

April 14, 2004
2004-1205s
06/10

Floor Amendment to HB 1262

Amend the bill by replacing paragraph I of section 2 with the following:

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

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

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

(c) A member nominated by New Hampshire the Beautiful, Inc. and appointed by the governor.

(d) A member nominated by the Northeast Resource Recovery Association and appointed by the governor.

(e) Two public members, appointed by the speaker of the house of representatives.

SENATOR JOHNSON: Thank you, Mr. President. This floor amendment, which is being passed out, has one minor change on item C on the membership nomination, "A member nominated by New Hampshire the Beautiful, Inc. and appointed by the governor." That was not something that we thought about before. We find that when the nominations were made, they weren't being filled, and we want to be sure that with the appointment by the Governor, that it will happen. Thank you, Mr. President.

Floor amendment adopted.

Senator Green offered a floor amendment.

Sen. Green, Dist. 6

Sen. Gallus, Dist. 1

April 15, 2004
2004-1229s
01/09

Floor Amendment to HB 1262

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

AN ACT establishing a commission to study ways to encourage municipal recycling efforts and making certain changes to the tax exemption for water and air pollution control facilities.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 8:

6 Water and Air Pollution Control Facilities; Percentage Exemption Removed; Real Estate Exemption Inserted. Amend RSA 72:12-a, I through V to read as follows:

I.(a) Any person, firm or corporation which builds, constructs, installs, or places in use in this state any treatment facility, device, appliance, or installation wholly ~~or partly~~ for the purpose of reducing, controlling, or eliminating any source of air or water pollution shall be entitled to have the value of said facility ~~and any real estate necessary therefor, or a percentage thereof determined in accordance with this section,~~ **device, appliance, or installation** exempted from the taxes levied under this chapter for the period of years in which the facility, device, appliance, or installation is used in accordance with the provisions of this section. ***This subparagraph shall not apply to privately-owned landfills or ancillary facilities located at the landfill.***

(b) If the pollution control facility, device, appliance, or installation requires additional real estate not otherwise occupied for other uses, and such real estate cannot be used for any other purpose while in use for pollution control, then the real estate shall be considered part of the facility, device, appliance, or installation for purpose of tax exemption under this section. The tax exemption shall be limited to the area actually necessary for pollution control as determined by the department of environmental services. This subparagraph shall not apply to privately-owned landfills and ancillary facilities located at the landfills.

II. The party seeking the exemption shall file an application with the department of environmental services if the exemption sought is for a water pollution control facility or an air pollution control facility, with a copy to the taxing authorities in the municipality where the facility is situated. Said application shall describe the facilities and their function or functions and shall state the applicant's total investment therein and the portion allocable to each function.

III. The department shall investigate and determine whether the purpose of the facility is solely ~~for only partially~~ pollution control. ~~[If the department finds that the purpose of the facility is only partially pollution control it shall determine by an allocation of the applicant's investment in the facility what percentage of the facility is used to control pollution.]~~ In making its investigation, the department may inspect the facility and request such other information from the applicant as is reasonably necessary to assist it in making its determination.

IV. Upon making its determination, the department shall notify the applicant and the taxing authorities of the municipality where the facility is situated whether the purpose of the facility is solely pollution control ~~[, or, if not, what percentage of the applicant's investment in the facility should be allocated to pollution control].~~

7 Facilities Previously Exempted; Percentage Exemption Removed. Amend RSA 72:12-b to read as follows:

72:12-b Facilities Previously Exempted. Upon application by either the municipality or the owner of any pollution control facility previously exempted under RSA 149:5-a the department of environmental services shall review a determination made under RSA 149:5-a ~~[and determine the exempt percentage in the manner provided by RSA 72:12-a]~~; provided, however, that the period of exemption shall not be extended by any such redetermination. Either the municipality or the owner of the facility may request a rehearing or appeal from such determination in accordance with the provisions of RSA 541.

2004-1229s

AMENDED ANALYSIS

This bill establishes a commission to study ways to encourage municipal recycling efforts.

This bill also removes the tax exemption for pollution control facilities, devices, appliances, or installations that are:

- I. Only partly for the purpose of reducing pollution.
- II. Installed as part of privately-owned landfills.

SENATOR GREEN: Thank you, Mr. President. I rise to offer a floor amendment. This amendment is added to this bill as a germane amendment dealing with recycling and the role of water and air pollution control facilities. This particular amendment changes the statutes in a

couple of ways. Number one, it clarifies language in terms of what pollution control devices are and which ones are in fact eligible for exemptions. The major issue for me bringing this along with changing the definitions and the words in here, which mostly was done as a result of talking with the communities, there are two landfill communities which have major privately owned landfills in the state of New Hampshire. One is in Bethlehem, and one is in Rochester. The third landfill, which is in Berlin, is a publicly owned landfill, so it would not be affected by this because they do not pay taxes anyway. Myself and Senator Gallus who are on this amendment, both represent those districts that have those landfills in them. The purpose of this, on line 18 and line 26, you will find the key language, other than changing definitions in the bill. "This subdivision shall not apply to privately owned landfills or facilities located at the landfill." The second on page 26, the same language. The reason for that is, these two communities are host communities. We have never had the question of whether or not they were going to pay property taxes in our communities. But due to recent interpretations of the current law, it has been determined in a broad sense that they would be eligible for these same pollution control exemptions. For my community, I will speak for Rochester. Senator Gallus, if would like, can speak for Bethlehem. But for my community that is a major commitment as a host community. If that facility was willing and able, if the current law stayed as it is, would apply for a tax exemption, they would make a major, major change in the ability of our city to generate revenue from that facility. Now I think it is okay for us to be the host community, but I think there has to be a benefit to us being a host community. We can't turn around at the same time and say we will send all of your solid waste to your community, but your community must give this particular facility a property tax exemption from our local properties. That just does not seem appropriate. That is why I brought this amendment. I would ask your support. I think it is very important for my district and I think it is very important for us, in terms of the state, if you are going to maintain landfills. I know that my current landfill has an application which has been withdrawn to expand the landfill. If they are going to start getting exemptions from this landfill, I don't think that my community is going to be very happy with giving them an expansion and further increasing activity in our community, if they are going to be exempt from major contributions to our local property tax base. I will answer any questions, Mr. President.

SENATOR BARNES: Thank you, Mr. President. Senator Green, I hear you talking about your city of Rochester, but a lot of my towns in my district, including my hometown, rely on Rochester. Is that true?

SENATOR GREEN: Absolutely. That is absolutely true.

SENATOR BARNES: Do you know how many towns rely on Rochester?

SENATOR GREEN: My understanding is, I don't know the exact number, Senator, but it is a large percentage of the whole south/east and middle part of the state that go there.

SENATOR BARNES: You are absolutely right. I think all of my towns probably use that facility.

SENATOR GREEN: If that facility is either closed because of not being expanded, or finds itself in a situation where the city is not willing to

agree with them in terms of what we call “community agreement”, we would have a problem with the landfill being available to all the communities who are served by that facility.

SENATOR BARNES: Next time you are talking to the officials in Rochester, would you please thank them for me for having that facility available for my towns?

SENATOR GREEN: Thank you, Senator.

SENATOR BARNES: Thank you.

SENATOR JOHNSON: Thank you, Mr. President. I am going to have to vote no on this amendment. I appreciate Senator Green’s concern about Turnkey in Rochester. They do a fantastic job, and as I understand, they service about 65 percent of the population of the state of New Hampshire. However, I am looking at the Bethlehem facility, and in looking at that facility, there is a total of 65 towns that are using that facility. In district one, which is Senator Gallus’ district, there are 20 towns. In my district, district two, there are 18 towns. In Senator Kenney’s district, district three, there are 11 towns. So it would be a total of 49 towns in the Great North Woods and the north country that are using that facility. I don’t believe that the department is in favor of exempting the landfill, so I am going to have to vote no on this. Thank you, Mr. President.

SENATOR GALLUS: Thank you, Mr. President. Just to reiterate what Senator Green has said, these are the only two facilities in the state that are affected. Basically, they have historically have paid real estate taxes to those communities. Bethlehem has another problem there because they have a legal problem going on now, but most of the other facilities are not affected if they are a municipally owned situation. But historically, these facilities, have been paying real estate taxes to those two communities over the years. It is nice to have a place to bring your trash. We have another facility in Berlin in which it happens to be municipally owned. We take a lot of trash from some of the outside communities and things. They do not pay real estate taxes. The facility is actually in Success. It is an unincorporated place, very little taxes there anyway, and it is municipally owned. As Senator Green has stated, the host community should be remunerated for taking in somebody else’s trash. That is all that I need to say. Thank you, Mr. President.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1348-FN, relative to registration of business organizations. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-1. Senator Peterson for the committee.

Senate Executive Departments and Administration

April 9, 2004

2004-1121s

03/09

Amendment to HB 1348-FN

Amend the bill by replacing section 1 with the following:

1 Voluntary Corporations and Associations; Name. RSA 292:3 is repealed and reenacted to read as follows:

292:3 Name.

I. A corporate name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 292:1 and its articles of agreement.

II. Except as authorized by paragraphs III and IV, a corporation name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

III. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section shall prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic corporation under the same name as the trade name.

Amend the bill by replacing section 5 with the following:

5 Business Corporation Act; Effective Time and Date of Document.

Amend RSA 293-A:1.23 to read as follows:

293-A:1.23 Effective Time and Date of Document.

(a) Except as provided in ~~subsection~~ **subsections (b) and (c)** and RSA 293-A:1.24(c), a document accepted for filing is effective:

(1) At the close of business on the date it is filed, as evidenced by the secretary of state's date endorsement of the original document; or

(2) At the time specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.

(c) A document filed electronically shall be effective upon the date and time of acceptance by the secretary of state corporate database and application or as specified pursuant to subparagraph (b).

Amend the bill by replacing section 8 with the following:

8 Business Corporation Act; Corporate Name. RSA 293-A:4.01 is repealed and reenacted to read as follows:

293-A:4.01 Corporate Name.

(a) A corporate name shall:

(1) Contain the word "corporation," "incorporated," or "limited" or the abbreviation "corp.," "inc.," or "ltd.," or words or abbreviations of like import in another language.

(2) Not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 293-A:3.01 and its articles of incorporation.

(b) Except as authorized by subsections (c) and (d) of this section, a corporate name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(c) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subsection (b) of this section, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subsection (b) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken

for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(e) This chapter does not control the use of fictitious names.

(f) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic corporation under the same name as the trade name.

(g) The secretary of state and those acting on his or her behalf shall incur no liability, either personally or on behalf of the state of New Hampshire, as a result of negligent acts or omissions in the reservation or registration of any name under this chapter or any other name registration or reservation statute, including but not limited to RSA 349, or the handling and recording of documents pertaining to such reservation or registration.

Amend the bill by replacing sections 16-18 with the following:

16 Investment Trusts; Fees. RSA 293-B:14 is repealed and reenacted to read as follows:

293-B:14 Fees.

I. No documents required to be filed under this chapter shall be effective until the applicable fee required by this paragraph is paid. The secretary of state shall charge and collect the following fees:

(a) A fee of \$50 for filing a certificate of trust.

(b) A fee of \$35 for:

(1) Filing a certificate of amendment;

(2) Filing a certificate of cancellation; or

(3) Filing a certificate of merger or consolidation.

(c) A fee of \$15 for:

(1) Filing an application for reservation of name;

(2) Filing a notice of transfer of reservation; or

(3) Filing a notice of cancellation of reservation.

II. In addition to the fee provided in subparagraph I(a), the secretary of state shall charge and collect a registration fee of \$50 from each New Hampshire investment trust at the time of filing a certificate of trust.

III. For the privilege of maintaining its certificate of trust in good standing and continuing to exercise its authority to transact the business of a New Hampshire investment trust in this state, the secretary of state shall charge and collect a fee of \$200 from each New Hampshire investment trust established under RSA 293-B, payable on or before April 1 of

each year. Each New Hampshire investment trust that fails or refuses to pay the fees required for any year on or before April 1 shall be subject to an additional fee of \$25 per month.

IV. The certificate of trust of New Hampshire investment trust may be revoked pursuant to RSA 293-A:14.21 by the secretary of state if the corporation fails to comply with any provision of this chapter applicable to it.

17 Investment Trusts; Use of Names Regulated. RSA 293-B:16, I is repealed and reenacted to read as follows:

I.(a) A New Hampshire investment trust name shall not contain language stating or implying that the New Hampshire investment trust is organized for a purpose other than that permitted by RSA 293-B:3 and its certificate of trust.

(b) Except as authorized by subparagraphs (c) and (d), a New Hampshire investment trust name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(c) A New Hampshire investment trust may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subparagraph (b), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (b) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A New Hampshire investment trust may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user New Hampshire investment trust:

(1) Has merged with the other entity;

- (2) Has been formed by reorganization of the other entity; or
- (3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(e) This chapter does not control the use of fictitious names.

(f) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a New Hampshire investment trust under the same name as the trade name.

18 Professional Corporations; Corporate Name. RSA 294-A:7 is repealed and reenacted to read as follows:

294-A:7 Corporate Name. The name of a domestic professional corporation or of a foreign professional corporation authorized to transact business in this state:

I. Shall end with one of the following words or abbreviations: "professional corporation," "professional association," "Prof. Corp.," "Prof. Ass'n," "P.C.," or "P.A." or similar abbreviations of these words;

II. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;

III.(a) Except as authorized by subparagraph (b), a professional corporation name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(b) Subparagraph (a) shall not apply if:

(1) The similarity results from the use in the professional corporate name of personal names of its stockholders or former shareholders or of natural persons who were associated with a predecessor entity; or

(2) The applicant files with the secretary of state an application for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subparagraph (a), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(A) The holder or holders of the name as described in subparagraph (a) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(B) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying corporation; or

(C) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A professional corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user professional corporation:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(d) This chapter does not control the use of fictitious names.

(e) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a professional corporation under the same name as the trade name.

IV. Shall otherwise conform to any rule adopted by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of the corporation.

Amend the bill by replacing section 23 with the following:

23 Cooperative Marketing and Rural Electrification Associations; Use of Name Regulated. RSA 301:43-a is repealed and reenacted to read as follows:

301:43-a Use of Name Regulated.

I. A cooperative name shall not contain language stating or implying that the association is organized for a purpose other than that permitted by RSA 301:3 and its certificate of organization.

II. Except as authorized by paragraphs III and IV, a cooperative name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

III. A cooperative may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying cooperative; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying cooperative; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A cooperative may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user cooperative:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic cooperative under the same name as the trade name.

Amend the bill by replacing section 30 with the following:

30 Name of Registered Limited Liability Partnership. RSA 304-A:45 is repealed and reenacted to read as follows:

304-A:45 Name of Registered Limited Liability Partnership. The name of a registered limited liability partnership:

I. Shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

II. Except as authorized by paragraphs III and IV, a registered limited liability partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

III. A registered limited liability partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying registered limited liability partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying registered limited liability partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A registered limited liability partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user registered limited liability partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic registered limited liability partnership under the same name as the trade name.

Amend the bill by replacing section 36 with the following:

36 Uniform Limited Partnership Act; Name. RSA 304-B:2 is repealed and reenacted to read as follows:

304-B:2 Name.

I. The name of each limited partnership as set forth in its certificate of limited partnership:

(a) Shall contain without abbreviation the words "limited partnership" as the last words of its name;

(b) May not contain the name of a limited partner unless (1) it is also the name of a general partner or the corporate name of a corporate general partner, or (2) the business of the limited partnership had been carried on under that name before the admission of that limited partner.

II. A limited partnership name shall not contain language stating or implying that the limited partnership is organized for a purpose other than that permitted by RSA 304-B:6 and its certificate of limited partnership.

III. Except as authorized by paragraphs IV and V, a limited partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

IV. A limited partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph III, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying limited partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying limited partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

V. A limited partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user limited partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

VI. This chapter does not control the use of fictitious names.

VII. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic limited partnership under the same name as the trade name.

Amend the bill by replacing section 46 with the following:

46 Limited Liability Companies; Name Set Forth in Certificate. RSA 304-C:3 is repealed and reenacted to read as follows:

304-C:3 Name Set Forth in Certificate.

I. The name of each limited liability company as set forth in its certificate of formation:

(a) Shall contain the words "limited liability company" or the abbreviation "L.L.C." or similar abbreviation; and

(b) May contain the name of a member or manager.

II. A limited liability company name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 304-C:7 and its certificate of formation.

III. Except as authorized by paragraphs IV and V, a limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

IV. A limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph III, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying limited liability company; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

V. A limited liability company may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user limited liability company:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

VI. This chapter does not control the use of fictitious names.

VII. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic limited liability company under the same name as the trade name.

Amend the bill by replacing section 50 with the following:

50 Foreign Limited Liability Companies; Name, Registered Office, Registered Agent. RSA 304-C:66, I-II is repealed and reenacted to read as follows:

I. A foreign limited liability company may register with the secretary of state under its name, provided however:

(a) That the name must be one that could be registered by a domestic limited liability company;

(b) That the name under which a foreign limited liability company is registering must include the words "limited liability company" or the abbreviation "L.L.C." or similar abbreviation;

(c) That a foreign limited liability company may use a fictitious name under which it may register and transact business in this state if its real name has been determined by the secretary of state to be unavailable;

(d) A foreign limited liability company name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 304-C:7 and its certificate of formation.

(e) Except as authorized by subparagraphs (f) and (g), a foreign limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(f) A foreign limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subparagraph (e), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (e) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying foreign limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying foreign limited liability company; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(g) A foreign limited liability company may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user foreign limited liability company:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(h) This chapter does not control the use of fictitious names.

(i) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a foreign limited liability company under the same name as the trade name.

II. Each foreign limited liability company shall have and maintain in New Hampshire:

(a) A registered office that may be the same as any of its places of business in New Hampshire.

(b) A registered agent, which agent may be:

(1) An individual who resides in this state and whose business office is identical with the registered office; or

(2) A corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A whose business office is identical with the registered office; or

(3) A limited liability company formed or authorized under RSA 304-C whose business office is identical with the registered office; or

(4) A limited liability partnership formed or authorized under RSA 304-A:44 whose business office is identical with the registered office.

Amend the bill by replacing section 53 with the following:

53 Limited Liability Companies; Fees. Amend RSA 304-C:81, I(c)-(g) to read as follows:

(c) Upon the receipt for filing of a certificate of formation under RSA 304-C:12, **a fee in the amount of \$50; upon the receipt for filing of** a certificate of amendment under RSA 304-C:13, a certificate of merger under RSA 304-C:21, a certificate of conversion under RSA 304-C:17-a, or a restated certificate of formation under RSA 304-C:17, a fee in the amount of \$35[;]; and upon the receipt for filing of a certificate of cancellation of a domestic limited liability company under RSA 304-C:59, a fee in the amount of \$35.

(d) Upon receipt for filing of an annual report under RSA 304-C:80, a fee in the amount of \$100; for failure or refusal to file an annual report or pay the filing fee [by April 15] **on or before April 1** of any year, an additional late filing fee in the amount of [~~\$50~~] **\$25 per month**; and upon receipt for filing of an application for reinstatement pursuant to RSA 304-C:54, a fee of [~~\$75~~] **\$135**.

(e) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$1 per page and \$5 for the certificate.

(f) Upon the receipt for filing of an application for registration as a foreign limited liability company under RSA 304-C:64, **a fee in the amount of \$50; upon the receipt for filing of** [~~or~~] a certificate of cancellation under RSA 304-C:68, a fee in the amount of [~~\$200~~] **\$35**; and upon receipt for filing of an amendment to an application under RSA 304-C:67, a fee in the amount of [~~\$15~~] **\$35**.

(g) Upon the receipt for filing of a statement under RSA 304-C:66, III, a fee in the amount of \$15, **and** upon the receipt for filing of a statement under RSA 304-C:66, IV, a fee in the amount of \$15[~~and upon the receipt for filing of a statement under RSA 304-C:66, V, a fee in the amount of \$2.50~~].

Amend the bill by replacing section 57 with the following:

57 Registration of Foreign Partnerships; Name. RSA 305-A:2-e is repealed and reenacted to read as follows:

305:2-e Name.

I. Except as authorized by paragraphs II and III, a foreign partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

II. A foreign partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in paragraph I, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph I gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying foreign partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying foreign partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

III. A foreign partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user foreign partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

IV. This chapter does not control the use of fictitious names.

V. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a foreign partnership under the same name as the trade name.

Amend the bill by replacing section 60 with the following:

60 Trade Names; Registration, Generally. Amend RSA 349:1, III-V to read as follows:

III. ~~The secretary of state shall decline to register any trade name similar or likely to be confused with or mistaken for any trade name or for any registration as described in paragraph I or II of this section or any name reserved under RSA 293-A, 304-A, 304-B:2, or 304-C:4 unless the holder or holders of the name gives written consent to use the same or deceptively similar name.~~

IV. ~~The secretary of state shall decline to register any trade name the same as, or deceptively similar to, an agency or instrumentality of the United States or this state or subdivision thereof or of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of such party.~~

¶] The provisions of this chapter shall not apply to rating organizations or insurers which engage in joint underwriting or joint reinsurance which are referred to in, and subject to, the provisions of RSA 413.

IV.(a) Except as authorized by subparagraphs (b) and (c), a trade name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) ***A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.***

(3) ***The fictitious name of another foreign corporation authorized to transact business in this state.***

(4) ***The name of an agency or instrumentality of the United States or this state or a subdivision thereof.***

(5) ***The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.***

(b) ***An applicant may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, deceptively similar to, or likely to be confused with or mistaken for one or more of the names described in subparagraph (a), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:***

(1) ***The holder or holders of the name as described in subparagraph (a) gives written consent to use the name that is not distinguishable from, deceptively similar to, or likely to be confused with or mistaken for the name of the applying trade name; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or***

(2) ***The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, deceptively similar to, or likely to be confused with or mistaken for the name of the applying trade name; or***

(3) ***The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.***

(g) ***An applicant may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation has acquired all or substantially all of the assets, including the name, of the other entity.***

Amend the bill by inserting after section 62 the following and renumbering the original section 63 to read as 66:

63 Corporations; Penalties Imposed. Amend RSA 293-A:1.36 to read as follows:

293-A:1.36 Penalties Imposed. Each corporation, domestic or foreign, that fails or refuses to file its annual report or to pay all associated fees related thereto, or both, for any year [by April 15] ***on or before April 1*** shall be subject to an additional fee as set out in RSA 293-A:1.22(a)(12).

64 Partnerships; Late Fee. Amend RSA 304-A:47, III to read as follows:

III. Each domestic and foreign registered limited liability partnership that fails or refuses to pay its annual fee for any year [~~by April 15~~] **on or before April 1** shall be subject to an additional fee as set out in RSA 304-A:51, II.

65 Partnerships; Late Filing Fee. Amend RSA 304-A:51, II(c) to read as follows:

(c) Late filing fee under RSA 304-A:47, IV [~~\$50~~] **\$25 per month**

SENATOR PETERSON: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1348 which removes the subjectivity to a degree from the process of approving business names and increases the efficiency of this process by implementing the “distinguishable upon the records” standard, a standard that is used widely across the country. The committee further amended the bill to clarify that when approving business names, one name shall continue under our law to not be allowed to be “deceptively similar” to another business name already in existence. House Bill 1348 allows for electronic filing of business registrations and the committee amended the bill to allow electronic registrations the same filing guidelines as paper filing. The bill also standardizes filing fees which over the years have come out of line with each other, and in some cases, increases these fees to an extent. The committee recommends that House Bill 1348 ought to pass with amendment. Thank you, Mr. President.

SENATOR PRESCOTT: Thank you, Mr. President. I would like to add that the language that was added concerning the corporation names and distinguishable from, was done as the original bill. We added into it, not deceptively similar too. The committee believed that language was removed from the original language and we put it back in. I have the opinion of the Secretary of State’s Office that they’re okay with that, and we would like to make sure that that stays in, the wording “deceptively similar too.” Thank you, Mr. President.

Amendment adopted.

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

April 15, 2004

2004-1223s

03/09

Floor Amendment to HB 1348-FN

Amend the bill by inserting after section 65 the following and renumbering the original section 66 to read as 67:

66 Department of State; Office Fees; Convenience Fee. Amend RSA 5:10 to read as follows:

5:10 Office Fees. Except as otherwise provided, the following fees shall be paid to the secretary of state for the use of the state: For every commission issued to a justice of the peace or to a notary public, \$50; for every certificate pertaining to the existence of a corporation, trade name, or other business entity, or writ served on the same, \$5; for every such certificate in long form, \$10; for every apostille provided under the Hague Convention of 1961 and for every certificate for a notary public or justice of the peace, \$10; for every other certificate under seal of the state, \$5; for engrossing private acts, \$1 for each page of 240 words; for expedited service of every 10 documents or any part thereof, \$25. ***If the secretary of state collects a fee electronically for any registration, any docu-***

ment, or any other purpose, the secretary of state shall collect an additional convenience fee for each fee paid electronically, including by Internet or facsimile, by adding 2 percent to the total fee.

SENATOR CLEGG: Thank you, Mr. President. I rise to offer a floor amendment. What this amendment does is the same thing that we did for the Department of Safety. It says that if the Secretary of State collects a fee electronically for registration, that they will add 2 percent to the cost, to cover the cost of accepting credit cards. Thank you.

SENATOR BELOW: Thank you, Mr. President. Senator Clegg, you said this was for credit cards, but it would include each fee paid electronically, which presumably would include debit transfers. Are debit transfers, do they cost the state in the same manner that credit cards do? Do you know that?

SENATOR CLEGG: I do not know that.

SENATOR BELOW: Or, there are these Pay Pals, people use Pay Pal which actually transfers funds.

SENATOR CLEGG: Pay Pal actually does cost to receive it.

SENATOR BELOW: Okay, thank you.

Floor amendment adopted.

Senator Foster offered a floor amendment.

Sen. Below, Dist. 5
Sen. Foster, Dist. 13

April 15, 2004
2004-1227s
10/03

Floor Amendment to HB 1348-FN

Amend the bill by replacing section 1 with the following:

1 Voluntary Corporations and Associations; Name. RSA 292:3 is repealed and reenacted to read as follows:
292:3 Name.

I. A corporate name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 292:1 and its articles of agreement.

II. Except as authorized by paragraphs III and IV, a corporation name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

III. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as,

or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying corporation; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section shall prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic corporation under the same name as the trade name.

Amend the bill by replacing section 5 with the following:

5 Business Corporation Act; Effective Time and Date of Document. Amend RSA 293-A:1.23 to read as follows:

293-A:1.23 Effective Time and Date of Document.

(a) Except as provided in ~~[subsection]~~ **subsections (b) and (c)** and RSA 293-A:1.24(c), a document accepted for filing is effective:

(1) At the close of business on the date it is filed, as evidenced by the secretary of state's date endorsement of the original document; or

(2) At the time specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.

(c) A document filed electronically shall be effective upon the date and time of acceptance by the secretary of state corporate database and application or as specified pursuant to subparagraph (b).

Amend the bill by replacing section 8 with the following:

8 Business Corporation Act; Corporate Name. RSA 293-A:4.01 is repealed and reenacted to read as follows:

293-A:4.01 Corporate Name.

(a) A corporate name shall:

(1) Contain the word "corporation," "incorporated," or "limited" or the abbreviation "corp.," "inc.," or "ltd.," or words or abbreviations of like import in another language.

(2) Not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 293-A:3.01 and its articles of incorporation.

(b) Except as authorized by subsections (c) and (d) of this section, a corporate name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(c) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subsection (b) of this section, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subsection (b) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying corporation; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(e) This chapter does not control the use of fictitious names.

(f) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic corporation under the same name as the trade name.

(g) The secretary of state and those acting on his or her behalf shall incur no liability, either personally or on behalf of the state of New Hampshire, as a result of negligent acts or omissions in the reservation or registration of any name under this chapter or any other name registration or reservation statute, including but not limited to RSA 349, or the handling and recording of documents pertaining to such reservation or registration.

Amend the bill by replacing sections 16-18 with the following:

16 Investment Trusts; Fees. RSA 293-B:14 is repealed and reenacted to read as follows:

293-B:14 Fees.

I. No documents required to be filed under this chapter shall be effective until the applicable fee required by this paragraph is paid. The secretary of state shall charge and collect the following fees:

- (a) A fee of \$50 for filing a certificate of trust.
- (b) A fee of \$35 for:
 - (1) Filing a certificate of amendment;
 - (2) Filing a certificate of cancellation; or
 - (3) Filing a certificate of merger or consolidation.
- (c) A fee of \$15 for:
 - (1) Filing an application for reservation of name;
 - (2) Filing a notice of transfer of reservation; or
 - (3) Filing a notice of cancellation of reservation.

II. In addition to the fee provided in subparagraph I(a), the secretary of state shall charge and collect a registration fee of \$50 from each New Hampshire investment trust at the time of filing a certificate of trust.

III. For the privilege of maintaining its certificate of trust in good standing and continuing to exercise its authority to transact the business of a New Hampshire investment trust in this state, the secretary of state shall charge and collect a fee of \$200 from each New Hampshire investment trust established under RSA 293-B, payable on or before April 1 of each year. Each New Hampshire investment trust that fails or refuses to pay the fees required for any year on or before April 1 shall be subject to an additional fee of \$25 per month.

IV. The certificate of trust of New Hampshire investment trust may be revoked pursuant to RSA 293-A:14.21 by the secretary of state if the corporation fails to comply with any provision of this chapter applicable to it.

17 Investment Trusts; Use of Names Regulated. RSA 293-B:16, I is repealed and reenacted to read as follows:

I.(a) A New Hampshire investment trust name shall not contain language stating or implying that the New Hampshire investment trust is organized for a purpose other than that permitted by RSA 293-B:3 and its certificate of trust.

(b) Except as authorized by subparagraphs (c) and (d), a New Hampshire investment trust name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(c) A New Hampshire investment trust may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subparagraph (b), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (b) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying corporation; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A New Hampshire investment trust may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user New Hampshire investment trust:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(e) This chapter does not control the use of fictitious names.

(f) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a New Hampshire investment trust under the same name as the trade name.

18 Professional Corporations; Corporate Name. RSA 294-A:7 is repealed and reenacted to read as follows:

294-A:7 Corporate Name. The name of a domestic professional corporation or of a foreign professional corporation authorized to transact business in this state:

I. Shall end with one of the following words or abbreviations: "professional corporation," "professional association," "Prof. Corp.," "Prof. Ass'n," "P.C.," or "P.A." or similar abbreviations of these words;

II. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;

III.(a) Except as authorized by subparagraph (b), a professional corporation name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(b) Subparagraph (a) shall not apply if:

(1) The similarity results from the use in the professional corporate name of personal names of its stockholders or former shareholders or of natural persons who were associated with a predecessor entity; or

(2) The applicant files with the secretary of state an application for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subparagraph (a), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(A) The holder or holders of the name as described in subparagraph (a) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying corporation; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(B) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying corporation; or

(C) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A professional corporation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user professional corporation:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(d) This chapter does not control the use of fictitious names.

(e) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a professional corporation under the same name as the trade name.

IV. Shall otherwise conform to any rule adopted by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of the corporation.

