1546 (Chapter 322)
- SB 164**, relative to persons exempted from the registration of ophthalmic dispensers. (Sen. McCarley, Dist 6 et al: Public Institutions, Health and Human Services)
 79, am 258-259, psd 423, conc H am 1278, enr 1441 (Chapter 221)
- SB 165**, relative to the Uniform Trustees' Powers Act. (Sen. Gordon, Dist 2; Rep. Millham, Bel 4: Judiciary)
 79, am 575-576, psd 589, H conc 1130, enr 1142 (Chapter 111)

- SB 166**, requiring insurance coverage for certain physical, occupational, and speech therapies. (Sen. Squires, Dist 12: Insurance)
New title: establishing a committee to study insurance coverage for certain physical, occupational, and speech therapies.
79, am 900-901, psd 944, H nonconc 1311
- SB 167**, relative to off-label prescription drugs. (Sen. Wheeler, Dist 21 et al: Insurance)
79, am 901-907, psd 944, conc H am 1341, enr am 1542-1543, enr 1546 (Chapter 323)
- SB 168**, adopting a model statute as a result of the tobacco litigation master settlement agreement. (Sen. Below, Dist 5: Ways and Means)
New title: adopting a model statute included in the tobacco litigation master settlement agreement.
79, am 578-580, psd 589, conc H am 1278, enr 1441 (Chapter 222)
- SB 169-FN-A**, establishing a commission to study the department of health and human services and making an appropriation therefor. (Sen. Hollingworth, Dist 23 et al: Public Institutions, Health and Human Services)
79, K 259
- SB 170-FN-A**, establishing a parents as teachers pilot program in Sullivan county and making an appropriation therefor. (Sen. Wheeler, Dist 21 et al: Education)
80, am & Finance 457-460, psd 658, 738, H Com 1233
- SB 171-FN**, relative to homelessness in New Hampshire. (Sen. D'Allesandro, Dist 20; Rep. Garrish, Hil 37: Public Institutions, Health and Human Services)
80, K 604-605
- SB 172**, relative to representation by a citizen in a court proceeding. (Sen. Roberge, Dist 9 et al: Judiciary)
80, am 918-919, psd 944, conc H am 1309, enr 1525 (Chapter 251)
- SB 173-FN**, relative to optional allowances for beneficiaries of New Hampshire retirement system members. (Sen. J. King, Dist 18 et al: Insurance)
80, psd 547, 559, H conc 1233, enr 1329 (Chapter 181)
- SB 174**, relative to the regulation of telemarketers. (Sen. Disnard, Dist 8 et al: Executive Departments and Administration)
80, am 953-957, psd 971, H nonconc 1311
- SB 175-FN**, requiring insurance coverage for prescription contraceptive drugs and devices and for contraceptive services. (Sen. Wheeler, Dist 21 et al: Insurance)
New title: requiring insurance coverage for prescription contraceptive drugs and prescription contraceptive devices and for contraceptive services.
80, am (RC) 907-911, psd 944, conc H am 1336, enr 1525 (Chapter 252)
- SB 176-FN-A**, relative to technology support for individuals and making an appropriation therefor. (Sen. Hollingworth, Dist 23; Sen. J. King, Dist 18: Public Institutions, Health and Human Services)
80, Finance 576-577, am 658-659, psd 738, H Com 1431
- SB 177**, allowing marriage and family therapists to obtain third party payment for services rendered which would otherwise qualify for such payments. (Sen. Wheeler, Dist 21; Rep. C. Moore, Mer 19: Insurance)
80, psd 547-548, 559, conc H am 1334, enr am 1519-1520, enr 1529 (Chapter 272)
- SB 178-FN-A**, appropriating funds for mitigation relative to the dredging of Little Harbor. (Sen. Cohen, Dist 24; Rep. Cox, Rock 24: Environment)
New title: relative to appropriations to the port authority for dredging projects.
80, am & Finance 464-465, psd 874, 944, H Com 1233
- SB 179-FN**, allowing for motor vehicle license suspension or revocation for certain minors. (Sen. Wheeler, Dist 21: Transportation)
80, LT 809-811, K 1108
- SB 180**, establishing a committee to study the improvement of employment opportunities offered by the state of New Hampshire for persons with disabilities. (Sen. Trombly, Dist 7 et al: Executive Departments and Administration)
80, psd 172, 245, H conc 970, enr 973 (Chapter 83)

- SB 181-FN**, relative to the licensure of geologists. (Sen. Cohen, Dist 24 et al: Executive Departments and Administration)
81, Com 172-173
- SB 182-FN**, relative to eligibility for ordinary death benefits under the New Hampshire retirement system. (Sen. J. King, Dist 18 et al: Insurance)
126, am 548-549, psd 559, H conc 1432, enr 1529 (Chapter 273)
- SB 183-FN-A**, implementing recommendations developed through a statewide health care planning process and continually appropriating a special fund. (Sen. Squires, Dist 12 et al: Public Institutions, Health and Human Services)
First new title: establishing a New Hampshire health access corporation and continually appropriating a special fund and making an appropriation therefor, requiring the department of health and human services to make a biennial report on the health status of New Hampshire residents, relative to certain transfers to the health care fund, and relative to rates for pharmaceutical services.
Second new title requiring the department of health and human services to make a biennial report on the health status of New Hampshire residents, relative to rates for pharmaceutical services, requiring the department to conduct a study, and establishing a subcommittee to study affordable health insurance for low-income working adults.
126, am & Finance 798-804, psd (RC) 874-875, 944-945, nonconc H am, conf 1337, rep adop 1504-1505, 1516-1517, enr 1548 (Chapter 324)
- SB 184-FN-A**, repealing the tax on nuclear station property. (Sen. Francoeur, Dist 14 et al: Ways and Means)
127, K 935
- SB 185**, relative to property settlements in cases where certain domestic relationships have terminated. (Sen. Trombly, Dist 7 et al: Judiciary)
127, Com 576
- SB 186-FN**, relative to additional cost of living adjustments for certain retired group II firemen. (Sen. J. King, Dist 18 et al: Insurance)
New title: relative to additional cost of living adjustments and increased minimum allowances for certain retired group II members, and relative to requiring spousal acknowledgement of a member's election of an optional retirement allowance.
127, Finance 549, am 659-661, psd 738, H Com 1431
- SB 187 -FN-LOCAL**, relative to payment of group health insurance premiums for eligible retired teachers in the New Hampshire retirement system. (Sen. Blaisdell, Dist 10; Rep. Torr, Str 12: Insurance)
New title: relative to payment of group health insurance premiums for eligible retired teachers and for certain active or retired group II members in the New Hampshire retirement system.
127, am & Finance 549-550, psd 662, 738, conc H am 1433, enr 1529 (Chapter 274)
- SB 188-LOCAL**, allowing school districts to have a special vote on a bond issue in the same calendar year in which they voted on the bond issue. (Sen. Wheeler, Dist 21 et al: Public Affairs)
New title: allowing school districts operating under the official ballot form of meeting to have more than one special meeting per year through court petition on an appropriation question or issue.
127, rcmt 166, am 790-792, psd 821, H nonconc 1432
- SB 189-FN**, relative to the establishment of a civil rights act. (Sen. Pignatelli, Dist 13 et al: Judiciary)
127, am & Finance (RC) 446-451, am (2 RCs) 875-878, psd 945, conc H am 1312, enr am 1527, enr 1548 (Chapter 325)
- SB 190-FN**, relative to grievance procedures of managed care entities. (Sen. Squires, Dist 12: Insurance)
127, K 1084-1085
- SB 191**, relative to the New Hampshire higher educational and health facilities authority. (Sen. Larsen, Dist 15 et al: Education)
127, am 867-868, psd 945, conc H am 1332, enr 1524 (Chapter 253)

- SB 192**, relative to vital records. (Sen. D'Allesandro, Dist 20; Rep. Emerton, Hil 7: Public Institutions, Health and Human Services)
127, psd 605-606, 648, conc H am 1232, enr am 1512-1513, enr 1524 (Chapter 254)
- SB 193-FN**, relative to holiday pay for certain state employees. (Sen. J. King, Dist 18 et al: Executive Departments and Administration)
127, am 597-598, psd 648, H conc 1233, enr 1329 (Chapter 182)
- SB 194-FN-A**, dedicating certain sums in the moose management fund for the payment for damage done by moose to certain trees. (Sen. F. King, Dist 1 et al: Wildlife and Recreation)
127, psd (RC) 583-587, 589, recon notice 593, recon & LT (RC) 816-819, K 1108
- SB 195-FN-A**, appropriating funds for sludge testing. (Sen. Russman, Dist 19: Environment)
127, am & Finance 465-466, psd 878, 945, conc H am 1434, enr 1529 (Chapter 275)
- SB 196-FN-LOCAL**, relative to electric rate reduction financing. (Sen. Johnson, Dist 3 et al: Energy and Economic Development)
128, LT 975-977, am & Finance 1008-1010, Com 1389
- SB 197-FN-A**, establishing a pilot program for methadone maintenance treatment and making an appropriation therefor. (Sen. Wheeler, Dist 21 et al: Public Institutions, Health and Human Services)
First new title: establishing a pilot program for opioid agonist therapy of addiction and making an appropriation therefor.
Second new title: adding a duty to the committee to study the state substance abuse treatment delivery system.
128, am & Finance 843-845, psd 1170-1171, 1180, conc H am 1335, enr 1525 (Chapter 255)
- SB 198 -FN**, relative to certification of persons installing and servicing propane gas and heating oil equipment. (Sen. McCarley, Dist 6: Executive Departments and Administration)
New title: relative to voluntary certification of persons installing or servicing propane gas or heating oil equipment.
128, am & Finance 598-600, psd 879, 945, conc H am 1333-1334, enr 1524 (Chapter 256)
- SB 199**, establishing certain standards of accountability for health maintenance organizations and other entities providing health insurance through a managed care system. (Sen. Blaisdell, Dist 10 et al: Insurance)
128, am (2 RCs) 1010-1029, psd 1108, nonconc H am 1414
- SB 200**, relative to child care licensing procedures. (Sen. Gordon, Dist 2 et al: Public Institutions, Health and Human Services)
New title: relative to child day care licensing procedures.
128, psd 552, 559, conc H am 1334, enr am 1545, enr 1546 (Chapter 326)
- SB 201-FN**, reclassifying non-support as a felony under certain circumstances. (Sen. Pignatelli, Dist 13; Sen. McCarley, Dist 6: Judiciary)
128, Finance 919-920, psd 1119-1120, 1139, conc H am 1413, enr am 1527, enr 1548 (Chapter 327)
- SB 202-FN**, relative to collective bargaining rights of public employees. (Sen. D'Allesandro, Dist 20; Sen. Wheeler, Dist 21: Executive Departments and Administration)
128, Com 439
- SB 203-FN-A-LOCAL**, authorizing electronic games of chance at racetracks. (Sen. Blaisdell, Dist 10 et al: Finance)
128, Com 1582-1583
- SB 204**, establishing the New Hampshire excellence in higher education endowment trust fund. (Sen. Larsen, Dist 15 et al: Education)
128, psd 460-461, 539, nonconc H am, conf 1131, 1225, rep adop 1505, 1517, enr am 1544, enr 1546 (Chapter 328)
- SB 205-FN**, expanding medical coverage to pay dental assistance for adults on Medicaid. (Sen. Wheeler, Dist 21 et al: Insurance)
128, am & Finance (RC) 550-551, psd (RC) 879, 945, H Com 1311