Amend the bill by replacing section 23 with the following:

23 Cooperative Marketing and Rural Electrification Associations; Use of Name Regulated. RSA 301:43-a is repealed and reenacted to read as follows:

301:43-a Use of Name Regulated.

I. A cooperative name shall not contain language stating or implying that the association is organized for a purpose other than that permitted by RSA 301:3 and its certificate of organization.

II. Except as authorized by paragraphs III and IV, a cooperative name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

III. A cooperative may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying cooperative; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying cooperative; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A cooperative may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user cooperative:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic cooperative under the same name as the trade name.

Amend the bill by replacing section 30 with the following:

30 Name of Registered Limited Liability Partnership. RSA 304-A:45 is repealed and reenacted to read as follows:

304-A:45 Name of Registered Limited Liability Partnership. The name of a registered limited liability partnership:

I. Shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

II. Except as authorized by paragraphs III and IV, a registered limited liability partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

III. A registered limited liability partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph II, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph II gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying registered limited liability partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying registered limited liability partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

IV. A registered limited liability partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user registered limited liability partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

V. This chapter does not control the use of fictitious names.

VI. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic registered limited liability partnership under the same name as the trade name.

Amend the bill by replacing section 36 with the following:

36 Uniform Limited Partnership Act; Name. RSA 304-B:2 is repealed and reenacted to read as follows:

304-B:2 Name.

I. The name of each limited partnership as set forth in its certificate of limited partnership:

(a) Shall contain without abbreviation the words "limited partnership" as the last words of its name;

(b) May not contain the name of a limited partner unless (1) it is also the name of a general partner or the corporate name of a corporate general partner, or (2) the business of the limited partnership had been carried on under that name before the admission of that limited partner.

II. A limited partnership name shall not contain language stating or implying that the limited partnership is organized for a purpose other than that permitted by RSA 304-B:6 and its certificate of limited partnership.

III. Except as authorized by paragraphs IV and V, a limited partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

IV. A limited partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph III, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, or likely to be confused with or mistaken for the name of the applying limited partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying limited partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

V. A limited partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user limited partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

VI. This chapter does not control the use of fictitious names.

VII. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic limited partnership under the same name as the trade name.

Amend the bill by replacing section 46 with the following:

46 Limited Liability Companies; Name Set Forth in Certificate. RSA 304-C:3 is repealed and reenacted to read as follows:

304-C:3 Name Set Forth in Certificate.

I. The name of each limited liability company as set forth in its certificate of formation:

(a) Shall contain the words "limited liability company" or the abbreviation "L.L.C." or similar abbreviation; and

(b) May contain the name of a member or manager.

II. A limited liability company name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 304-C:7 and its certificate of formation.

III. Except as authorized by paragraphs IV and V, a limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

IV. A limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph III, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, or likely to be confused with or mistaken for the name of the applying limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying limited liability company; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

V. A limited liability company may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user limited liability company:

- (a) Has merged with the other entity;
- (b) Has been formed by reorganization of the other entity; or
- (c) Has acquired all or substantially all of the assets, including the name, of the other entity.

VI. This chapter does not control the use of fictitious names.

VII. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a domestic limited liability company under the same name as the trade name.

Amend the bill by replacing section 50 with the following:

50 Foreign Limited Liability Companies; Name, Registered Office, Registered Agent. RSA 304-C:66, I-II is repealed and reenacted to read as follows:

I. A foreign limited liability company may register with the secretary of state under its name, provided however:

(a) That the name must be one that could be registered by a domestic limited liability company;

(b) That the name under which a foreign limited liability company is registering must include the words "limited liability company" or the abbreviation "L.L.C." or similar abbreviation;

(c) That a foreign limited liability company may use a fictitious name under which it may register and transact business in this state if its real name has been determined by the secretary of state to be unavailable;

(d) A foreign limited liability company name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RSA 304-C:7 and its certificate of formation.

(e) Except as authorized by subparagraphs (f) and (g), a foreign limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(f) A foreign limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subparagraph (e), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (e) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying foreign limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying foreign limited liability company; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(g) A foreign limited liability company may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user foreign limited liability company:

(1) Has merged with the other entity;

(2) Has been formed by reorganization of the other entity; or

(3) Has acquired all or substantially all of the assets, including the name, of the other entity.

(h) This chapter does not control the use of fictitious names.

(i) Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a foreign limited liability company under the same name as the trade name.

II. Each foreign limited liability company shall have and maintain in New Hampshire:

(a) A registered office that may be the same as any of its places of business in New Hampshire.

(b) A registered agent, which agent may be:

(1) An individual who resides in this state and whose business office is identical with the registered office; or

(2) A corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A whose business office is identical with the registered office; or

(3) A limited liability company formed or authorized under RSA 304-C whose business office is identical with the registered office; or

(4) A limited liability partnership formed or authorized under RSA 304-A:44 whose business office is identical with the registered office.

Amend the bill by replacing section 53 with the following:

53 Limited Liability Companies; Fees. Amend RSA 304-C:81, I(c)-(g) to read as follows:

(c) Upon the receipt for filing of a certificate of formation under RSA 304-C:12, **a fee in the amount of \$50; upon the receipt for filing of** a certificate of amendment under RSA 304-C:13, a certificate of merger under RSA 304-C:21, a certificate of conversion under RSA 304-C:17-a, or a restated certificate of formation under RSA 304-C:17, a fee in the amount of \$35[;]; and upon the receipt for filing of a certificate of cancellation of a domestic limited liability company under RSA 304-C:59, a fee in the amount of \$35.

(d) Upon receipt for filing of an annual report under RSA 304-C:80, a fee in the amount of \$100; for failure or refusal to file an annual report or pay the filing fee ~~by April 15~~ **on or before April 1** of any year,

an additional late filing fee in the amount of [~~\$50~~] **\$25 per month**; and upon receipt for filing of an application for reinstatement pursuant to RSA 304-C:54, a fee of [~~\$75~~] **\$135**.

(e) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$1 per page and \$5 for the certificate.

(f) Upon the receipt for filing of an application for registration as a foreign limited liability company under RSA 304-C:64, **a fee in the amount of \$50; upon the receipt for filing of** [~~or~~] a certificate of cancellation under RSA 304-C:68, a fee in the amount of [~~\$200;~~] **\$35**; and upon receipt for filing of an amendment to an application under RSA 304-C:67, a fee in the amount of [~~\$15~~] **\$35**.

(g) Upon the receipt for filing of a statement under RSA 304-C:66, III, a fee in the amount of \$15, **and** upon the receipt for filing of a statement under RSA 304-C:66, IV, a fee in the amount of \$15[~~, and upon the receipt for filing of a statement under RSA 304-C:66, V, a fee in the amount of \$2.50~~].

Amend the bill by replacing section 57 with the following:

57 Registration of Foreign Partnerships; Name. RSA 305-A:2-e is repealed and reenacted to read as follows:

305:2-e Name.

I. Except as authorized by paragraphs II and III, a foreign partnership name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(c) The fictitious name of another foreign corporation authorized to transact business in this state.

(d) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

II. A foreign partnership may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in paragraph I, as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(a) The holder or holders of the name as described in paragraph I gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying foreign partnership; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(b) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying foreign partnership; or

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

III. A foreign partnership may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user foreign partnership:

(a) Has merged with the other entity;

(b) Has been formed by reorganization of the other entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other entity.

IV. This chapter does not control the use of fictitious names.

V. Nothing in this section would prohibit the owner or owners of a trade name registered under RSA 349 to form a foreign partnership under the same name as the trade name.

Amend the bill by replacing section 60 with the following:

60 Trade Names; Registration, Generally. Amend RSA 349:1, III-V to read as follows:

~~III. [The secretary of state shall decline to register any trade name similar or likely to be confused with or mistaken for any trade name or for any registration as described in paragraph I or II of this section or any name reserved under RSA 293-A, 304-A, 304-B:2, or 304-C:4 unless the holder or holders of the name gives written consent to use the same or deceptively similar name.~~

~~IV. The secretary of state shall decline to register any trade name the same as, or deceptively similar to, an agency or instrumentality of the United States or this state or subdivision thereof or of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of such party.~~

~~V.] The provisions of this chapter shall not apply to rating organizations or insurers which engage in joint underwriting or joint reinsurance which are referred to in, and subject to, the provisions of RSA 413.~~

IV.(a) Except as authorized by subparagraphs (b) and (c), a trade name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or likely to be confused with or mistaken for:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, or RSA 349.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, or RSA 304-C.

(3) The fictitious name of another foreign corporation authorized to transact business in this state.

(4) The name of an agency or instrumentality of the United States or this state or a subdivision thereof.

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization.

(b) An applicant may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or likely to be confused with or mistaken for one or more of the names described in subparagraph (a), as determined from review of the records of the secretary of state. The secretary of state shall authorize use of the name applied for if:

(1) The holder or holders of the name as described in subparagraph (a) gives written consent to use the name that is not distinguishable from or likely to be confused with or mistaken for the name of the applying trade name; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

(2) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable from, and not the same as, or likely to be confused with or mistaken for the name of the applying trade name; or

(3) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(g) An applicant may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if the other entity is incorporated, authorized, formed, or registered to transact business in this state and the proposed user corporation has acquired all or substantially all of the assets, including the name, of the other entity.

SENATOR FOSTER: Thank you, Mr. President. I rise to offer a floor amendment. What I would like to talk a little bit about is some of the comments that both Senator Peterson and Senator Prescott said concerning the problem in registering corporate names in New Hampshire. More often than not, I am working with businesses that are in trouble so I don't form that many businesses on my own, but I did have occasion this fall to try to do so, and to try and pick a corporate name while doing so. I found, and my partners had told me this, it is incredibly difficult to do so in New Hampshire. Many states like Delaware, have a standard for choosing corporate names which uses the word "distinguishable from" which this new law does put on the books. What that is, is somewhat close to an objective standard. You choose a name and if it is different from somebody else's and doesn't come up in a simple search, you will be able to use that name. But in New Hampshire, under current law, and I would suggest, under the amendment that we just passed, cause I don't really see it making things any better, and frankly, I think it makes is somewhat worse. There is incredible subjectivity that goes into choosing whether or not a name is "deceptively similar to". That is language that you usually have using, when somebody brings a trademark action or a service mark action against another company, saying that they are palming off of my goods because there is something deceptive about the way that they are selling it. So what we have today is the Secretary of State's Office making those determinations. I know Senator Prescott said that the Secretary of State's Office was okay with this. That may well be true, I haven't spoken to them in the last few weeks, but I put in a bill earlier on in the year which they spoke in favor of, which used the language 'distinguishable from' and that was all. And they did that because this language is incredibly burdensome to them. Let me tell you the type of thing that can happen. I had a client that had bought four condominium units, actually out of a distressed property or a property that was distressed, that is how I was involved. All he wanted to do was to form a company to hold those four units. So I said, what kind of name do you want to use? So he picked the street name. I don't remember what it was, but let's say it was Smith Road, LLC. Well it turns out that some-

body had Smith Road, so the Secretary of State said that you can't use that. Now Smith Road wasn't in the town of Hudson where this property was, it was in a completely different town. But, okay, it is the same. Actually in the standard that I wanted to use, "distinguishable from" I probably would have had the same problem. So I went back and I said, I know what I will do. Smith Road Hudson, LLC. Sent it up to the Secretary of State's Office. Can't do that, too similar, okay? I went back, I said, how about...I think the address was 85 Smith Road, Hudson, LLC. Nope, still too similar to Smith Road, LLC. Finally, I called him up and he said use my address in Massachusetts and just get the thing registered. In my situation and in my experiences are not unique. This happens, time and time and time again. Some people will tell you that the hardest thing about doing business in New Hampshire, our business friendly state, is forming the name. Just picking a name and trying to go forward. It is because of this "deceptively similar" language. There is a second problem. This gentleman was using an attorney. But some people like to form the businesses themselves, so they will call up the Secretary of State's Office and say can I use this name? Secretary of State or one of the staff people will look at it and say, "yeah, it looks okay with me." So then they will fill out the paperwork and then mail it in, think they have an LLC or a corporation, which means they have limited liability, that is why people form companies a lot of the time, to limit their liability. Only to have the paperwork come back sixty days later, saying you know what, some other staff person looked at it and said 'nope, deceptively similar to the name they chose before.' So they are operating, thinking that they have the corporate shield or the LLC, limited liability, and they don't. So what this floor amendment does only is strike the word "deceptively similar too". It still has, and I still think it is subjective, but it would be less subjective at least, distinguishable from, not the same as, or likely to be confused as, or mistaken for. I left all that language in. That is the language that the House had passed. It actually is a step towards more subjectivity than what I had suggested earlier on in the bill that I had submitted, but chose not to talk to about before the House. I really would urge you to think about it. It is very difficult. Very, very difficult to form a business in New Hampshire. I think that we ought to be more like Delaware where it is easy. They are the state which many people form their corporations anyway. They have instantaneous responses to you. The Secretary of State testified that this is very difficult. He can't train his staff to be uniform in their interpretation because you can't be, because it so subjective. I am trying to take some of this subjectivity out and at least make a step in the right direction. Thank you, Mr. President.

SENATOR PRESCOTT: Thank you, Mr. President. If we remove the words "deceptively similar to", testimony by the Secretary of State's Office was you could have existing company names of Pete's Landscaping and someone else came along and said I want Peter's Landscaping. And the Secretary of State's Office would allow that. We felt that wasn't right. We thought it might be building upon somebody else's reputation by having the very deceptively similar name. Therefore, I would like "deceptively similar" remain in choosing and giving out new corporate names. I don't believe that it is difficult to choose a name. I do it all the time for trade names. You have to think hard and you have to think about markets, and you have to do your diligence. I believe that we should leave 'deceptively similar' in our legislation. Thank you very much, Mr. President.

SENATOR SAPARETO: Thank you, Mr. President. It is a question of either of the two Senators. It appears to me that I remember when I applied for a trade name, that it would be simpler if we were aware of which ones were already taken and what normally would be allowed. Something would tell us instantaneously rather than taking a hit or miss approach too. I think, personally, I think that the bill is a step in the right direction, but has any testimony or something come up in the committee that would facilitate the recognition if there was a similar name so that they could be determined right away so they wouldn't have to go through this hit or miss and sixty day waiting process.

SENATOR FOSTER: I believe that the Secretary of State's Office has an ability where they can type in a name, but it won't necessarily produce everything that in the minds of the Secretary of State's Office staff, "deceptively similar". So if you are hitting something very direct, you know, you would be silly, and I agree with Senator Prescott, to pick something that is exceedingly close to somebody else's, because even if it gets registered, it doesn't stop the business owner who feels they are being impaired or infringed or somehow undermined from complaining about it even after you are registered.

SENATOR SAPARETO: You mentioned that the Secretary of State's Office can hold this up. Why wouldn't any person who is thinking of forming a new business be able to go right on line and they can determine what is already registered with the state and determine whether or not that name is already been taken?

SENATOR FOSTER: Because it tells you precise hits or something very close, but again, this standard isn't objective. So, for example, if I wanted to form something that was called Cona Cola. Some people upstairs might say well that is different enough from Coca Cola, and other people might not. I think that it might depend upon who you ask whether that is deceptively similar or distinguishable from. It could be spelled Kono and the other one is Coca. I mean that is the types of things that you are dealing with. What I am really talking about is really trademark law. The Secretary of State's Office is supposed to be as a registration for informational purposes. It is not supposed to get into the business of being a judge, and that is what we are asking them to do.

SENATOR SAPARETO: Thank you.

SENATOR BELOW: Thank you, Mr. President. I rise in support of the floor amendment. I think that the question is, are we going to be overly protective, overly cautious, for existing business, in protecting existing businesses or are we going to encourage new business start ups, encourage entrepreneurship, and live up to our reputation as a business friendly state? Over the years, I can't count the number of times I have constituents complain about this issue of having difficulty in registering trade names. It has happened twice since the beginning of this year. I wish that I had the examples with me but one constituent called up and said everything went smoothly until I went to register my name and it has taken them weeks and weeks to find a name that they could register. He gave examples of names that said were just too similar, that were really quite distinguishable. They weren't going to be confused or mistaken for the other entity, but simply because they shared some of the same words, but were in totally unrelated business fields, had several words that were quite different. This person couldn't come up with a name that he felt worked for him to identify his business. I don't think that is the reputation that we want. There is still the standard of not

registering a name that is likely to be confused with or mistaken for, another name. I think that is a subjective enough standard. It is a broad enough standard. That is what the House adopted. This amendment takes that part of the bill back to the House. I think the “deceptively similar” is just so subjective that we should drop that standard and just go with the “confused” or “mistaken for” standard. That would be...the “deceptively similar” is the current standard along with these other words. So it gives no clue to the Secretary of State that they should lighten up a little bit in terms of how difficult it is to register a trade name or a corporate name. Thank you, Mr. President.

SENATOR O’HEARN: Senator Prescott, I have two questions. The first, is there a definition for “deceptively”?

SENATOR PRESCOTT: Deceptively?

SENATOR O’HEARN: Or as it is used in the bill as you have passed, or deceptive in relation to this piece of legislation?

SENATOR PRESCOTT: I don’t believe there is a definition of deceptively.

SENATOR O’HEARN: The talk this morning, and we all agree that we want to encourage businesses in the state, you used an example of Pete’s Landscaping versus Peter’s Landscaping. I am looking now at this as a consumer. As a consumer, I am told that Pete’s Landscaping is the best landscaping company to use, so I am going to go with Pete’s Landscaping. But then the first thing that I see in the paper is Peter’s Landscaping, so I think it is the same thing. Would you consider that deceptive listing of a name for trade purposes?

SENATOR PRESCOTT: I would. Therefore, if that language were not left in our law, and it was distinguishable upon the record, was put into our law only, then you would be deceived. Pete’s and Peter’s, you would be. Because it is distinguishable upon the record, but I believe that it would be deceptive as well.

SENATOR O’HEARN: So maybe the word “deceptively” as used in this particular piece of legislation is for consumer protection?

SENATOR PRESCOTT: That it is as well as for the person that has a good reputation, and another company name taking that reputation and using it to their benefit.

SENATOR O’HEARN: Thank you.

SENATOR PRESCOTT: I am all set with bill.

SENATOR BELOW: Thank you, Mr. President. I rise to speak briefly for a second time. Just to clarify. This does not say...this amendment does not propose simply the standard of distinguishable on the record. It incorporates distinguishable from, not the same as, or likely to be confused with or mistaken for. I think Pete’s Landscaping and Peter’s Landscaping is in fact, “likely”, “likely” to be confused or mistaken for. That would be the basis not to register those two names.

SENATOR FLANDERS: I wasn’t going to say anything, but we have a situation, we have a nine-town school district that is called the Contoocook Valley, nickname Con Val. We have people in that district that want to have Con Val Reality. There is a Con Val Reality, but if somebody wants to have Con Val Woodworking, they can’t get it because of the word Con Val. There are people in these nine-towns that want to set up businesses and are unable to because of the word Contoocook Valley or Con Val has

to be completely different. I think that we do have to look at that, and I think that is what Senator Foster is referring to on the Elm Street or the Street sign thing. That one Con Val was taken, or Contoocook Valley is taken, it is very difficult to name anything after that. It is a situation in my district. Thank you, Mr. President.

Floor amendment adopted.

Recess.

Out of recess.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Roberge having voted with the prevailing side, moved reconsideration of **SB 336**, relative to certain costs in the development of a high school in the town of Bedford, whereby we concurred with the House amendment.

SENATOR ROBERGE: I move reconsideration on Senate Bill 336 and urge my colleagues to vote no. The reason for this is if we do this, we can get this particular issue of the Bedford School issue expedited out of the Senate today, which would be most helpful. I thank you.

Motion failed.

Senator Below offered the following Resolution:

2004 SESSION

04-3265
03/01

SENATE RESOLUTION 5

A RESOLUTION urging an Independent Safety Assessment for Vermont Yankee.

SPONSORS: Sen. Below, Dist 5; Sen. Larsen, Dist 15; Sen. Eaton, Dist 10; Sen. Green, Dist 6; Sen. D'Allesandro, Dist 20; Sen. Odell, Dist 8; Sen. Cohen, Dist 24; Sen. Estabrook, Dist 21; Sen. Foster, Dist 13; Sen. Peterson, Dist 11; Sen. O'Hearn, Dist 12; Sen. Kenney, Dist 3

COMMITTEE:

ANALYSIS

This senate resolution urges an Independent Safety Assessment for Vermont Yankee.

04-3265
03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Four

A RESOLUTION urging an Independent Safety Assessment for Vermont Yankee.

Whereas, Vermont Yankee is a 540 megawatt nuclear generating station located in Vernon, Vermont; and

Whereas, Vermont Yankee began operation in 1972 and is now one of the oldest operating nuclear power stations in the nation; and

Whereas, Vermont Yankee was purchased by Entergy Nuclear in 2002; and

Whereas, Vermont Yankee operates as a merchant generating facility subject to cost pressures imposed by a competitive regional market in New England; and

Whereas, Entergy now proposes to perform an extended power uprate of the facility, increasing reactor power and electric output of Vermont Yankee by 20 percent; and

Whereas, Vermont Yankee is one of 103 operating nuclear power plants in the United States; and

Whereas, only 10 nuclear plants have performed an extended power uprate of 13 percent or more; and

Whereas, only 4 facilities have experience with an extended power uprate that is cumulative to 20 percent; and

Whereas, only one nuclear plant, Clinton Nuclear Power Station in Illinois, which is only $\frac{1}{2}$ the age of Vermont Yankee, has sought a 20 percent power uprate through a single application; and

Whereas, no nuclear plant as old as Vermont Yankee has ever sought such a power increase; and

Whereas, a reactor power uprate of 20 percent is the maximum permitted limit of extended power uprates; and

Whereas, Vermont Yankee does not meet current design criteria and could neither be licensed nor built today; and

Whereas, the Entergy proposal has no precedent; and

Whereas, the Entergy proposal raises major concerns for public safety in light of the facility's age, the limited experience with extended uprates, and the pressures on a new merchant generating facility created by the competitive marketplace in which the facility now operates; and

Whereas, the benefits to the people of New Hampshire and Vermont from such an extended power uprate may be realized if there are no unanticipated negative impacts to safety or reliability encountered after the uprate; and

Whereas, prior to increasing the plant's power output, the approval of regulatory bodies, including the federal Nuclear Regulatory Commission (NRC) and the Vermont Public Service Board, is required; and

Whereas, it is essential that the state and federal regulatory authorities have access to a comprehensive and objective inspection report detailing all aspects of Vermont Yankee's physical condition and operational status before making any regulatory decisions which can have an impact on the safety of Vermont Yankee employees and the residents of the surrounding communities; and

Whereas, the NRC in the past has conducted an Independent Safety Assessment (ISA) as documented in an NRC report issued on October 7, 1996; and

Whereas, such a diagnostic evaluation would provide an in-depth physical examination and diagnostic evaluation of several selected safety-related plant systems; and

Whereas, NRC's standard review for extended power uprates is focused on review of the uprate application and does not include a comprehensive physical examination and diagnosis such as that included in an ISA; and

Whereas, the safety of the Vermont Yankee facility, its employees, and nearby residents is a matter of great concern to the citizens of New Hampshire and Vermont and the New Hampshire general court; now, therefore, be it

Resolved by the Senate:

That the New Hampshire senate urges the NRC to approve only any uprate at the Vermont Yankee nuclear power facility when an ISA, or the equivalent, has been completed at Entergy Nuclear Vermont Yankee which independently:

1. Assesses the conformance of the facility to its design and licensing bases, for operating at both 100 percent and 120 percent of its originally-intended power production level, including appropriate reviews at the plant's site and its corporate offices;

2. Identifies all deviations, exemptions, and/or waivers from (a) regulatory requirements applicable to Vermont Yankee and (b) regulatory requirements applicable to a new nuclear reactor (i.e. today's safety regulations) and verifies that adequate safety margins are retained despite the cumulative effect of such deviations, exemptions, and/or waivers for both the present licensed power level and under the proposed extended power uprate;

3. Assesses the facility's operational safety performance giving risk perspectives where appropriate;

4. Evaluates the effectiveness of licensee self-assessments, corrective actions, and improvement plans; and

5. Determines the root cause or causes of safety-significant findings and draws conclusions on overall performance; and

That the clerk of the senate transmit copies of this resolution to Nils J. Diaz, NRC Chair, and to the chairman and commissioners of the New Hampshire public utilities commission.

SENATOR BELOW: Thank you, Mr. President. I move that Senate Bill 5 urging an independent safety assessment for Vermont Yankee be passed at this time and I would like to briefly speak to that. Yes, thank you. The Vermont Yankee Nuclear Power Plant is now one of the oldest operating plants in the country. There has been a proposal for 20 percent power-up rate, which means that they would increase the density of the fuel in the reactor core to increase the output 20 percent over what it was originally designed for. Now these up rates have been a cost effective way to get more power out of power plants and it is something that is being proposed. However, there is concern that Vermont Yankee is the oldest plant every proposed such a power increase, and very few plants have gone all the way to a 20 percent increase in one step. So the Vermont State Senate, and the Vermont Public Service Board have requested that the federal NRC do an independent safety assessment of that proposal. This resolution mirrors a similar resolution that was passed unanimously in the Vermont state Senate, simply supporting that analysis to be confident of the safety of that proposal. Thank you, Mr. President.

Adopted.

Motion to take off the table

Senator Gallus moved to have **HB 1138** taken off the table.

Adopted.

HB 1138, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

SENATOR GALLUS: Thank you, Mr. President. We put it on the table a few weeks back. It establishes a new Nash Stream Forest Citizens Committee of people from the North Country. There were some questions about the revenues that were generated by the camp leases there. There is something like three camp leases that are in that particular

state forest. It is really minimal income, and I think there was no objections, somebody just threw it on the table. We would like to pass it so that the citizens of the North Country could be represented on that particular board. I thank you, Mr. President.

Question is on the adoption of the committee report of ought to pass.

Adopted.

Ordered to third reading.

RESOLUTION

Senator Clegg 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 all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 53, relative to the sale of salvage and rebuilt vehicles.

HB 243, relative to motor vehicle exhaust noise standards.

HB 664-FN, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

HB 761, enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

HB 1131, establishing a committee to study exotic aquatic weeds and species.

HB 1133, relative to disclosures required prior to a condominium sale.

HB 1136, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist.

HB 1138, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

HB 1155, clarifying alternative budget adoption procedures in school administrative units.

HB 1166, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads.

HB 1225-FN-A, making administrative changes to the historic agricultural structure matching grants program.

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts.

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

HB 1301, relative to extensions to the intent to cut.

HB 1309, relative to noise pollution from shooting ranges.

HB 1348-FN, relative to registration of business organizations.

HB 1417, relative to examination of persons called as jurors in civil cases.

HB 1419, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services.

HB 1423-FN, relative to reimbursement of travel expenses for judges.

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purposes of introducing legislation, receiving Messages, and processing Enrolled Bill Reports and Amendments, and forming Committees of Conference.

Adopted.

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(s):

HB 503, relative to septic system construction permits.

HB 812, relative to state acquisition of privately-owned airports.

SB 340, relative to the release of information on fish stocking by the executive director of fish and game.

Senator D'Allesandro moved adoption.

Adopted.

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 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

HJR 25, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation.

HJR 26, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3).

INTRODUCTION OF HOUSE BILLS

Senator Clegg offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, House legislation numbered from **1428 to HJR 26**, 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 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. (Public Affairs)

HJR 25, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation. (Transportation)

HJR 26, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3). (Executive Departments and Administration)

HOUSE MESSAGE

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

SB 311, relative to civil penalties for unlawful campaign practices.

SB 330-FN, relative to creditable service of retirement system members reemployed after qualifying military service.

SB 337, relative to the regulation of traps by the fish and game department and relative to the liability of trappers for certain injuries to domestic animals.

SB 340, relative to the release of information on fish stocking by the executive director of fish and game.

SB 345, exempting payroll accounts from trustee process.

SB 346, relative to prohibiting the operation of snowmobiles on open water.

SB 347-FN, relative to financial responsibility and conduct after an OHRV accident.

SB 358, relative to incompatibility of municipal offices.

SB 379, relative to safety inspection and certification of certain equipment of vehicles.

SB 412, extending a public trust grant for the Gunstock Area ski resort's snowmaking.

SB 416, relative to membership of the advisory committee on child care.

SB 424-FN, relative to boating and carnival-amusement regulation by the department of safety.

SB 438, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities.

SB 450-FN, relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs.

SB 456, relative to record books maintained by registers of deeds.

SB 457, relative to animal population control.

SB 466, relative to records management services of a municipality.

SB 497-FN, relative to renewal of electrician's licenses.

SB 499, making a change to the electrician licensing exemption.

SCR 6, designating January as stalking awareness month.

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 126-FN-A, exempting transfers of title between spouses from the real estate transfer tax.

SB 325-FN-L, relative to penalties for a false report to a law enforcement officer.

SB 332-FN, relative to tolls for disabled veterans.

SB 339-FN, relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses.

SB 360, requiring written notification concerning certain offenders against children.

SB 364, increasing the penalties for littering.

SB 384-FN, relative to drugs paid for by the state.

SB 400, relative to real estate appraisals conducted for mortgage loan applicants.

SB 401-FN, relative to funeral processions to the state veterans cemetery using the New Hampshire turnpike system.

SB 408, relative to a civil liability exemption for claims resulting from weight gain and obesity.

SB 428, establishing a committee to study the protection of consumers from unfair lending practices.

SB 489, relative to requests for special elections.

SB 510-FN, relative to simple assault.

SB 512-FN, establishing a Lake Sunapee public access commission.

SB 517, relative to authorizing a 2-year program to use certain OHRV fees for publications and promotions.

SB 527, relative to sessions for correction of checklists.

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 133-L, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district.

HB 403, requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual offenders.

HB 440, relative to prohibited methods of taking wildlife in certain fish and game laws.

HB 444, relative to summoning witnesses from another state in certain actions involving children.

HB 520-FN, relative to maintaining records of greyhounds used in pari-mutuel racing.

HB 622-FN, clarifying certain exemptions from the right-to-know law.

HB 652-FN, relative to qualified wellness or disease management programs.

HB 736, relative to duties of the fish and game commission and complaints against fish and game commissioners.

HB 1161, relative to solicitation and marketing of insurance products.

HB 1414, establishing a commission to study issues regarding the women's prison facility.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bill sent down from the Senate:

SB 205-FN, authorizing the state to accept the title of the dam and dikes at Smith Pond, Enfield, New Hampshire.

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(s):

SB 336-L, relative to certain costs in the development of a high school in the town of Bedford.

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(s):

HB 1352-FN, requiring school districts to recommend daily physical activity to pupils.

Senator D'Allesandro moved adoption.

Adopted.

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

April 22, 2004

The Senate met at 10:00 a.m.

A quorum was present.

Senate Guest Chaplain, Rabbi Richard L. Klein, from the Temple Beth Jacob in Concord, New Hampshire led the Senate in prayer.

Good Morning!

The Christian and Jewish communities have recently finished celebration of Easter and Passover. They brought with them their messages of birth, rebirth and new life. The trees and grass that surround us carry with them that same message. In my tradition, we have a number of ancient rabbinic comments on the Exodus and the Crossing of the Sea of Reeds that emphasize turning opportunity into reality. As the Israelites stand between the Sea and the approaching Egyptian army, Moses Prays. God says to Moses, "Enough already, you've prayed as much as you can. The Sea is ready to part. Are you ready to enter it?" Opportunities for birth, rebirth and new life surround us. May we have the courage and strength to take advantage of them.

Amen

Senator Clegg led the Pledge of Allegiance.

Senators Flanders and Sapareto are excused for the day.

**INTRODUCTION OF GUESTS
COMMITTEE REPORTS**

HB 1320, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans. Banks Committee. Ought to pass, Vote 3-0. Senator Barnes for the committee.

SENATOR BARNES: Thank you, Mr. President. I move House Bill 1320 ought to pass. This legislation makes several technical changes to the banking statutes in order to bring the banking laws up-to-date. Some of these changes include: requiring all licensees to abide by applicable federal laws and regulations, adding or amending a show cause procedure prior to license suspension or revocation, and making uniform the definition of mortgage bankers, mortgage brokers, and property covered by the statutes. These changes will clarify transactions in this state and make the statutes uniform. The Banks Committee on a 3-0 vote, asks you to support it and send it on its way. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1329, relative to the length of time consumer credit reporting agencies retain individual credit information. Banks Committee. Ought to pass, Vote 2-0. Senator Odell for the committee.

SENATOR ODELL: Thank you, Mr. President. I move House Bill 1329 ought to pass. Currently, federal laws require that information pertaining to bankruptcies be removed from a file after ten years. Current New Hampshire laws remove bankruptcy information after fourteen years. This bill makes New Hampshire law compatible with federal legislation by allowing all such information to be removed after ten years from the date of the bankruptcy. The Banks Committee asks your support for the motion of ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 727-FN-L, establishing a legislative oversight committee for the school administrative unit system. Education Committee. Ought to pass with amendment, Vote 2-1. Senator Green for the committee.

**Senate Education
April 20, 2004
2004-1309s
04/09**

Amendment to HB 727-FN-LOCAL

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

AN ACT establishing a school choice certificate program.

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

1 Statement of Purpose. It is the purpose of this act to maintain and improve the quality of education in all schools in the state by providing to all parents or legal guardians in the state enhanced opportunity for the exercise of parental choice in the education of their school-age children.

2 New Chapter; School Choice Certificate Program. Amend RSA by inserting after chapter 193-H the following new chapter:

CHAPTER 193-I

SCHOOL CHOICE CERTIFICATE PROGRAM

193-I:1 Program Established. A school choice certificate program is hereby established for the purpose of allowing the parent or legal guardian of a child to receive, on request, a certificate that shall be used for tuition at a nonpublic school in New Hampshire selected by the child's parent or legal guardian.

193-I:2 Eligibility and Funding.

I.(a) School choice certificates shall be available as set forth in this section for payment of tuition at an eligible approved nonpublic school up to the value of the certificate. Funding of school choice certificates shall be made through the education trust fund established in RSA 198:39.

(b) Entry into the program shall be limited to those pupils entering the first grade or pupils enrolled in a New Hampshire public school for the full academic year preceding the year of entry into the program, and whose family income does not exceed 300 percent of the federal poverty guidelines, as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2). The superintendent of the school administrative unit where the pupil resides shall require proof that a pupil is a legal resident of this state as a prerequisite to participation in this program and shall annually verify the income eligibility of each program participant.

(c) Applications for the program shall be submitted to the superintendent of the school administrative unit where the pupil resides, on a form provided by the department of education, not earlier than December 1 and not later than June 30 of the academic year preceding the year of participation. The superintendent shall notify applicants of decisions therein during the month of July.

II. Certificates shall be made available as follows:

(a) In the first year of the program, to children entering grades 1-2, up to a maximum of 1,200 certificates statewide.

(b) In the second year of the program, to children entering grades 1-3, up to a maximum of 4,000 certificates statewide.

(c) In the third year of the program, to children entering grades 1-4, up to a maximum of 6,000 certificates statewide.

(d) In the fourth year of the program, to children entering grades 1-5, up to a maximum of 8,000 certificates statewide.

(e) In the fifth year of the program, to children entering grades 1-6, up to a maximum of 10,000 certificates statewide.

(f) In the sixth year of the program, to children entering grades 1-7, up to a maximum of 12,000 certificates statewide.

(g) In the seventh year of the program, to children entering grades 1-8, up to a maximum of 14,000 certificates statewide.

III. The number of certificates allocated to a school district in a given year shall be a percentage of the total number of certificates available in that year. Such percentage shall be calculated by dividing the most recently available average daily membership in residence in the school district by the most recently available total statewide average daily membership in residence as calculated by the department of education.

IV. In any school district where there are more applicants for certificates than certificates available in a given year as determined under paragraph III, a lottery shall be held and certificates shall be allocated according to the following criteria:

(a) First, to pupils who were awarded certificates in the immediately preceding year.

(b) Second, to pupils from families where the family income is below 200 percent of the federal poverty guidelines as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2).

(c) Third, to pupils from families where the family income is below 300 percent of the federal poverty guidelines as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2).

V. Pupils enrolled in the school choice certificate program shall re-apply each school year.

193-I:3 Value of Certificate. The value of a school choice certificate for any individual pupil shall be 100 percent of the per pupil amount established in RSA 198:40-a, I, excluding the calculations required under subparagraphs (a)-(d) of that section, subject to the following provisions:

I. No parent shall receive a school choice certificate whose total household adjusted gross income for federal income tax purposes is greater than 300 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services.

II. Parents whose total household adjusted gross income for federal income tax purposes is not greater than 200 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 100 percent of the school choice certificate amount established in this section.

III. Parents whose total household adjusted gross income for federal income tax purposes is greater than 200 percent but not greater than 250 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 75 percent of the school choice certificate amount established in this section.

IV. Parents whose total household adjusted gross income for federal income tax purposes is greater than 250 percent but not greater than 275 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 50 percent of the school choice certificate amount established in this section.

V. Parents whose total household adjusted gross income for federal income tax purposes is greater than 275 percent but not greater than 300 percent of the federal poverty guidelines as set by the United States Department of Health and Human Services shall be eligible for 25 percent of the school choice certificate amount established in this section

193-I:4 Participating Schools.

I. The appropriate official for each nonpublic school shall decide whether to participate in the certificate program.

II. A nonpublic school may admit a child with a certificate, up to the limit of the school's capacity, after reserving places for children admitted in accordance with the school's regular admissions practices.

III. Nonpublic schools shall establish criteria for the admission of children with certificates that are consistent with the admissions criteria that it regularly applies.

IV. Participating schools shall be permitted flexibility to educate pupils in accordance with the school's educational mission.

V. Only nonpublic schools approved by the state of New Hampshire shall be eligible to participate in this program.

193-I:5 Redeeming Certificates.

I. The appropriate official in the pupil's resident school district shall administer the certificate program for each pupil in that district who participates in the program. Each nonpublic school which participates in this program shall, no later than June 30 of each year, submit verification of each student in attendance for the full school year under this program on a form provided by the department of education. Such verification shall list the name, address, dates of attendance, and the tuition cost for each student attending under this program.

II. The value of the certificate shall be issued by the state treasurer to the pupil's parent or legal guardian for payment to the nonpublic school of choice. ***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.*** Distributions made under this section shall coincide with the schedule set forth in RSA 198:42, I. A parent or legal guardian shall endorse the check for redemption by an official of the nonpublic school.

III. The value of a school choice certificate shall be prorated on a per diem basis for pupils attending a nonpublic school for less than a full school year.

193-I:6 Transportation. Any transportation costs for transporting a child to a nonpublic school outside of the local school district shall be borne by the child's parent or legal guardian.

193-I:7 Testing. Each nonpublic school which accepts a pupil who is a participant in the school choice certificate program shall submit to the pupil's resident school district office, no later than June 30 of each year, the test scores of any standardized test taken while such pupil was enrolled in the nonpublic school. No personally identifiable information shall be released with the test scores. This provision shall apply only to pupils in the third and sixth grades. The standardized test shall be a test that is nationally accredited or recognized and which offers an objective, comprehensive estimate of a pupil's educational development in areas such as language arts, reading, mathematics, and social studies.

193-I:8 Liability Limited.

I. Except as specifically provided in this chapter, nonpublic schools shall not be required to comply with additional laws or rules as a result of attendance by pupils whose parents receive school choice certificates.

II. No nonpublic school shall be required to accept pupils whose parents receive school choice certificates.

III. No school district shall be held liable for damages in an action to recover for bodily injury, personal injury, property damage as defined in RSA 507-B:1, or failure to educate pupils, where the action arises out of a parent's exercise of options under the provisions of this chapter.

193-I:9 Rulemaking. The state board of education shall adopt rules pursuant to RSA 541-A for the development of forms necessary to implement this chapter.

193-I:10 Legislative Oversight Committee. An oversight committee is established consisting of the following members:

I. The chairperson of the house education committee, or a designee.

II. The chairperson of the senate education committee, or a designee.

III. One member of the house of representatives, appointed by the speaker of the house.

IV. One member of the senate, appointed by the senate president.

V. One member of the house finance committee, appointed by the speaker of the house.

VI. One member of the senate finance committee, appointed by the senate president.

193-I:11 Duties of the Legislative Oversight Committee.

I. The oversight committee shall review the development and implementation of the school choice certificate program established in this chapter to ensure compliance with legislative policy.

II. In the third, fifth, and seventh years of the program, the oversight committee shall conduct a review of the school choice certificate program and submit a report, in each year of review, to the speaker of the house of representatives and the president of the senate detailing the status of the program.

193-I:12 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

3 Targeted Per Pupil Aid; State Enhanced Education Aid. Amend RSA 198:40-a to read as follows:

198:40-a Targeted Per Pupil Aid.

I. A municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to ~~[200]~~ 150 percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, shall be eligible to receive targeted per pupil aid for such municipality's transportation costs as reported on the DOE-25 form, and for such municipality's educationally disabled pupils, pupils eligible for free or reduced-price meals, and English for speakers of other languages which shall be determined by multiplying the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, by the calculated rate. The product shall be divided by 1,000 resulting in a per pupil amount which shall be available to a municipality as follows:

(a) The per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in residence of educationally disabled pupils in the municipality. This amount shall be available as targeted aid for educationally disabled pupils in the municipality.

(b)(1) For the 2005 fiscal year, the per pupil amount calculated in paragraph I, ~~less \$300,~~ shall be multiplied by the average daily membership in residence eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality.

(2) For the 2006 fiscal year and every fiscal year thereafter, the per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in residence eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality.

(c) The per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in attendance receiving English for speakers of other languages services in the municipality. This amount shall be available as targeted aid for pupils in the municipality receiving English for speakers of other languages. In this subparagraph "average daily membership in attendance" shall be as defined in RSA 189:1-d, III.

(d) A municipality eligible to receive targeted per pupil aid under this paragraph shall also receive 100 percent of transportation costs in such municipality.

II. A municipality with a local equalized valuation per pupil, as calculated in RSA 198:40, II, which is greater than [200] **150** percent of the statewide average equalized valuation per pupil as calculated in RSA 198:40, I shall not receive targeted per pupil aid under this section.

4 School Money; Education Trust Fund. Amend the introductory paragraph in 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 statewide enhanced education tax hardship relief under RSA 198:61, **and to provide funding for school choice certificates pursuant to RSA 193-I:5**. The state treasurer shall deposit into this fund immediately upon receipt:

5 Effective Date. This act shall take effect July 1, 2004 at 12:01 a.m.

2004-1309s

AMENDED ANALYSIS

This bill establishes a school choice certificate program.

SENATOR GREEN: Thank you, Mr. President. I move that House Bill 727 ought to pass with amendment. This bill establishes a limited school choice program in New Hampshire. This program will enable low income parents to choose between sending their children to their local public schools for free or sending their children to a nonpublic school of their choice with tuition assistance from the state. We know that local public schools can not be and should not try to be, all things to all students. We know that the affluent parents can afford to send their children to a non-public school when they determine that it would be a better match for their child's educational needs than the local school. As we know, the low-income parents often don't have that choice. This bill is unlike some other school choice bills in several significant ways: 1) The money comes from the state, from the Education Trust Fund, not from local school district grants. 2) The certificate is issued to the family, not to the school, so there is no constitutional issue. This is how federal college loans, the federal GI bill, Pell Grants, and NH Nursing scholarships work. 3) It has a sliding scale for the value of the certificate. The neediest families will get the greatest benefit. If you believe like I do, now is the time to bring this benefit of school choice to the children and taxpayers of New Hampshire, then please join with me in supporting the motion of ought to pass with amendment. Thank you for your consideration. Thank you, Mr. President.

SENATOR CLEGG: Thank you, Mr. President. Senator Green, under this bill, I know in Londonderry the community tried to spend \$14,000 to help students who should be in advance classes and the Budget Committee in Londonderry turned it down. So it leaves the people in my district with no place else to do. Would this bill assist those parents whose students need advance classes in order to reach their potential?

SENATOR GREEN: It will help all students and parents who want to send their children to other schools based on their income levels. If they qualify for the income level, then they will be eligible regardless of which program they decide to send their children to.

SENATOR CLEGG: But it doesn't just allow certain classes of people, it allows all classes of people based on income?

SENATOR GREEN: That is correct.

SENATOR CLEGG: Thank you.

SENATOR O'HEARN: Thank you, Mr. President. I am here today with a piece of legislation that pulls at me as a legislator, as an educator and as a parent. As a parent, my children went to a variety of schools. One which was the Temple Beth Abraham Preschool, the Nashua Public Schools, Chapel School Lutheran Kindergarten, and Bishop Guertin High School. So as a parent, I have had a variety of experiences and a variety of different places. As an educator, I taught both in public schools in New Hampshire and in Massachusetts. As a legislator and Chair of Education, I have supported school choice because I believe that public schools cannot be all and do all, for all children, though that is what is required of them. I do believe that one size does not fit all. And we have choice in our system now. We have public school choice with our open enrollment law. That is part of our charter school law. That is public school choice, that is a public school choice policy within the local public school. Nashua offers this option only within the district. There are no state funds available to help extend that beyond the school district's boundaries. We have a charter school law and its modifications to offer another option to public school program designs and public school choice. I know the charter school legislation and what it has been through and hopefully we will have two open this fall. We should continue to add funds to help that move forward and continue on. We have regional vocational centers, which we really call our regional technical centers, in our public schools that offer choice within the state's public secondary schools. The state pays the receiving districts its portion of tuition. I know the vocational centers is a 30-year old law and renovation of these centers is necessary. And we did this through legislation. But that legislation took two sessions to pass and two years to fund it, and still there are only limited resources to help that piece of legislation. We recognize home schooling as parental choice with optional access to a public school. I know what home schoolers went through to be approved and what they went through to have access to their public schools. They received no state funds. We offer an alternative kindergarten program based on contractual arrangements with one or more non-public, non-sectarian schools. And the school district counts these students for attendance purposes to receive the appropriate education grant. We have no alternative kindergarten programs in New Hampshire. We do not have public kindergarten in every district in this state either. These are good pieces of legislation. These offer a variety of choices. These do not have enough funds to fund them. We have not resolved Senate Bill 302 or House Bill 608. We have not resolved how we are going to fund our constitutional obligation to fund our public schools. Today we have House Bill 727, as amended, to continue our parental choice options. I pause on this one. I pause because I know the legislation that I have just spoken of, from school choice to school funding. I know the scrutiny these pieces of legislation must go through to work. I think the Senate should also pause on this one. Let me tell you why. The School Certificate Program leaves me asking too many questions. In this piece of legislation it states that the Superintendent of the SAU "shall" verify legal residency of the state. "Shall" verify income eligibility. "Shall" accept applications submitted. "Shall" notify applicants of decisions. "Shall" repeat this process every year for reapplications. "Shall" administer the program. "Shall" collect standardized test of these eligible students. "Shall" accept verification of each student in attendance for distribution of quarterly payments based on attendance. Who will pay for the administration of this as it is a duty,

full of “shalls”, for our local SAU’s? The cost to the state for Nashua, would be \$1.6 million for six percent or eight hundred students. I am using an average of \$2,000 per pupil because it does vary. Is this a loss to Nashua or is this a loss to the Education Trust Fund? Cost to the state if fully implemented, would be about \$28 million for 14,000 students at a rough value of \$2,000 per student. Is this a lost to the Education Trust Fund to fund public education? I also refer you to page four of the Addendum, Roman II, under 193-I:5 redeeming certificates, in the bold print where the second sentence where the Governor is authorized. “Such warrant for payment shall be issued regardless of the balance of funds available in the Education Trust Fund.” So I ask what does that mean? Who comes first for payment, public schools or non-public schools? To whom is the state’s obligation, public schools or non-public schools? Standardized testing is mentioned for grades three and six, but not required. Standardized testing results for these grades “shall be sent to the local SAU”. So, what is the SAU supposed to do with those scores? Certificates are for eligible non-public schools approved by the state. So what is a non-public school and what is the approval process and who is eligible? Well what is in Rules and approval, is by program, or by attendance. Is there oversight? Should there be oversight? And who should have the oversight? Oversight over what? Over programs or attendance? Eighteen pages of rules that we have not in law. And this is state dollars to a program for non-public schools that are only recognized through rules, not law. A lottery system goes into effect when more students apply than available for certificates and it is based on incomes and I have no objections to that. But why not to children in a public school not meeting adequate yearly progress? Why not to children that are failing in public schools? Why not for the best interest of a child or manifest educational hardship, which are terms we use now in education? And I have not even touched upon the constitutionality of the bill. The House put their voucher legislation into study this year, not once, but twice. I know the scrutiny the House Education has been through, they spent two years working on this bill also. I ask the Senate to pause on this one. I ask the Senate to vote no to an ought to pass as amended, and let me offer interim study. Thank you, Mr. President.

SENATOR GREEN: Senator O’Hearn, I was struck by your comments regarding page four, Roman II, regarding the language of the Trust Fund. I would just like to ask you, is that not the current language in the Trust Fund now?

SENATOR O’HEARN: Yes, but this is language that now refers to non-public schools as well.

SENATOR GREEN: Is that not the language and that no matter what we have, we put in for the Trust Fund, has to have that language in it?

SENATOR O’HEARN: In the Trust Fund, yes.

SENATOR GREEN: Thank you.

SENATOR FOSTER: Thank you, Mr. President. I rise in opposition to the committee report. I was the member who voted against the bill when it was before the committee. I did so for a few reasons. One is based on dollars. My community is losing something in the order of \$7 million over two years in education funding. We say around here that we don’t have enough money to properly fund our obligations under the Claremont suit and to our local communities and yet, at the same time here, we are talking about creating school choice and funding private schools. I don’t

think that makes any sense at this time. I understand that if this bill moves on, it will go onto Finance and I guess we will have an opportunity to speak about that more. That one of my two reasons. The other reason though is its constitutionality. As I said in committee, I look at this bill perhaps through a different prism than most of the members in this body. The constitution has language in a couple of places that deals with funding of religious schools. Part I, Article 6 of the Constitution says, "But no person shall ever be compelled to pay towards the support of the schools of any sect or denomination." The vouchers or certificates that we are talking about in this bill, Senator O'Hearn used the number \$2,000, it might be \$2,000 or \$3,000, it is not a lot of money per pupil. Three thousand dollars is a lot of money, but it is not a lot of money if you are talking about, for example, wanting to attend Derryfield in Manchester which is a wonderful private high school. I don't know what their tuition is but it must be \$15,000, \$16,000 or \$17,000. It is a lot of money. Poorer pupils, lower income pupils who can't afford Derryfield, aren't going to afford Derryfield afterwards with a \$2,000 or \$3,000 certificate. Derryfield might be happy because if they are giving scholarships, and I suspect that they do to a number of their pupils, they gladly accept the voucher and the scholarship would be less or schools like that. But it is not going to create opportunity for those students or any real choice. The major areas of choice are going to be in religious schools. Schools with religious space. Those schools often have tuitions of \$2,000 or \$3,000 or less because they are supported by their church or religious organizations and that is a good thing. Those schools do great work. They educate numbers of children. If you go through the list of private schools in New Hampshire as I did during the committee hearing, you will see that 2/3 or more of the schools, at least 50 percent, but I think it is more than that, are religious based schools. If you begin to look at the numbers of the pupils, it turns out the number of students that they educate, it looked to me and I have been eyeballing and I haven't done the numbers, it is probably quite a bit more than 50 percent of the total pupils that we are talking about. So when I think of school choice, I think that this bill is really creating choice for lower income pupils to go to religious based schools, which to me, goes back to the constitution. As I said, I looked through this through a different prism than perhaps some of you do. I would ask you to imagine a situation where the schools that are listed in there are all orthodox Jewish schools or Muslim schools or Buddhist schools or Hindu schools. Those are the choices that pupils would have. Would you feel the same way about the bill, if that was the choices that we were creating? I am not sure you would. Maybe you would but I am not sure you would. You might read Part I, Article 6 of the Constitution differently, because you would be wondering whether you're paying towards educating pupils and religions other than your faith. A great majority of those pupils with religions other than your faith, if that is where the situation were here today. That is the prism that I look through it under. I think that is why we have this language in the constitution. That a member of one faith shouldn't be required with their taxpayer dollars to educate children of another faith. This bill would also create other circumstances and situations. Imagine if we had a school here in New Hampshire that taught the values of the Taliban and Afghanistan. Somebody could form a school like that. What's it take to get approved? I think Senator O'Hearn told us attendance. You have to have 180 days attendance and you are an approved school under New Hampshire law. That is what it takes. If you look in the book, you will find in

most of the religious schools, are only approved for attendance. By the way, they should only be probably approved for attendance because I don't want to get into deciding what is taught in those schools. I don't think any of us do. That is what religious freedom is about. But how would you feel if a school was formed teaching the values of the Taliban in Afghanistan and writing certificates to parents who chose to put their children there? That is why we have the constitution. We don't have to do that. We might not be able to prohibit schools like that and maybe that is okay under the first amendment, but we don't have to pay for them either. I think that is a good thing. The bill talks in terms of millions of dollars ultimately maybe having to be expended. Let me ask you to imagine two or three terms out into the future. Sitting in the Education Committee or maybe the Finance Committee. The Finance Committee has been taking the Education Funding bills recently and, if I am still here and still serving on Education, I will probably welcome that because, as the millions of dollars go up in this bill, who do you think is going to be sitting in the Finance Committee room or the Education Committee room making sure that dollars continue to go towards the voucher programs? We are not going to be seeing Doctor Joyce there or Rick Trombly or the other people who we are used to seeing, or members of the cities or towns from local school boards. We are going to see the people who are running the religious schools. I view that as entanglement of government and religion. That is where we are going to be. We are going to be making decisions between funding religious schools and our public schools when dollars get tight. That is entanglement. That is why we have these constitutional provisions. For that reason, I opposed the bill in committee and I will do so again today. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. Senator Foster, I don't want to seem like a bad guy but I am going to say something to you. You mentioned the Taliban. I think that was a horrible example to bring out in your speech today, because I think if any school here in New Hampshire was teaching the teachings of Al-Taliban with our guys getting killed over in Iraq, I would be the first guy to do something about it. You mentioned earlier in your speech that you didn't think that some of us would and some of us wouldn't. I guarantee you, I wouldn't go for that. We have guys being killed over there by the Taliban. That is a very bad example to bring out onto this floor. Would you believe that I believe that?

SENATOR FOSTER: I believe that you believe that. I gave an extreme example for a reason. First of all, I don't think the Taliban is in Iraq, I thought they were in Afghanistan. If I am mistaken, I stand corrected. But I gave that example because once you start funding religious organizations you can't choose between them. This bill is about parental choice. That is what we hear here today. Parents of children who don't have the funds can choose which school they want to go to, once it is formed. Extreme examples is what we do as lawyers a lot of the time. You think of hypothetical for extreme examples. I suggest to that you couldn't stop that school even if you wanted to without a constitutional challenge.

SENATOR BARNES: I would suggest that we could. I am sorry. I think that we could stop it.

SENATOR ESTABROOK: Thank you, Mr. President. I, too, rise in opposition to the committee amendment to this bill. I believe the school voucher program it seeks to establish fails to pass muster with regard to three essential points. First, any such program which uses public dol-

lars, and that is the point after all, should be universally available. The opportunity provided here is for a very small percentage of taxpaying families with school age children. There doesn't even seem to be a point at which all taxpayers who want the benefit can get it. What other taxpayer sponsored benefits program has the legislature created where the benefit is available only to a small percentage of the eligible population by lottery. The bill calls for school district of residence, not any of the policy criteria that Senator O'Hearn mentioned in her remarks. I think that is bad policy. Secondly, the bill further narrows the range of families able to use the benefit by providing just a fraction of the cost of private education. From my perspective, the voucher should cover the real cost of the private choice or it cannot be equitably used by all eligible taxpayers. This bill simply provides private school subsidies for the middle class who have the resources to supplement the voucher. That is unless the voucher can be used in religious schools. Many of whose tuition can or nearly can be covered by the voucher. Which brings me to the third, and for me, the most critical point. This bill clearly violates New Hampshire's Constitutional prohibition on use of public tax dollars for religious education. I deeply treasure and appreciate the significance of my religious freedom. It is not just my freedom to practice whatever religion I choose, but also my freedom from having to support your religion. As Senator Foster quoted, the framers of the constitution wrote, "but no person shall ever be compelled to pay towards the support of the schools of any sect or denomination." That the framers chose this language, referred to as the "no compelled support clause", is a sign of its great importance as a basic freedom. Though the religious intolerance which led to this language, no longer exists, I am incredulous that we would presume to revoke such a basic freedom. Who can predict what circumstances might arise in the future, especially a future without this basic constitutional provision, and do away with it through amendment to our constitution is quite clearly necessary to make these vouchers useable in religious schools. A ruling just a few months ago by the U.S. Supreme Court upheld a state's right to prohibit use of tax dollars for religious education. New Hampshire's no compel support clause will not be invalidated at the federal level. And if we were to adopt that position by amendment to our constitution, we would in essence, be adopting language in complete philosophical opposition to our current constitution, which would be along the lines of all persons shall be compelled to pay towards the support of the schools of any sect or denomination. We would shift to a policy of compelled support. Parents already have the choice of religious education. The question here is who is paying for it. For all of these reasons, I hope you will find this bill unworthy of your support. Beyond these points is the question of why this type of voucher program should have priority for the use of scarce public resources. The sponsor says that it can be without financial harm to local school districts through the use of state dollars. If we can find new state dollars by amending 608, I say there are other educational policy options to consider which would have a greater impact on a greater number of students, such as in early literacy, which leaves the only possible reason to do this as a cost cutting measure. I am unconvinced it would be a cost cutter when the demands of current private schoolers and home schoolers are factored in. But even if it is able to produce some savings, at what cost to policy? Is it better to outsource education to the lowest bidder than to support schools run by local school boards? Is it better to shift more of the financial responsibility for education from the state to parents,

which is what this bill does? Is it better to support the right to private education when the legislature is unable to stabilize funding for the right to a public education? No, no and no. I hope you will this bill inexpedient to legislate.

SENATOR BOYCE: Thank you, Mr. President. I rise in support of this bill. Some of the remarks that I have heard earlier...the obligation of the state, if there is one, to fund education, I don't believe there is an obligation to schools. Whether local public schools or private schools or any other schools. The obligation, if there is one, is to the students and to the parents of those students. That is what this bill is intended to do, is to make that obligation, if one exists. I am still not convinced that one does. But, if that obligation exists, it is an obligation to fund the education of the students and not the entrenchment of the public schools. They are a very protected monopoly in this state. They have a funding source that is denied to private schools. They can't go out and tax the property owners of the town that they are located in. The private schools cannot ask the state for funds under the current education funding. They can't come to the state and ask for construction aid. Private schools do not get to participate in the competition for the education of the students. As far as the cost to the local schools, you have to redefine costs, if we are calling this a cost, to the local schools because the actual cost to the local school under this program is zero. It is actually a negative costs. Because if we remove 14,000 students from the local schools, under this bill, by the time it gets to what, seven years, I think it is, we will be removing from their daily membership, 14,000 students. Well every time I look at my local school and say, gee, there is more kids coming in, we have to build more classrooms, we have to hire more teachers, we have to hire more aids, we have to hire more custodians to sweep the floors in the new classrooms, we have to hire new principals. All of those things are added costs for added students. So there is an added cost for more students. There is a reduced cost for reduced number of students. I envision that before this gets to the seventh year, we will find that it is a very good program and we will open it up to more students and more assistance. By that time, we will be taking a huge load off of some of the local public schools and, in fact, we may find new private schools popping up, which will be in competition to the local public schools, and there will be less need for the public schools and we will have better public schools because they will be able to focus their attention on the students that are there and not on the ones that have been removed to go to private schools. So I think that this is a very good bill. The contention that is in violation of Part I, Article 6 on the sect and denomination of supporting a school of any sect or denomination, my understanding is that most of the so-called religious schools in this state, are non-sectarian, non-denominational. If you go to some of the Christian schools, yes they are Christian, but they don't care if you are Methodist, Baptist, Catholic, you can come there. In fact, they don't care even if...Jewish kids can come to the Christian schools if they want to. It is up to their parents. They are not of a denomination or a sect. The Catholic Church would be a sect. The denomination is the Catholic or Methodist. That is my understanding of that language. A non-denominational school that is "religious", I don't believe violates the constitution. I know that in other states there have been questions on that and what the private schools have done is they have **TAPE CHANGE** segregated their funding so that all of their education classes are paid for out of one pot of money and their religion classes are paid for out of another pot of

money, and that no state voucher money ever flows into the religious education side. That is supported by the church and by donations from parents and by anybody else. So these are not insoluble problems. The problem that we have is that we have an entrenched, protected monopoly that is the public schools and we should bring in some competition. Obviously if the local private schools, some of them are able to educate children for as little as this bill would be putting out, which was mentioned, then why is it that my local public school is now spending \$11,000 a year to educate children, when the local Christian school might do it for \$4,000 or \$5,000? Competition, I think, is a good thing in most things. This is one of the things where competition is very good. Thank you, Mr. President.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise in opposition to the bill. Mr. President, the United States of America made a conscious decision on its birth to provide public education. It said that public education would be provided because it gave everyone an opportunity to succeed. When we talked about public education, we took everyone. Everyone from all walks of life. I think that is the important ingredient. There wasn't a selectivity process. Everyone got to go to school and everyone had an opportunity to receive a public education. When you make that commitment as a society, you have a commitment to sustain it. Over the course of years, what we have done is we have created stumbling blocks to this process. We have talked about charter schools, which pull away from the public concept. Now we are talking about a voucher program which, again, will pull away from that concept. At the same time, we want these public schools to provide excellence and we demand excellence. We test, three, six and ten. We look at the results of these tests. They are published in the newspaper. In my district, both in Manchester and in Goffstown, significant capital expenditures are being made as we speak to improve the venues where this public education takes place. One hundred million dollars is being spent in Manchester to improve physical facilities. Millions of dollars are being spent in Goffstown to improve physical facilities. To provide quality education for all. I think that is the important ingredient. Quality education for all. In Manchester, we educate over 17,000 students. In Goffstown, probably 6,000 or 7,000 students because it is a regional area. Why do we do this? We do this so that the people who we are educating can become active and viable members of our society. I mean that is why we do this. That is why we have public education. That is why we make demands on public education. We, as parents, send our children to public schools. If we, because of a financial situation, decide that we can put them someplace else, we do that. We make that decision. But the public school is there for everyone. I think that our aim should be to keep improving those public institutions so that they arrive where we want them. In the city of Manchester, in Manchester Central High School, we have produced two Rhodes scholars. That is a wonderful, wonderful accomplishment. I can tell you that many of the students that I have interacted with over the years are now quality citizens in our city, in our state and our country. Why? Because they had an opportunity to get a quality, public education. If we are going to detract from the funding stream that provides for that education, we are doing a disservice to our communities. We have other alternatives. We have a number of private institutions in this state. We have a number of religion institutions in this state. They survive because people have the financial resources or the institution has an endowment, an endowment created by people who have given money

to those institutions, to provide financial assistance for students in need. But in many instances, they take only the most advantaged intellectually. Well, what happens to that ordinary person? I am one of those ordinary people. My public schools provides access. It provides the education that I need. As I said, my children went through the process. We are the beneficiaries of that process. I think anything that detracts from that process is really something that causes me great concern and something that I can't support. Thank you, Mr. President.