- SB 206-FN-A-LOCAL**, establishing the tobacco use prevention fund and continually appropriating a special fund. (Sen. Squires, Dist 12 et al: Public Institutions, Health and Human Services)
New title: establishing the tobacco use prevention fund and continually appropriating a special fund and relative to the health care fund.
129, am & Finance 804-807, Com 1389
- SB 207**, relative to authorizing bonds for the construction and renovation of regional vocational education centers. (Sen. Larsen, Dist 15 et al: Education)
129, am & Finance 461-463, psd 662-663, 738, H Com 1233
- SB 208-FN**, establishing a "parents as scholars" program. (Sen. Wheeler, Dist 21 et al: Public Institutions, Health and Human Services)
129, psd (RC) 606-610, 648, H Com 1233
- SB 209-FN-LOCAL**, changing the jurisdiction over domestic relations matters from the superior courts to the district courts and establishing a study committee on certain matters concerning superior court justices. (Sen. Gordon, Dist 2: Judiciary)
New title: establishing a study committee on certain matters concerning superior court justices.
129, am & Finance 958-960, psd 1171, 1180, conc H am 1413, enr 1548 (Chapter 329)
- SB 210-FN-LOCAL**, relative to payment by the state for certain court-ordered placements of special education students. (Sen. Gordon, Dist 2 et al: Education)
129, Finance 595-596, Com 1389
- SB 211-FN-A**, reestablishing certain credits against the business profits tax. (Sen. Hollingworth, Dist 23; Sen. J. King, Dist 18: Ways and Means)
129, K 1583
- SB 212-FN**, requiring the insurance department to develop a plan to address the needs of persons with chronic illnesses and disabilities. (Sen. Squires, Dist 12 et al: Insurance)
129, Finance 466, psd 879-880, 945, H nonconc 1311
- SB 213-FN**, changing the name of the fish and game department to the wildlife department. (Sen. Wheeler, Dist 21; Sen. Cohen, Dist 24: Wildlife and Recreation)
129, K (RC) 587-588
- SB 214-FN**, establishing new procedures under the certificate of need law for certain ambulatory surgical facilities. (Sen. Squires, Dist 12: Public Institutions, Health and Human Services)
First new title: relative to ambulatory surgical facilities and establishing a committee to study the health services planning and review board.
Second new title: relative to the membership and staff of the health services planning and review board and relative to the definition of ambulatory surgical facility
129, am (2 RCs) 1035-1050, psd 1109, nonconc H am, conf 1337, rep adop 1505-1507, 1517, enr am 1544-1545, enr 1547 (Chapter 330)
- SB 215**, transferring certain responsibilities for shellfish harvesting and regulation. (Sen. Hollingworth, Dist 23; Sen. J. King, Dist 18: Environment)
129, psd 540, 559, conc H am 1132, enr 1142 (Chapter 112)
- SB 216-FN**, allowing veterans the right to purchase credit in the retirement system for certain service in the armed forces. (Sen. Trombly, Dist 7; Rep. Dwyer, Hil 43: Insurance)
129, psd 663, 738, H Com 1233
- SB 217-FN**, relative to nonresident real estate brokers doing business in this state. (Sen. Johnson, Dist 3: Executive Departments and Administration)
New title: relative to real estate brokers of other jurisdictions doing business in this state.
130, am 871-872, psd 945, conc H am 1310, enr 1525 (Chapter 257)
- SB 218-FN-LOCAL**, regulating the land application of sewage sludge. (Sen. Wheeler, Dist 21 et al: Environment)
130, Com (3 RCs) 991-1008

- SB 219-FN-LOCAL**, establishing a procedure for providing educational improvement assistance to local school districts. (Sen. McCarley, Dist 6 et al: Education) 130, am (RC) & Finance 1051-1060, Com 1204-1209
- SB 220-FN**, relative to the disclosure of child abuse and neglect information. (Sen. McCarley, Dist 6: Public Institutions, Health and Human Services) 130, am 1094-1096, psd 1109, conc H am 1278, enr 1441 (Chapter 223)
- SB 221-FN**, relative to competitive bidding for state construction contracts. (Sen. D'Allesandro, Dist 20 et al: Executive Departments and Administration) 130, K (RC) 1080-1084
- SB 222-FN-A-LOCAL**, relative to guarantee of loans to local development organizations. (Sen. F. King, Dist 1; Sen. Hollingworth, Dist 23: Internal Affairs) 130, psd 251, 423, H Com 1432
- SB 223-FN-A**, establishing a wellness and primary prevention council and making an appropriation therefor. (Sen. Wheeler, Dist 21 et al: Public Institutions, Health and Human Services)
New title: establishing a wellness and primary prevention council.
 130, am & Finance 845-847, am 1120, psd 1139, conc H am 1335, enr am 1520-1521, enr 1529 (Chapter 276)
- SB 224**, relative to stenographic records of adjudicative hearings before licensing boards. (Sen. Gordon, Dist 2: Executive Departments and Administration)
First new title: relative to stenographic records and availability of transcripts of adjudicative hearings before licensing boards.
Second new title: relative to notice requirements and recording of hearings in contested cases and relative to records and availability of transcripts of adjudicative hearings on occupational licensing.
 130, am 540-541, psd 559, nonconc H am, conf 1337-1338, rep adop 1507-1508, enr 1548 (Chapter 331)
- SB 225-FN**, relative to a pharmaceutical program for low income individuals. (Sen. Hollingworth, Dist 23 et al: Public Institutions, Health and Human Services) 131, Com 478-479
- SB 226-FN**, relative to the real estate practice act and the powers and duties of the real estate commission. (Sen. Gordon, Dist 2: Executive Departments and Administration) 131, Com 872
- SB 227**, establishing a gambling business felony. (Sen. Johnson, Dist. 3: Judiciary) 424, rcmt 784-785, am (2 RCs) 920-925, psd 945, conc H am (RC) 1425-1427, recon notice 1441, enr 1545 (Chapter 277)
- SB 228-FN**, relative to spousal benefits upon the death of certain retired group II members of the New Hampshire retirement system. (Sen. J. King, Dist. 18; Rep. Dyer, Hil 8: Insurance) 424, am & Finance 911-912, psd 1209, 1227, H Com 1432
- SB 229-FN-L**, relative to the supervision of juvenile delinquents on probation and parole and the operation and organization of the youth development center. (Sen. J. King, Dist 18 et al: Public Institutions, Health and Human Services) rules suspended & intro 540, Com 1096
- SB 230**, relative to interstate school districts. (Sen. Gordon, Dist 2 et al: Education) 424, psd 828-829, 862, H conc 1312, enr 1441 (Chapter 224)
- SB 231**, relative to public water supplies. (Sen. Fraser, Dist 4: Public Affairs) rules suspended, intro & remarks 1467-1468, Com 1569-1570

SENATE JOINT RESOLUTION

- SJR 1**, supporting the reduction of the sulfur content of gasoline. (Sen. Below, Dist 5 et al: Environment) 65, psd 246, 423, H conc 1226, enr 1227 (Chapter 147)

SENATE CONCURRENT RESOLUTIONS

- SCR 1**, urging the supreme court to issue a prompt ruling on certain specific issues transferred to the court by the public utilities commission on February 20, 1998. (Sen. Below, Dist. 5 et al)
rules suspended, intro & adop 22-24, 25 (H adop)
- SCR 2**, urging the President and Congress to strengthen the finances of Social Security. Sen. Wheeler, Dist 21 et al: Insurance)
65, Com 880

SENATE RESOLUTIONS

- SR 1**, requesting an opinion of the justices concerning the constitutionality of SB 51-FN-A-LOCAL. (Sen. Below, Dist 5; Sen. Trombly, Dist 7)
intro & adop (RC) 68-78
- SR 2**, urging the President of the United States and Congress to prohibit federal recoupment of state tobacco settlement recoveries. (Sen. Larsen, Dist 15 et al)
intro & adop 118-119
- SR 3**, urging the Federal Communications Commission to act favorably and promptly on the New Hampshire Public Utilities Commission's petition for relief concerning telephone area code conservation measures. (Sen. Larsen, Dist 15 et al)
intro, am & adop 120-122
- SR 4**, calling on the President and the Congress to fully fund the federal government's share of the average per pupil expenditure in public elementary and secondary schools in the United States under the Individuals with Disabilities Education Act. (Sen. Larsen, Dist 15 et al)
intro & adop (RC) 122-124
- SR 5**, urging Congress to authorize construction of the World War II Memorial in Washington, D.C. to begin immediately. (Sen. Trombly, Dist 7 et al)
intro & adop 170-171
- SR 6**, expressing shock and sympathy to the people of Littleton, Colorado over the killing and injuring of students at Columbine High School. (Sen. Pignatelli, Dist 13 et al)
intro & adop 665-666
- SR 7**, declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget. (Sen. Trombly, Dist. 7 et al)
intro & LT 935-942
- SR 8**, declaring that any deficit in the education trust fund be financed with new sources of revenue and not through reductions to appropriations in the state operating budget. (Sen. Trombly, Dist 7 et al)
intro & adop (RC) 1091-1094
- SR 9**, urging the President and Congress to extend the Older Americans Act for a 3-year period. (Sen. Wheeler, Dist 21 et al)
intro & adop 1411-1412
- SR 10**, urging the United States Congress to pass the Work Incentives Improvement Act of 1999. (Sen. Brown, Dist. 17)
intro & adop 1587-1588

HOUSE BILLS

- HB 1-A**, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 2000 and June 30, 2001.
rules suspended, intro & psd (RC) 1279-1281, enr 1282 (Chapter 159)
- HB 2-FN-A**, relative to state fees, funds, revenues, and expenditures.
rules suspended, intro & psd 1401, 1430, enr 1524 (Chapter 225)
- HB 25**, making appropriations for capital improvements.
rules suspended, intro & am (RC) 1312-1328, psd 1330, H nonconc, conf 1341, rep adop 1468-1480, 1513, enr am 1521-1522, enr 1545 (Chapter 226)