SENATOR GREEN: Thank you, Mr. President. Senator D'Allesandro, is there anything in this bill that denies any parent or any student access to public schools?

SENATOR D'ALLESANDRO: No.

SENATOR GREEN: So your comments regarding public school access is a question in terms of interpretation? I am trying to understand what you are saying by denial of students to a public education?

SENATOR D'ALLESANDRO: Thank you for the question, Senator Green. What I meant was, the money being siphoned off denies the capital to continue the improvement in the public venue.

SENATOR GREEN: Would you believe that if this bill were to pass, then parents had a choice where their students go to school, that the public schools would save money and they would have a choice between, let's say \$11,000 to \$12,000 per year of tuition verses \$3,000 or \$4,000 per year tuition?

SENATOR D'ALLESANDRO: I guess...you said the public school would save money?

SENATOR GREEN: Sure, it would have less students. Had less costs.

SENATOR D'ALLESANDRO: I think that is really something that is open to interpretation. Because if you have fixed costs, and you provide certain amenities, those are there and in place, and the only thing that would make a significant reduction in that cost would be a drastic reduction in the number of students that you are working with.

SENATOR GREEN: Thank you.

SENATOR D'ALLESANDRO: Thank you.

SENATOR O'HEARN: Thank you, Mr. President. Senator D'Allesandro, would you believe that if your numbers are correct that 17,000 students in Manchester, which is according to the way the bill is written, that would be 8 percent of your students, would be 1,360 students. Again at \$2,000 per student, that is \$2.7 million out of the funding that would then go to the nonpublic schools and I have a follow up question. I know that I can relate to high schools, parochial high schools and there is a waiting list at parochial high school at home and probably the one in Manchester, but I am not sure of the waiting list for the elementary schools, would you be aware if there is a waiting list for the parochial elementary schools in Manchester?

SENATOR D'ALLESANDRO: I am not sure Senator O'Hearn. I know that we do have a number of parochial grammar schools, elementary schools in Manchester. I will find out if you like.

SENATOR LARSEN: Thank you, Mr. President. There comes sometimes, bills which are so critical to the core of your belief system that they should be, in fact, the subject of a full sessions worth of debate. Instead, we have

a bill that changes our state's direction for public education, tacked onto what was supposed to be a study committee from the House. It happened to have an FN on it but if you look truly at the bill, it is not a bill with a fiscal effect as it came from the House. It was used as a vehicle, however, to bring in a massive change to our system of public education. That system of public education, in my mind and I suspect in many peoples minds throughout the state, is the basis on which our democracy rests. A system that brings people of all walks of life together to receive a core education. People of all belief systems, the melting pot that we learned about in fifth grade civic classes, truly happens in our public schools. Somehow we are in a world today in our country, where public school system is now something which people are perennially attacking. Instead of building it up, we hear continually that it is a system which we must not only improve but in essence, bring down. We heard the Governor talking about bringing down the walls of education. I want to quote from the School Board Association sentence that I think is well written. It says, "We believe that the New Hampshire system of public education is built upon the principle that education is a public good, not a private right of an individual citizen. All citizens benefit from a strong public school system." This bill brings down the public school system by robbing it of funds, by removing the ability of local taxpayers to make decisions about where their funds are going. This bill is unconstitutional, as we heard earlier, based on Part I, Article 6 of our constitution. This bill creates an uneven playing field because it doesn't require that those non-public schools meet the same conditions that the public schools do. Clearly, even though it is going to Finance, this bill creates huge financial problems for the school districts of our state. One estimate was that it is \$28 million out of our public school support. Are those dollars which you and your communities can agree or you are willing to lose those, to send them off? To tell your local public schools that they have to operate without those dollars even though they are losing, through the discussions in Senate Bill 302, resources which they critically need to keep their schools running and to meet the ever increasing burdens placed upon them by both our legislation and No Child Left Behind? It is really wrong that this is being brought up at the end of a session, tacked onto a bill that should not have been. This deserves full public debate. It was a bill which was sent to interim study or some topic similar was sent to interim study by the House. In the Senate was an amendment heard just two days ago. Now on the Senate floor the vast majority, I would bet you, of our public citizens, have no clue that this is being debated here today. I suspect that if you took a poll of New Hampshire public citizens and said, do you believe that the public education system is one which we should support, which we should guarantee to each individual access and have enough money there for your children to receive an education that will bring them the hope of democracy, the opening of doors that public education creates? The ability to understand other people because you have been in the classroom with them. Because you know people of a different persuasion. You are not in a classroom with just people who think like you if you are in a public school system. Those are critical to our understanding of each other in this country and that is why public education should be supported and we should be standing here every day finding ways to make our public schools better instead of tearing them down. I urge you to vote no on this bill, both as it goes to Finance and as it comes back from Finance. Thank you, Mr. President.

SENATOR GREEN: Thank you, Mr. President. Senator Larsen, is there anything in this bill that talks in a negative way about public schools?

SENATOR LARSEN: The negative way which you as the Finance Chairman probably are aware, that it in fact will cost at least \$28 million. An estimate...

SENATOR GREEN: I didn't say that, but somebody gave it.

SENATOR LARSEN: Well it was an estimate. Obviously I was looking at Mike Mars Summary of Cost, and what this will cost our school districts. That was even higher than the \$28 million estimate. But those things will be determined in Finance. What we do know is that the money which would have been going to the public schools, would now be taken out. We heard an estimate that it would be \$2.8 million out of Manchester. I haven't calculated what that would do Concord or Rochester.

SENATOR GREEN: Would you believe that that is only one side of the equation that you are dealing with, what the cost is? You are not dealing with the potential savings are to the school districts. When you net that out, there is a net savings to the public taxpayer?

SENATOR LARSEN: I would question if you take money out of the public school system and they still have to operate, they still have to keep all of their teachers, their heat, their lights, all of the maintenance costs and operations of a school system, teachers salaries being one of the biggest, I would suspect that you will not have savings, but you will be sucking money out of the public school system.

SENATOR GREEN: Do you believe if the cost per pupil in the public schools is \$10,000 and the grant is a maximum of \$3,600, it seems to me that there is money available for public schools to continue the kind of things you are talking about, that they will not have a loss, they will have a net savings.

SENATOR LARSEN: I do not believe that. I believe that you have the continued operation of public school systems. The requirement that they be continued in their operation and that you will not have operational savings to the extent that you are anticipating.

SENATOR GREEN: Thank you. You made the comment that this is unconstitutional. How do you know that?

SENATOR LARSEN: Because when I read the constitution and I see that no person shall ever be compelled to pay towards the support of the schools of any sect or denomination, you are going to see denominational schools, I don't know if they are sects, but they are definitely denominational schools, that people would be compelled to pay for.

SENATOR GREEN: Do you have a cite from the New Hampshire Supreme Court that backs up your position?

SENATOR LARSEN: I am not a lawyer.

SENATOR GREEN: Thank you.

SENATOR MARTEL: Thank you very much, Mr. President. Senator Larsen, I just want to make sure that I understand something clearly. When you were just speaking about public education students to go to public education versus students that would go to charter schools or to these schools. Are you saying that these students are more advantageous and have a better ability in life than the public school student would have?

SENATOR LARSEN: Not a bit. I am saying that what prepares the person best in America is a school which teaches you not only the core knowledge that you need but teaches you how to live among other people of all persuasions, of all belief systems. That teaches you an understanding of a person who might be different from you. That is where the public school system is a value both to our democracy and to the fundamental growth of knowledge of people in a community.

SENATOR MARTEL: Thank you, Mr. President. But you would have to admit, I believe, that they both give the same opportunities to learn those very things that we all believe in, and the students all believe in it as well as they go through their school years. Isn't that correct?

SENATOR LARSEN: I believe that there are certain religious schools which in fact encourage a belief system that is of one persuasion.

SENATOR MARTEL: Thank you.

SENATOR FOSTER: Thank you, Mr. President. Senator Green, we talk in terms of savings, and maybe I am misunderstanding the testimony or the materials that we were given, but do not the savings assume that however numbers of certificates or vouchers are given out, there are that many empty seats in the private schools, because unless the private schools grow the seats, you are going to be pushing kids, who would otherwise would go, back into the public school system, and it's sort of musical chairs sort of speak, is it not?

SENATOR GREEN: That is a marketplace decision in terms of where the seats are available, what the cost of that seat is and what the parents decide to do. That is the crux of this problem. The economic decision is one that we are not going to play a role in except the reality is that it is probably going to cost, based on the current market, less dollars for a parent to send their child to a nonpublic school of their choice, if they can afford it. All we are saying is those with less means don't have that choice now. The public schools financially do not get hurt because there is a heck of a difference between having \$3,600 from public dollars or \$10,000 in public dollars going per child, regardless of where they attend.

SENATOR FOSTER: Maybe my question was answered, but I don't know that it was. I agree with you that if a student from Nashua goes to a private school, if there is an opening there, they might take out more than is put in, sort of speak. However, unless there is another seat created from the ones existing right now, some other pupil is going to be pushed out of the private school system on total and go to another school district. Maybe not my school district, but somebody else's. So isn't the assumption that we are going to grow the number of seats in those schools?

SENATOR GREEN: No. That is not the assumption. The assumption is, if a seat is available, the private schools in this bill, if you look at it, still maintain the option to accept students or not. So if the student has a choice to go to that school and there is a seat available, I think that is a plus on the economic side for the public schools and for the property taxpayers of this state.

SENATOR FOSTER: Thank you.

SENATOR COHEN: Thank you very much, Mr. President. We have spent a lot of time on this. We have a very long calendar. I am really concerned, very, very deeply about this bill. I think it goes to the question of why we are all sitting here. Why all 24 of us are here. The very basis. The work

that we are supposed to do on behalf of the public. One is to support the public good. That is our job. We are also here to defend the constitution. The constitution of the United States as well as New Hampshire. This is very clearly an affront to both of those basic assumptions. This is incredibly irresponsible. The quickness with which this is being done and what is happening in this amendment. Education is the very basis, the foundation of the public good. We all know that. This goes to that foundation and seeks to crumble it. To transfer from the public good to the private interest is something that should be absolutely unacceptable. The people most affected by decision making, I have always believed, ought to be able to participate in those decisions. This attacks that notion as well. Any transfer of public funds, should face, and I am quoting from the School Administrators letter, "Should face the direct approval of the local taxpayer." In this proposed legislation, public tax dollars will be transferred without local voter approval and without local citizens oversight. This is an affront to everything that we stand for here. And Senator O'Hearn mentioned earlier that one size does not fit all. I couldn't agree with her more. The timing of this is particularly bad when we have the one size fits all federal intrusion into our public education known as No Child Left Behind, which we all know is a terribly unfunded federal mandate on our schools. Under that program, for every dollar that we get in, we have to spend \$10. So to add this new burden to our public schools and yes, of course, Senator Green, it would cost the schools more money. Of course it would. They had their fixed cost. We all know that. The timing of this is terrible. This is exceptionally bad legislation. We don't even need to send it to the Finance Committee. We have a policy that we are going to vote on here. We should reject this bill. Thank you very much.

SENATOR O'HEARN: Thank you, Mr. President. Senator Cohen, you mentioned No Child Left Behind. I know this bill has nothing to do with No Child Left Behind, but I do have to ask you, where is the unfunded mandate that we are seeing, specifically where?

SENATOR COHEN: In No Child Left Behind?

SENATOR O'HEARN: In No Child Left Behind?

SENATOR COHEN: I didn't think that we were discussing No Child Left Behind, but if you want to. For every \$77 I believe it is, I don't have the figures in front of me. It costs about ten times as much. I can discuss that with you at another time, but that is clearly an unfunded mandate.

SENATOR O'HEARN: I certainly would welcome that discussion because as this has been pointed out, we do not know that it is an unfunded mandate and I have to clarify that.

SENATOR COHEN: I look forward to it. Well we have more than ample proof of that. Thank you.

SENATOR PETERSON: Thank you, Mr. President. I rise in opposition to this bill and in support of Senator O'Hearn's and other's comments, as a Senator who has previously voted in my time in this building, for targeted voucher plans for students with demonstrated needs. But what I see this bill as, if I may, is akin to something that many of us who are avid movie goers may see soon, which is a movie that is coming out starring Brad Pitt. I see us akin to those who stand at the gate of a walled city. Inside that city are the taxpayers and the public interest which we are sworn to defend, and out of the mist comes before us, in the form of this proposal, late in our time here and after we have been through many battles together, a strange and mysterious beast, which has been artfully

crafted to skirt concerns over clear language in our constitution, over concerns over the lack of funding, which we are dealing with in many other areas at this time. And which has eked out a way to fit within the rules of this body and the body across the wall. I think we will find if we become fascinated with this creature and allow it inside of our city, the doors will open from beneath and out will flow a huge new entitlement which we will be required to service with our tax dollars, henceforth. The bill, which phases in this support to families, beginning in the early grades and then rising up through the eighth grade, creates a situation where upon those students arriving in eighth grade, you will have a very significant constituency in our state, for the continuation of that entitled benefit. If there is any here who believe that this is not the bill, that this is not the major policy change that sets the state on a course where we are indeed going to take public money and fund two systems, not one, then I respectfully beg to differ. Because that is exactly the result of carrying forward this policy, in this way, at this time. As a parent with four children, three of which are still in public school and one who is through, I have a policy concern with this bill which is all so serious. That is this, the key component in maintaining a healthy environment and the critical mass of support, which ensures the continuation, the rebuilding year by year of the support for quality education in our public school systems, is having that core group of concerned, active, committed parents, in each grade. It has been the most important thing in my own children's success, to have that core group, to be surrounded by such parents. They come from all walks of life, from all economic circumstances. What they share is their concern for their children and their willingness to call the school on it when there is a problem, their willingness to engage, to be involved. I am afraid that this bill might suck out of the public school system, some of that core of concerned parents to the detriment of the public school system. I think that we need to take a look at that very carefully before we engage in a policy that could have sweeping effects. I have been told by proponents of this bill that they would agree with me that the case for targeted voucher aid is much better at the high school level. The need for it is much more demonstrated there than at the elementary school level. Yet, they say to me, but we can't afford it. We could afford it here. I can tell you that at the same time, we are handed a study from a national pundit, based I guess on Cleveland or somewhere, that says that we are going to save indeed, not spend more money, but save money because of this bill in the millions of dollars. I have got to say if it saves so much money, why not do it through all the grades? There is a disconnect there logically. Indeed, if we have the money to fund this plan, then how am I to go home to towns that abut my town, to neighbors of mine, and say you are losing school aid this year. We are unable to distribute these funds back to you to ameliorate those affects, but we are going to go forth now into a new program that will rise in its cost according to our own estimates, to some \$28 million within a decade. I say to you, Mr. President, that this is a course of action which is ill considered at this time. I have great respect for a number of the people who forwarded it. I know their motivation to be sincere. I know they care about their constituents just as I do about mine. But if we are going to go down this road, let's make darn sure we get it right because public education, as has been stated, is the key component that allows everyone in our country to have the rungs of the ladder in place when they go to climb for economic opportunity and fulfillment. It is directly connected with our success that

stands above the rest of the countries on this planet and is directly connected to that light of the world to which we are all heir, called our freedom. Thank you, Mr. President.

SENATOR LARSEN: Thank you, Mr. President. Senator Green, earlier you asked me about cases and opinions of justices relating to the constitutionality. I since have been given some materials from Senate Research that apparently in 1992 the Senate asked the question relating to Senate Bill 419 which was a parental choice in education program. The Senate's question to the Supreme Court at that time was "would the payments from the resident districts violate Part I, Article 6 of New Hampshire Constitution providing that no person ever be compelled to pay towards support of schools of any sect or denomination." Their response, and I am wondering if you have seen this opinion, said in fact, "that we find therefore, that the proposed legislation violates the plain meaning of Part I, Article 6 and consequently we answer the first question, meaning does it violate the New Hampshire Constitution? We answer the first question in the affirmative." So an almost identical, perhaps, not in the exact dollar amounts, but as certainly they were looking at 75 percent. Their answer was taking public dollars and putting them into sectarian schools was, in fact, a violation, and that there was nothing in that bill to safeguard the application of public funds to sectarian uses just as there is none in the amendment which you support.

SENATOR GREEN: I am familiar with that opinion, as we saw four or five opinions basically. The question is whether that opinion applies to this bill or not. I came to the conclusion that it does not.

SENATOR LARSEN: Can I understand why you think this is that dramatically different?

SENATOR GREEN: No, I just think that the language in that bill was different than the language in this bill.

SENATOR LARSEN: The concepts are very, very similar.

SENATOR GREEN: Well, that is a matter of opinion also.

SENATOR LARSEN: Thanks.

SENATOR BELOW: Thank you, Mr. President. We all took an oath of office to uphold the constitution, so I think these questions of constitutionality are not a casual matter for us. And it is not something simply to leave to the Supreme Court. Certainly they judge the constitutionality of legislation, but in the first instance, it is our job to judge the constitutionality of legislation before us. Aside from the Part I, Article 6 that has already been discussed, and which dates back to the original enactment of our constitution. It is significant to note that Part II, Article 83 was amended in 1877 with specific language that says, "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." While the certificates under this bill would be issued to parents, they are expressly stated that they are for payment to non-public schools of choice. The value of the certificate is redeemed by an official of the non-public school, which could well be a school of an institution of a religious denomination for their use. I think that is a clear violation of the constitution and we should exercise our judgment on that plain language. But beyond that, we do have Part I, Article 28-a. I don't know about the question of net savings or net costs to districts. I don't think that is relevant to 28-a. 28-a, in case you haven't read it recently, says, "the state shall not

mandate or sign any new expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision, unless such programs or responsibilities are fully funded by the state or unless such program or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision." As Senator O'Hearn outlined in her original comments, this bill mandates new responsibilities to local school districts. Plain language. On the very first page of the amendment, it says that, "the superintendent of the school administrative unit, where the pupil resides, shall require proof that a pupil is of a legal resident of this state, as a prerequisite to participation in this program, and shall annually verify the income eligibility of each program participant." Let me tell you, income eligibility verification on an annual basis is not an inexpensive or cost free proposition. That will require the expenditure of new funds by local school districts. They are going to have to appropriate money for that purpose. Some of us, Senator Gatsas will recall, spent a lot of time looking at a proposed PUC program for low income residents and one of the big problems was the huge overhead cost to do income verification. It was hundreds of dollars per family, especially when you have a multi-tiered situation where a dollar more or less of income could effect \$500 or more of certificate value. And we are in a state that has no general income tax, so income verification is not a simple or cost free matter. That is an unfunded mandate. There is appropriation of this money to the school districts to cover that costs. I think that we can use our common sense on our judgment to see that there are real questions about constitutionality at the very least and we should defeat this motion of ought to pass and support Senator O'Hearn's motion of interim study. Thank you, Mr. President.

SENATOR GREEN: Thank you, Mr. President. We have heard the debate. We have heard all of the debate and all of the arguments before. I am sure that there will be other people who may want to speak, but let me just kind of reiterate a couple of things here which I think gets at the real issues in front of us. The federal constitution issues have been resolved. The federal government has said basically that you can use public dollars if the monies are issued to the parents for their choice for an education. The case that really resolved it was the Cleveland case. That case was very clear as to what we are doing here is constitutional under federal government and the federal constitution, as I understand that particular opinion. Now let me ask you some other questions here in a form of a rhetorical question. How many public dollars do we in New Hampshire spend on nonpublic hospitals? Think about it. Do you have a choice to what hospital you go to? I think so. Do we have non-public hospitals in this state? I know so. And they are eligible for public dollars, just like the public hospitals. No question. No one is raising the issue. How about the federal level? Most of us are not old enough, but there may be a couple of us who are, who served in World War II. I know, I wasn't going to name people. The realities are that these people, these men and women came back from World War II and the GI Bill was in place, passed by congress. Now did congress tell those people what school they could go to? Could they go to Notre Dame? Absolutely. Could they go to Holy Cross? Absolutely. Could they go to the University of New Hampshire? Absolutely. That was not the issue. The issue was for them to get a good education. They decided that and they used public dollars to do that. So don't give me this argument that we don't use public dollars to give people choices as to how they decide that they want to get

an education. That is not a valid argument. I think that this case will probably be appealed, if it is passed, and if we figure out an appropriate way to fund it, will go to the Supreme Court of New Hampshire. But there is precedent on both sides. I suspect that the Supreme Court of New Hampshire will take its lead from the Supreme Court of the United States in how it applies it. So we do fund schools, non-public schools, with public dollars in this country. It has not been found unconstitutional. We do fund public schools in this country with public dollars and the federal government has found that the way that this bill proposes it is not unconstitutional. So I guess the issue for me is whether we can, in fact, convince enough of you in this chamber not whether we can use public dollars or not, but whether we have the public dollars to do what we want to do. I would suggest to you, and on a financial level, there is a gain for public schools financially, not a loss. I know there is a difference of opinion about that and that is fine. And that is what it is, an opinion. So I ask that you do, in fact, vote to send this to Finance and let the Finance Committee wrestle with the issue of funding. Thank you very much, Mr. President.

SENATOR BELOW: Are you aware of any provision in our state or federal constitution that expressly prohibits that monies raised by taxation shall not be applied for the use of hospitals of institutions of religious denominations”?

SENATOR GREEN: I don't know of anything in any constitution that denies the public use of dollars if they are appropriately funded in a way which the courts can decide is constitutional.

SENATOR BELOW: I take that as a no?

SENATOR GREEN: I don't know the answer.

SENATOR BELOW: You don't know. Okay. Are you aware of any provision in the federal constitution that expressly prohibits the use of money raised by taxation for use of schools of institutions of religious denominations?

SENATOR GREEN: No, I do not.

SENATOR BELOW: Okay. Thank you.

SENATOR GATSAS: Thank you, Mr. President. I rise to talk about educational opportunity. I think that it is important that we talk about that first. I have great respect for all of my colleagues in this chamber because we all make tough decisions. Senator O'Hearn, I go back and you spelled out probably eight or ten “shalls”. I will remind you that eight or ten of those “shalls”, quite a few of them, have to be done now to meet the requirements for IDA money, for free and reduced lunch money and other portions of federal dollars that come into school districts. Senator Foster, you talked about sending students - I won't go where you went because I don't want Senator Barnes to jump all over me, but if you look at page four, it says, “only nonpublic schools approved by the state of New Hampshire shall be eligible to participate in this program.” So I think that is an important issue because I think that some of the extremes that you talked about would not be available. Senator Below talked about taxation. I agree with Senator Below that maybe the Chairman of Energy should be calling in a special committee to talk about those low income participation programs on the PUC and how long it took to get those funds because there are a lot of funds still left at the state. But let me talk about the taxation issue. Taxation issue, everything that goes

into the Educational Trust Fund is a tax except for one. The Lottery, which produces \$63 million to education, is not a tax. So can we issue that the way that we want? I guess we can. I think that Senator Green understands my position. My position is not to take money from the local school districts. Certainly everyone knows in this chamber that I work very hard to create an education funding formula, not to take money from local school districts. The amendment that he has in there for funding, comes on 608, if 302 doesn't pass. I think that everybody will talk about and understand that when we did charter schools, in Finance I was the one that lead the charge and said, we need to fund it directly in the budget and not be using adequacy funds. To pay a school district, after they pay a charter school, didn't make sense. So what did we do? We put \$330,000 in the budget for charter schools. Do I believe that educational opportunities should happen for children? Sure. Let's talk about the bill that Senator Green put before us. We are talking about median family income, with four people, at 200 percent of poverty. Thirty seven thousand, seven hundred dollars. Do we think that we should help those people? I say we should. Somebody is going to say, well what about the extreme? Three hundred percent of median family income. A family of four, \$56,550. Do I think that we should help those people? Absolutely. Do I think that we should help those people to the detriment of a school district? Absolutely not. So as I have told Senator Green and a lot of my colleagues in this chamber, I am in favor of educational opportunity but only if we have an opportunity to fund it. So I say that we send it to Finance and look at the funding mechanisms and make sure that we don't take money from school districts. When we talk about \$28 million in a ten-year period, let's not forget we put an education funding program together four years ago that is now broken because it moved from \$825 million to \$900 million in a very short four-year period. We didn't talk about that, so let's talk about educational opportunity for kids because that is what we are talking about. Thank you, Mr. President.

SENATOR BELOW: Thank you, Mr. President. Thank you, Senator Gatsas. Would you believe you just raised another constitutional problem with this bill, which is the use of lottery revenues, which are constitutionally restricted to be used exclusively for the school districts of the state? And you pointed out that those monies go into the education fund, which could fund these certificates and that would appear to be a violation of exclusive use of a school districts of the state?

SENATOR GATSAS: Senator Below, the two things that I would never argue with you about is the constitution and electricity. I certainly wouldn't get a shock, but I'd probably agree with you.

SENATOR O'HEARN: Thank you, Mr. President. Senator Gatsas, you talked about the lottery and from the testimony that we had yesterday, did you know that in 1967 the Justices advised that a statute that would have provided a proportionate share of sweepstakes proceeds to go to private schools, most of them parochial, would violate the establishment clause and, once again, the Justices view the program as direct aid to religious schools?

SENATOR GATSAS: I was not aware of that, Senator, but I can tell you that I am sure that 1967, was that in 1967 you said?

SENATOR O'HEARN: Yes.

SENATOR GATSAS: That was a mere four short years after the lottery was passed. I think that if everybody remember, if we are going to talk

about the lottery, that by now New Hampshire should have been done away with, blasted off the face of the earth, because it was a revenue that was going to destroy this state. Now again we are in 2004, some 40 years later, talking about educational opportunity. You are right, Senator, it is a drastic change. But again, I will remind you, in 1963, the lottery was an incredibly nasty change, but here we are looking at \$63 million that goes to education. So yes, I agree with you. Maybe your findings are correct, but if we are going to go back 40 years, let's make sure that we look at all the things that are under those 40 years.

SENATOR O'HEARN: Absolutely. Thank you.

SENATOR GATSAS: Thank you.

SENATOR CLEGG: Thank you, Mr. President. Senator Gatsas, we have heard about a lot of court cases including one from 1967. Were all of those prior to the Supreme Court deciding that it was the state's obligation to fund education?

SENATOR GATSAS: Yes they were, Senator.

SENATOR CLEGG: So there was a different interpretation of the constitution in 1967 than there was in I think, 1998?

SENATOR GATSAS: Yes, sir.

SENATOR CLEGG: Thank you.

SENATOR LARSEN: Senator Clegg.

SENATOR CLEGG: Oh, I love this.

SENATOR LARSEN: Thank you, Mr. President. Senator Clegg, are you aware of the very recent, and I don't have a date on this precisely, but the very recent ruling by a Colorado federal judge...in Colorado, which in essence, judged their school voucher law unconstitutional, saying that it illegally removes local control over education? And are you aware in fact, that Colorado has the very same Blaine Amendment, which we have cited as one of the reasons why this would be found unconstitutional in New Hampshire? That Blaine Amendment shows up in Article 83? The Blaine Amendment in our constitution is the same Blaine Amendment in Colorado even though it was after the U.S. Supreme Court ruling on Cleveland's voucher system. Colorado has the exact same language we do in our constitution. So our state constitution is so similar that we would predict that school vouchers would be unconstitutional in New Hampshire just as they were found in Colorado.

SENATOR CLEGG: Senator, that was such a large question, can I ask you if what you said was that Colorado's court has determined that it takes away local control? Is that what you said?

SENATOR LARSEN: Colorado's court has determined that not only does it remove local control over education, but it undermines the constitutional requirements of their Blaine Amendment.

SENATOR CLEGG: Okay. I would have to ask before I could answer the question, did Colorado's Supreme Court determine that it was the state's obligation to fund education, because I know in the state of New Hampshire, once that determination was made, all local control of dollars went away. We tax the local communities, bring it up here, we send it back with all kinds of mandates, all kinds of rules, so there is no more local control in the state of New Hampshire.

SENATOR LARSEN: But, it continues to be in our constitution, said that "provided no money raised by taxation shall ever be granted or applied for the use of schools of institutions of any religious sect or denomination." So that continues to be money raised by taxation, regardless of whether it is state taxation or local.

SENATOR CLEGG: But by the same token as Senator Gatsas said, we have lottery money, we have other methods of raising money that could possibly be used to fund this. Perhaps we could even put in a clause that says to the businesses that we tax with their money comes into the state Education Fund, that all of you who oppose your money being used for this school choice, could mark a box and ask for your refund, and we will divide the, whatever it is, \$4 million amongst all of the businesses who don't agree with us. I mean, there is plenty of opportunities, which is why this should go to Finance to do this. So, I don't agree that we are the same as Colorado. As I said, I believe that since the Supreme Court determined that the same Article you cite, that says that we can't use the money, has been now determined to mean that the state of New Hampshire has to pay for the money. I think Colorado and New Hampshire are extremely different and I don't talk just about the people.

SENATOR LARSEN: We are continuing to use money raised by taxation under this amendment. That is where the problem is.

SENATOR CLEGG: As we do for people who get scholarships from the state and the federal government to go to Notre Dame and a few other private colleges that are religious based.

SENATOR LARSEN: And that is the cause of another court case that is in Washington state. Currently, they've ruled also on the federal level in *Locke v Davie*, that a college student...the U.S. Supreme Court ruled 7-2 in favor of the state of Washington, saying that the state had a right to deny publicly funded scholarship money to the student because it would support a student in religious schools. So the fact that there had been used, is perhaps only that people didn't challenge it in terms of the GI bill. It was publicly supported.

SENATOR CLEGG: But if I can quote back to you, you said, that the Supreme Court ruled 7-2 that the state has a right to decide, so I would say that this state also a right to decide. I think that is what we are going to do.

SENATOR LARSEN: We are going to find out.

SENATOR CLEGG: We are going to decide.

SENATOR CLEGG: Mr. President. Would now be an appropriate time to notify people that Senator Sapareto and Senator Flanders are not here due to important family business?

SENATOR EATON (In the Chair): That is so noted.

SENATOR CLEGG: Thank you.

Question is on the adoption of the committee amendment.

A roll call was requested by Senator Estabrook.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Roberge, Clegg, Gatsas, Barnes, Martel, Prescott.

The following Senators voted No: Below, Odell, Peterson, O'Hearn, Foster, Larsen, D'Allesandro, Estabrook, Morse, Cohen.

Yeas: 11 - Nays: 10

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1162, relative to school district policies on bullying. Education Committee. Ought to pass with amendment, Vote 2-0. Senator O'Hearn for the committee.

Senate Education

April 15, 2004

2004-1226s

04/10

Amendment to HB 1162

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

1 Pupil Safety and Violence Prevention. RSA 193-F:3 is repealed and reenacted to read as follows:

193-F:3 Pupil Safety and Violence Prevention.

I.(a) Each local school board shall adopt a pupil safety and violence prevention policy which addresses pupil harassment, also known as "bullying", and which is consistent with the provisions of this chapter. Such policy shall include language which details the action to be taken by the local school board to resolve and remediate occurrences of pupil harassment.

(b) At the beginning of each school year, school districts shall, in writing, inform the parent, legal guardian, or other person responsible for the welfare of the pupil of the district's pupil safety and violence prevention policy and the appeals process available at the local and state levels.

II.(a) Any school employee, or employee of a company under contract with a school or school district, who has witnessed or has reliable information that a pupil has been subjected to insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response shall report such incident to the principal, or designee who shall in turn report the incident to the superintendent and the school board.

(b) If the principal determines it is in the best interest of the child, the principal, or designee, shall by telephone and in writing by first-class mail, report the occurrence of any incident described in this paragraph to the parent or legal guardian of all pupils involved within 48 hours of the occurrence of such incident. The notice shall advise the individuals involved of their due process rights including the right to appeal to the state board of education.

III. The remedy required in paragraph I shall be defined by the local school board and the local school board shall, in writing, notify all parties involved of its decision. If the remedies outlined in the school board's policy are exhausted, the aggrieved party shall have the right to appeal the decision to the state board of education. The state board of education shall, in writing, notify all parties involved of its decision. The local school board may provide opportunities for educators to have the knowledge and skills to prevent and respond to acts covered by this chapter.

IV. A school employee, or employee of a company under contract with a school or school district, who has reported violations under this chapter to the principal, or designee or who has intervened under paragraph II, shall be immune from any cause of action which may arise from the failure to remedy the reported incident.

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

2004-1226s

AMENDED ANALYSIS

This bill requires school districts to notify the parents or legal guardians of the district's policies on bullying and requires that a written report of any bullying incidents be reported by telephone and sent by mail to the parent or legal guardian of the pupils involved.

SENATOR O'HEARN: Thank you, Mr. President. I move House Bill 1162 ought to pass. This legislation was brought forth out of a need to notify parents of their rights with respect to school bullying. The committee heard much testimony in support of this legislation. As the House had written the bill, it required written notification to parents of the school bullying policies at the beginning of the school year. In addition, it required that the principal, or designee, notify the parent or guardian, in writing, by first class mail of any bullying incident that occurred. There were concerns raised with requiring parental notification of every bullying incident that takes place. Others expressed apprehension that a parent may not know about the incident for as long as a week, if the notification is to be sent by mail. Additionally, the student may intercept the letter in the mail, preventing the parent or guardian from seeing it. The committee amendment requires parental notification of any bullying incident that the principal determines is in the best interest of the child. At that time, a phone call is to be made to the parents or guardian of the child involved, which is followed by a letter sent in the mail. Please support the committee recommendation of ought to pass with amendment. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1188, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan. Education Committee. Ought to pass with amendment, Vote 4-0. Senator Green for the committee.

Senate Education

April 14, 2004

2004-1213s

04/09

Amendment to HB 1188

Amend the introductory paragraph to RSA 198:15-b, I-a as inserted by section 1 of the bill by replacing it with the following:

I-a. A school district, or other entity listed in paragraph I of this section, shall be entitled to receive an additional amount equal to 1.5 percent of the total school building aid grant amount for which such school district or other entity may be eligible under paragraph I of this section. In any fiscal year, the aggregate amount of additional moneys available under this paragraph shall not exceed \$100,000. If in any fiscal year, this amount is insufficient, the amount shall be prorated proportionally among

the school districts or other entities eligible to receive additional moneys. To be eligible for additional moneys, construction projects, as built, shall comply with all of the following requirements:

SENATOR GREEN: Thank you, Mr. President. The amendment is on page 15 of the calendar. I move that House Bill 1188 ought to pass with amendment. The Committee on Environment and Public Health discovered this issue of poor air quality in schools and poorly maintained schools and as a result, suggested this legislation. The phenomenon known as "sick school syndrome" occurs when the poor condition of the school causes the students to get sick. This legislation creates an incentive program for schools to incorporate high standards by implementing a written plan for maintenance and air quality. This incentive is limited to \$100,000 annually and is added to the building aid portion of the budget for the Department of Education. One and a half percent is given out over the life of the bond. That's what the amendment deals with. The Education Committee asks your support for the motion of ought to pass with amendment. Thank you, Mr. President.

SENATOR MARTEL: Thank you very much, Mr. President. I stand up today in support of my constituency, especially the school children who go to school, specifically in the South Eastern part of Manchester, Ward 8, and also in Ward 6. There has been a tremendous amount of construction as well as replacement of roads, which has increased the amount of dust and also other chemicals that have been let into the air that really have lowered the quality of the air in the city of Manchester and the surrounding communities. Until all of this construction is completed, which may be another five to ten years, it seems to me that there has to be something done so that we can protect our children so that when they go outside or even when they are inside, that they can breathe clean air. This is also having an impact, and very few people know this, on the water system surrounding those areas of the city of Manchester. This residue is very, very toxic. The DES is also involved with this in looking into it, and also the Department of Transportation. It is beginning to really be a serious problem that we are probably a little tardy in addressing. But this legislation brings us to that point where we are addressing it today to protect those children and adults who even have asthma or bronchial conditions. So I urge my fellow Senators to please pass this bill because it is a very important one for all of the children of public schools, especially in that region of the city. Thank you very much, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1226-L, establishing a debt retirement fund in the Governor Wentworth regional school district. Education Committee. Ought to pass with amendment, Vote 4-0. Senator O'Hearn for the committee.

Senate Education

April 14, 2004

2004-1214s

04/05

Amendment to HB 1226-LOCAL

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

1 Governor Wentworth Regional School District; Debt Retirement Fund. Notwithstanding RSA 33:2, the Governor Wentworth regional school district is authorized to create a debt retirement fund for the purpose of satisfying any indebtedness incurred as a result of the construction of school buildings, including the purchase of sites and any additions or renovations of school buildings. Such debt retirement fund shall be funded with proceeds derived from the sale of school district property, gifts, donations, or bequests made to and accepted by the school district, and any other moneys so designated by majority vote at an annual school district meeting. This act ratifies the school district's vote on article IV of the ballot at the March 2003 annual meeting to establish and make appropriations to this fund. The school district may make additional appropriations to, and withdrawals from, the debt retirement fund as authorized by the legislative body of the school district.

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

SENATOR O'HEARN: Thank you, Mr. President. I move House Bill 1226 ought to pass with amendment. This legislation allows the Governor Wentworth Regional School District to create a debt retirement fund to be funded with the sale of school property, gifts, donations, or any funds set aside by a majority vote at the annual school meeting. This was already approved by a majority vote at the annual meeting held in March 2003; however, legislative approval is necessary. The Education Committee asks for your support for the motion of ought to pass with amendment. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1134, relative to appointment of the chief justice of the supreme court. Executive Departments and Administration Committee. Ought to pass, Vote 2-1. Senator Peterson for the committee.

SENATOR PETERSON: Thank you, Mr. President. I move ought to pass on House Bill 1134 which changes the authority to appoint the Chief Justice of the Supreme Court to the Governor and Council. Most importantly, the bill will restore public input to the process while maintaining the five-year term under current law. Under House Bill 1134 the Chief Justice may be re-appointed to consecutive terms with the approval of the Governor and Council and the committee recommends House Bill 1134 ought to pass. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. Senator Peterson, if this bill passes, what does this do to the gentlemen that is sitting there now?

SENATOR PETERSON: As I understand it, Senator Barnes, the law that governed when our current Chief Justice, Justice Broderick, rose to his position as Chief Justice, was the law under which we have been operating to date. He would serve out his five-year term, which is under current law the case, and the next time that he came up for reappointment, it would be under this bill here, it would a Governor and Council action as I understand it.

SENATOR BARNES: Under that condition, I will vote for this. Thank you.

SENATOR PETERSON: Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise to speak against this piece of legislation. This Senate underwent a tremendous experience when we provided the trial for the impeachment of a Chief Justice of the Supreme Court. Out of that decision came a bill sponsored by Senator Gordon, which allowed for the senior justice of the court to be the Chief Justice and would retain that position for a five-year period. In deliberations, when we talked about that bill on the floor of this Senate, we thought it was a very positive move to restoring the credibility of the court and to also saying that the person with the most seniority would then become the Chief Justice, but nobody would have that position for life as it had been in the past. Now I have the unique situation of having been on the council when we appointed Chief Justices, and having been a member of this Senate when we did the impeachment trial, and having been in this Senate when we passed that bill. I thought it was the right thing to do because of the experience that we had witnessed over a period of time. I still think it is the right thing to do. By abrogating that responsibility, and by restoring this situation to Governor and Council, and allowing for the five-year period to remain, but for any person to be selected as Chief Justice for the next five-year period, I think we have lost that since that we grasped during that trial, that that senior person brought to that job a great deal of experience. And that that senior person should have had an opportunity to serve. That was in the best interest of the people of the state of New Hampshire, based on the decision made by this legislature. I think to abrogate that responsibility and to go back to the way it was, although not exactly the same, but to go back the way it was, creates problems for us as we move forward. We, we, many in this chamber, were witnesses and participated in trying to solve a very, very serious problem for the state of New Hampshire. Hopefully that will never occur again. We thought as a body that one of the ways to mitigate that was to pass this piece of legislation. We are now abrogating that responsibility. Thank you, Mr. President.

SENATOR BELOW: Thank you Mr. President. I support those comments of Senator D'Allesandro's as someone who participated in that impeachment trial. I think it came out of the collective wisdom of the participants on a very bipartisan basis to recognize the value to the state of depoliticizing the choice of Chief Justice and also provide a system where each member of the court, as the chief seniority, the position could rotate them to the next most senior person and it could bring to bear that institutional knowledge and an opportunity for different leadership in the court, in a way that is systematic. I might add that law, also provided if someone didn't feel that they wanted to do that, or appropriate to do that, they could pass over and it would go to the next senior most justice. So I would oppose this change. Thank you, Mr. President.

SENATOR KENNEY: Thank you, Mr. President. I served on the Executive Departments and Administration Committee and I am not necessarily opposed to this bill, but I am really opposed in the manner in which we are proceeding. As I understand it, that there is currently a case before the Supreme Court that was brought in December 19th of last year, which would look at the current law of how we select the Supreme Court Justice. It was heard, the oral arguments I believe, March 1 of this year. Now I understand that we have just made the comment that Chief Justice Broderick is going to be in that position for five years. My reason for opposition to this bill is really the process in that we should probably wait for that decision that also since we are talking about Chief Justice Broderick, that maybe in the bill itself, that the end date should

be at the end of his current term and that is when we should start this new legislation. So I just bring out those points, and that is why I am currently in opposition to this legislation. Thank you, Mr. President.

SENATOR PETERSON: I thank you, Mr. President. I point out that, as we are all mortal, there is no guarantee that anyone will serve out their term this year, much less for the next five. I think this is a problem that the legislature created. I think that it is a problem that we can address here in this body, effectively by this legislation. I am sensitive to the arguments that relate to the experience that we went through in the impeachment trial, as I served as vice chair of the impeachment inquiry in the House. I am quite familiar with what we went through as a state as we explored misconduct in the Supreme Court and the issue of impeachment of our highest court justice. But through that examination, it also become clear to myself and others who followed the process, the tremendous power which is imbued in this office constitutionally, and the fact that administering all the courts and having the executive experience to be able to handle the problems therein, is something which requires a specific skill set. That is not necessarily something that comes simply with time on the job. One person might be more suited than another. Let's let the Governor and Council as they would have it, constitutionally empowered so to do, appoint such a person, bring them through a public process. I think that it will restore a slight adjustment to the balance of power between the branches in a way that will be healthy. I again encourage your support for this bill. Thank you, Mr. President.

MOTION TO TABLE

Senator Below moved to have **HB 1134** laid on the table.

PARLIAMENTARY INQUIRY

SENATOR PETERSON: Mr. President? Parliamentary inquiry?

SENATOR EATON (In the Chair): Yes, sir.

SENATOR PETERSON: Mr. President, if I am in favor of supporting the Executive Departments and Administration Committee in passage of this legislation, would I vote no on this motion?

SENATOR EATON (In the Chair): If you are in favor of this motion, you will vote yes. If you are not in favor, you will vote no.

Question is on the tabling motion.

A division vote was requested.

Yeas: 7 - Nays: 14

Motion failed.

SENATOR ESTABROOK: Thank you, Mr. President. I rise to speak as the member of the committee who voted in the minority, although I want to point out that this vote originally was a tie vote in committee. And only as this happened in another circumstance where the tie could not be broken without a member leaving, was it resolved to be a 2-1 vote. People keep referring to what we are doing here as correcting a mistake that we made in passing the other legislation. Whether we felt that was a mistake or not, what we are not doing here is returning to that system. What this does is create a hybrid of the old and the new, so that it retains the five-year terms that we put into place, but it now merges that with an appointment by the Governor and Council so that every five-years what we have done is politicized this issue. For that reason, I opposed it, and for that reason, I urge you to also. Thank you, Mr. President.

SENATOR GATSAS: Thank you, Mr. President. I rise in opposition to the legislation only because when I was in this body two-years ago, we voted on a piece of legislation, that voted out of this body at 23-1. If my count serves me correct, 12 of those bodies are back here. So we passed something two-years ago that we thought was right. It has now been challenged. We are moving on something that is supposedly a fix. We don't know if that fixes it, but that could be challenged. So I guess I urge my colleagues that we voted for something two-years ago and it had great bipartisan support. I don't know why are changing that and not allowing the court decision to come down before we change it again. Because changing it again doesn't stop a court case. So I think, again, we should vote this down and allow the process to happen. Thank you, Mr. President.

SENATOR PETERSON: I am little bit reluctant, thank you, Mr. President, to admit in the course of one debate that I am both mortal and imperfect, but I am afraid that that point has risen. I feel that it is a strength. If you feel that you have done something that can be improved or that you have made a mistake, to admit it promptly and correct it. I think that is what this body would be doing. I think that is what the House did that also voted for this measure in the last biennium. We are adjusting it in a way that I think makes more sense for policy for the state of New Hampshire as we go forward. As a result, I'd again, urge my colleagues to vote for passage at this time. Thank you, Mr. President.

Question is on the adoption of the committee report of ought to pass.

A division vote was requested.

Yeas: 14 - Nays: 7

Adopted.

Ordered to third reading.

HB 1135, relative to appointment of the chief justice of the superior court. Executive Departments and Administration Committee. Ought to pass, Vote 3-1. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I am in support of this bill. Thank you, Mr. President. I move ought to pass on House Bill 1135 which changes the authority to appoint the Chief Justice of the Superior Court to the Governor and Council and establish a five year term. Currently, a Chief Justice of the Superior Court serves until the mandatory retirement age of 70. As with House Bill 1134, a five-year term will promote accountability and encourage public input. The committee recommends House Bill 1135 ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1159, relative to prohibited employment for state liquor commission employees. Executive Departments and Administration Committee. Ought to pass, Vote 3-0. Senator Estabrook for the committee.

SENATOR ESTABROOK: Thank you, Mr. President. I move ought to pass on House Bill 1159 which would limit the applicability of the prohibition on liquor store employees from holding certain liquor licenses for one year after leaving the liquor commission. Testimony revealed that all decisions affecting local liquor stores including in-store sales, marketing and negotiating with distributors, are made in Concord by three or four people at Liquor Commission headquarters. Store employees,

who hold no real decision making powers and are interested in pursuing a career in the industry, are unfairly prevented from doing so. House Bill 1159 would remove this prohibition on employment except in the case of the three or four people with decision making responsibilities at the Liquor Commission headquarters. The Liquor Commission supports the bill and the committee unanimously recommends House Bill 1159 ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

HB 1202, relative to third-party payment of covered services ordered by the juvenile court. Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Roberge for the committee.

Insurance
April 14, 2004
2004-1181s
05/09

Amendment to HB 1202

Amend the introductory paragraph of RSA 415:18-p as inserted by section 1 of the bill by replacing it with the following:

415:18-p Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 48 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 48 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

Amend the introductory paragraph of RSA 420-A:15-a as inserted by section 2 of the bill by replacing it with the following:

420-A:15-a Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining quali-

fication for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 48 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 48 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

Amend the introductory paragraph of RSA 420-B:8-o as inserted by section 3 of the bill by replacing it with the following:

420-B:8-o Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 48 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 48 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

Amend the introductory paragraph of RSA 420-J:6-c as inserted by section 4 of the bill by replacing it with the following:

420-J:6-c Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance

for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 48 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 48 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1202 ought to pass with amendment. This legislation deals with court ordered juvenile justice services. There are many instances where a judge orders juvenile justice services to begin right away. Insurance companies, however, have been denying claims for these because the parents or guardians had not received the necessary pre-authorization or claims were denied on the basis that they were court-ordered and therefore, not medically necessary. The amendment addresses that by allowing a 48-hour window for pre-authorization. This allows the parent or guardian to know right away which services will or will not be covered. The bill also prevents the insurance company from taking into consideration whether or not the service is court ordered. The Insurance Committee asks for your support for the motion of ought to pass with amendment. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 176, relative to listing candidates on ballots. Internal Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Boyce for the committee.

Internal Affairs

April 14, 2004

2004-1221s

03/01

Amendment to HB 176

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

AN ACT relative to listing candidates on ballots and relative to instructions to voters.

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

4 Marking the Ballot; Instructions to Voters. RSA 659:17 is repealed and reenacted to read as follows:

659:17 Marking the Ballot; Instructions to Voters. The secretary of state shall provide on the top of the general election ballot the following voting instructions. The secretary of state is authorized to replace the phrase "Make the appropriate mark" with an appropriate description and example of the mark to be made for the type of ballot in use, such as "Make a cross (X) in the box," "Completely fill in the oval," or "Complete the arrow":

1) To Vote

Make the appropriate mark to the right of your choice. For each office vote for not more than the number of candidates stated in the sentence: "Vote for not more than ____." If you vote for more than the stated number of candidates, your vote for that office will not be counted.

2) To Vote a Straight Ticket

To vote for all candidates running in the same political party (straight ticket), make the appropriate mark to the right of the party name in the straight ticket section of the ballot. You may vote a straight ticket and also vote for individual candidates from any party. If you vote for an individual candidate, the straight ticket vote for only that office is canceled. If more than one candidate is to be elected for an office, you must mark each of your choices for that office. If you vote a straight ticket and do not make the appropriate mark to the right of any candidate for an office, your straight ticket vote will count for that office.

3) To Vote by Write-In

To vote for a person whose name is not printed on the ballot, write in the name of the person in the "write-in" space. Make the appropriate mark to the right of your choice.

5 Repeal. RSA 659:18, relative to instructions for write-in voting, is repealed.

6 Effective Date.

I. Sections 1-3 of this act shall take effect January 1, 2005.

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

2004-1221s

AMENDED ANALYSIS

This bill requires the names of candidates to be listed in party columns on the state general election ballot. This bill also revises the instructions to voters to be placed on general election ballots.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 176 ought to pass as amended. This bill changes the current form of the ballot, which has been used in recent years, so that the names of the candidates will be listed in party columns. This will make the ballot simpler to read and clarify which candidate identifies with which specific party. The committee amendment also greatly reduces the possible confusion of some voters by updating the directions on the ballot. Specifically, the current statute says that the ballot has to read "make the appropriate mark". This would allow the Secretary of State to change that, depending on the type of ballot being used, to "fill in the oval", "continue the arrow," "make an X" or whatever is appropriate for that particular ballot. So it will be less confusing for the voters. So please join the Internal Affairs Committee in voting this bill ought to pass as amended. Thank you, Mr. President.

SENATOR LARSEN: Thank you, Mr. President. I rise to oppose both the committee amendment and the bill itself. This bill is an outrage in that it is the heavy hammer of the super majority upon the minority. I spoke this way to the Internal Affairs Committee and I will speak to you openly in my feelings about this bill because what it does is, it is one of those heads I win, tails you lose kind of measures which you are capable of doing in the majority here. But I want you to consider its rationale fairness. What it says is, there is a law that says, whosoever party has the majority, will be listed first on the ballot from here until Kingdom come. What this does is it tells the voters, it puts before the voters a ballot which is a Republican column, always first, so far, lately, and a Democratic column. And then, if there is an Independent, they get to be third. Instead of encouraging the voters to use their intellect, to use their wisest per-person vote, they now see a column of Republicans, a column of Democratic. One of our greatest problems that we have right now is, in fact, the highly partisan nature of this body and in Washington. Because as all of you know, when you talk to your friends, you don't have Democrat and Republican pasted on your forehead. People talk to you as you are, they take you as you are and listen to your thoughts. But when you become this partisan that you list people, candidates for office in their party, you will cause people, I am afraid, to become increasingly partisan rather than making the choice of the best candidate for each office. They will say, "Oh, here is what I want to be, I want to just go straight down the line." So straight ticket voting will be obvious, but it will also mean that instead of having the office for Governor, and the two names of the Democrat and Republican and perhaps an Independent, you will have them in columns. You discourage the voter from looking at the best candidate for the office. You encourage partisanship. Now, Senator Barnes, I know that you are a very sweet natured guy and you wouldn't do this to us normally, but all of you need to consider **TAPE CHANGE** the wisdom of doing this. Are we in fact encouraging the voters to choose the best candidate for the office or is this the heavy hand of the super majority saying that we can do this this year, so let's do it. Because that is the way it looks. The second part of the bill is fine. The part that indicates how you mark the ballot. That is fine. It is the core of this bill, which has become a highly partisan and I think, ill advised, way to encourage straight ticket voting and discourage the voters from using their best wisdom on the best candidate for office. Thank you, Mr. President.

SENATOR FOSTER: Thank you, Mr. President. Senator Boyce, I have a question for you concerning double endorsement candidates. When I was in the House working with Speaker Sytek, that was dropped for House members and came back in my absence, so it is something that still bothers me. If I recall the way it works now, if I am a registered Republican and I get endorsed by the Democratic party on that ticket, after my name it says R & D. If I am on the other hand, a member of the Democratic party and manage to get endorsed by the Republican party, it says D & R. How is anybody going to know now, what party I am in when they look at the ballot.

SENATOR BOYCE: Good question. This is the sample ballot that was created for us by the Secretary of State. It has exactly that situation illustrated here. In fact, I didn't know he was from Concord, but this sample ballot shows that Senator Jack Barnes was endorsed by both parties for this Concord election and appeared in both the Republican

and Democrat column, and we can tell from when that was actually, because of the other names on this ballot, but it did happen on this sample ballot. I asked the Secretary of State, is that a problem with the voting machines determining...is there any problem with that, and that the voting machines are able to determine that that would be voting twice in one election if you voted, if you marked both, but both names...the name would appear in both columns. So if you went straight down the Republicans, you would catch his name. If you went straight down the Democrats you would catch his name. And if he was also endorsed by the Libertarians it would appear in the third column. Whichever column you decided to do it.

SENATOR FOSTER: There is no way to tell what party he actually is registered in?

SENATOR BOYCE: That is correct. I don't believe under the current system there is anyway to determine, if they're dual endorsed.

SENATOR FOSTER: I hate to ask a would you believe question, but I think that the would you believe would be that it would say, Senator Jack Barnes "R" would appear first and "D" second. So if you know the system, you would actually know what party he is in.

SENATOR BARNES: If they are voting for Jack Barnes, they'd know the right person to vote for.

SENATOR FOSTER: Right, Senator.

SENATOR ODELL: Thank you, Mr. President. Senator Larsen, of all of my colleagues, I don't think that I agree with you about the partisan nature of this body, but I do agree that we don't have "D's" and "R's" on our forehead. What I am hearing from you is that you are concerned about straight party voting. My question is, why would you think less of someone who votes a straight party ballot versus someone who picks and chooses, given that both major political parties spend tens, hundreds of millions of dollars to encourage people to vote the straight Democratic ballot or the straight Republican ballot? I do not think it is fair, at least I don't believe it is fair, to hold the person who votes a straight Republican or a straight Democratic ticket, as to having less stature or less intellect or less involvement or less caring about the political process than the person who chooses between different parties.

SENATOR LARSEN: Senator Odell, under this bill, if Representative Kerns wins again in Bedford, he will likely be returned to us because people will, under straight ticketing, be returning anyone whose name appears on the ballot regardless of their qualifications. So in my mind, it is sometimes wise not to vote straight ticket and, in fact, look at the candidate. I think if you ask people around this state, they would agree with that. I think that if we can get out of the kind of partisanship that we have gotten ourselves so deep into in this nation and in this state, that we will be better for it and our governments will be better for it.

SENATOR ODELL: Thank you, Mr. President. Senator Larsen, if I were a resident of Bedford, would you believe that I would not appreciate the thought that I was not intelligent enough to vote the way that I wanted to vote?

SENATOR LARSEN: I believe the people of Bedford hopefully will keep an eye on their candidates just as voters across the state will check and see how their votes are applied and who they are sending to office, but

I do find that there are times when straight ticket voting returns someone who is perhaps someone we didn't choose to have among us and in fact who has made history because of that.

SENATOR ODELL: That may be, but I would hope that you would agree that we value the decision making power and the ability of the individual to make a decision. That is fundamental to the democratic process. It is confidence in the individual voter and their ability and intellect to decide how they will mark their ballot.

SENATOR LARSEN: And you hope that they read down through every candidate before they mark straight ticket.

SENATOR ODELL: And they have that choice.

SENATOR LARSEN: They need to have that awareness.

SENATOR ODELL: Thank you.

SENATOR BARNES: Thank you, Mr. President. This is just a comment. Two, three, four years ago, Public Affairs had a bill in there on the straight ticket situation and just to make a statement, the Secretary of State came down and told us that roughly 30 percent of the voters in both parties used a straight ticket. That question was asked how deep it went. Roughly, 30 percent on both sides. Thirty percent Democrats, 30 percent Republicans.

SENATOR BOYCE: Thank you, Mr. President. Senator Larsen, isn't it true that under the current law, first of all, straight ticket voting is allowed? And second, the current placement of names on the ballot is that the majority party will be listed first and the minority party candidates listed second. So that as you read down the list, the majority party has a higher position on the ballot? Isn't it true under this revision that they would both be equal as far as where they are on the ballot? It simply is which column and there would be several columns. Isn't it true that we currently have that? First of all, there is straight ticket voting and also that the names on the ballot currently are that the Republicans lately, have been listed first and the Democrats later? Don't you see this as being at least putting them on an equal footing, they are both on the same horizontal level on the ballot?

SENATOR LARSEN: I think in my mind, it encourages straight ticket voting because it creates a straight ticket. I actually think that we are better off with a system that encourages people to make a choice office by office rather than have straight ticket voting encouraged.

SENATOR BOYCE: Thank you.

SENATOR ROBERGE: Thank you, Mr. President. I just wanted to add a little information being the representative of Bedford. We already have about nine people signed up, plus Mr. Kerns has not signed up, well known people in Bedford to run in the primary. So before Mr. Kerns even gets to that stage, he has pass the hurdle of the primary, which I doubt very much he is going to be able to do. So I think it is a little premature to talk about Mr. Kerns being returned to the House. Thank you, Mr. President.

SENATOR FOSTER: Thank you, Mr. President. Just a brief comment on straight ticket voting because it came up. I hadn't intended to talk about it, but I will very briefly. Having had the pleasure or lack thereof of a recount, you can learn a lot about straight ticket voting. I respond to Senator Odell's comment, I don't think, at least for me, that I have any concern about a voter who decides to vote straight ticket or who

doesn't, and who goes through and fills out the ballot. I think the problem, at least that I saw, at least a couple times in my race, was people who go through, they fill out the straight ticket. I frankly wonder whether people wonder if they are being asked "do you want to vote the straight ticket" or what party you are because then they will go through and fill out almost all the rest of the ballot except perhaps as happened in my recount a couple of times, the state Senate, evidently that voter didn't either know or didn't like either me or my opponent in that race, and yet because they had filled out straight ticket, one of myself or my opponent got a vote. That is, I think, the problem with it structurally. I think in Mr. McDonough's race proved that out, I think, some years ago. There was another recount that was decided by people who had filled out the whole ballot except for a particular office and then you default to the straight ticket. I think that is the problem, because I at least, for myself, can't discern that the voters intent was met out. I know this has been challenged in court and the court didn't throw it out, at least I don't believe in the last cycle, but I do question whether we are actually respecting the voter at all or maybe confusing them in that particular instance. Thank you, Mr. President.

SENATOR BELOW: Thank you, Mr. President. This bill gets things backwards and it takes us backwards. It says that it is more important to sort candidates by their party affiliation than by the office that they are running for. Currently, we sort candidates by office. So if you got Democrats, Republicans, Independents, Write-ins, they are grouped together for Governor, for state Rep, for state Senate, etceteras. That makes sense. I think that when I am a candidate, I have more sort of an affinity in relationship to the other people running for the same office than candidates up and down the ballot. But what this bill does, it says, we are not going to sort first by office and then by party, we are going to sort first by party and then by office, saying that the party affiliation is more important. Certainly the prerogative of the majority party to want to tip the playing field slightly in their favor and that is what this does. There are people who are listed first, whether it is by column or by row, have a statistical advantage. As long as we are aware of that is what we are doing, you can say that is our prerogative as the majority party, to tip the table in our favor. I think what would be best is to go to a random system, to say that the office is more important than party affiliation and truly let the voters make their choices by letting them understand what the party affiliation is, but not make that the first and most important thing that they see on the ballot. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

A roll call was requested by Senator Below.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

The following Senators voted No: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 15 - Nays: 6

Adopted.

Ordered to third reading.

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions. Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Roberge for the committee.

Senate Insurance

April 13, 2004

2004-1157s

10/05

Amendment to HB 651-FN

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

AN ACT relative to the purchase of prior service credit by certain political subdivision employee members.

Amend the bill by replacing all after section 1 with the following:
2 Effective Date. This act shall take effect July 1, 2004.

2004-1157s

AMENDED ANALYSIS

This bill allows certain political subdivision employee members of the retirement system to purchase prior service credit where the member participated in a local retirement plan.

MOTION TO TABLE

Senator Peterson moved to have **HB 651** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

Recess.

Out of recess.

HB 230, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act. Internal Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator O'Hearn for the committee.

Internal Affairs

April 14, 2004

2004-1209s

05/03

Amendment to HB 230

Amend the bill by replacing section 2 with the following:

2 Membership and Compensation.

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

(a) Five members of the house of representatives, 2 of whom shall serve as alternates, appointed by the speaker of the house of representatives, including at least one member of the legislative administration committee, one member of the executive departments and administration committee, and one member from the joint legislative committee on administrative rules.

(b) Five members of the senate, 2 of whom shall serve as alternates, 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.