- HB 54**, allowing simultaneous service of a demand for rent and a notice to quit. (Public Affairs)
82, psd 163, 169, enr 245 (Chapter 6)
- HB 55-FN-A**, setting the rate for the medicaid enhancement tax for the biennium ending June 30, 2001. (Finance)
824, psd 1117, 1139, enr 1142 (Chapter 122)
- HB 56**, establishing a procedure for reinstating corporate charters that have been expired for more than 3 years. (Executive Departments and Administration)
New title: establishing a procedure for reinstating corporations that have been administratively dissolved for more than 3 years.
562, LT 947-949, am 1175-1177, psd 1179, H conc 1225, enr am 1308-1309, enr 1428 (Chapter 189)
- HB 58**, establishing a committee to study open adoption in New Hampshire. (Judiciary)
125, psd 839-840, 862, enr 943 (Chapter 40)
- HB 60**, relative to meetings of the ballot law commission. (Executive Departments and Administration)
82, psd 1080, 1108, enr 1141 (Chapter 84)
- HB 61**, relative to political contributions by members of the ballot law commission. (Public Affairs)
591, psd 1124, 1139, enr 1142 (Chapter 123)
- HB 64**, relative to changes of registration for undeclared voters. (Public Affairs)
562, LT 840, K 1305
- HB 66-FN**, relative to disability retirement benefits for retirement system members permanently incapacitated for duty. (Insurance)
1148, psd 1210, 1227, enr 1428 (Chapter 190)
- HB 67**, relative to termination of parental rights upon a finding of either child abuse or the commission of certain criminal offenses. (Judiciary)
New title: relative to termination of parental rights upon a finding of child abuse.
426, rules suspended & am 826-828, psd 862, H nonconc, conf 963, rep adop 1157-1159, 1182, enr 1229 (Chapter 133)
- HB 68**, adding the name of Martin Luther King, Jr. to Civil Rights Day.
rules suspended, intro & psd 1124, 1139, enr 1142 (Chapter 106)
- HB 69**, relative to the definition of employee under certain labor laws and relative to overtime pay for hourly employees. (Insurance)
New title: relative to the definition of employee under certain labor laws.
591, am 1161-1162, psd 1179, H nonconc, conf 1310, rep adop 1480-1481, 1513, enr am 1529, enr 1546 (Chapter 279)
- HB 73**, extending the reporting date of the commission to study the effects of and jurisdiction over alternative agricultural products. (Wildlife and Recreation)
82, psd 436, 438, enr 539 (Chapter 10)
- HB 75**, changing the number required for a quorum on the commission for human rights. (Executive Departments and Administration)
82, rcmt 949-951, am & LT 1453-1456, Com 1508
- HB 78**, relative to the counting of votes when the moderator is disqualified. (Public Affairs)
426, psd 792, 821, enr 860 (Chapter 31)
- HB 79**, relative to reports to the bank commissioner and to safe deposit box openings. (Banks)
244, psd 564, 589, enr am 779, 863, enr 973 (Chapter 66)
- HB 80**, making technical corrections in the banking laws. (Banks)
244, psd 564, 589, enr 649 (Chapter 16)
- HB 82**, establishing a committee to study financial arrangements among hospitals, physicians, and insurance companies. (Insurance)
New title: establishing a committee to study financial arrangements among hospitals, health care providers, and insurance companies.
562, am 1162-1163, psd 1179, H conc 1225, enr 1233 (Chapter 155)

- HB 84-FN**, establishing a committee to study the penalties for driving under the influence of intoxicating liquor or controlled drugs in the state, and the education and treatment services available to offenders. (Transportation)
1536, psd 1573, 1589, enr am 1665, enr 1668 (Chapter 334)
- HB 88-FN**, relative to purchasing credit for prior service for certain employees in the New Hampshire retirement system. (Insurance)
1148, psd 1210, 1227, enr 1328 (Chapter 165)
- HB 89-FN-A**, making an appropriation for a department of transportation study of the state house complex to evaluate space needs. (Transportation)
New title: making an appropriation for a department of transportation study of the state house complex's space needs, and naming the newly constructed state highway bridge on Route 135 between the towns of Haverhill and Bath in honor of Raymond S. Burton.
1148, am 1393-1394, psd 1430, H conc 1437, enr 1547 (Chapter 280)
- HB 90**, removing the prohibition on adoption and foster parenting by homosexual persons. (Public Institutions, Health and Human Services)
426, psd (RC) 649-654, 738, enr 778 (Chapter 18)
- HB 92**, exempting permanently disabled veterans from the requirement of reestablishing their disability status for the division of motor vehicles every 4 years to prove eligibility for special license plates. (Transportation)
125, psd 610, 648, enr am 779, enr 863 (Chapter 41)
- HB 93**, permitting a dam to be constructed on Rand Pond in Goshen. (Environment)
82, psd 246-247, 422, enr 438 (Chapter 7)
- HB 94**, relative to enforcement of the child passenger restraint law. (Judiciary)
591, psd 1291, 1330, enr am 1432, enr 1524 (Chapter 227)
- HB 97**, relative to the right to farm. (Environment)
1148, Com 1383-1384
- HB 100-FN-L**, adopting certain interim provisions as a result of the Claremont decision to enable municipalities to continue to fund education.
intro, rules suspended & psd 40-42, enr 43 (Chapter 1)
- HB 109-FN-A-LOCAL**, establishing a flat rate education income tax and a statewide education property tax to fund public education and making an appropriation therefor. (Finance)
158, rules suspended (RC) & am (RC) 385-422, psd 423 [H nonconc & returned] rules suspended, recon & LT 1588-1589, am (2 RCs) 1601-1649, psd 1667, H nonconc & LT 1670, Com (RC) 1720
- HB 111-L**, relative to the validity and enforceability of certain obligations and indebtedness of municipalities and allowing school districts and towns to hold special meetings to address issues raised by resolution of the Claremont lawsuit.
48, rules suspended & psd 48-52, 55, enr 56 (Chapter 2)
- HB 112-FN-A**, increasing the tobacco tax and imposing the tax on all types of tobacco products. (Ways and Means)
First new title: increasing the tobacco tax and dedicating a portion of tobacco tax revenues to tobacco use prevention and cessation programs, establishing a tobacco use prevention advisory committee, transferring funds to the legislative budget assistant for tax policy simulation software, and authorizing certain transfers within the budget for the department of health and human services.
Second new title: increasing the tobacco tax and dedicating a portion of tobacco settlement funds to a tobacco use prevention fund.
125, am & Finance (2 RCs) 148-155, am & LT (2 RCs) 179-243, LT (4 RCs) 261-384, am (3 RCs) 479-538, psd 539, recon notice 540, H nonconc, recon (RC), LT, am (RC) & LT 611-648, LT (2 RCs) 666-708, Finance 1306-1307, am (2 RCs) 1401-1411, psd 1430, H nonconc, conf 1433, rep adop 1481-1485, 1513, enr am & enr 1518 (Chapter 183)
- HB 113**, affirming sovereign immunity as it relates to the Claremont ruling. (Judiciary)
125, Com 1291-1292

- HB 117-FN-A-L**, establishing a uniform education property tax and a utility property tax, increasing the business profit and real estate transfer taxes, and including other sources of revenue to provide funding for an adequate public education and making an appropriation therefor.
New title: relative to state taxes and other sources of revenue for funding an adequate education; relative to establishing the cost of an adequate education, and relative to creating a commission to study the methodology used in establishing the cost of an adequate education and a tax equity and efficiency commission, and making appropriations therefor.
 rules suspended, intro, am (RC) & H nonconc, conf 709-737, psd, 738, rep adop (RC) 739-777, 821-822, enr 822 (Chapter 17)
- HB 203**, making impaired boating laws consistent with driving while intoxicated laws. (Wildlife and Recreation)
 244, psd 812, 821, enr 860 (Chapter 32)
- HB 204-FN**, relative to driving after license revocation or suspension. (Transportation)
 244, am & Finance 808, am 1117-1118, psd 1139, H conc 1221, enr 1226 (Chapter 139)
- HB 205**, relative to the requirement for posting of bond by an applicant for a writ of replevin. (Judiciary)
 562, psd 1121-1122, 1139, enr 1180 (Chapter 132)
- HB 206**, relative to restrooms in restaurants. (Public Institutions, Health and Human Services)
 426, am 793-794, psd 821, H conc 1108, enr 1141 (Chapter 85)
- HB 207-FN-A**, directing the office of state planning to conduct a study of the effects of sprawl in the state and making and appropriation therefor. (Environment)
 82, am 247, psd 423, H conc 708, enr 778 (Chapter 19)
- HB 208-FN**, establishing a coordinated and comprehensive effort by state agencies for economic growth, resource protection, and planning policy to deter sprawl. (Energy and Economic Development)
 562, rules suspended & am 1461-1463, psd 1517 (H nonconc)
- HB 210**, reinstating the corporate charter of C. A. B. Real Estate, Inc. (Executive Departments and Administration)
 244, am 596-597, psd 648, H conc 778, enr 861 (Chapter 33)
- HB 213**, relative to voting by prisoners. (Public Affairs)
 244, am 1298-1299, psd 1330, H conc 1428, enr 1524 (Chapter 228)
- HB 214**, changing the membership of and extending the reporting date for the committee to study women's health care. (Public Institutions, Health and Human Services)
 244, psd 794, 821, enr 863 (Chapter 42)
- HB 215**, placing restrictions on name changes for certain felons. (Judiciary)
New title, placing restrictions on name changes for certain felons and imposing a duty to notify certain law enforcement agencies when changes are made.
 244, am 913-915, psd 945, H conc 1221, enr am 1221-1222, enr 1233 (Chapter 160)
- HB 216**, relative to release conditions pending trial for defendants in domestic violence, stalking, or protective order violation cases. (Judiciary)
 1148, am 1292-1293, psd 1330, H conc 1428, enr 1524 (Chapter 229)
- HB 218-L**, reinstating the corporate charter of Approved Industries, Inc. (Executive Departments and Administration)
 244, psd 597, 648, enr 778 (Chapter 20)
- HB 223**, relative to waiver of filing fees and petitions for candidates for federal offices. (Executive Departments and Administration)
 426, K 870
- HB 224-FN-A**, establishing a joint committee on code enforcement. (Executive Departments and Administration)
 1536, Finance 1560, psd 1591-1592, 1667, enr am 1668, enr 1669 (Chapter 339)
- HB 225**, relative to the definitions of the terms "farm," "agriculture," and "farming." (Wildlife and Recreation)
 824, psd 1264-1265, 1281, enr 1440 (Chapter 191)

- HB 227**, establishing a committee to study the maintenance of voter checklists. (Public Affairs)
82, psd 551, 559, enr 588 (Chapter 11)
- HB 228**, clarifying permissible political expenditures. (Public Affairs)
82, Com 1299
- HB 229**, changing the registration fee requirement of the commercial feed law. (Wildlife and Recreation)
426, psd 663, 738, enr 778 (Chapter 21)
- HB 230**, clarifying the waste reduction goals for the state of New Hampshire. (Environment)
591, psd 831, 862, enr am 864, enr 943 (Chapter 43)
- HB 231**, relative to approval of applications in the charter schools pilot program. (Education)
82, psd 1288-1289, 1330, enr 1440 (Chapter 192)
- HB 234-FN-A**, relative to state matching funds for Federal Emergency Management Agency disaster assistance grants, and making appropriations therefor.
48, rules suspended & psd 53-54, 55, enr 56 (Chapter 3)
- HB 236-FN-L**, relative to felonious disarming of a law enforcement officer. (Judiciary)
244, Finance 915, psd 1204, 1227, enr 1328 (Chapter 166)
- HB 238-FN-A**, allowing the production and sale of American ginseng in the state of New Hampshire and making an appropriation therefor. (Wildlife and Recreation)
426, psd 663-664, 739, enr 778 (Chapter 22)
- HB 240**, prohibiting the reintroduction of wolf populations to the state of New Hampshire. (Wildlife and Recreation)
New title: prohibiting the introduction of wolf populations to the state of New Hampshire.
82, LT 812, am (RC) 847-855, psd 862, H conc 943, enr 972 (Chapter 80)
- HB 244**, relative to the corporate charter of the Laconia Airport Authority. (Transportation)
125, psd 610-611, 648, enr 649 (Chapter 13)
- HB 245-FN**, relative to fees and appropriations to the division of safety services. (Transportation)
125, Finance 577, psd 872-873, 945, recon notice 946, recon & LT 1154, psd 1221, 1227, enr am 1307-1308, enr 1428 (Chapter 193)
- HB 248**, relative to the Monadnock advisory commission. (Executive Departments and Administration)
82, psd 248-249, 423, enr 438 (Chapter 8)
- HB 249**, relative to the membership of the rivers management advisory committee. (Environment)
82, am 463-464, psd 539, H conc 588, enr 649 (Chapter 14)
- HB 250**, relative to authorized regional enrollment area schools. (Education)
426, psd 594, 648, enr 649 (Chapter 15)
- HB 251**, relative to official ballot procedures. (Public Affairs)
824, Com 1125
- HB 252**, establishing a committee to study all aspects of the condominium act established under RSA 356-B. (Public Affairs)
1181, am 1299-1300, psd 1330, H nonconc, conf 1414-1415, rep adop 1485-1487, H rej rep 1513
- HB 253**, allowing ballots to be examined and counted prior to the opening of polls on election day. (Public Affairs)
125, psd 551-552, 559, enr 588 (Chapter 12)
- HB 258**, establishing Gold Star Mother's Day honoring mothers who lost sons or daughters while on duty in the armed forces. (Internal Affairs)
560, psd 913, 945, enr 973 (Chapter 72)

- HB 261-L**, relative to the official ballot option. (Executive Departments and Administration)
426, psd 1080, 1109, enr 1141 (Chapter 86)
- HB 262-L**, relative to emergency expenditures and over expenditures by school boards. (Education)
126, psd 1154-1155, 1180, enr 1226 (Chapter 140)
- HB 263**, repealing the Northern New England Low-Level Radioactive Waste Management Compact. (Environment)
1148, psd 1237, 1281, enr 1440 (Chapter 194)
- HB 265**, relative to the student trustees on the university system of New Hampshire board of trustees. (Education)
First new title: relative to the student trustees on the university system of New Hampshire board of trustees, relative to adequate education grants in cooperative school districts, relative to alternative kindergarten programs, and relative to the adequate education grant in the town of Stratford.
Second new title: relative to the student trustees on the university system of New Hampshire board of trustees, adequate education grants in cooperative school districts, kindergarten program funding, and the adequate education grant in the town of Stratford.
825, am (RC) 1188-1198, psd 1227, H nonconc, conf 1339-1340, rep adop 1487-1488, 1513, enr am 1529-1530, enr 1546 (Chapter 281)
- HB 268-L**, relative to the adoption and rescission of the official ballot form of meeting. (Public Affairs)
244, psd 792-793, 821, enr 861 (Chapter 34)
- HB 270**, relative to persons not competent to stand trial. (Judiciary)
426, psd 1293, 1330, enr 1440 (Chapter 195)
- HB 272-FN**, relative to the use of laser pointing devices. (Judiciary)
244, LT 915-916, am & Finance 963-964, psd 1204, 1227, H conc 1428, enr 1524 (Chapter 230)
- HB 274-FN**, relative to the office of the consumer advocate. (Executive Departments and Administration)
1148, psd 1202, 1227, enr 1329 (Chapter 167)
- HB 278**, relative to scheduling of district court sessions. (Judiciary)
591, psd 1122, 1139, enr 1142 (Chapter 124)
- HB 284-L**, relative to recount procedures in school districts. (Public Affairs)
82, rules suspended & psd 156-157, psd & enr 158 (Chapter 5)
- HB 288**, relative to the committee to study land management, protection of farmland, rural character, environmental quality and sprawl. (Environment)
426, psd 596, 648, enr 778 (Chapter 23)
- HB 291**, establishing a study committee for seed sterilization technology or "terminator" technology. (Environment)
426, am (RC) 1237-1246, psd 1281, H nonconc, conf 1339, rep adop 1488-1489, 1513, enr am 1530, enr 1546 (Chapter 282)
- HB 292**, relative to ballot procedures for constitutional amendments. (Executive Departments and Administration)
426, psd 870, 945, enr 973 (Chapter 67)
- HB 294-FN-L**, relative to state aid to municipalities for closure of certain municipal incinerators. (Public Affairs)
1148, LT 1215-1216, am & Finance 1304-1305, rules suspended & LT 1510-1511, am 1584-1587, psd 1589, H conc 1700, enr 1703 (Chapter 347)
- HB 295-FN-L**, relative to alternative kindergarten programs in cooperative school districts. (Education)
82, LT 1198
- HB 300**, making technical corrections to 1999, HB 117. (Finance)
1109, rules suspended & psd 1132-1139, enr 1141 (Chapter 65)

- HB 301**, relative to burials and funerals at the New Hampshire state veterans cemetery. (Internal Affairs)
1181, psd 1270, 1281, enr 1440 (Chapter 196)
- HB 302**, relative to paint ball guns. (Wildlife and Recreation)
244, psd 812-813, 821, enr am 865-866, enr 943 (Chapter 44)
- HB 306**, relative to discoverability of environmental audit reports. (Judiciary)
244, psd 958, 971, enr 1141 (Chapter 87)
- HB 307**, establishing a committee to study the negotiated risk agreements when patients desire to remain in a facility over the recommendations of the department of health and human services. (Public Institutions, Health and Human Services)
426, psd 654, 739, enr 778 (Chapter 24)
- HB 311-FN-A**, relative to grants made under the New Hampshire incentive program. (Education)
1148, Com 1289
- HB 313-FN**, relative to the regulation of the practice of optometry. (Executive Departments and Administration)
591, am 1116, psd 1140, H conc 1221, enr 1428 (Chapter 197)
- HB 314**, relative to the escrowing of certain utility payments. (Energy and Economic Development)
1181, Com 1557
- HB 318**, relative to recovery of costs in utility proceedings and relative to the appointment of public utilities commissioners. (Executive Departments and Administration)
591, psd 1116-1117, 1140, enr 1142 (Chapter 131)
- HB 322**, relative to funds provided by a mortgagee at real estate closings. (Banks)
825, psd 946, 971, enr 1141 (Chapter 88)
- HB 324**, repealing certain grounds for granting a divorce for cause. (Judiciary)
426, psd 1293-1294, 1330, enr 1440 (Chapter 198)
- HB 325**, prohibiting "cramming" in telecommunications billing. (Executive Departments and Administration)
825, am 871, psd 945, H conc 1221, enr am 1222, enr 1282 (Chapter 168)
- HB 327-L**, allowing municipal governing bodies to enter into lease agreements for equipment. (Executive Departments and Administration)
562, psd 780-781, 821, enr 861 (Chapter 35)
- HB 331**, relative to voiding warranties on leased or purchased vehicles where any additional equipment is installed after leaving the factory, and creating penalties for failure to disclose this information to consumers. (Transportation)
New title: addressing hazardous waste and surface water quality violations incurred by the department of transportation identified by the state department of environmental services, and making an appropriation therefor.
1181, LT 1394, am 1416-1417, psd 1430, H nonconc, conf 1434, rep adop 1490, 1513-1514, enr 1528 (Chapter 283)
- HB 333**, relative to contracts between participating providers and managed care entities. (Insurance)
824, am (RC) 1265-1269, psd 1281, H nonconc, conf 1340, rep adop 1490-1491, 1514, enr 1547 (Chapter 284)
- HB 340**, establishing a committee to study mercury source reduction and recycling issues. (Environment)
563, psd 868, 945, enr 973 (Chapter 71)
- HB 341**, relative to the process for nonrenewal of teacher contracts. (Education)
825, SO 1306, am (2 RCs) 1342-1347, psd 1430, H nonconc, conf 1434-1435, rep adop 1491, 1514 (unable to agree)
- HB 344-L**, relative to voting in official ballot school districts.
48, rules suspended & psd 54-55, enr 56 (Chapter 4)
- HB 345-FN**, relative to harassment via the computer. (Judiciary)
560, am 1122-1123, psd 1140, H conc 1221, enr 1226 (Chapter 141)

- HB 346-FN-A**, relative to permissible fireworks. (Executive Departments and Administration)
1537, am 1560-1561, psd 1589, H nonconc, conf 1670, rep adop 1705-1706, 1720, enr am 1721-1722, enr 1723 (Chapter 348)
- HB 355**, relative to the dredging of harbors and channels. (Environment)
426, psd 596, 648, enr 778 (Chapter 25)
- HB 356**, relative to the issuance of summonses and notice in CHINS petitions. (Public Institutions, Health and Human Services)
560, am 1216-1217, psd 1227, H conc 1311, enr 1440 (Chapter 199)
- HB 357**, establishing a committee to study and investigate issues related to investigations, trials, convictions, and sentencing of sex offenders. (Judiciary)
426, psd 916, 945, enr am 971-972, enr 1141 (Chapter 89)
- HB 358**, relative to the term of office for members of the state board of education. (Education)
244, am 654-655, psd 739, H conc 778, enr 863 (Chapter 45)
- HB 360-FN**, clarifying that any person convicted of a felony in this state is prohibited from owning or possessing firearms and other dangerous weapons. (Judiciary)
1148, SO 1306, Com 1359-1362
- HB 362**, relative to dam safety program violations. (Wildlife and Recreation)
591, psd 1114, 1140, enr 1142 (Chapter 125)
- HB 363-FN**, increasing the bonding limit of the school building authority. (Executive Departments and Administration)
1537, psd 1561, 1589, enr 1668 (Chapter 335)
- HB 364**, relative to expenditure of funds received from the United States on account of national forest lands in this state. (Wildlife and Recreation)
126, psd 1265, 1281, enr 1440 (Chapter 200)
- HB 365**, establishing a committee to study the current practice of posting roads and its effect on the economy. (Transportation)
244, psd 808-809, 821, enr 861 (Chapter 36)
- HB 366**, repealing the requirement that persons filing for a primary on the last day of the filing period do so in person. (Public Affairs)
591, Com 1300-1301
- HB 367**, relative to requesting certifying scientists to appear at DWI hearings. (Judiciary)
560, rcmt 1085-1090, am 1214, psd 1227, H conc 1428, enr 1524 (Chapter 231)
- HB 369**, establishing a committee on educational programs on tobacco use for minors. (Public Institutions, Health and Human Services)
824, am 1283-1284, psd 1330, H nonconc, conf 1338, rep adop 1491-1492, 1514, enr 1528 (Chapter 258)
- HB 373**, making technical corrections to the securities laws. (Banks)
245, psd 946-947, 971, enr 1141 (Chapter 90)
- HB 374**, relative to the order of names on presidential primary election ballots. (Public Affairs)
New title: making adjustments to the fiscal year 1999 budget for the department of health and human services and the New Hampshire retirement system.
592, LT 1125, am 1151-1154, psd 1180, H conc 1221, enr 1180 (Chapter 120)
- HB 375**, relative to substitutions for disqualified and deceased candidates. (Executive Departments and Administration)
1143, LT 1203, Com 1701
- HB 379**, setting up a study committee to study issues pertaining to the Sullivan county regional refuse disposal district. (Environment)
825, psd 1246-1247, 1281, enr 1428 (Chapter 201)
- HB 381**, prohibiting any candidate from receiving the nomination of more than one party. (Public Affairs)
562, psd 1301, 1330, enr 1440 (Chapter 202)