SENATOR O'HEARN: Thank you, Mr. President. I move House Bill 230 ought to pass as amended. This bill establishes a directed study on specific issues that may significantly improve the effectiveness of the Joint Legislative Committee on Administrative Rules (JLCAR) process. The committee amendment decreases the House and Senate membership to three members and two alternates. Please join the Internal Affairs Committee by voting this bill as ought to pass as amended. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 236, relative to recount application deadlines. Internal Affairs Committee. Inexpedient to legislate, Vote 2-1. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 236 be inexpedient to legislate. This bill would extend the time a candidate can ask for a recount by up to 48 hours from the declaration of results. Unfortunately, the Secretary of State is not in agreement with this bill. Federal law requires that the state election ballots be available 45 days prior to the election. The Secretary of State feels that this legislation fixes nothing and will cause problems with their office in their attempt to get the ballots out on time. It also would cause a problem getting the list of elected members of the House and the Senate in order, in time for organization day and after the election. Currently, a candidate has up until Friday following the election, to request a recount. The Internal Affairs Committee feels that this is sufficient time and we feel that the law should not be changed. Please vote inexpedient to legislate. Thank you, Mr. President.

SENATOR ESTABROOK: Thank you, Mr. President. Senator Boyce, isn't it true that sometimes on the local level, these results are not available in time for that Friday deadline?

SENATOR BOYCE: The testimony from the Secretary of State was that the vote tallies are generally available very soon. He is was not exactly clear what the declaration of results actually meant, because his office doesn't actually go stand somewhere and make a declaration of the results. The results are usually what the local moderators, or whoever, reads, usually on election night. Those are available to the candidate. The candidate can make a decision based on that, whether or not it is close enough for a recount.

SENATOR ESTABROOK: Thank you. I understand that generally the practice works that way, but what I am saying is that sometimes it doesn't, isn't that true?

SENATOR BOYCE: I believe that if a candidate thinks that it is going to take too long, they may want to request a recount before they are totally sure of the results. In most cases, it is going to be clear whether or not there will be a recount needed earlier enough for that Friday. The Secretary of State believes that this is not necessary.

SENATOR ESTABROOK: But don't you think that we need to have a provision for when that is not possible?

SENATOR BOYCE: No, I don't think so.

SENATOR ESTABROOK: Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise to speak against the bill. There are times, and I think of a number of times, when all of those ballots are not counted and it is not within the time frame. As a result of that, problems are created. I mean, look at the last federal election. When you talk about time, it was months before that thing was actually determined. I have been involved in elections in the city when we did paper ballots, when you didn't know. Sometimes you didn't know until a week afterwards what the final result was. I know in some of the outlying communities, that has been a significant problem. Now, look at the kind of money that we are putting into changing that process now. We are going to spend a fortune, are we not, just to get ourselves squared away so that everybody's on the same page, in terms of this next election. The federal government has appropriated millions and millions of dollars and yet we are saying that if it isn't clear within this particular time frame, you don't have an opportunity to challenge it. I think that we have to be very careful about that. We had a discussion about ballots this morning, which I think was very articulately put by you, Senator Odell, and I commend you for that. But it is a precious right, something that we all want to take advantage of, but we want our vote to count. I mean, that is really what it is all about. If we don't have an opportunity to make sure of that result, then I think that we are short changing the public. Thank you, Mr. President.

SENATOR MARTEL: Thank you very much, Mr. President. With all due respect to my friend, Senator D'Allesandro, I have been on the recount team for the Secretary of State's office for the last six years. That is three elections and one federal election. There hasn't been a problem, other than a problem with the ballot box itself in one community, in the last six years, where we had to go back and do a second count of an election. That happened two years ago, in the last legislative election. I believe, and all of us who do the recounts and some others who are in here in this room to today, think that we have the best system that anybody can have in the country. We have been proven to be accurate as a whole, to almost 100 percent, in fact, by the time that we are done it is 100 percent. The issue here is the deadline, which we have today, has never been a problem. People have been able to apply for a recount and have never been denied. The Secretary of State's Office makes sure that he goes out of his way to make sure that these people understand the parameters of a recount. The timing, the effect, and what the possible results of the process might be. So it is clearly stated by those who run for office, who fall into this category of needing to have a recount, just exactly what they are facing, with all due respect, it is a long enough period of time to satisfy everybody as far as I am concerned. I ask the people to vote for this today. Thank you, Mr. President.

Committee report of inexpedient to legislate is adopted.

HB 285, relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting. Internal Affairs Committee. Ought to pass, Vote 5-0. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move House Bill 285 ought to pass. Currently, in the official ballot referendum towns or school

districts, neither the governing body nor the budget committee, if one exists, has the ability to revise their recommendations if the budget appropriations are changed during the deliberative session. This bill gives them the ability to change their noted recommendation prior to printing the ballot. In addition, this bill makes the original recommendation of the budget committee the amount to be used in calculating the 10 percent limitation. For example, if a budget committee offered an operating budget in a town, again, a Senate Bill 2 town, for \$5 million, and in that deliberative session the body increased it to \$300,000 to \$5.3 million, that particular budget committee would be able to go back before printing that ballot and alter their recommendation if they wanted to. So I would urge the full Senate to join in with the Internal Affairs Committee by voting this bill ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 559, relative to grounds for termination of employment. Internal Affairs Committee. Inexpedient to legislate, Vote 3-2. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 559 be inexpedient to legislate. This bill was the response to one employee at a county nursing facility who was fired for and op-ed that she wrote. She was properly reinstated following that by an appeal to the county commissioners. The committee felt that the existing whistle blower protections are adequate and that this bill is not needed. So please join the Internal Affairs Committee by voting the bill inexpedient to legislate. Thank you, Mr. President.

SENATOR MARTEL: Thank you very much, Mr. President. Senator Boyce, having been familiar with this case, and I am going to ask you this question. It may be unfair of me asking you this, but I am going to. This lady who lost her job at the facility, really had to go through a painstaking process in order just to be recognized that she had lost her job because of certain things that she was representing. There is also a gentlemen who had a spouse that was there who was also basically told that he would be sued if he didn't keep his mouth shut. So don't you think that there should be some kind of protection other than what we have today to make sure that these people are correctly dealt with?

SENATOR BOYCE: Well, my view on it is that while a person has a perfect right to speak their mind, their freedom of speech is protected, my question is, if an employee of let's say, General Motors went out and wrote an op-ed piece, saying that General Motors cars are all unsafe and should not be purchased, then I think that General Motors would have every right, and actually an obligation to their shareholders, to dismiss that employee. I think that the county has the same situation. Now in this case, if what she had written in the paper had been an allegation against her supervisor or someone else, there are avenues for an employee to take that and use the whistleblower statutes to get something done, outside of going to the newspaper and writing an op-ed piece. It actually borders on, maybe as not even bordering, but actual, insubordination. You have someone who writes a piece in the paper, criticizing their supervisor and expects that nothing detrimental will happen from them doing that. We have, as I say, we have whistleblower statutes that if there is a case of wrong doing, an employee sees that, and they take that to the proper authorities for action, then they are protected. In this case, she went to the county commissioners, they felt that she had a claim

there and they gave her her job back. The process is that you follow the statutes that are there, the whistleblower statutes, and you don't go out and defame your employer in public, and hope that you can keep your job.

SENATOR MARTEL: I totally agree with you, Senator Boyce, based on the facts of which you just said. In this case here, though, this lady here was really pushed to the limits. What she did was something that she had to respond to because no one else was listening. I know her case very well. So I just wanted you to be aware of that, that's all. Thank you very much.

SENATOR BOYCE: Thank you.

SENATOR LARSEN: Thank you, Mr. President. While it was presented that the committee supported this, you will that it was in fact a close vote, because there really truly was an issue of freedom of speech and the protection of that freedom, particularly when taxpayer dollars are involved. This employee felt the need to speak out on something in which she believed was important to speak out on. She wrote a letter to the editor and was, in fact, fired soon afterwards. She did get her job back apparently but she did have to go through incredible effort to get that job back. In fact, she was returned to that job with back pay, which tells you something about the case and her right to speak out. When they came to this committee and told us about this situation, they basically argued that public employees work for the taxpayer and the taxpayers have a right to know what is going on in the workplace. I think all of us want enough freedom of speech in our state that we hear about things that perhaps should be corrected. If we are in an environment that discourages people from speaking out, for fear of losing their jobs at all points, then we lose the ability to monitor whether our governmental systems are working properly. I think that we don't want to get into a situation where people are restricting their free speech because they are fearful for their jobs and their lives as they know it. This was a 3-2 vote because some of us had concerns that that right to free speech was something which needed to be protected. I urge you to vote no on this bill. Thank you, Mr. President.

SENATOR CLEGG: Thank you, Mr. President. I rise in support of the committee's position of inexpedient to legislate. It is obvious that there was a situation. It is also obvious that we have a number of laws in place, including whistleblower, that protected this person for the extent that they received back pay and received their job back. So we have the safeguards in place and this bill went one step too far by denying you the ability to terminate someone no matter what they said. I think that we don't need to go that far. I think that we have protected the worker and we have protected free speech. Thank you, Mr. President.

Committee report of inexpedient to legislate is adopted.

HB 729-FN, relative to the regulation of tanning facilities. Internal Affairs Committee. Ought to pass with amendment, Vote 3-1. Senator Larsen for the committee.

Internal Affairs

April 13, 2004

2004-1169s

10/01

Amendment to HB 729-FN

Amend RSA 313-A:8, X-a (d) as inserted by section 8 of the bill by replacing it with the following:

(d) Standards for the inspection of tanning devices.

Amend RSA 313-A:31, I as inserted by section 13 of the bill by replacing it with the following:

I. No person under the age of 18 shall be allowed to utilize a tanning device at a tanning facility without the written consent of that person's parent or legal guardian and without an operator present. Proof of age shall be satisfied with a driver license or other government issued identification containing date of birth and a photograph of the individual. This consent requirement shall be satisfied only if the parent or legal guardian is physically present at the time of the initial use of the tanning device; the responsible adult signs a document declaring that they are the parent or legal guardian of the minor and attesting to the age of the minor. The consent of the parent or legal guardian shall be valid for 12 subsequent uses of the tanning device by the minor.

SENATOR LARSEN: Thank you, Mr. President. I move House Bill 729 ought to pass as amended. This bill was actually introduced a couple of years ago and was worked on with great detail in the House. I think that everybody knows the effect of overexposure to ultraviolet light as a recognized health risk. The committee believes that this is an important public safety measure that will establish certain minimum standards for indoor tanning facilities. The committee heard overwhelming testimony of support on this bill from dermatologists around the state and, in fact, very moving testimony from both parents and dermatologists who saw increased numbers of young people under the age of 20 coming into doctors' offices with significant melanomas in places which normally are not exposed to the sun. But they are exposed in a tanning booth. They told us how young people's skin is, in fact, thinner and more sensitive to ultraviolet light exposure. This bill establishes some standard so that a person under the age of 18 would not be able to operate a tanning device. It establishes increased measures so that people are aware before they enter into a tanning booth of the effect of this tanning device and the potential health risk for children under the age of 14. It includes language which brings in either a physician and parental advice. So the Internal Affairs Committee urges this bill as ought to pass as amended and hopes you will join us in this measure. Thank you, Mr. President.

SENATOR CLEGG: Thank you, Mr. President. Senator Larsen, since I have never used a tanning booth. I was waiting for Senator Gatsas to say that I don't fit, but...my question is the amendment. I really need to know. It says that no one under the age of 18 shall be allowed to utilize a tanning device at a tanning facility without written consent of their parent or legal guardian. It also says, "and without an operator present." I would just like you to define to me what "an operator present" means? Does it mean that they have to be in the tanning booth with you or can they be at the front counter? It is a serious question because as I read this, the operator has to be in there with you.

SENATOR LARSEN: The intent is not that the operator is present in the booth but, in fact, present in the facility. I hadn't been aware of this but there are actually, I think in Senator Kenney's district, he knew of a situation where it is a 24 hour tanning booth and you insert a credit card and can go in at any time. So the thought was, you wanted to make it so that if an operator wasn't present in the "facility", and I will put this on the records, in case there is ever a question when the court looks at it later, it is the idea that the operator would be present in the facility. Because there are 24 hour tanning booths that are credit card oper-

ated with no operator present. Some of the other features of the bill include what we consider health standards for other parts of kind of cosmetology areas. Standards for cleanliness in the facility. And if you don't have an operator present, you can't be sure that the glass that you lay down upon has been sanitized between visits and other things. So this will improve that. It is a bill which has broad public support. I think that a lot of you have gotten measures on it. I can assure you that if you entered the booth, Senator Clegg, you are of age and you could be there if you so choose.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 767-FN, relative to political advertising not authorized by the candidate. Internal Affairs Committee. Ought to pass, Vote 4-1. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move House Bill 767 ought to pass. This bill redefines the definition of communication to include internet sites and transmissions by telephone and facsimile, as well as posters, cards, pamphlets, leaflets, flyers, etc., in order to keep up with the rising technological advances of today. The second part of the bill requires that a political advertising sponsored by political committees must so state. Please join the Internal Affairs Committee by voting the bill ought to pass. Thank you, Mr. President.

SENATOR BOYCE: Thank you, Mr. President. I rise in opposition to this bill simply because it makes no sense to pass a bill that cannot be enforced, particularly on the Internet sites. You can set up an Internet site anywhere in the world which can be viewed by people here in the state. And you can call it anything you want as long as you pay the money to get the name. You could set up a site that was anti-some-candidate and then refuse to identify who actually owned it. There is nothing that the state could do to either apprehend the person who did that or to prevent it from appearing on the computer screens of anybody here in the state if they did a search on that candidate's name. So, while it seems like maybe this is a good thing to do, to maybe identify who is advertising for and against a candidate, it would be impossible to enforce. To pass something that we know can't be enforced makes no sense to me. There is also the other situation that many of the advertisements that we would see here in the state, don't originate here in the state. I happen to watch TV from Maine and Boston. So, if a candidate was advertising from there, they wouldn't have to follow this because the state law only applies within the state's borders and we can't regulate what comes in over the airwaves or over the cable TV system. So I think this is feel good at best, and I just wish not to participate in this feel-goodism. Thank you, Mr. President.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I speak in favor of the bill. In terms of feeling good, I think that we are trying to do something that rectifies a problem that is beginning to magnify itself throughout political campaigns. This problem is growing by leaps and bounds. Anything that we can do to diminish this, I think, is appropriate. If it makes us feel good then maybe we are going to do something about it, which I think is really the point of the legislation. Too many

times the scope of a campaign gets way out of bounds. Way out of bounds in terms of what is done. I think that is a detriment to the political process. I think that is what turns people off of the political process and it says that it doesn't work, because look at the level that it has sunk to in terms of some of the stuff, particularly the telephone communications that go on in campaigns. I think it is appalling and it is something that we have to deal with. This takes us down the path to dealing with it. It is about time that we set our sights on dealing with it, because if we don't, it will get worse. Thank you, Mr. President.

SENATOR PETERSON: Thank you, Mr. President. Senator Kenney, as I would be very much in support of this legislation as well, I would like to ask you, Senator Kenney, from your experience on the committee who looked at it, how would this affect advertisements put out by political parties? In other words, would the Republican or Democratic party, when they put out an advertisement which supports specific candidates, need to put a disclaimer on there that it was or was not authorized by the candidate according to this bill?

SENATOR KENNEY: Well as I understand it, that is a relationship that is really between the candidate and their party that exists at this time. What this bill is really trying to address is political action committees or other groups out there who are trying to support this candidate, but the candidate has no knowledge or understanding that they are doing that. So, therefore, has to get the approval of that candidate. Additionally, if there is something attacking that candidate, that they would also have to disclose who they are and that candidate would let them know that wasn't authorized by him or herself. But you bring up the question, I think, about the actual party and the candidate and saying is the party checking in with their candidate for approval? I would hope that relationship would be between the candidate and the party.

SENATOR PETERSON: Senator Kenney, thank you. The bill as I read it, however, is not about the relationship between the political group and the candidate, but about the disclosure of the authorization to the public who had received the ad. As one who perhaps, some would say, merited, but I would beg to differ, some of the attack pieces that I received in the mail, I would wonder if the party would be required to say that it was authorized by the other candidate?

SENATOR KENNEY: In this case, the Democratic party who was sending mail against Senator Peterson?

SENATOR PETERSON: I am grateful to report it was the other party.

SENATOR KENNEY: Well I will check in with my Liberation friends. My sense is that you are correct in that venue of thinking. Obviously you are not going to get approval for the opposite party to attack you on an issue. This is simply to put a disclaimer out there for other independent attack groups who are either attacking or supporting a candidate. Does that give you any clarification?

SENATOR BOYCE: **TAPE CHANGE** Thank you, Mr. President. I am not clear exactly what that means. Does that mean that, since I am on the board of the Brain Injury Association, if they chose to do an advertisement and just mentioned or showed a picture of me at one of their events, and mentioned that I was on their board or something like that, it appears to me, that this requires them to have a tag line at the bottom that says that this was not paid for by Robert Boyce for Senate. Now if it happened that as that organization has every fall, we have what we

call a "Walk by the Sea", and I believe that I have made sure that I have invited all of the Senators to come to that, and if that showed something, a thank you whoever showed up, and then printed this advertisement, and it showed a picture from that, and in that picture, were all 24 Senators, it appears to me that they would have to have a disclaimer at the bottom that said, "this was not paid for by the..." John Gallus for Senate Committee, the Carl Johnson for Senate Committee, the Joe Kenney for Senate Committee. It appears to me that they would have to have a very long disclaimer. Is that how you read that?

SENATOR KENNEY: I think that you have to differentiate between a candidate and when you are actually in office. For instance, I remember Senator Wheeler did a lot of fundraising for Public Television. Under this provision here, I don't think that there would have to be a disclaimer that she was not representing a certain group of political view point, but I think that when you have announced your candidacy for office, that when it is in a political advertisement nature, you do have to put out a disclaimer.

SENATOR BOYCE: But this clearly says that it is not political advertisement. If it is not a political ad, that is the first line of it.

SENATOR KENNEY: Yes.

SENATOR BOYCE: It has to have this disclaimer. So if it is an advertisement that is not a political ad and it shows my picture and has my name in it, and it is during the political season...now I am not even sure that it says in there "during the political season." But I am a candidate from as soon as I say that I am running for re-election. So if I said that today, and tomorrow this ad came out, it appears to me that they would have to put a disclaimer in there. Which then, by my way of looking at it, makes that a political ad because it says that they are not supporting me. It is pointing out that I am a candidate. This is very troubling, this section three of the bill. Not only is it not enforceable, but I think it is very confusing.

SENATOR KENNEY: Well, again, to answer your question. It does say here "Any advertising which is not political advertising because it does not advocate the success or defeat of a party, measure, or person..." It is my belief that once you become a political candidate, and you are on television, and your advertising whatever it is, or you are part of some group or you are on TV for whatever matter, that somehow that has to be disclosed that you are not representing for political purposes, that particular ad or group. If this is confusing for you, I don't find it confusing. I mean, it is just saying that once you have announced yourself as a candidate and you are involved in a nonpolitical advertisement, that somehow there has to be some language in there that indicates that the main sponsor has not been authorized by any candidate.

SENATOR BOYCE: You mentioned Senator Wheeler. I recall during one of the campaigns several years ago when she was doing a public service advertisement for some group that she was affiliated with and it was her voice and identified as her voice, she identified herself. That was an advertisement. It was not advocating her or political position, so it was clearly not a political advertisement, but it was during that political season, she was a candidate. So are you then saying that the, I think it was the library or some...I mean it was a good group of worthy cause, but it would cause them to put this advertisement, to put this tag line on their advertisement, which to me, then, makes it a political advertisement, even though it is not a political advertisement.

SENATOR KENNEY: Well, I watch Channel 11 and when Senator Wheeler was doing the auctions for Public Television, I do not ever recall her announcing that she was a candidate or running for office. I think that was during when she was a state Senator and that she had the privilege and entitlement to do what she was doing, with or without this potential law. So my feeling is that when you announce yourself as a candidate, and you are running for office again or you are running for the first time, that there are certain things that have to be disclosed when it comes to advertisements, whether they are political or nonpolitical. I think that is what we are discussing here in section 3.

SENATOR BOYCE: Thank you.

PARLIMENTARY INQUIRY

SENATOR BOYCE: Mr. President. I want to know if this question can be divided to remove section three, from lines 19-24 and vote on it separately?

SENATOR EATON (In the Chair): The bill is divisible into the first and second section to be one, and the third section to be another. Without objection, it is divisible.

Senator Boyce moved to divide the question.

SENATOR EATON (IN THE CHAIR): A motion has been made, and if I heard you right, to divide the question into sections 1 & 2 and then a separate section 3 to be voted on?

SENATOR BOYCE: Yes.

The question was divided without objection.

Question is on the adoption of sections one and two.

PARLIAMENTARY INQUIRY

SENATOR ESTABROOK: Thank you Mr. President. Parliamentary inquiry really. Does the motion need a second?

SENATOR EATON (In the Chair): No.

SENATOR ESTABROOK: Doesn't every motion need a second?

SENATOR EATON (In the Chair): No.

SENATOR ESTABROOK: No. Thank you.

Adopted.

Question is on the adoption of section three.

Adopted.

PARLIAMENTARY INQUIRY

SENATOR CLEGG: Mr. President. Parliamentary inquiry.

SENATOR EATON (In the Chair): Parliamentary.

SENATOR CLEGG: Could we now vote on section 4 of that same bill?

SENATOR EATON (In the Chair): Section four is the effective date, which is automatically put on.

SENATOR CLEGG: I want to clarify that you split the vote and asked us to vote on sections 1 & 2. Then you split the vote and asked us to vote on section 3. We have not voted on section 4. We inadvertently took it out.

SENATOR EATON (In the Chair): For clarification, this has not gone to third reading yet.

Question is on the adoption of section four.

Adopted.

Ordered to third reading.

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Internal Affairs

April 13, 2004

2004-1164s

08/09

Amendment to HB 1299

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

1 Removal of Town Clerk. Amend RSA 41:16-c, I and II to read as follows:

I. The governing body shall notify the town clerk *by certified mail with return receipt* and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II.(a) Within 20 days of receiving the notification provided in paragraph I, the town clerk shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

(b) If the town clerk fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the town clerk from office as provided in paragraph V.

2 Removal of Tax Collector. Amend RSA 41:40, I and II to read as follows:

I. The governing body shall notify the tax collector *by certified mail with return receipt* and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II.(a) Within 20 days of receiving the notification provided in paragraph I, the tax collector shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

(b) If the tax collector fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the tax collector from office as provided in paragraph V.

3 New Section; Candidate Notification to Selectman. Amend RSA 669 by inserting after section 17-b the following new section:

669:17-c Candidate Notification to Selectman. Any person who has been removed from any position in the state which requires bonding and who subsequently becomes a candidate for any elected office that requires bonding under RSA 41:6, shall inform the governing body in that town of all facts relevant to the removal from office no later than the last day of the filing period for candidates. The board of selectmen shall then inform the town's bonding agent who shall determine the candidate's ability to be bonded under RSA 41:6.

4 Removal of Treasurer. Amend RSA 41:26-d, I and II to read as follows:

I. The governing body shall notify the treasurer ***by certified mail with return receipt*** and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II.(a) Within 20 days of receiving the notification provided in paragraph I, the treasurer shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

(b) If the treasurer fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the treasurer from office as provided in paragraph V.

5 Effective Date. This act shall take effect January 1, 2005.

SENATOR KENNEY: Thank you, Mr. President. This is not a political advertisement bill, so that is good. Thank you, Mr. President. I move House Bill 1299 ought to pass as amended. This bill allows the governing body to move forward with the removal of an elected town clerk, tax collector and treasurer if that person fails to respond to the allegations within 20 days. Currently, there are no laws that allow the elected board to move forward with this process, which permits an elected official to continue to hold onto their position. The committee amendment removes the section where the candidate is not allowed to appeal to the Supreme Court because the municipal association testified at the hearing that in some cases the elected official might not be physically able to respond and in these circumstances they should be allowed to appeal. Please join the Internal Affairs Committee by voting this bill as amended, ought to pass. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1308-FN, relative to lobbying activities by state employees. Internal Affairs Committee. Ought to pass, Vote 4-1. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 1308 ought to pass. State employees often appear before legislative committees offering testimony on behalf of the departments they are employed by. This bill exempts state employees acting in their official capacity from laws and fees regulating lobbyists. It does provide that when these employees appear in this capacity, they must wear their state name tag. Please join the Internal Affairs Committee by voting this bill ought to pass. Thank you, Mr. President.

SENATOR BELOW: Thank you, Mr. President. Senator Boyce, I think all of us Senators and Representatives get paychecks from the state for our \$200 per biennium salary. That makes us all state employees, as a matter of law and fact. Therefore, it would appear to say that as legislators, because we are state employees, we appear in our official capacity before legislative hearings for the purpose of promoting or opposing legislation. It would appear to say that we are required employee identification badges, because we are in fact, state employees. Is that the intent?

SENATOR BOYCE: No. I seem to remember quite a few discussion with Representative Marple about this. He is very clear that there is a U.S. Supreme Court decision that says that elected officials are not employees. Now that is his basis for challenging the withholding of payroll taxes from our checks. But he does cite a case that the U.S. Supreme Court did declare that elected officials are not employees.

SENATOR BELOW: Is this a federal or state law?

SENATOR BOYCE: This is a state law, but it was regarding a state official that the case was decided on.

SENATOR BELOW: Let me ask you another question. Up until the current governor, governor's have been state employees because they have taken a salary, now this governor is maybe not. But certainly future governors can be expected to be state employees as our commissioners, as our justices of the court. Is it the expectation that the future governors, commissioners, and justices of the court will be required to wear employee identification badges when they appear before legislative committees?

SENATOR BOYCE: Possibly the justices; however, the governor and the commissioners are elected officials and not employees. I am not clear on the justices.

SENATOR BELOW: Commissioners?

SENATOR BOYCE: The councilors. The executive councilors. I thought that's what you were at. And county commissioners are also. Now state employees, the commissioner of DEA, DRA and so forth, yes, they are state employees, and probably would be covered under this. Yes.

SENATOR BELOW: Thank you. I would like to speak. I think that under state law, we are state employees. We are covered by workers' compensation when we are acting as legislators. Executive councilors do receive pay, compensation from the state. So I would be concerned that this is not very clear. I think it is asking a lot to expect that when the justices of the Supreme Court appear before the Senate Finance Committee to discuss their budget, which is for the purpose of promoting, directly or indirectly, legislation. I don't think that we should be putting them in technical violation of the law when they don't show up with their employee identification badge. I just don't see the point of this. Therefore, I'd request if this is divisible, I would like to see if we could divide section 2 from section 1 and the effective date, I think, could go with both parts.

SENATOR BOYCE: I have just been handed what I believe is the current statutory definition of "employee" as far as an employee of the state or public employer. "Employee" means "any person employed by a public employer except persons elected by popular vote. Persons whose duties imply a confidential relationship with the public employer." In other words, their attorneys. Then probationary, temporary and seasonal. Those are not employees. It is my understanding that those are the definitions of employee.

SENATOR EATON (In the Chair): Senator Below, do you still wish to separate the question?

SENATOR BELOW: Yes, because what he is referring to is something that applies to that subdivision of the law only. I don't understand the context. Maybe we could table this instead, but I think that we should be cautious and be clear about this, because we may have some definitions of employees, but they may only apply to certain sections of the law, and I don't know what definition applies to this section of the law. I wouldn't want to think that we were doing something that doesn't conform with our expectations on what is reasonable.

SENATOR BARNES: Mr. President, are you bringing supper in tonight?

SENATOR EATON (In the Chair): No, we are not.

SENATOR CLEGG: Thank you, Mr. President. We have gone over this before and I think that you will find in a certain case over in the House, court case, part of their defense was that legislators are not employees of the state. Now while we are given the courtesy of workers' comp should we get hurt, remember that the state of New Hampshire is self insured and it is a courtesy that the state grants us. It is not something that we are entitled to because we are not employees. Our mileage check is taxed because it is not a reimbursement unless we go with the state at the state level. The IRS has determined that we are not employees. We have gone over this many, many times. We are not employees because we are elected officials. I would say that if we didn't put in the second section, there would be no reason to do the first section. The whole intent of this bill is when you have 22 people sitting in the audience in your committee, and you say...let's say it is a Health and Human Services bill, and you say, all those who work for Health and Human Services would you raise your hand, and 19 raise their hand. It is kind of nice to know that you have 19 employees sitting there and only three real citizens coming to testify. While we said that they couldn't lobby in the original bill, we are saying that it is not going to be lobbying if they come in, wear their ID badge, and let us know that I am not here for any other reason other than this is the division that I work in and this is who I am really representing. So I don't think that we have a problem about who is an employee and who isn't. It would be nice to know when one of the judges is sitting behind me and I am talking about the court. So I would like to see them have name tags anyway.

SENATOR BELOW: Senator Clegg, would you believe that I agree with your intent, but I am still confused because you said that IRS does not consider us employees? If that is the case, why does the state file a W-2, which is employee compensation with IRS? And why do I have to report my compensation to IRS as employee income?

SENATOR CLEGG: Well because if you are like me, you're accepting that W-2 so that you can take expenses for coming up here, which far exceed \$100 a year. So I am thankful that they send me a W-2 and I can claim all of my other expenses. But if I were Dick Marple and a few others over in the House, I would hold their view that what the state does is not legal and not right, and they shouldn't be sending you a W-2. They should be sending you a 1099.

MOTION TO TABLE

Senator Below moved to have **HB 1308-FN**, laid on the table.

Motion failed.

SENATOR BELOW: I would request a division between section 1 and section 2 of the bill.

Senator Below moved to divide the question.

The question was divided without objection.

SENATOR FOSTER: Thank you, Mr. President. Senator Clegg, I want to make sure that I understand what I am voting on. I think when you were either responding to Senator Below's questions or remarks, you said that you'd hope that people who showed up at a hearing, that you could look out there and you could see badges of people who might be from the state employees and know that without asking the question who is really there and why. Am I reading this right though, that it is only if they are appearing in their official capacity that they would have to wear their badge?

SENATOR CLEGG: Right.

SENATOR FOSTER: So if they are just there because it is of interest to them, because it might affect them, but they are not there in their official capacity they not need a badge?

SENATOR CLEGG: As far as I am concerned, if you are not there as a member of the department that the bill is on, in your official capacity, and you are a citizen, you have every right.

SENATOR BARNES: Are they on the clock?

SENATOR CLEGG: Correct. If they are on the clock, then they are there in their official capacity.

SENATOR BARNES: Right.

SENATOR FOSTER: Thank you.

Question is on the adoption of sections one and three.

Adopted.

Question is on the adoption of section two.

Adopted.

Ordered to third reading.

HB 1336, relative to the procedures for the legislative ethics committee. Internal Affairs Committee. Ought to pass, Vote 5-0. Senator O'Hearn for the committee.

SENATOR O'HEARN: Thank you, Mr. President. I move House Bill 1336 ought to pass. This bill was requested by the Ethics Committee and does the following: It requires the committee appointments to the committee shall be made by December 31, prior to the first legislative biennial session. This is to guarantee that the committee will be immediately able to act on any complaints filed. Second, with this legislation the committee can initiate a complaint on its own motion against any individual who has not filed their financial disclosure form. In addition, this legislation gives the committee the authority to bring a complaint on its own motion if it determines that a complaint is frivolous, scurrilous, and retaliatory in nature. This bill also gives the committee the right to vote to discharge such a complaint without the benefit of a meeting or further proceeding. Please join the Internal Affairs Committee by voting this bill ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1364-FN, establishing a statutory joint commission to review and propose changes to state unclassified officers' salaries. Internal Affairs Committee. Inexpedient to legislate, Vote 5-0. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 1364 be inexpedient to legislate. This bill would establish a statutory committee, which would have the responsibility of reviewing and making recommendations on unclassified state employee positions. The committee felt that this bill was not needed because we already have a contract with a group that does this work for us in determining the unclassified schedule. Please join the Internal Affairs Committee by voting this bill inexpedient to legislate. Thank you, Mr. President.

Committee report of inexpedient to legislate is adopted.

Senators Barnes, Green and Prescott are in opposition to the motion of inexpedient to legislate on HB 1364-FN.

HB 366, relative to mercury reduction. Interstate Cooperation Committee. Inexpedient to legislate, Vote 3-1. Senator Johnson for the committee.

SENATOR JOHNSON: Thank you, Mr. President. I move inexpedient to legislate on House Bill 366. This bill sought to establish certain restrictions on the sale, distribution and use of certain mercury-added products such as switches and some medical devices. While we are aware of the danger of mercury to our environment, the use of mercury over the last forty years has already been decreased by 95 percent. The largest remaining source of mercury contamination is through the burning of fossil fuels, something that this bill would not address. Additionally, some of the devices banned in this legislation have no available or affordable alternatives at this time. While we applaud the efforts to address mercury contamination, this legislation is not the appropriate approach. Therefore, the Interstate Cooperation Committee recommends that this legislation be inexpedient to legislate and asks your support. Thank you, Mr. President.

SENATOR COHEN: Thank you very much, Mr. President. It is curious to me how this clearly environmental bill, went to Interstate Cooperation. But, be that as it may, this bill did come out of the House with favorable approval obviously. I wish Public Service and others who are burning the coal and oil, would take more responsibility and get to the serious, most serious mercury problem that we have yet to deal with that. However, we need to look at the issue from all angles and this can help us quite a bit. This is a ban on products which contain high amounts of elementary mercury. The ban is only in effect when there is a substitute that is cost effective, and is either as efficient or equal to. If there is a reasonable economic or physical argument to retain a mercury added product, then the department may grant a waiver. This bill has the support of the department and, in fact, is an agency bill. It has the support of various environmental groups. The hospitals do not oppose this legislation as perhaps has been misunderstood. This bill is absolutely consistent with the state's mercury reduction policy. It was voted by the House, the full House, as well as the Science and Technology Committee, which agreed that it was practical and enforceable without hurting business interest or the public. Further, for explanation, it does not limit the use of fluorescent lights for those mercury added products which, in

fact, help reduce energy consumption. So I would urge my colleagues to overturn the inexpedient to legislate, and let's see if we can make this ought to pass. Thank you, Mr. President.

SENATOR MARTEL: Thank you, Mr. President. I stand in full support of the inexpedient to legislate motion of this bill. This is about the third time or fourth time that I have voted on mercury related bills in my six years in the legislature. It seems that we are always trying to take something away from an industry which has really been regulated by an honorary and fair government but the state government as well. As Senator Johnson said earlier, over the last forty years, we have had a decrease of 95 percent of mercury use in this state. It could be federal, I am not quite sure, but at least in this state. This has been a tremendous job by the industry to really reduce that toxic chemical, which is really a natural chemical that we find in every chemistry element tabloid. But I agree that it is very volatile. It is very dangerous. They have done a wonderful job. I have a plant in my district which works with light bulbs and manufacturers those light bulbs of many different kinds, of which, some of them have some slight mercury vapor in them. But they, again, worked very hard to comply with all state regulations. They even have disposal sites where they send the old bulbs and old products that they have that have mercury. Allow me just to close by saying one thing: As I was speaking with the people from the industry, all they had to do was look up at the lights that we have and just look up and say, just look at the light bulbs that you have up in the chandeliers. Ninety percent of those have mercury in them, and they are not the new bulbs. So I think that we should start at home before we start trying to compromise the industry that is really trying to work its way out of making sure that they don't use more mercury than they have. Thank you very much, Mr. President.

SENATOR JOHNSON: Just briefly Mr. President, if I may? I just want to go on record that the last two sessions that we dealt with this legislation, the industries have come in and showed how many switches that they have replaced and how many have been reduced in mercury. The same holds true for the industry that the Senator just mentioned. I think basically, the one product that we think about is fluorescent lights. They have shown remarkable progress in that area, and I applaud them for that. Thank you, Mr. President.

SENATOR BELOW: Thank you, Mr. President. I rise in opposition to the inexpedient to legislate report of the committee. There seems to be some confusion about this. Somewhere bills have become before this body in past years, but they have been much broader in scope. This bill for instance, doesn't deal with light bulbs at all. It is very narrow in scope. Mercury relay switches, thermostats and some thermostat-like products, like barometers. It excludes those that are used as part of a manufacturing process. There are a number of other exceptions, and there is a waiver provision such as if technically feasible alternatives are not available at comparable cost. So if they are not comparable cost, technically substitutable alternatives, then there could be a waiver. This is something that has been worked on. The House successfully narrowed it and got support for passage and I think that we ought to be passing this as well. I would request a roll call. Thank you, Mr. President.

SENATOR JOHNSON: Thank you, Mr. President. I rise to comment Mr. President. I failed to mention that the industries in the past few years have also established programs where people can bring the product that they are going to dispose of into these centers to get rid of them. So I think they have also done a good job in that area.

SENATOR CLEGG: Thank you, Mr. President. I rise in support of the Interstate Cooperation Committee's recommendation. I want to point out that one of the things that this bill does is it says that New Hampshire business people can't 'sell' something. The question was asked in committee, "well can I go across the line to Tyngsboro and buy the same product and bring it back to New Hampshire?" Oh, sure. You can do that. It is just New Hampshire businesses can't sell this stuff. I guess maybe that's why it went to Interstate Cooperation because we were cooperating with Massachusetts. So it doesn't stop the product from coming into the state of New Hampshire. I want to reiterate, it was a bill to stop businesses from being competitive with Massachusetts. We heard from an engineer who designs a product who said, well, if I can't go and replace my mercury switches, I would have to use something else which would be ten times more costly. Gold plated. We would have to use gold plated switches, which would be at a disadvantage, however, he did admit that for his New Hampshire customers, he could go to Massachusetts and purchase the mercury switch, he just couldn't do business with his New Hampshire supplier. I think that is wrong. The industry has done the best that it can so far in trying to help us dispose properly of mercury, whether it be in switches or thermostats. To ban suppliers in the state of New Hampshire from being able to sell a product that most of us can cross the line in five minutes to buy, is the wrong thing for the state of New Hampshire to do and it is certainly the wrong message to send to businesses. Thank you, Mr. President.

SENATOR ODELL: Thank you Mr. President. Unusual as it might be for me to oppose legislation that is sponsored by one of my colleagues from Sullivan county, I rise to explain why I will be voting for the inexpedient to legislate on this bill. In Hillsborough, there are 1,000 people who go to work every day at the Sylvania-Osram Plant, which I have toured on two occasions and I have gone there to meet with about their future plans and what they anticipate doing. One of the most helpful parts is that we are losing manufacturing jobs all over the state of New Hampshire, is that Osram-Sylvania, as they close plants in other places, they are consolidating their operations in Hillsborough. Most important to that is the engineers and the high technology people that are trying to be the innovators and create the better products so that there will be less mercury and less energy use and so forth, are really in the center of the state of New Hampshire. Those are valuable jobs and what they are trying to do, I think, is not insignificant. I think that the reduction that we have already seen in the use of mercury is not unsubstantial. In addition, if you go to Charlestown, New Hampshire, there are close to 300 jobs there and I have toured that plant maybe six times. Where they make police lights and emergency things for airports and so forth. Whelen Industries. The largest manufacturer of these lighting products, emergency devices, in the United States. All of their production is in the United States. In Connecticut, New Hampshire principally. They use the products from Osram-Sylvania. They work together. So we have an economic stake in the lighting industry. Most of these products are sold outside of the state of New Hampshire to the automobile industries, to some of the others. I think that we should be very careful about the message that we send to these folks who are retaining their development people, their idea people, their high paid people, in the state of New Hampshire and manufacturing these products. I think it is a signal that we want to make sure is a positive one so that they will stay with us.

SENATOR COHEN: Thank you very much, Mr. President, for allowing me to speak a second time. I have to correct the record. This would not have an effect on Osram-Sylvania. The fluorescent bulbs are not part of this. This would not have any effect on that. I would also like to say that sometimes somebody's got to take the lead. Maybe other states aren't doing this, but New Hampshire can take the lead on this thing and do the right thing, and other states are going to follow. The industry is headed in this direction anyway, we have established that. We have established that. They are doing good things. But let's continue to encourage them. Thank you, Mr. President.

SENATOR GATSAS: Thank you, Mr. President. Senator Cohen, would you agree that we shouldn't just pick and choose what issues we should be in the lead on?

SENATOR COHEN: No, I would disagree. We should pick and choose which issues we are in the lead on. Absolutely.

SENATOR GATSAS: Thank you.

Recess.

Out of recess.

SENATOR D'ALLESANDRO: Thank you, Mr. President. Just to clarify a couple of points. There was testimony that plants in Hillsborough and Manchester would be affected by this. I am lead to believe that that is not the case. That the plants and Manchester and Hillsborough would not be affected by this. This legislation does not penalize any manufacturer or producer. It allows anyone who can not easily replace a product to obtain a waiver. Those two plants in Manchester and Hillsborough are certainly under consideration. I think it should be clear that it is not an anti-business bill and that the ban on the products which contain high amounts of elementary mercury, the ban is only in effect when there is a substitute that is cost effective, or that is as efficient or equal to. This piece of legislation has a bipartisan flavor. The House and Science and Technology Committee passed this in a bipartisan fashion. I think that is important for us to recognize. Thank you, Mr. President.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Larsen.

Seconded by Senator Cohen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

The following Senators voted No: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 15 - Nays: 6

Committee report of inexpedient to legislate is adopted.

HB 1424-FN-A, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state. Interstate Cooperation Committee. Inexpedient to legislate, Vote 3-1. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move inexpedient to legislate on House Bill 1424. As introduced, this bill sought to establish a pharmaceutical commission modeled after the Liquor Commission. How-

ever, the House amended the bill to create another study. We already know that prescription medications are expensive and that many people don't have access to health insurance coverage. Therefore, at the request of one of the bill's co-sponsors, Representative Dan Eaton who said, "If we couldn't pass the bill as introduced, then please just kill the bill as it's already been studied to death." So in the spirit of continued excellent relations with our colleagues in the House, the Interstate Cooperation Committee recommends that this legislation be inexpedient to legislate and asks for your support. Thank you, Mr. President.

SENATOR FOSTER: Thank you, Mr. President. Senator Clegg, maybe I am confused, but I thought that the way the House amended the bill wasn't to study the cost of prescription drugs but to study the implementation of the commission and whether that made sense for the state to be a purchaser and seller of a pharmaceutical drug?

SENATOR CLEGG: The sponsor of the bill, which was Representative Dan Eaton, explained to us that has already been studied. The original bill that was handed to the House was the result of the study committee and he saw no need for us to study it once again.

SENATOR FOSTER: Thank you.

SENATOR LARSEN: Thank you, Mr. President. I am a co-sponsor of House Bill 1424 and two of the main co-sponsors were both of us in other committees working and unable to run over in a timely way to get to testify on this bill. But I can assure you that we have, in fact, studied access to prescription drugs in this state. Every one of us in this room know that we haven't solved it yet. To say that we are going to be a state that enables everyone to break federal law and go to Canada to get drugs and that is our solution to access to prescription drugs is the wrong answer. That may be good for people who have access to a computer for a little while, as long as they don't get caught by the feds. It may be good for a Governor who is wanting to show that he may be a populist Governor, but it doesn't work for us as a state, and it doesn't work for the elderly of this state who truly are watching us for help. They are asking us for help. We have, through this bill, a possibility to study a new way of doing it. A way that we didn't look at, Senator Gatsas and I. A way that makes the state a wholesale purchaser. We looked at could you do it through the Department of Health and Human Services through Medicaid rules. But this is, in fact, a whole new way of looking at it. One which the chain drug stores of this state thought was a great idea, which all of us know, if you eliminate the middleman, who the wholesale drug purchasers, and enable a direct purchase and a direct negotiation, could we as a state, save some money? So we are going to say that we are not even to look at this? We are going to say that we are not going to study this? You know it makes no sense. Here again, I will raise my hand. I will sit on that committee, but I don't think that we ought to be killing the study of one of the most important issues to our constituents, to the elderly of this state. And to say, "Go online and find your drugs any old way that you can because we are not, as a state, going to even look at a different way of doing things." This was a decent bill. It is unfortunate that we weren't able to be there when they decided to take action on this bill so very soon after the hearing. But, I think that when you hear the New Hampshire Association of Chain Drug stores saying, "Hey, there is something to this," When you hear people say, "Maybe we should study this." And when you hear your constituents saying, "how come you did

nothing for drug access...for prescription drug access and affordability this session?" You are going to say that you killed this bill. I think it is a problem. So I urge you to think again. It is harmless to create a study committee. Some of us, House members and Senators, would take the time to look at this because it is an interesting concept and one which we really ought to talk about. So I urge you to not support the inexpedient to legislate and if we can get that motion down, then we can have an ought to pass. I will assure you that it will not hurt you to study it.

SENATOR BARNES: Thank you very much, Mr. President. Senator Larsen, do you remember back about two years ago when there was a race going on between our former Governor, running, I believe, for the U.S. Senate? And do you remember sitting in your living room and watching on TV the Governor's husband taking busloads of people to Canada to get drugs? Remember seeing that?

SENATOR LARSEN: I do.

SENATOR BARNES: I sent him a thank you note, because I happen to think our Governor, who is there now, is doing the right thing. Incidentally, today he was riding on a horse during this ceremony and he really cowboied up. I think that he is cowboying up on this situation. So if our former Governor thought it wasn't against the law and her husband didn't, then **TAPE CHANGE** I think that is a bad comment.

SENATOR LARSEN: It is absolutely against federal law. There is no denying it.

SENATOR BARNES: Why did our former Governor do that? Is that why she got beaten? Maybe that is what she got beaten, she was breaking the law.

SENATOR LARSEN: What we have currently, is not only a Governor who says you can get on a bus like other people are doing. We have the state of New Hampshire, the Department of Health and Human Services and our own Governor's website, I believe, showing how to purchase drugs through what is federally illegally methods.

SENATOR BARNES: If my constituents get the drugs cheaper and they are not going to be affected by health purposes, I see no problem with doing that. But that story is for another day. I agree with Bill Shaheen.

SENATOR LARSEN: I agree with that. To me, purchasing drugs through the Canadian method is a Boston Tea Party approach to purchasing drugs. But it is not the full answer and that is what we deserve. That is what all the people of this state deserve, is the full answer to how to get access to prescription drugs regardless of whether you have access to a computer, regardless to whether you can get on a bus. You deserve to know that you can get drugs in an affordable way that won't weigh most of who have health insurance, receive a discount. This state is not doing enough for its seniors and its low income disabled population.

SENATOR BARNES: That is what our Governor is trying to do. Would you believe that I think the Governor's husband did the right thing during that campaign? I think the Governor did the right thing by telling him to get on the bus and taking the people to Canada. I want to thank Bill Shaheen for doing that.

SENATOR LARSEN: I think the Boston Tea Party method is good, but it is time for a revolution and the revolution is let's get on with providing it in a full way for this entire state, not just those who can use a computer.

SENATOR BARNES: I don't have a computer.

Recess.

Out of recess.

SENATOR MARTEL: Thank you very much, Mr. President. My comment is in reference to what was just said by the previous speaker with regard to us not really caring about the elderly and the poor. I have a piece of legislation that passed the Senate and is now in the House, the Governor has modeled it. It allows us to go to Canada. It allows people to go to Canada and buy prescription drugs. All they have to do is make sure that we abide by federal law. We can't do anything other than that. We can't do anything if federal law tells us that we can't, but if we abide by federal law and the FDA, as I understand is working with the industry now. I just saw some advertising, in fact, two days ago which stated that the pharmaceutical companies were reducing their costs and their prices back to the consumer. Is it enough? I don't know. I haven't seen the full report. It is a move in the right direction. Have they done enough? I think that they have started to work towards that goal. So I just wanted to put that on the record, Mr. President. I just wanted to make sure that we understood that I and we, don't shy away from the elderly and the poor. It is like we want to dangle them out there like little people that mean nothing. They are my constituents and all of your constituents and I care about them like you do. That is all that I wanted to say, Mr. President.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I would like to speak against the motion of inexpedient to legislate and say that we are here for the public good. That is why we are here and I believe that each and everyone of us has that as our goal. We know two things are omnipresent in this society: Number one, our dependence on pharmaceutical products. Our dependence on drugs. As a society, we are getting older. We need these drugs for a better lifestyle and for a better condition in our life. We also know that these drugs are becoming increasingly more and more expensive. We also know that there has been a huge television campaign to induce us to want these drugs. To desire these drugs by brand name. So it seems to me that anything that we do that creates an environment with these pharmaceuticals, could be purchased at a better price and more effectively for our constituents, is the way that we should go. Now we always have done studies. This is an area that warrants study because it is an area that affects all of our constituents. It is not that we have singled out a pocket of our constituents. This is universal. We have youngsters, middle aged people, elderly people. We all need some kind of prescription drug. I think that is the way of the world. So anything that helps us get these things more effectively, less expensively, in due time, makes sense to me. That is what we are here to do. There is always another way. We have found that out through history. There is another way. This is an attempt to find that other way. We ought to do something to find that other way. It makes sense to me. That is good public policy. Always looking for a better way to do things. Thank you, Mr. President.

SENATOR GATSAS: Thank you, Mr. President. I sat on a study committee with Senator Larsen and she was the chairman of that committee. I think that we both took that committee very serious. Cause I don't remember either one of us missing many of those sessions. Even in the heat of the summer, we were there. We did some good things. We standardized the form for people to make it easier to apply and get prescrip-

tion drugs. I think that we even brought a bill forward. In that bill, we needed a funding mechanism. We want to study prescription drugs again. We want to put the National Association of Drug Stores on this commission. But we should all believe that Brooks Drugs is not going to buy drugs cheaper than the state of New Hampshire. We should believe that for one second. Because their buying power is going to be that much greater than the state of New Hampshire and the state of New Hampshire is going to buy for less and be able to distribute for less. I don't think that can happen. So when we start talking about seniors, I have a senior that is very dear and close to my heart, my mother. Just like all of you may have your parents or may not. But I can tell you, that when we talk about seniors, she is the first one that I think about. If there is anything that I can do to help her quest to find cheaper drugs, I would do it. And studying it for the next six months is not going to do that. We'll study drugs but we don't even want to study the opportunity to find a revenue source. A revenue source that could pay for this. We won't study that. We should be embarrassed to sit here and say that we are going to study prescription drugs when we won't study a revenue source. That is embarrassing. Thank you, Mr. President.

SENATOR CLEGG: Thank you, Mr. President. I took offense at some of the comments made today on the floor. I want to start out by letting the Senate know that the committee waited 20 minutes before we ever started hearing this bill. We sent people up to get the prime sponsor, but the prime sponsor decided that it was a democrat short on Health and Human Services Committee, so he appointed himself there in an effort to help kill the Senate Bill. A Senate Bill with 21 sponsors on the amended version as it went out. So I don't think that we acted to quickly as was inferred. We waited, and there was no interest from anyone, but one of the sponsors, and I explained that he asked to kill it. It doesn't do what we want. The comment that we don't want to do anything for the elderly. Well let me tell you, when I go to the elderly and they say what have you done, and I say, "Oh, it is in a study committee." They go, "phsssh, ya, it figures!" And you know what? They are right. Because studying this for another six months or a year or two years doesn't do a darn thing to bring down the cost of medicine. The idea that Governor Benson was the first one to run across the line and prove that Canadian drugs are cheaper as was pointed out by Senator Barnes, the previous Governor, Governor Shaheen, had her husband take bus loads up to prove that there was cheaper drugs in Canada. And buses have been going to Canada even prior to her doing that. So it is not a new thing that we send our elderly up into Canada to buy the drugs. So to infer that Governor Benson is the first outlaw in the state of New Hampshire, is absolutely ridiculous. He just proved one more time and renewed peoples interest. Because after he did that, Kevin Landrigan of the Nashua Telegraph went to Sam's Club and Costco's to their pharmacies and found out had the state of New Hampshire gone there, their actual savings between what the Governor got in Canada versus what he had purchased at CVS, the savings dropped to only \$200. So we have put it back into the media and people's interest, let's go find a solution. Now do you really think that we are going to get a solution about cheap drugs when here is who is on the commission: Somebody from the National Chain Drugstores, American Pharmaceutical Association, The Pharmaceutical Researchers and Manufacturers? Looks to me like we are putting the fox in the hen house saying you guys can tell us how to do this better, right? And they will say, "ya, Buy more of my drugs. Buy from my drugstore." So this

doesn't really do anything. As the previous Senator said, if we want to start studies, let's start the important things. How are we going to fund all of this? Let's keep in mind that most of the time the press is our friend and it is because they report that these issues out are there that other people are taking a good look at where people might have an option. I don't see anywhere on this that Wal-Mart or Sam's Club or Costco are going to come in to prove that they sell drugs at a lesser profit rate, but yet someone in the newspaper industry pointed it out. I don't see anybody from the newspaper industry on this committee either. We never ask the people who really might have the answers. It is just a shell game. If we had passed this, that is all that we would have been doing. "Oh, look what I did. I put it into study. See, I am working for you." But my drugs aren't any cheaper. "Oh, geez I am sorry." Thank you, Mr. President.

MOTION TO TABLE

Senator Green moved to have **HB 1424-FN-A**, laid on the table.

Question is on the tabling motion.

A roll call was requested by Senator Larsen.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

The following Senators voted No: Boyce, Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 14 - Nays: 7

Adopted.

LAID ON THE TABLE

HB 1424-FN-A, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state.

HB 422, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

Senate Judiciary

April 15, 2004

2004-1234s

09/01

Amendment to HB 422

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

1 Supreme Court Justices; Method for Choosing Replacement Justices for Disqualified Justices.

Amend RSA 490:3 to read as follows:

490:3 Disqualification; Temporary Justices.

I. The provisions as to the disqualification of justices of the superior court apply to justices of the supreme court. Whenever a justice of the supreme court shall be disqualified or otherwise unable to sit in any cause or matter pending before such court, the chief or senior associate justice of the supreme court may assign another justice to sit according to the provisions of paragraph II of this section.

II. Upon the retirement, disqualification, or inability to sit of any justice of the supreme court, the chief justice or senior associate justice of the supreme court may assign a justice of the supreme court who has retired from regular active service **or, if a retired supreme court justice is unavailable, shall assign a justice of the superior court who has retired from regular active service** to sit during supreme court sessions while the vacancy continues [~~or he may notify the chief justice or senior associate justice of the superior court of such vacancy. Upon such notification, the chief justice or senior associate justice of the superior court shall provide the supreme court for each day of sitting during a session while the vacancy shall continue with the names of 2 or more superior court justices in regular active service or who are retired and are not otherwise disqualified. The chief justice or senior associate justice of the supreme court may then assign a justice to sit temporarily on the court from among those superior court justices whose names have been provided]. **The selection of a retired supreme or superior court justice shall be on a random basis. However if no retired supreme or superior court justice is available, then the selection of a replacement justice shall be made on a random basis from a pool of full-time justices of the superior court. In the event that no superior court justices are available, then the selection of a replacement justice shall be made on a random basis from a pool of full-time justices of the district and probate courts. The clerk of the supreme court shall maintain a list of superior, probate, and district court judges who are willing to serve as temporary supreme court judges.**~~

II-a. If a vacancy occurs within 7 days of the scheduled oral argument of a case, the chief justice of the supreme court may assign to the case a temporary justice on a non-random basis if the assigned justice was assigned randomly to another case scheduled at the same monthly argument session or if the assigned justice is the chief justice of the superior court.

III. A justice assigned to sit temporarily on the supreme court pursuant to paragraph II of this section shall have all the authority of a supreme court justice to hear arguments, render decisions, and file opinions. No justice shall be assigned to sit on the supreme court in the determination of any cause or matter upon which [~~he~~] **the justice** has previously sat or for which [~~he~~] **such justice** is otherwise disqualified nor without [~~his~~] **such justice's** consent.

2 Effective Date. This act shall take effect January 1, 2005.

SENATOR FOSTER: Thank you, Mr. President. I move ought to pass with amendment on House Bill 422. The purpose of this bill is to try to create some randomness and impartiality in the choosing of replacement of the Supreme Court Judges where there is a conflict or some other problem. This legislation establishes the new selection method for replacement. The first selection would be from a pool of retired Supreme Court Justices, or if unavailable, retired full-time judges from the Superior Court. The procedure for selecting the replacement justices would be by a random basis from a pool of the appropriately named judges. If no retired Supreme or Superior Court Judges are available, then the selection will be made from a pool of full-time judges of the District and Probate Courts. The committee amendment also allows for the appointment of another fill-in if the vacancy occurs within seven days, not allowing the prior process to occur. The Judiciary Committee recommends that this legislation be adopted and asks for your support. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 640-FN, relative to post-conviction DNA testing. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Foster for the committee.

Senate Judiciary

April 13, 2004

2004-1175s

04/10

Amendment to HB 640-FN

Amend RSA 651-D:2, III as inserted by section 1 of the bill by deleting RSA 651-D:2, III (c) and renumbering the original RSA 651-D:2, III (d)-(j) to read as RSA 651-D:2, III (c)-(i), respectively.

SENATOR FOSTER: Thank you, Mr. President. I move ought to pass with amendment on House Bill 640. This bill permits a person to petition the court for post-conviction DNA testing of a biological material in certain circumstances. As new technology is developed and new methods of DNA testing become available, the provisions outlined in this legislation provide a possibility of someone who has been incarcerated to have further DNA testing. The provisions in this legislation were a compromise reached through a number of meetings and is supported by the Attorney General's Office. The committee amendment merely removes one paragraph from the bill as amended by the House, which we felt was unnecessary and arguably duplicative. The Judiciary Committee recommends that this legislation be adopted and asks your support. Thank you, Mr. President.

SENATOR BARNES: Mr. President. Is this going to go to Finance?

SENATOR EATON (In the Chair): Yes, it will.

SENATOR BARNES: Thank you.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 643-FN, relative to the family division of the courts. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Peterson for the committee.

Senate Judiciary

April 13, 2004

2004-1172s

09/04

Amendment to HB 643-FN

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

AN ACT relative to the family division of the courts and reducing the number of superior court justices.

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

2 New Subdivision; Family Division Established. Amend RSA 490 by inserting after section 32 the following new subdivision:

Family Division

490:33 Family Division. The family division of the courts shall become a permanent component of the judicial branch on the effective date of this subdivision.

490:34 Jurisdiction. Notwithstanding any law to the contrary, jurisdiction over the following matters in Rockingham and Grafton counties and in such other counties as the family division is made operational by order of the supreme court may be exercised exclusively through the family division as may be ordered by the supreme court:

I. Petitions and libels of divorce, and petitions of nullity of marriage, alimony, custody of children, support, and to establish paternity.

II. Actions for support or custody for children of unwed parties.

III. Actions under RSA 169-B, relating to delinquent children.

IV. Actions under RSA 169-C, relating to abused and neglected children.

V. Actions under RSA 169-D, relating to children in need of services.

VI. Actions under RSA 173-B, relating to protection of persons from domestic violence except for concurrent jurisdiction with the superior and district courts to enter temporary protective orders under RSA 173-B:4.

VII. The adoption of children.

VIII. The guardianship of the person of minors.

IX. The termination of parental rights.

X. The change of names of persons who apply therefor in matters relating to jurisdiction in paragraphs I-IX.

490:35 Equity. Notwithstanding any law to the contrary, the family divisions in Grafton county and Rockingham county and in such other counties as the family division is made operational by order of the supreme court shall have the powers of courts 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 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.

3 Supreme Court to Appoint Committee. The supreme court shall appoint a committee whose duty it shall be to make recommendations for the expansion of the family division of the courts statewide and for changes in the operation of the family division in Rockingham and Grafton counties. In developing its recommendations, the committee shall consider the recommendations in the Report of the Resolution of Family Issues in the Courts Study Committee, dated January 15, 1995. The committee shall also consider any more recent studies and reports on the family division, including recommendations made by any commission established to study the operations of the family division in Grafton county. The committee shall report its findings and recommendations to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, the chief justice of the supreme court, and the state library on or before December 1, 2004.

4 Superior Court Justices. Amend RSA 491:1 to read as follows:

491:1 Justices. For fiscal year [~~1992~~] **2005** and succeeding years, the superior court shall consist of a chief justice and [~~28~~] **21** associate justices.

Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

5 **Applicability; Contingency.** Any superior court justice appointed prior to July 1, 2004 shall retain his or her position until resignation, retirement, or removal pursuant to the New Hampshire constitution. As vacancies occur in superior court justice positions, the vacancies shall remain unfilled until the number of superior court justices is reduced to 22. Section 4 of this act shall take effect on the date on which the number of superior court justices is reduced from 23 to 22.

6 **Effective Date.**

I. Section 3 of this act shall take effect upon its passage.

II. Section 4 of this act shall take effect as provided in section 5 of this act.

III. The remainder of this act shall take effect July 1, 2005.

2004-1172s

AMENDED ANALYSIS

This bill makes the family division of the courts currently operating as a pilot program in Grafton and Rockingham counties a permanent component of the judicial branch. The bill requires the supreme court to appoint a committee to make recommendations for the expansion of the family division statewide and for changes in the operation of the family division in Rockingham and Grafton counties.

This bill also reduces the number of superior court justices from 29 to 22.

SENATOR PETERSON: Thank you, Mr. President. I move ought to pass with amendment on House Bill 643 and want to notify my colleagues that after, what I hope will be passage of the committee amendment, I will be offering a floor amendment, which has some clarifications in it which will be described at that time. This bill is actually a landmark piece of legislation. Although we have come to unanimity really, in agreement about it, at least within our committee and with those where discussions have taken place. The bill removes the Pilot Program designation from the Family Division of the Courts in Grafton and Rockingham Counties. It also enables the Supreme Court to establish a committee to further review the family division and how it should be established statewide. The study would include members of the Senate and House as well as other appropriate individuals. The anticipated costs for expansion of the Family Divisions would be covered by not appointing new Superior Court Judges as they retire, thus reducing the total number of judges from 29 to 22. The Governor is in support of this approach to a reallocation of judicial resources. As the bench works to deal with the growing number of pro se litigants, the work of this committee will be important. Mr. President, we have had a pilot program in the family court now, in two counties in the state for two score years, fourteen years. It is a great opportunity that we have at this time to see this program, county by county, go statewide with the benefits that could be included therein. Also at the same time to reorganize the court system to have a few less chiefs and a few more Indians. To have some more people in the court system to handle the paperwork, clerking duties and so forth, and reallocate resources from the judges salaries to the salaries for additional staff which are needed within the Superior Court. I compliment those in the judicial system who have applied some creativity to this purpose and I also compliment the Governor for his willing-

ness to cooperate with this method of achieving a laudable goal within existing resources. I ask my colleagues to join me in support of this important bill and thank you, Mr. President.