- HB 383**, relative to the authority of the department of environmental services to assign air pollution allowances and credits. (Environment)
560, psd 780, 821, enr 863 (Chapter 46)
- HB 388**, relative to telephone number conservation and area code implementation. (Internal Affairs)
592, psd 1121, 1139, enr 1142 (Chapter 126)
- HB 395-FN-A**, establishing a program of matching grants to preserve historic agricultural structures in New Hampshire. (Internal Affairs)
1143, psd 1389, 1430, enr am 1523, enr 1547 (Chapter 285)
- HB 397**, establishing a 4-year term for the commissioner of the department of corrections, and clarifying the process of appointing personnel under the commissioner. (Executive Departments and Administration)
592, K 1203
- HB 399**, allowing the secretary of state to have flexibility in moving the date of New Hampshire's presidential primary and changing the filing period for declarations of candidacy for candidates for president and vice-president at the presidential primary. (Public Affairs)
1181, am 1301-1302, psd 1330, H conc 1428, enr 1429 (Chapter 161)
- HB 402**, establishing a committee to study methods to promote the use of renewable energy sources. (Energy and Economic Development)
561, psd 829, 862, enr 867 (Chapter 47)
- HB 403**, relative to speed limits on Turtle Town Pond in Concord. (Transportation)
561, psd 809, 821, enr 863 (Chapter 48)
- HB 408**, relative to drug formularies under managed care entities. (Public Institutions, Health and Human Services)
824, am 1284-1287, psd 1330, H nonconc, conf 1338-1339, rep adop 1492, 1514, enr 1547 (Chapter 286)
- HB 410**, relative to the enforcement authority of the department of environmental services. (Environment)
825, psd 1247, 1281, enr am 1435, enr 1524 (Chapter 232)
- HB 411**, requiring voters to present identification. (Public Affairs)
1143, am 1303, psd 1331, nonconc H req for conf 1414
- HB 412**, relative to the powers of the state treasurer and increasing the limit on state indebtedness, and relative to the use of bond proceeds awarded under a state guarantee.
rules suspended, intro & psd 1186-1187, 1227, enr 1229 (Chapter 137)
- HB 414-FN**, establishing a committee to study the unclassified salary structure for state officers. (Internal Affairs)
1148, psd 1270-1271, 1281, enr 1428 (Chapter 203)
- HB 418**, relative to accounts and reporting dates of certain funds in the fish and game department. (Wildlife and Recreation)
426, psd 664, 739, enr 778 (Chapter 26)
- HB 420**, relative to orders for spousal support in domestic relations cases. (Judiciary)
426, psd 958, 971, enr 1141 (Chapter 91)
- HB 421**, relative to the penalty provisions for the law regarding control of marine pollution, exotic aquatic weeds, and other aquatic growth. (Environment)
825, psd 1247-1248, 1281, enr 1440 (Chapter 204)
- HB 422**, relative to advertising by rent-to-own businesses. (Public Affairs)
562, rcmt 840, Com 1125
- HB 426**, relative to clean indoor air in state buildings. (Environment)
563, psd 831, 862, enr am 943, enr 973 (Chapter 70)
- HB 428**, relative to school administrative units. (Education)
562, am 1115, psd 1140, H nonconc, conf 1232, rep adop 1492-1493, 1514, enr 1547 (Chapter 287)

- HB 431**, establishing a committee to study methods and processes necessary to retain the traditional uses of White Mountain National Forest land, the impact of any change in designation, and relative to promoting the continual multiple use management of such land. (Environment)
New title: establishing a committee to study methods and processes necessary to retain and enhance uses of the White Mountain National Forest, the impact of any change in designation or uses, and relative to promoting the continual multiple use management of such land.
427, am 868-869, psd 945, H conc 1221, enr 1226 (Chapter 142)
- HB 435**, relative to disclosure by sellers of consumer goods and services. (Energy and Economic Development)
592, psd 829, 862, enr am 866, enr 943 (Chapter 49)
- HB 438**, relative to certain changes to the membership of the advisory committee on child care. (Public Institutions, Health and Human Services)
825, psd 1172, 1180, enr am 1222-1223, enr 1282 (Chapter 184)
- HB 441**, relative to a mother's right to breast-feed. (Public Institutions, Health and Human Services)
562, psd 1112-1113, 1140, enr 1142 (Chapter 121)
- HB 442**, relative to charitable gift annuities. (Banks)
592, am 828, psd 862, H conc 943, enr 973 (Chapter 68)
- HB 443**, allowing certain beverage manufacturers to distribute products directly to retailers. (Ways and Means)
1145, psd 1220, 1227, enr 1329 (Chapter 169)
- HB 444**, relative to establishing a study committee to review reestablishing passenger rail service on the Eastern Line between Newburyport, Massachusetts and Kittery, Maine. (Transportation)
562, am 1126, psd 1140, H conc 1221, enr 1227 (Chapter 143)
- HB 447**, repealing the laws prohibiting certain promotional games. (Transportation)
245, psd 809, 821, enr 861 (Chapter 37)
- HB 448**, relative to the board of dental examiners and the regulation of dentists and dental hygienists. (Executive Departments and Administration)
592, LT 1159, Com 1467
- HB 449-FN**, requiring boating safety education. (Transportation)
1145, Com 1394-1395
- HB 451**, establishing a committee to study first and second mortgage home loans. (Banks)
1148, psd 1381, 1430, enr 1524 (Chapter 233)
- HB 454**, requiring the university system of New Hampshire board of trustees to initiate a study of the status of veterans' access to higher education within the university system. (Education)
592, K 1198
- HB 456**, establishing a committee to study issues relating to the deaf community in New Hampshire. (Public Institutions, Health and Human Services)
562, am 960-961, psd 971, H conc 1221, enr 1226 (Chapter 144)
- HB 463-L**, relative to the local regulation of junk yards and altering the definition of federal aid primary system for purposes of the laws regarding highway regulations, protection and control regulations. (Transportation)
825, am 1172-1173, psd 1180, H nonconc, conf 1340-1341, rep adop 1493, 1514, enr 1547 (Chapter 288)
- HB 464**, relative to electric rate reduction financing. (Energy and Economic Development)
New title: relative to electric rate reduction financing and relative to the duties of the public utilities commission.
1145, rules suspended & am 1441-1453, psd 1517, H conc 1525, enr 1547 (Chapter 289)
- HB 468**, relative to the home rule powers of municipalities. (Public Affairs)
1143, SO 1306, psd 1368, 1430, enr 1528 (Chapter 278)

- HB 469**, raising the medical payments coverage under automobile insurance policies. (Insurance)
824, psd 1210-1211, 1228, enr 1329 (Chapter 170)
- HB 470**, relative to settlement of personal actions. (Judiciary)
1148, Com 1294
- HB 471**, exempting certain family owned and operated businesses from certain requirements in the workers' compensation act relative to safety programs. (Insurance)
1145, K 1211
- HB 473**, establishing a committee to study the non-group health insurance market. (Insurance)
824, am 1211-1212, psd 1228, H conc 1311, enr 1440 (Chapter 205)
- HB 477-FN**, changing certain requirements for temporary plates on motor vehicles. (Transportation)
825, psd 1113, 1140, enr 1142 (Chapter 127)
- HB 485-FN**, relative to the calculation of unemployment compensation benefits. (Insurance)
1148, psd 1212, 1228, enr am 1308, enr 1440 (Chapter 206)
- HB 486-FN-A**, relative to the physician effectiveness program. (Public Institutions, Health and Human Services)
1148, psd 1287, 1331, enr 1440 (Chapter 207)
- HB 487**, relative to the adoption of bonds or notes in certain school districts and municipalities. (Education)
1148, psd (RC) 1198-1200, 1228, enr 1229 (Chapter 134)
- HB 488**, relative to the definition of a developmentally delayed child in the provision of special education services. (Education)
824, psd 1116, 1140, enr 1142 (Chapter 107)
- HB 490**, enabling cities to permit the mayor to vote at city council meetings. (Executive Departments and Administration)
427, psd 597, 648, enr 779 (Chapter 27)
- HB 491**, relative to qualifying examinations for individuals seeking driver's licenses, and driver education course requirements. (Transportation)
592, am 1126-1128, psd 1140, H nonconc, conf 1231, rep adop 1493-1494, 1514, enr am 1530-1531, enr 1546 (Chapter 290)
- HB 492-FN-A-L**, reducing the state bond guarantees limit for wastewater projects. (Finance)
563, am 1118-1119, psd 1140, H conc 1428, enr 1524 (Chapter 234)
- HB 494-FN-A**, making an appropriation to the department of cultural resources for the purpose of funding participation of the state in the Smithsonian Festival of American Folklife. (Finance)
563, psd 1119, 1140, enr 1142 (Chapter 128)
- HB 495-FN-A**, relative to reauthorizing the motor oil discharge cleanup fund and increasing the fuel oil discharge cleanup fund fee, allowing coverage for discharge prevention, and allowing reimbursement for replacing standard tanks. (Environment)
563, Finance 780, psd 1204, 1228, enr 1329 (Chapter 164)
- HB 501-FN-A**, relative to the repair of a certain covered railroad bridge in Contoocook village in the town of Hopkinton. (Finance)
1537, LT 1582, psd 1583-1584, 1589, enr am 1667, enr 1669 (Chapter 340)
- HB 503-FN-L**, relative to the adoption of charter school and open enrollment provisions in cooperative school districts and authorized regional enrollment areas. (Education)
1145, LT 1289
- HB 513**, relative to approved permissible fireworks. (Public Affairs)
427, am 840-842, psd 862, H conc 969, enr 973 (Chapter 69)
- HB 515**, extending the indemnification of persons providing clinical services to the department of health and human services. (Public Institutions, Health and Human Services)
427, psd 794-795, 821, enr 863 (Chapter 50)

- HB 519-L**, requiring law enforcement agencies to adopt written policies regarding emergency responses and vehicular pursuits. (Internal Affairs)
592, am 1161, psd 1180, H conc 1225, enr 1329 (Chapter 171)
- HB 520**, relative to an open season for chukar partridge. (Wildlife and Recreation)
427, psd 664-665, 739, enr 779 (Chapter 28)
- HB 524**, increasing the alternate members on the public employee labor relations board. (Executive Departments and Administration)
1145, psd 1203, 1228, enr 1233 (Chapter 156)
- HB 525-FN**, relative to special number plates for certain veterans. (Transportation)
1148, am 1395, psd 1430, H conc 1437, enr 1547 (Chapter 291)
- HB 527**, relative to the duties of the public utilities commission. (Executive Departments and Administration)
592, am 1160, psd 1180, H conc 1221, enr 1226 (H sustained veto)
- HB 530**, establishing a committee to review the policies and procedures of the joint health council. (Executive Departments and Administration)
561, psd 833, 862, enr 867 (Chapter 51)
- HB 532**, establishing a commission to study early childhood education. (Education)
New title: establishing a commission to study early childhood education and ratifying the East Kingston school district annual meeting held on March 6, 1999.
824, am 1155, recon & am 1177, recon notice 1179, psd 1180, H conc 1228, enr 1229 (Chapter 135)
- HB 535**, establishing a committee to study the department of resources and economic development. (Energy and Economic Development)
825, psd (RC) 974, 1109, enr 1141 (Chapter 92)
- HB 537**, relative to background checks for firearms purchases. (Judiciary)
1536, psd 1564-1565, 1589, enr am 1665, enr 1669 (Chapter 336)
- HB 538**, establishing a committee to study the new construction and repair of New Hampshire commemorative monuments at certain Civil War battle sites. (Internal Affairs)
825, psd 1121, 1140, enr 1142 (Chapter 129)
- HB 541**, establishing a committee to study the upgrade of Routes 11 and 140. (Transportation)
592, am 1128-1129, psd 1140, H conc 1221, enr 1226 (Chapter 145)
- HB 542-FN-A**, repealing the legacies and succession tax. (Ways and Means)
rules suspended, intro & Com 1183
- HB 545-FN**, establishing a committee to study ambulatory surgical facilities. (Public Institutions, Health and Human Services)
1145, psd 1287, 1331, enr 1524 (Chapter 235)
- HB 546-FN-A**, providing partial funding to support research monitoring groundwater at reclamation sites that have had sludge applied. (Environment)
1148, psd (2 RCs) 1248-1255, 1281, enr 1440 (Chapter 208)
- HB 551**, revising the definition of "employer" under the employment discrimination laws of the state. (Internal Affairs)
1148, K 1389-1390
- HB 552**, relative to the issuance of crossbow permits to persons with a permanent physical disability. (Wildlife and Recreation)
561, psd 1114-1115, 1140, enr 1142 (Chapter 108)
- HB 553-FN-A**, establishing a commission on the status of men. (Executive Departments and Administration)
1536, Com 1561-1562
- HB 554**, relative to driver education reciprocity. (Transportation)
592, psd 1113-1114, 1140, enr 1142 (Chapter 130)
- HB 556-FN**, relative to transporting hazardous waste. (Environment)
592, psd 831-832, 862, enr am 864-865, enr 943 (Chapter 52)

- HB 557-FN**, relative to hazardous waste permitting and container identification. (Environment)
592, psd 832, 862, enr 943 (Chapter 53)
- HB 558-FN**, relative to solid waste management. (Environment)
563, psd 780, 821, enr 867 (Chapter 54)
- HB 559-FN-AI**, authorizing vanity plates or decals for OHRV registrations. (Transportation)
824, psd 1395-1396, 1430, enr 1528 (Chapter 259)
- HB 561-FN**, reducing lab analysis fees of chemical analyses of water. (Environment)
824, psd 1201-1202, 1228, enr 1329 (Chapter 172)
- HB 562**, relative to the date of decision for appeals of zoning matters. (Public Affairs)
New title: establishing a committee to study the date of decision for appeals of zoning matters.
824, LT 1111, 1173-1174, am 1272-1274, psd 1282, H nonconc, conf 1415, rep adop 1495, 1515, enr am 1523, enr 1547 (Chapter 292)
- HB 563**, relative to names of limited liability partnerships and companies and cooperative associations. (Banks)
592, am 1381-1383, psd 1430, H nonconc, conf 1435-1436, rep adop 1495-1496, 1515, enr am 1531-1532, enr 1546 (Chapter 293)
- HB 566**, relative to the supervision of the driver education program. (Transportation)
592, am 1129, psd 1140, H conc 1221, enr am 1223, enr 1233 (Chapter 157)
- HB 570**, restricting a presiding judge's authority to interrupt jury deliberations. (Judiciary)
592, K 1171
- HB 572-FN-A**, relative to the apportionment provisions of the business profits tax. (Ways and Means)
563, LT 1583, psd 1701, 1702, enr 1704 (Chapter 346)
- HB 573**, clarifying the status of class VI highways. (Transportation)
592, psd 1114, 1140, enr 1142 (Chapter 113)
- HB 574-FN-A**, establishing a fisheries habitat fee required for persons obtaining a fishing license and continually appropriating the funds for fisheries habitats. (Wildlife and Recreation)
1149, psd 1265, 1282, enr 1440 (Chapter 209)
- HB 576-FN-A**, establishing additional staff positions for statewide child custody and support impact seminars, and making an appropriation therefor. (Judiciary)
1145, Finance 1294-1295, psd 1384, 1430, enr am 1532, enr 1546 (Chapter 294)
- HB 577**, relative to the power of a school district to expend catastrophic special education funds and relative to the exemption of certain unexpected catastrophic special education expenses from the provisions of the municipal budget law. (Education)
1536, am 1556-1557, psd 1589, H conc 1668, enr 1669 (Chapter 341)
- HB 581-L**, relative to deposits on utility meters. (Executive Departments and Administration)
824, K 1289-1290
- HB 583**, extending the reporting date for the committee studying the issue of updating New Hampshire laws related to fences. (Internal Affairs)
561, psd 913, 945, enr 973 (Chapter 74)
- HB 584-FN**, relative to administrative license suspensions. (Transportation)
1149, am 1396-1397, psd 1430, H nonconc, conf 1436, rep adop 1496, 1515, enr 1547 (Chapter 295)
- HB 586**, relative to rulemaking authority of the board of chiropractic examiners and unlawful practice of chiropractic. (Executive Departments and Administration)
1145, psd 1203, 1228, enr 1329 (Chapter 173)
- HB 592**, creating a study committee regarding requirements for and usage of methyl t-butyl ether. (Environment)
592, psd 833, 862, enr 943 (Chapter 55)

- HB 593-FN-L**, relative to the classification of class VI roads which have been maintained by a town. (Transportation)
592, psd 1114, 1140, enr 1142 (Chapter 109)
- HB 596**, making technical corrections to certain laws administered by the department of revenue administration and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001. (Ways and Means)
New title: making technical corrections to certain laws administered by the department of revenue administration, making the temporary rate of the meals and rooms tax permanent, and extending the temporary tax rate of the communications services tax through the biennium ending June 30, 2001.
1149, am (2 RCs) 1255-1264, psd 1282, H conc 1429, enr 1436 (Chapter 163)
- HB 599-FN-A**, establishing a committee to study the integration of technology at the state, county, and municipal levels. (Energy and Economic Development)
1536, K 1557
- HB 601**, allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, and changing the personnel group status of the warden of the lakes region facility. (Executive Departments and Administration)
First new title: allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, adding the position of warden of the Northern New Hampshire Correctional Facility to the unclassified system, replacing the superintendent of the lakes region facility with a warden in the salary classification table and replacing the superintendent of the New Hampshire state prison for women with a warden in the salary classification table.
Second new title: allowing the assistant commissioner of corrections to assume the duties of the commissioner in the event that the commissioner is unable to perform such duties, correcting out-of-date references and phraseology pertaining to the department of corrections, changing the salary group of the warden of the northern New Hampshire correctional facility in the unclassified system, replacing the superintendent of the lakes region facility with a warden in the salary classification table and replacing the superintendent of the New Hampshire state prison for women with a warden in the salary classification table.
1149, am 1456-1458, psd 1517, H conc 1525, enr am 1532-1533, enr 1546 (Chapter 296)
- HB 602-FN**, establishing the position of health insurance consumer assistant. (Insurance)
1537, K 1562
- HB 603**, relative to the performance audit and oversight committee. (Executive Departments and Administration)
561, K 1458-1459
- HB 604**, relative to filling a vacancy in the office of county commissioner. (Public Affairs)
561, am 1125-1126, psd 1140, H conc 1229, enr 1329 (Chapter 174)
- HB 605-FN**, affirming sovereign immunity for the state and its political subdivisions as it relates to the "year 2000 problem". (Internal Affairs)
1149, K (RC) 1390-1391
- HB 606-FN**, relative to managed care programs under workers' compensation and relative to certain members of the compensation appeals board. (Internal Affairs)
1145, psd 1271, 1282, enr 1440 (Chapter 210)
- HB 608-FN-A**, establishing a New Hampshire emergency management response and recovery fund and making an appropriation therefor. (Finance)
1149, psd 1384-1385, 1430, enr 1528 (Chapter 260)
- HB 609**, relative to construction of a sewer force main through a state land conservation easement. (Environment)
1149, psd 1202, 1228, enr 1329 (Chapter 175)

- HB 615-FN-A**, establishing a registry for brain and spinal cord injuries. (Public Institutions, Health and Human Services)
New title: establishing a registry for brain and spinal cord injuries and making appropriations to the department of resources and economic development and the governor's commission on disability.
1537, Finance 1570-1571, am 1592-1593, psd 1667, H nonconc, conf 1704-1705, rep adop 1707-1709, 1720, enr am 1722, enr 1723 (Chapter 349)
- HB 616-FN-A**, establishing a house study committee to consider issues related to the driver training fund. (Transportation)
New title: establishing a house study committee to consider issues related to the driver training fund and exempting persons covered under the Americans with Disabilities Act from certain driver's license requirements.
1149, am 1397-1398, psd 1430, H nonconc, conf 1436-1437, rep adop 1497, 1515, enr am 1533-1535, enr 1546 (Chapter 297)
- HB 619-FN**, requiring the commissioner of health and human services to produce certain annual reports. (Public Institutions, Health and Human Services)
561, psd 1113, 1140, enr 1142 (Chapter 110)
- HB 620-FN**, relative to election of vested deferred retirement status for inactive members of the retirement system. (Insurance)
592, psd 834, 862, enr 943 (Chapter 56)
- HB 624-FN**, establishing a committee relative to health care quality. (Public Institutions, Health and Human Services)
592, psd 1113, 1140, enr 1142 (Chapter 114)
- HB 625-FN-A**, relative to a mercury emissions reduction and control program and a study of mercury in ash landfills. (Environment)
1536, am & Finance 1574-1582, LT 1594, am (RC) 1671-1674, psd 1702, H nonconc, conf 1705, rep adop (RC) 1709-1720, enr am 1720, enr 1723 (Chapter 350)
- HB 626-FN**, relative to revising the laws regulating accountancy. (Executive Departments and Administration)
1149, SO 1306, am (2 RCs) 1354-1359, psd 1430, H conc 1437, enr 1524 (Chapter 236)
- HB 633-FN-L**, establishing parental choice scholarships. (Education)
1145, SO 1306, K (2 RCs) 1347-1354
- HB 634-FN**, eliminating the requirement that retirement system disability recipients notify the board of trustees of unreduced social security disability benefits. (Insurance)
592, psd 834, 862, enr 943 (Chapter 57)
- HB 638-FN**, authorizing a limited license for certain travel agents. (Executive Departments and Administration)
562, psd 833, 862, enr 944 (Chapter 58)
- HB 639-FN**, relative to motor vehicle registration fees for antique motor vehicles and motorcycles. (Transportation)
824, K 1398-1399
- HB 640-FN**, relative to grievance procedures of managed care organizations. (Public Institutions, Health and Human Services)
1145, SO 1306, Com 1368-1381
- HB 643-FN-A-L**, transferring the regulation of emergency medical services from the department of health and human services to the department of safety. (Public Institutions, Health and Human Services)
1537, Finance 1572-1573, LT 1595-1597, psd 1686-1687, 1702, enr am 1702-1703, enr 1704 (Chapter 345)
- HB 645-FN**, relative to telecommunications equipment assistance and the enhanced 911 system. (Energy and Economic Development)
1537, Finance 1557, psd 1597-1598, 1667, enr 1669 (Chapter 337)
- HB 649-FN**, relative to nitrogen oxide emissions from electricity generation. (Energy and Economic Development)
1537, am & Finance 1558-1559, psd 1598, 1667, H conc 1700, enr am 1703-1704, enr 1704 (Chapter 343)

- HB 650**, establishing a committee to study the structure of alcohol and drug abuse prevention services. (Public Institutions, Health and Human Services)
825, psd 1287-1288, 1331, enr 1524, (Chapter 237)
- HB 651**, revising the speed limit law. (Transportation)
593, psd 925, 945, enr 973 (Chapter 73)
- HB 652-FN**, relative to victims' assistance, penalty assessments on criminal offenses, and establishing a surcharge on items sold at state prison commissaries which is continually appropriated to the victims' assistance fund. (Judiciary)
1149, psd 1393, 1431, enr 1528 (Chapter 261)
- HB 653-FN-A**, increasing the personal needs allowance of nursing home residents and residents of residential care facilities and community residences and making an appropriation therefore. (Finance)
1429, rules suspended & psd 1464-1465, psd 1517, enr 1547 (Chapter 298)
- HB 657-FN**, relative to the health services planning and review board and the certificate of need process. (Public Institutions, Health and Human Services)
1143, K 1288
- HB 658-FN**, relative to certification, registration, and insurance requirements for recovery agents who assist bail agents and sureties. (Executive Departments and Administration)
1149, am 1290, psd 1331, H conc 1437, enr 1547 (Chapter 299)
- HB 661-L**, relative to the scope of abatement appeals. (Executive Departments and Administration)
561, K (RC) 1459-1461, recon rej 1512
- HB 664**, establishing a study committee on rights of ownership to cemetery plots. (Public Affairs)
562, am 842-843, psd 862, H nonconc, conf 1230, rep adop 1496-1497, 1515, enr 1528 (Chapter 262)
- HB 665**, relative to the New Hampshire emergency management compact with other jurisdictions. (Executive Departments and Administration)
1182, psd 1290-1291, 1331, enr 1546 (Chapter 300)
- HB 666**, relative to the taxation of sand, gravel, loam and other similar substances. (Finance)
1143, am 1385-1386, psd 1431, H conc 1437, enr 1548 (Chapter 301)
- HB 667**, relative to the quorum required for sessions of the supreme court. (Judiciary)
593, am 1171-1172, psd 1180, H conc 1225, enr 1329 (Chapter 176)
- HB 669-FN**, relative to the determination of current comparable compensation for persons with gainful earnings who receive disability retirement benefits. (Insurance)
1537, psd 1562, 1590, enr 1667 (Chapter 333)
- HB 670**, establishing an advisory board to study the future of the New Hampshire automated information system's "Webster" Internet site. (Internal Affairs)
1149, psd 1271, 1282, enr am 1437-1438, enr 1524 (Chapter 238)
- HB 671**, adding a member to the council on resources and development. (Energy and Economic Development)
561, psd 829, 862, enr 944 (Chapter 59)
- HB 672-FN-A-L**, relative to creating a master plan for Hampton Beach and Hampton State park to deal with growth. (Energy and Economic Development)
New title: relative to creating a master plan for Hampton Beach and Hampton Beach State park to deal with growth.
593, psd 830, 862, enr 864, enr 973 (Chapter 81)
- HB 675-FN**, extending the applicability of postsecondary educational assistance for New Hampshire national guard members and requiring an annual reporting from state-supported postsecondary institutions. (Education)
593, am 1200-1201, psd 1228, H conc 1311, enr 1440 (Chapter 211)
- HB 676-FN-A**, increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor. (Transportation)
1143, am 1399-1400, psd 1431, H nonconc, conf 1438, rep adop 1497-1498, 1515, enr 1547 (Chapter 302)

- HB 684**, making adjustments to the fiscal year 1999 budget for the department of health and human services. (Finance)
New title, requiring a 2/3 vote of both houses of the general court to increase the rate of the business enterprise tax and making technical corrections to 1999, HB 117. 1182, Com 1386-1387, recon & am 1417-1424, psd 1431, H nonconc, conf 1438-1439, rep adop 1498-1499, 1515, enr am 1527-1528, enr 1546 (Chapter 303)
- HB 685-FN-A**, relative to the duties of the New Hampshire land and community heritage commission. (Internal Affairs)
1143, am 1213-1214, recon & Finance 1215, psd 1387-1388, 1431, H nonconc, conf 1439, rep adop 1510, 1515-1516, enr 1524 (Chapter 263)
- HB 686-FN**, defining the state heritage collections committee's responsibilities and the process for acquiring or disposing of items and collections. (Energy and Economic Development)
593, psd 830, 863, enr 944 (Chapter 60)
- HB 687-FN**, establishing the criminal offense of identity fraud. (Judiciary)
593, am 1295-1296, psd 1331, H conc 1429, enr 1524 (Chapter 239)
- HB 688**, relative to the custody and escheat of abandoned and unclaimed property. (Executive Departments and Administration)
1145, psd 1203-1204, 1228, enr am 1427, enr 1440 (Chapter 212)
- HB 689-FN**, establishing a committee to study campaign contributions and expenditures. (Public Affairs)
824, am 1111-1112, psd 1140, H nonconc, conf 1231, rep adop 1499-1500, 1516, enr 1545 (Chapter 264)
- HB 690-FN-L**, relative to charter schools and open enrollment districts. (Education)
1145, SO 1306, Com 1354
- HB 698-FN-L**, restricting fees for registration permits for certain vehicles. (Transportation)
1149, psd 1400, 1431, enr 1545 (Chapter 265)
- HB 704-FN-A**, establishing a wildlife damage control program and making an appropriation therefor. (Wildlife and Recreation)
1537, LT 1670-1671, psd (2 RCs) 1674-1686, 1702, enr am 1703, enr 1704 (Chapter 344)
- HB 706**, relative to the definition of "sexual contact" under the sexual assault laws and relative to the registration of certain criminal offenders. (Judiciary)
1149, psd 1215, 1228, enr 1329 (Chapter 177)
- HB 707-FN**, relative to the family division of the courts. (Finance) (vacated to the Judiciary Committee)
1429, rules suspended, remarks & com changed 1465-1467, am & Finance 1565-1566, 1598-1601 (Died in com)
- HB 709**, relative to the railroad tax.
rules suspended, intro & psd 1463, 1517, enr 1547 (Chapter 304)
- HB 710-FN**, relative to expanding the availability of lifetime licenses for hunting and fishing. (Wildlife and Recreation)
427, psd 813, 821, enr 863 (Chapter 61)
- HB 714-FN**, changing the potential penalties for certain acts of solicitation and conspiracy to commit murder and attempted murder to life in prison. (Judiciary)
593, am 1123, psd 1140, H conc 1221, enr am 1223-1224, enr 1233 (Chapter 158)
- HB 715-FN-A-L**, granting responsibility for court security to the county sheriff and abolishing certain court security officer positions. (Judiciary)
1149, K 1296
- HB 719-FN**, relative to procedures regarding children in need of services. (Public Institutions, Health and Human Services)
1149, Finance 1217-1218, psd 1388, 1431, enr 1545 (Chapter 266)
- HB 720-FN**, relative to the practice of midwifery. (Public Institutions, Health and Human Services)
1145, psd 1288, 1331, enr 1441 (Chapter 213)

- HB 721-FN**, relative to procedures regarding delinquent children under RSA 169-B. (Public Institutions, Health and Human Services)
593, am & Finance 1218-1220, psd 1388, 1431, H conc 1437, enr 1547 (Chapter 305)
- HB 722-FN**, revising the law relative to protection of persons from domestic violence. (Judiciary)
1145, psd 1296-1297, 1331, enr 1524 (Chapter 240)
- HB 723-FN**, relative to standby and emergency guardianship proxies. (Judiciary)
1149, Com 1297-1298
- HB 726-FN**, relative to the credentialing of personnel in early care and education programs, establishing a fee for such credential, and making an appropriation therefor. (Education)
1145, psd 1201, 1228, enr 1329 (Chapter 185)
- HB 727-FN**, establishing a committee to study the problems and possible regulation of outdoor lighting. (Environment)
824, psd (RC) 1156, 1180, enr 1227 (Chapter 146)
- HB 728-FN**, establishing a commission to study the compensation of members of the legislature and the reimbursement for expenses. (Internal Affairs)
1149, K (RC) 1392-1393
- HB 729**, adding social clubs recognized by the Internal Revenue Service to the definition of "charitable organization" for purposes of the laws governing raffles. (Internal Affairs)
New title: redefining "charitable organization" for purposes of the laws governing raffles.
563, LT 1271-1272, am 1465, psd 1518, H conc 1525, enr 1547 (Chapter 306)
- HB 732**, relative to nonpayment of member dues and fees and access to financial records of condominium associations. (Public Affairs)
1150, K 1303
- HB 734-FN-L**, relative to state guarantees of tax anticipation notes issued by municipalities; and relative to teacher non-renewals for the 1999-2000 school year. (Finance)
New title: relative to state guarantees of tax anticipation notes issued by municipalities; relative to teacher non-renewals for the 1999-2000 school year; and relative to the transfer of tax liens for the 1999 calendar year only.
427, rules suspended & am (RC) 452-454, H conc 538, psd & enr 539 (Chapter 9)
- HB 736**, ratifying the 1999 Allentown annual town meeting. (Public Affairs)
825, psd 960, 971, enr 1141 (Chapter 93)
- HB 738-FN**, making an appropriation to the department of administrative services for the purpose of reimbursing counties for providing prisoner custody in courthouses. (Finance)
1150, psd 1388, 1431, enr 1529 (Chapter 267)
- HB 739**, eliminating certain restrictions on the number of days bingo volunteers may serve. (Public Affairs)
New title: eliminating the restrictions on the number of days bingo volunteers may serve.
1150, am 1216, psd 1228, H conc 1428, enr 1525 (Chapter 241)
- HB 741**, relative to the ratio of apprentices to journeymen in trade or industry apprenticeship programs. (Insurance)
1145, am 1269, psd 1282, H conc 1437, enr 1529 (Chapter 268)
- HB 742**, defining "domestic employee" for purposes of workers' compensation. (Insurance)
1145, am 1212-1213, psd 1228, H conc 1311, enr 1441 (Chapter 214)
- HB 743**, requiring that the question relative to the necessity for a convention to revise the New Hampshire constitution be presented to the voters in the November 2000 general election. (Internal Affairs)
1537, K (RC) 1563-1564, recon notice 1591
- HB 744**, ratifying the Plainfield Village Water District annual meeting held on March 27, 1999, and the Gilford School District annual meeting held on March 17, 1999. (Internal Affairs)

New title: ratifying the Plainfield Village Water District annual meeting held on March 27, 1999, the Alton Annual town meeting held on March 10, 1999, and the Gilford School District annual meeting held on March 17, 1999.
1182, rules suspended & psd 1224, 1228, enr am & enr 1229 (Chapter 136)

HB 745, an act authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit.

New title: authorizing the town of Ashland to call a special meeting for the purpose of raising money to address a general fund deficit, and relative to the excess education property tax payment for certain municipalities.

rules suspended, intro & am 1183-1186, psd 1228, recon & am 1234-1235, recon & am 1275-1276, psd 1282, H conc 1311, enr 1428 (Chapter 162)

HB 746, relative to emergency police assistance. (Judiciary)

1537, LT 1566-1568, am 1573-1574, psd 1590, H conc 1668, enr 1701 (Chapter 342)

HB 999-FN-A-L, establishing a uniform education property tax to provide funding for an adequate public education and providing education property tax hardship relief to low and moderate income taxpayers.

rules suspended, intro & psd (RC) 1687-1700, psd & enr 1702 (Chapter 338)

HOUSE JOINT RESOLUTIONS

HJR 1, requesting that the federal government prohibit the U.S. Fish and Wildlife Service or other federal agency from introducing wolf populations to the northeastern United States, especially New Hampshire. (Wildlife and Recreation)
82, LT 811-812

HJR 2, urging that federal air pollution programs not punish early adopters of air pollution control technology. (Environment)

824, am 1235-1237, psd 1282, H conc 1311, enr am 1415-1416, enr 1441 (Chapter 186)

HJR 3, urging ISO-New England to adopt policies furthering the state's interest in electric utility restructuring. (Energy and Economic Development)

824, psd 973-974, 1109, enr 1141 (Chapter 104)

HJR 6, encouraging the revitalization of the northern rail line from Concord to Lebanon. (Transportation)

563, Com 1400-1401

HJR 7, supporting the continued management of the White Mountain National Forest for multiple uses as a part of the National Forest System. (Wildlife and Recreation)

1150, psd 1264, 1282, enr 1428 (Chapter 187)

HJR 8, urging the Federal Energy Regulatory Commission to change the structure of the New England Independent System Operator (ISO). (Public Affairs)

1150, psd 1215, 1228, enr am 1307, enr 1428 (Chapter 188)

HJR 9, urging the United States Congress and federal Environmental Protection Agency to eliminate federal requirements for oxygenate additives for gasoline. (Environment)

824, psd 1155-1156, 1180, enr 1226-1227 (Chapter 138)

HJR 10, requiring that the United States Marine Corps flag be flown over the State House every November 10 to honor the birth of the Corps. (Internal Affairs)

1537, psd 1563, 1590, enr 1667 (Chapter 332)

HOUSE CONCURRENT RESOLUTIONS

HCR 2, recognizing students who display good behavior in the public schools. (Education)

1150, adop 1188, 1228

HCR 4, urging the U.S. Secretary of Transportation to include U.S. Route 2 as a border corridor highway. (Transportation)

245, adop 807-808, 821

HCR 5, encouraging New Hampshire Public Radio to extend its broadcast signal to northern areas of New Hampshire. (Internal Affairs)

824, adop 1160, 1180

- HCR 6**, calling on the President and the Congress to fully fund the federal government's share of the average per pupil expenditure in public elementary and secondary schools in the United States under the Individuals with Disabilities Education Act. (Education)
427, adop 593, 648
- HCR 7**, urging the federal government not to adopt rules requiring financial institutions to monitor their customers' banking habits. (Banks)
1182, K 1381
- HCR 8**, urging the improvements to the Kyoto Protocol prior to its implementation. (Environment)
1537, K 1560
- HCR 9**, encouraging greater health care choices for Medicare eligible citizens throughout New Hampshire. (Public Institutions, Health and Human Services)
1150, adop 1283, 1331
- HCR 10**, requesting Congress to give priority to preserving Social Security and ensuring that it continues as universal and mandatory for all workers. (Internal Affairs)
1537, adop (RC) 1562-1563, 1590
- HCR 11**, urging Congress and the Internal Revenue Service to modify tax laws to broaden the ability of taxpayers to make tax-deductible contributions to Nuclear Decommissioning Reserve Funds. (Environment)
1182, adop 1384, 1431
- HCR 12**, urging the United States Congress to enact legislation which prohibits the federal government from recouping state tobacco settlement funds. (Internal Affairs)
824, adop 1160, recon & rcmt 1173, adop 1270, 1282
- HCR 13**, urging the selection of a final design for the New Hampshire commemorative quarter which includes the state motto "live free or die", 9 stars representing New Hampshire as the ninth state to ratify the United States Constitution, and the Old Man of the Mountain. (Public Affairs)
1537, adop 1568-1569, 1590

CONSTITUTIONAL AMENDMENT CONCURRENT RESOLUTIONS

- CACR 6**, relating to municipalities' home rule. Providing that municipalities shall have home rule authority to exercise such powers which are not prohibited by the state constitution, state statute, or common law. (Public Affairs)
1144, SO 1306, adop (RC) 1362-1364, 1427, enr 1545
- CACR 16**, relating to use of statewide property and personal income taxes. Providing that the general court shall use net revenues from statewide property and personal income taxes exclusively for educational purposes. (Sen. Below, Dist 5 et al: Education)
New title: relating to establishing a restricted education trust fund; establishing a maximum rate on an income tax, and dedicating income tax revenues to education. Providing that an education trust fund be established, that revenues from a state-run lottery and revenues from the imposition of an income tax shall be deposited into the education trust fund, and that the moneys in such trust fund shall be used exclusively to provide relief from local school property taxes and to fund the state's duty to cherish the interest of public schools under Article 83, Part 2 of the New Hampshire constitution, and shall not be transferred or diverted to any other purpose.
65, Com 1100, rules suspended, recon & am (RC) 1649-1659, adop, recon & adop (2 RCs) 1666
- CACR 17**, relating to establishing a restricted education trust fund. Providing that an education trust fund be established, that all moneys designated for the purpose of state aid to education shall be deposited into such trust fund, and that the moneys in such trust fund shall be used exclusively for state aid to education. (Sen. Larsen, Dist 15 et al: Education)

- New title:** relating to the state's responsibility to provide to all citizens the opportunity for a public education. Providing that the general court shall have the exclusive authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision, provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed.
65, Com 1100, rules suspended, recon & am (RC) 1659-1664, adop (RC) 1666 (H K)
- CACR 18,** relating to jury trials in child custody proceedings. Providing that there shall be a right to a jury trial in all proceedings involving child custody. (Sen. Johnson, Dist 3; Sen. Krueger, Dist 16: Judiciary)
65, K 568
- CACR 19,** relating to 5-year renewable terms for all state judges and the age limit for state judges and county sheriffs. Providing that all state judges be commissioned for renewable 5-year terms and that there shall be no age limit for state judges and county sheriffs. (Sen. Brown, Dist 17 et al: Judiciary)
65, K (RC) 568-569
- CACR 20,** relating to the election of governor and senators. Providing that beginning with the 2002 general election, and every 4 years thereafter, the governor and senators shall be elected. (Sen. Wheeler, Dist 21 et al: Internal Affairs)
65, LT 249-250, LT (RC) 968-969, Com 1100-1101
- CACR 23,** relating to the responsibility and authority of the general court to determine the content, extent, and funding of a public education. Providing that the general court shall have the exclusive authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision; provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed. (Sen. Brown, Dist 17; Sen. Krueger, Dist 16: Education)
130, Com 1106-1107

TABLE OF REFERENCES FROM CHAPTER OF 1999 LAWS TO BILL NUMBER

Chapter	Bill	Chapter	Bill	Chapter	Bill
1	HB 100	51	HB 530	101	SB 152
2	HB 111	52	HB 556	102	SB 155
3	HB 234	53	HB 557	103	SB 161
4	HB 344	54	HB 558	104	HJR 3
5	HB 284	55	HB 592	105	SB 80
6	HB 54	56	HB 620	106	HB 68
7	HB 93	57	HB 634	107	HB 488
8	HB 248	58	HB 638	108	HB 552
9	HB 734	59	HB 671	109	HB 593
10	HB 73	60	HB 686	110	HB 619
11	HB 227	61	HB 710	111	SB 165
12	HB 253	62	SB 17	112	SB 215
13	HB 244	63	SB 41	113	HB 573
14	HB 249	64	SB 91	114	HB 624
15	HB 250	65	HB 300	115	SB 13
16	HB 80	66	HB 79	116	SB 21
17	HB 117	67	HB 292	117	SB 22
18	HB 90	68	HB 442	118	SB 64
19	HB 207	69	HB 513	119	SB 77
20	HB 218	70	HB 426	120	HB 374
21	HB 229	71	HB 340	121	HB 441
22	HB 238	72	HB 258	122	HB 55
23	HB 288	73	HB 651	123	HB 61
24	HB 307	74	HB 583	124	HB 278
25	HB 355	75	SB 38	125	HB 362
26	HB 418	76	SB 56	126	HB 388
27	HB 490	77	SB 109	127	HB 477
28	HB 520	78	SB 160	128	HB 494
29	SB 65	79	SB 138	129	HB 538
30	SB 130	80	HB 240	130	HB 554
31	HB 78	81	HB 672	131	HB 318
32	HB 203	82	SB 18	132	HB 205
33	HB 210	83	SB 180	133	HB 67
34	HB 268	84	HB 60	134	HB 487
35	HB 327	85	HB 206	135	HB 532
36	HB 365	86	HB 261	136	HB 744
37	HB 447	87	HB 306	137	HB 412
38	SB 19	88	HB 322	138	HJR 9
39	SB 119	89	HB 357	139	HB 204
40	HB 58	90	HB 373	140	HB 262
41	HB 92	91	HB 420	141	HB 345
42	HB 214	92	HB 535	142	HB 431
43	HB 230	93	HB 736	143	HB 444
44	HB 302	94	SB 14	144	HB 456
45	HB 358	95	SB 42	145	HB 541
46	HB 383	96	SB 60	146	HB 727
47	HB 402	97	SB 75	147	SJR 1
48	HB 403	98	SB 81	148	SB 16
49	HB 435	99	SB 117	149	SB 24
50	HB 515	100	SB 139	150	SB 25

Chapter	Bill	Chapter	Bill	Chapter	Bill
151	SB 26	201	HB 379	251	SB 172
152	SB 59	202	HB 381	252	SB 175
153	SB 111	203	HB 414	253	SB 191
154	SB 141	204	HB 421	254	SB 192
155	HB 82	205	HB 473	255	SB 197
156	HB 524	206	HB 485	256	SB 198
157	HB 566	207	HB 486	257	SB 217
158	HB 714	208	HB 546	258	HB 369
159	HB 1	209	HB 574	259	HB 559
160	HB 215	210	HB 606	260	HB 608
161	HB 399	211	HB 675	261	HB 652
162	HB 745	212	HB 688	262	HB 664
163	HB 596	213	HB 720	263	HB 685
164	HB 495	214	HB 742	264	HB 689
165	HB 88	215	SB 107	265	HB 698
166	HB 236	216	SB 110	266	HB 719
167	HB 274	217	SB 112	267	HB 738
168	HB 325	218	SB 118	268	HB 741
169	HB 443	219	SB 150	269	SB 27
170	HB 469	220	SB 159	270	SB 62
171	HB 519	221	SB 164	271	SB 102
172	HB 561	222	SB 168	272	SB 177
173	HB 586	223	SB 220	273	SB 182
174	HB 604	224	SB 230	274	SB 187
175	HB 609	225	HB 2	275	SB 195
176	HB 667	226	HB 25	276	SB 223
177	HB 706	227	HB 94	277	SB 227
178	SB 45	228	HB 213	278	HB 468
179	SB 74	229	HB 216	279	HB 69
180	SB 129	230	HB 272	280	HB 89
181	SB 173	231	HB 367	281	HB 265
182	SB 193	232	HB 410	282	HB 291
183	HB 112	233	HB 451	283	HB 331
184	HB 438	234	HB 492	284	HB 333
185	HB 726	235	HB 545	285	HB 395
186	HJR 2	236	HB 626	286	HB 408
187	HJR 7	237	HB 650	287	HB 428
188	HJR 8	238	HB 670	288	HB 463
189	HB 56	239	HB 687	289	HB 464
190	HB 66	240	HB 722	290	HB 491
191	HB 225	241	HB 739	291	HB 525
192	HB 231	242	SB 12	292	HB 562
193	HB 245	243	SB 20	293	HB 563
194	HB 263	244	SB 32	294	HB 576
195	HB 270	245	SB 37	295	HB 584
196	HB 301	246	SB 53	296	HB 601
197	HB 313	247	SB 78	297	HB 616
198	HB 324	248	SB 99	298	HB 653
199	HB 356	249	SB 104	299	HB 658
200	HB 364	250	SB 131	300	HB 665

Chapter	Bill	Chapter	Bill	Chapter	Bill
301	HB 666	318	SB 114	335	HB 363
302	HB 676	319	SB 124	336	HB 537
303	HB 684	320	SB 140	337	HB 645
304	HB 709	321	SB 158	338	HB 999
305	HB 721	322	SB 163	339	HB 224
306	HB 729	323	SB 167	340	HB 501
307	SB 28	324	SB 183	341	HB 577
308	SB 30	325	SB 189	342	HB 746
309	SB 47	326	SB 200	343	HB 649
310	SB 58	327	SB 201	344	HB 704
311	SB 67	328	SB 204	345	HB 643
312	SB 69	329	SB 209	346	HB 572
313	SB 70	330	SB 214	347	HB 294
314	SB 83	331	SB 224	348	HB 346
315	SB 93	332	HJR 10	349	HB 615
316	SB 105	333	HB 669	350	HB 625
317	SB 113	334	HB 84		