Amendment adopted.

Senator Peterson offered a floor amendment.

Sen. Peterson, Dist. 11

April 22, 2004

2004-1350s

09/01

Floor Amendment to HB 643-FN

Amend the bill by replacing all after section 5 with the following:

6 Savings Realized From Unfilled Superior Court Justice Vacancies. Any savings realized from unfilled superior court justice vacancies in the superior court shall be used by the judicial branch toward the goal of providing enhanced services to parties involved in cases relating to divorce, custody, children, domestic violence, and other family matters.

7 Effective Date.

I. Section 3, 5, and 6 of this act shall take effect upon its passage.

II. Section 4 of this act shall take effect as provided in section 5 of this act.

III. The remainder of this act shall take effect January 1, 2005.

SENATOR PETERSON: Thank you, Mr. President. I would like to offer a floor amendment and speak to it while it is being handed out. The floor amendment does two things. First it clarifies the purpose, which was amply clear in committee, that the monies that will be saved to the court system by allowing through attrition the number of superior court judges to be reduced will be applied to this new purpose, the family court division, and allowing the support staff to be hired to achieve that function. The other change in the amendment is that the date upon which the family court is made permanent is changed from July of next year, to January 1 of next year. This will allow the court possibly, should we have a number of retirements that will happen very possibly over the balance of this year, as that is somewhat incentivized by the new court retirement system that we have put in place. There may be certain Superior Court judges who decide to take the option to retire during this coming year to expand this program into Senator Odell's area into Sullivan county, which is something which is contemplated as early as next year. This study committee does its work well. We work in cooperation with the court in this effort at reorganization. We can see real results in this and I would ask my colleagues to support these changes in order to make that possible. Thank you, Mr. President.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I just want to speak briefly. I have no opposition to the amendment and no opposition to the bill, but I want to make my colleagues clear of one thing. That this legislature and this Governor are deciding that we will reduce the number of Superior Court judges. We can't bind future legislatures and we can't bind future finance committees, both in the House and in the Senate, to follow this example. I think that should be made clear. This is our intent. Based on our intent, this will happen in this biennium. But this attrition will take place over a period of years. All of these judges are not going to disappear tomorrow, the next day or within the next fiscal year. So we just, today, overturned something that we did in the last

legislature with regard to the selection of the chief justice of the Supreme Court. So remember, what we are doing here, and I am talking about basically from the fiscal side, we can't bind future legislatures not to put in for more Superior Court Judges, which in the past, we have done on the basis of increases in population. I mean that is how we have created these spots, so we can't bind them. We also can't bind future legislatures to say in the budgeting process whether you have 29 judges or 21 judges, you are still going to appropriate the same amount of money, because I don't believe that we can do that. I wanted my colleagues to be aware of that and remember, as this attrition takes place, you are doing two things. You have the attrition on one side, and you've got the hiring on the other side. So all of those things are going to take legislative action. Somebody is going to have to allow this to take place in a sequential manner. As one disappears, someone else is going to take their place. As I say, this is quite a far reaching piece of legislation because it goes out for a considerable number of years. Thank you, Mr. President.

SENATOR PETERSON: Thank you, Mr. President. I want to thank my colleague from Manchester for that clarification. Just to amplify his remarks, to say that he is absolutely right. I am pleased to hear that he sees that as I do, because indeed we are responsible as succeeding legislators will be to take care of our budgets and to look at these affairs as time goes by. But as much as that is true, what this amendment does is it makes clear, in writing, on this day, what our intent is in passing this bill, at this time. I think that is an important thing for us to do as well. So I appreciate the Senator's remarks, and believe that it is important enough, this is a major enough bill, where we should have our intent voted and in writing at this time. Thank you, Mr. President.

SENATOR FOSTER: Thank you, Mr. President. Senator Peterson, I just had a question whether my understanding is correct. We earlier, in the Executive Departments and Administration Committee, passed a piece of legislation dealing with the appointment of the Chief Judge of the Superior Court and this legislation here that we are passing doesn't have those changes, although the number of judges are wrong. In the enrolled bills process, will those two pieces of legislation be put together so that we will have the appointment of the Chief Justice of the Superior Court in this piece of legislation and the numbers correct and so on and so forth?

SENATOR PETERSON: Thank you, Senator Foster. As you know, both you and I had that concern and I was informed that indeed in the Enrolled Bill process, the change will trump the previous condition, which is reflected in the bill that we passed earlier today.

SENATOR FOSTER: Thank you.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 656-FN, establishing a commission to study the operations of the family division court in Grafton county. Judiciary Committee. Inexpedient to legislate, Vote 4-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move inexpedient to legislate on House Bill 656. The legislation is no longer needed because the adoption of the last bill 643, established a committee to look into the

family courts. Therefore, the Judiciary Committee recommends that this legislation be killed as it is unnecessary and asks for your support. Thank you, Mr. President.

Committee report of inexpedient to legislate is adopted.

HB 1165, relative to extending domestic violence protection orders. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

Senate Judiciary

April 15, 2004

2004-1235s

09/01

Amendment to HB 1165

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

1 Domestic Violence Protection Orders; Motions for Extensions. Amend RSA 173-B:5, VI to read as follows:

VI. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. *The court shall state in writing, at the respondent's request, its reason or reasons for granting the extension.* The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.

2 New Paragraph; Domestic Violence Protection Orders; Communications. Amend RSA 173-B:5 by inserting after paragraph X the following new paragraph:

XI. Upon a motion, which may be made and granted on an ex parte basis, the court may authorize an attorney for the defendant to engage in communication with the plaintiff.

3 Effective Date. This act shall take effect January 1, 2005.

2004-1235s

AMENDED ANALYSIS

This bill requires a court granting an extension of a domestic violence order to state in writing, at the respondent's request, the reason or reasons for granting the extension.

The bill also permits the court to authorize an attorney for the defendant to engage in communications with the plaintiff.

SENATOR CLEGG: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1165. The bill was filed in order to require the courts to state in writing why an extension to a protective order is given. If the court is ordering that someone's guns be kept away from them longer, then they should be provided with the specific reason for the decision. The committee amendment clarified that this is done only when the respondent requests it. The Judiciary Committee recommends that this legislation be adopted and asks for your support. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. Senator Clegg, I read in the paper too often, too many times, that restraining orders have been violated. Does this do anything to help that situation? Is there anything not possible except to lock them up the first time?

SENATOR CLEGG: I don't think that this addressed what would happen to people who consistently violate protective orders. It was about the extension of a protective order and the respondent at least getting a written reason why it was extended.

SENATOR BARNES: Do you think there is an opportunity, perhaps next year, to do something about these restraining orders to make them stick a little bit better than what they are?

SENATOR CLEGG: Perhaps we could have a study committee.

SENATOR BARNES: A study committee. I would be happy to sponsor that if you would serve on it.

SENATOR LARSEN: Oh, you like study committee's now.

SENATOR BARNES: No, I don't really, but on this one I do. I think this is a good one.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1169, relative to child support calculations based on one-time or irregular income. Judiciary Committee. Ought to pass, Vote 5-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move ought to pass on House Bill 1169. The legislation clarifies that the court has discretion to look at one-time income such as insurance or workers' compensation settlement awards, agreements or a lottery winning when viewing child support awards. The Department of Health and Human Services supports this proposal and the Judiciary Committee recommends that this legislation be adopted. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1257-FN, relative to penalties for driving under the influence with a minor in the vehicle. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Roberge for the committee.

Senate Judiciary

April 15, 2004

2004-1230s

03/04

Amendment to HB 1257-FN

Amend the introductory subparagraph of RSA 265:82-a, II as inserted by section 2 of the bill by replacing it with the following:

II. While having an alcohol concentration of 0.08 or more *or, in the case of a person under the age of 21 at the time of the offense, 0.02 or more or, in the case of a person driving a commercial motor vehicle and licensed pursuant to RSA 263:86 at the time of the offense and notwithstanding the provisions of RSA 263:94, 0.04 or more* and, at the time alleged:

SENATOR ROBERGE: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1257. This bill classifies driving a motor vehicle, OHRV or boat while intoxicated with a controlled drug or

intoxicating liquor and while carrying a passenger under the age of 16 as an aggravated DWI offense. It is totally irresponsible to be impaired and have children in your vehicle. This legislation imposes "aggravated" status on anyone who is charged under this law. The committee had concerns regarding the commercial drivers licenses and amended the legislation to provide that only if driving the commercial vehicle would the CDL status be impacted. The Judiciary Committee recommends ought to pass. Thank you very much, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

HB 1295, relative to certain court records. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Clegg for the committee.

Senate Judiciary

April 14, 2004

2004-1195s

01/10

Amendment to HB 1295

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

AN ACT relative to certain court records and exempting certain documents from the right-to-know law.

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

2 New Paragraph; Right-to-Know; Agreements Available for Public Inspection. Amend RSA 91-A:4 by inserting after paragraph V the following new paragraph:

VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.

3 Right-to-Know; Exemptions. Amend the introductory paragraph and paragraphs I and II of RSA 91-A:5 to read as follows:

The **following** records [~~of the following bodies~~] are exempted from the provisions of this chapter:

I. **Records of** grand and petit juries.

II. **Records of** parole and pardon boards.

4 New Paragraph; Exemptions; Certain Documents. Amend RSA 91-A:5 by inserting after paragraph VI the following new paragraph:

VII. Preliminary drafts, notes, and memoranda and other documents not in their final form.

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

2004-1195s

AMENDED ANALYSIS

This bill declares that certain court records involving an action against a governmental unit shall be available as a public record under RSA 91-A. This bill also exempts preliminary drafts, notes, and memoranda and other documents not in their final form from the right-to-know law.

SENATOR CLEGG: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1295. This bill declares that certain court records involving an action against a governmental unit shall be available as a public record under RSA 91-A. When city or town monies are used in settlements because of actions in a town, the public should have the right to know the amount of the settlement paid and which parties were at fault. The committee amended the bill to deal with settlements that are reached before filing with the clerk. It directs that the agreements must be available for public inspection at the city or town clerk's office for a period of ten years. The amendment further clarifies that only the finished records must be made available. Memoranda, notes or preliminary drafts used in reaching the settlement are not subject to disclosure. The Judiciary Committee recommends that this legislation be adopted and asks for your support. Thank you, Mr. President.

SENATOR LARSEN: Thank you, Mr. President. The committee amendment is the portion of this bill which causes a problem for me and causes me to have concerns as it relates to the new paragraph four, where it exempts certain documents and in a broad way, exempts in section four, from the right to know law, and from public scrutiny, preliminary drafts, notes and memorandums and other documents not in their final form. We already have a law that protects an individual's notes or any notes that are not official minutes. But this exemption is of concern because it would add confusion to those who are trying to abide by the law. Many boards and commissions often draft minutes, for example, of the meeting to ratify the accuracy. While these drafts may be available if the board chooses, it muddies the waters and confuses the process to exempt them under this new law. If the legislature has an amendment that has not been adopted by the House or Senate by a committee, it would be considered a draft and not necessarily available to the public. If the legislature or city council or board of selectmen had a copy of the draft report on a particular subject and they are making a decision based on that draft, the public would not necessarily have access to that report or understand or advocate about the decision. This exemption from the right to know law limits the public's access to information on which public officials may be making a decision. There was no public hearing on this section in either the House or the Senate. In 2001, this language was offered and there was a lot of opposition to it, and it was killed. At the very least, there should be a significant public discussion on this section. I guess that it really comes down to, if you are discussing a draft amendment or a draft series of minutes, and the public is in the room with you, but it is marked draft, is it part of the public's right to know? Isn't it their right to know when you are looking at a document that may not be the final version, but they in fact have a right to have some public input on it. But they, under this amendment, would not be able to put their hands on that draft unless you were magnanimous enough to perhaps share it. They would be totally exempt from the right to know law. This is a problem in this amendment, and that is why I have a floor amendment that we could exempt section four or we could, in fact, choose to table this bill and give ourselves some time to look at its full effect and consider whether, in fact, it really does need a full public discussion, not just tacked on without a public hearing to a House Bill and sent to the Governor. This is an important change to our public's right to know law and one which we should not do in haste or without full consideration of its effect. I urge you to look carefully at section four on page eighteen, the

amendment to House Bill 1295, and join with me in understanding that it is wrong. I think that it would be wise for us to table this and give ourselves at least another week to look at it. Thank you, Mr. President.

MOTION TO TABLE

Senator Estabrook moved to have **HB 1295**, laid on the table.

Motion failed.

SENATOR BELOW: Thank you, Mr. President. Yes, I rise in opposition to the adoption of what would be section four of the bill. Again, I would remind us that we have the constitution to pay attention to. The constitution does create a public right of access to governmental proceedings and records which shall not be unreasonable restricted. I haven't heard a good reason to restrict documents that aren't in their final form. In fact, the nature of government proceedings is that we are developing public policy. We are incrementally going from drafts, from concepts, to a final form. If people want to influence that process, I think the people have a constitutional right to access those documents, public documents, public records, that are being produced at taxpayer expense so that they can have input into the process. The government is not ours. It is all the people of the state, and all the people have the right to access governmental proceedings and documents. I request that if we could divide out section four of the amendment.

Question is on the motion to divide the question.

SENATOR EATON (In the Chair): You wish to divide section four off the amendment?

The Chair announced that if there were no objections it would be divisible.

SENATOR EATON (In the Chair): Is there objections?

There were objections.

Question is on the motion to divide the question by removing section four.

Motion failed.

Question is on the adoption of the committee amendment.

SENATOR LARSEN: Thank you, Mr. President. Senator Clegg, I understand this was your amendment and one in which you were interested to see added to this bill, so I have a question for you which is: Is it your intent that if you are in a public meeting and a draft is put into your hand as a legislature or there is a draft series of minutes or a draft of notes that people have passed around. What is your intent in terms of the public's ability to view these drafts while you are sitting there debating them?

SENATOR CLEGG: All that I can tell you Senator is that if the Senate attorney came in with a draft amendment that I asked him to do, and asked me to take a look to see if that is what I had wanted, and I wasn't bringing it in front of the committee at that time, I certainly wouldn't want it to be a public document. The same as when you file your LSR's, they are not public documents, although I suppose I could request, under the right to know, any thing that you ask OLS for. I could put in a standing right to know request, I want to know what Senator Sylvia Larsen asks you for. I guess they would have to give it to me under the current law.

SENATOR LARSEN: So it is your intent that if it is something in which you do not choose to reveal in a public meeting, then it is not necessarily, it would not be made public?

SENATOR CLEGG: If I have something that I am working on, and I don't feel is ready to be released to the public or to the Senate as a whole, I don't think that anyone has the right to file a piece of paper that forces me to hand it to them. That is correct.

SENATOR LARSEN: So if you are working on a draft bill, and you were in a Public Affairs Committee meeting, and that is a preliminary draft of a bill, and you are talking about it in a Public Affairs Committee meeting, and you have it in your hands, you do not believe that should be subject to the right to know law?

SENATOR CLEGG: Well, no. That is totally something else. If I take something that is a draft and hand it out to the committee, then it becomes a public document as soon as I make it public. So you wouldn't have to file a 91-A request to get it because I have already given it.

SENATOR LARSEN: The way that this language is drafted, certain documents are exempt from the right to know law, including preliminary drafts. Under that scenario, a preliminary draft of an amendment that you are considering in the committee, would be a preliminary draft which you would not be required to share with anyone other than whoever you choose to give it to in that room.

SENATOR CLEGG: Senator, I think you are playing semantics. It is not a preliminary draft once you hand it out. It is now a document that you have decided is finished enough to hand out to people. That is like saying that where it says, notes are excluded, that musical notes are excluded. Let's get serious.

SENATOR LARSEN: I actually am quite serious and I would hope you would agree with me, that a preliminary draft, we work in semantics, that is what legislators do. Semantics is the study of words. The exact words here exempted from the right to know are preliminary drafts. It doesn't say preliminary drafts that you meant to share but you didn't. It says any preliminary draft or memorandum or note or other document that you decide is not in its final form, you don't have to share.

SENATOR CLEGG: That is correct. That is what it says, but as soon as you share it, it is a public document.

SENATOR LARSEN: It doesn't say that.

SENATOR CLEGG: Well, then I can assure you that the Republicans are smart enough to understand that once they release something to the committee and the people in the room, and it is public, we won't have a problem.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1312, relative to the court's discretion to extend child support obligations. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Clegg for the committee.

Senate Judiciary**April 15, 2004****2004-1231s****05/10****Amendment to HB 1312**

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-4 to read as 4-5, respectively:

3 Annulment, Divorce & Separation; Property Settlement; College Savings Account. Amend RSA 458:16-a, III to read as follows:

III. *If either or both parties retain an ownership interest in an education savings account held on behalf of a child of the marriage, including a qualified tuition program under 26 U.S.C. section 529, the court may, in its discretion, preserve the account for its original purpose or may treat the account as property of the marriage subject to equitable division under this section.*

IV. The court shall specify written reasons for the division of property which it orders.

2004-1231s**AMENDED ANALYSIS**

This bill removes the court's discretion to order child support, or payment of educational expenses, for adult children. It also provides the court with discretion to preserve an education savings account or to divide the account as a marital asset.

SENATOR CLEGG: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1312. This bill removes the court's discretion to order child support or payment of educational expenses for adult children. The bill was filed in response to the Breault Supreme Court decision which enabled the Courts to modify child support "for no reason." The bill language specifies that child support will end at either the age of 18 or upon completing high school, and is consistent with the federal uniform support language. The committee amendment clarifies that if the parents have established a college savings plan for the child, commonly referred to as a "529", that the court has the discretion to preserve the account for its original purpose or may treat the account as property of the marriage subject to equitable division. The Judiciary Committee recommends that this legislation be adopted and asks for your support. Thank you, Mr. President.

Amendment adopted.**Question is on the adoption of the bill as amended.****Adopted.****Ordered to third reading.****Senator Foster rule #42 on HB 1312.**

HB 1361, relative to sentences for certain offenses committed on or near a public college or university campus. Judiciary Committee. Ought to pass, Vote 4-1. Senator Foster for the committee.

SENATOR FOSTER: Thank you, Mr. President. I move ought to pass on House Bill 1361. The bill specifies penalties for certain offenses committed on or near a public college or university campus and was filed to make it very clear that rioting will not be tolerated on our state university, college or technical school campuses. If a conviction has been determined and the Judge deemed the party culpable, then the facts of the

case may be weighed and the party may be barred from campus. The Judge can also order restitution for damages. The bill enables the court to deal with non-students who may participate in campus riots, something that the universities themselves cannot do. In clarifying the legislative intent on the part of the committee, I do want to address one of our concerns and that is the right to dissent or protest. The provisions of this legislation are in no way aimed at taking away the right of free speech, dissent, protest or the freedom of expression in opposition to policies. In our deliberations we did discuss when dissent or protest crosses over to becomes a riot. That could be a subjective determination perhaps, but we are putting our confidence in the police, prosecutors and judges to use good judgment in utilization of this law. The Judiciary Committee recommends that this legislation be adopted and asks you for your support. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 85-FN-L, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

Public Affairs
April 14, 2004
2004-1186s
04/10

Amendment to HB 85-FN-LOCAL

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

1 Use of Official Ballot; Operating Budget. Amend RSA 40:13, IX-XI to read as follows:

IX.(a) "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI, and exclusive of other appropriations voted separately.

(b) "Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget authorized for the previous year. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision, or by the budget committee if authorized by the legislative body.

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved [~~the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or reduced by one-time expenditures contained in the operating budget.~~] **the default budget** or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to

such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved. [~~For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision.~~]

XI. The [~~amount of the previous year's operating budget, as adjusted pursuant to paragraph X,~~] **default budget** shall be disclosed [~~to the voters at the first session~~] **at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, or the budget committee if authorized by the legislative body, shall demonstrate how the default budget amount was determined by showing the appropriations contained in the operating budget authorized for the previous year and the reductions and increases made pursuant to paragraph IX(b) on a default budget form created by the department of revenue administration.** This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, **or by the budget committee if authorized by the legislative body**, acting on relevant new information at any time before the ballots are printed, **provided the governing body, or the budget committee if authorized by the legislative body, completes an amended default budget form.** The wording of the second session ballot question concerning the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$_____? Should this article be defeated, the [~~operating~~] **default** budget shall be \$_____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

2 Municipal Budget Law; Budget Preparation. Amend RSA 32:5, VII to read as follows:

VII.(a) The governing body **or the budget committee if authorized by the legislative body**, shall post certified copies of the budget with the warrant for the meeting. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

(b) **The governing body, or the budget committee if authorized by the legislative body, in official ballot referenda jurisdictions operating under RSA 40:13 shall post certified copies of the default budget form or any amended default budget form with the proposed operating budget and the warrant.**

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

MOTION TO TABLE

Senator Roberge moved to have **HB 85-FN-L**, laid on the table.

Adopted.

LAID ON THE TABLE

HB 85-FN-L, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

HB 713-FN, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning re-hearings. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Larsen for the committee.

Public Affairs
April 14, 2004
2004-1190s
06/01

Amendment to HB 713-FN

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

AN ACT relative to the penalty for violating a zoning ordinance.

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

2 Effective Date. This act shall take effect January 1, 2005.

2004-1190s

AMENDED ANALYSIS

This bill establishes a higher civil penalty for second and subsequent violations of a zoning ordinance and provides that a prevailing municipality shall recover the costs and attorney's fees it incurred in pursuing the violation.

SENATOR LARSEN: Thank you, Mr. President. I move House Bill 713-FN ought to pass with amendment. This bill establishes a higher civil penalty for second and subsequent violations of zoning ordinances. Under this bill, the fine for violating these multiple offenses, of municipal provisions could be doubled from \$275 to \$550 per day. The bill also entitles municipalities to recover the costs and attorney's fees they incurred while pursuing the violation. This bill is a result of a concern that current civil penalties are not sufficient deterrent to repeat offenders of local zoning laws. This is particularly a problem in college towns and we believe that this bill will strengthen the statutes regulating municipal zoning ordinances and assist municipalities in pursuing violations. The Public Affairs Committee unanimously recommends House Bill 713 ought to pass with amendment and requests your support. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1210, relative to self-service storage facility liens. Public Affairs Committee. Ought to pass, Vote 5-0. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move that House Bill 1210 ought to pass. This bill removes the requirement for owners of self-service storage facilities to check with their Town Clerk to see whether a lien exists on the title of the motor vehicle or personal property abandoned at the storage unit. Facility owners will still be required to check with both the Secretary of State and Division of Motor Vehicles

for potential liens prior to selling or disposing of the abandoned property. The Public Affairs Committee recommends House Bill 1210 ought to pass and requests your support.

Adopted.

Ordered to third reading.

Senator Clegg rule #42 on HB 1210.

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Larsen for the committee.

Public Affairs

April 14, 2004

2004-1197s

05/04

Amendment to HB 1326

Amend the bill by replacing section 2 with the following:

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

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

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. Three members of the committee shall constitute a quorum.

SENATOR LARSEN: Thank you, Mr. President. I move House Bill 1326 ought to pass with amendment. This bill establishes a study committee to examine the state and federal regulation of consumer and display fireworks in New Hampshire. The bill will work to propose a recodification of the applicable statutes under RSA 160-B and 160-C. The bill was amended in committee to change the Senate membership on the study committee from three members to two and the House membership from three members to four. The number of members constituting a quorum was also reduced to three. The Public Affairs Committee recommends House Bill 1326 ought to pass with amendment and asks for your support. Thank you, Mr. President.

MOTION TO TABLE

Senator Roberge moved to have **HB 1326**, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks.

HB 1372, defining certain terms relating to military service. Public Affairs Committee. Ought to pass, Vote 5-0. Senator Green for the committee.

SENATOR GREEN: Thank you, Mr. President. I move House Bill 1372 ought to pass. This bill defines the term veteran and certain other terms relating to military service. By defining the term veteran in statute, we will be creating a baseline standard for the State Veterans Council and municipalities to work from when determining an individual's eligibility for special benefits or local tax credit. The bill does not expand eligibility for any particular benefit to anyone that is not currently entitled. The bill also strikes the word "active" from the term "active duty". This change was proposed out of respect for our National Guardsmen and Reservists that have taken on expanded roles and responsibilities in the nation's defense. This minor change will simply allow these men and women the opportunity to purchase a veteran's license plate. The Public Affairs Committee unanimously recommends House Bill 1372 ought to pass and requests your support. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1374, relative to lightning protection systems. Public Affairs Committee. Ought to pass, Vote 5-0. Senator Larsen for the committee.

SENATOR LARSEN: Thank you, Mr. President. I move House Bill 1374 ought to pass. This bill revises the prerequisites necessary for selling lightning protection equipment in the state of New Hampshire. Current statute requires a person selling or installing lightning rod systems to have each system approved by the Underwriters' Laboratories. Once the equipment has been pre-tested by the Underwriters', the Department of Safety reviews the equipment to ensure it is in line with fire code standards. House Bill 1374 allows dealers to use other laboratories recognized by the state, such as the Factory Mutual Research Corporation and ETL Laboratories for their pre-test requirements. It is not necessary for the state to restrict businesses to use Underwriters' when there are other recognized laboratories capable of performing similar work. It is hoped that the bill will open up the market for increased competition in New Hampshire. The Public Affairs Committee recommends House Bill 1374 ought to pass and asks for your support. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1380-FN, relative to unauthorized video surveillance. Public Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Larsen for the committee.

Public Affairs

April 14, 2004

2004-1187s

04/10

Amendment to HB 1380-FN

Amend RSA 644:9, I as inserted by section 1 of the bill by replacing it with the following:

I. A person is guilty of a class A misdemeanor if such person unlawfully and without the consent of the persons entitled to privacy therein, installs or uses:

(a) Any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of a person including the genitalia, buttocks, or female breasts, or a person's body underneath that person's clothing; or

(b) In any private place, any device for the purpose of observing, photographing, recording, amplifying or broadcasting, or in any way transmitting images or sounds in such place; or

(c) Outside a private place, any device for the purpose of hearing, recording, amplifying, broadcasting, or in any way transmitting sounds originating in such place which would not ordinarily be audible or comprehensible outside such place.

SENATOR LARSEN: Thank you, Mr. President. I move House Bill 1380 ought to pass with amendment. This bill revises provisions relating to violating the state's privacy statute through the use of unauthorized video surveillance equipment. Today cameras and video surveillance devices are being manufactured smaller and can be hidden in speakers, phones, clocks, exit signs, and emergency lighting. Across the nation we've heard of stories of people unknowingly being photographed or recorded in places where they would normally expect privacy. Our committee heard testimony on one story in particular where a group of college women were unknowingly video taped in their gym locker room. The video surfaced on the Internet a few years later and caused significant embarrassment to their personal and professional lives. Had this situation taken place in New Hampshire, these women would have had no recourse because our state laws do not prohibit this kind of activity. House Bill 1380 hopes to prevent instances like this from happening. Personal privacy is a serious issue that the legislature needs to protect. Please join the Public Affairs Committee in voting House Bill 1380-FN ought to pass with amendment. Thank you, Mr. President.

SENATOR BOYCE: Thank you, Mr. President. Senator Larsen, I am reading the amendment and I am not just exactly clear what the intent of the amendment is. It says that it is to amend RSA 644-9, I as inserted by section one of this bill. Now the bill had section I of the bill, amended that section, but it also amended section II of that. I am just not clear if this Roman II, which is line 13-15 in the bill, is still there or does this amendment replace all of section I? Is the amendment intended to replace the entire bill?

SENATOR LARSEN: The amendment is intended, I believe, to replace section I only and to leave the other sections in. I don't have my hands on that cold bill right now.

SENATOR BOYCE: My problem is that it is not totally clear whether it is the entire part of section one, Arabic one, that is being replaced or if it is simply Roman one, and that the Roman II in section one of the bill remains. I just want to make sure what the intent is.

SENATOR LARSEN: The intent was to keep Roman II and to rewrite Roman I. I believe that is what it accomplishes.

SENATOR BOYCE: I just wanted to be clear on that.

SENATOR LARSEN: Thanks.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Peterson moved to have **HB 1326**, taken of the table.

Adopted.

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks.

SENATOR PETERSON: Thank you, Mr. President. I appreciate the courtesy of Senator Larsen in placing this bill on the table as I was momentarily out of the room. I have an amendment that I would like to offer on this bill, which would replace the bill. I wonder if I could address that please while it is being handed out for members to see?

SENATOR EATON (In the Chair): I am ahead of myself, Senator Peterson. We have to adopt the committee amendment first or not. Take your pick if you want to change the bill.

Question is on the adoption of the committee amendment (1197).**Amendment adopted.**

Senator Peterson offered a floor amendment.

Sen. Peterson, Dist. 11

April 22, 2004

2004-1349s

05/10

Floor Amendment to HB 1326

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

AN ACT relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

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

1 Permissible Fireworks; Requirements for the Sale of Permissible Fireworks. Amend RSA 160-C:3 to read as follows:

160-C:3 Requirements for the Sale of Permissible Fireworks.

I. Any person who desires to sell permissible fireworks shall apply to the municipality in which the permissible fireworks are to be sold. Such application shall be in a form prescribed by the commissioner. The licensing board of any municipality or, if one does not exist, the governing body may issue a permit to sell permissible fireworks to a person who applies, provided that the person has a valid permit for the sale of fireworks issued pursuant to Title 18 of the United States Code. No permit to sell permissible fireworks shall be issued by the governing body without the prior approval of the police chief, fire chief, and building inspector, if any, of the municipality. The municipality may charge a fee for the permit or application for permit under this section.

II. After the person has obtained a municipal permit to sell permissible fireworks, the person may apply for a state license to sell permissible fireworks. [~~Such application shall be in a form prescribed by the commissioner.~~] Upon application of any person, the commissioner or designee may issue a license authorizing the applicant to sell or market permissible fireworks in this state for not more than one year from the date of issue, provided the person has first obtained a permit to sell fireworks pursuant to RSA 160-C:3, I. The license shall bear the name, address, description, and signature of the licensee. The license shall be displayed at all times, openly and publicly, at the licensee's place of business.

II-a. Persons seeking a state license shall file an application with the commissioner which is in such form and contains such information as the commissioner may establish by rule, consistent with the purposes of this chapter.

II-b. Only individuals lawfully residing in the United States, or partnerships or limited liability companies organized under the laws of this state or authorized to transact business within the state, or corporations organized under the laws of one of the United States and currently registered to do business in New Hampshire shall be licensed under this chapter.

II-c. All license applications shall be made in the name of the proposed licensee and shall be signed and sworn to by the proposed licensee. In the case of a partnership, limited liability company, or corporate applicant, the application shall be signed and sworn to by all partners or an officer of the proposed licensee, or in the case of a limited liability company by each member if a natural person, or by a duly appointed representative of the membership if any other person, or by the manager of the limited liability company who must submit a copy of the written authorization of the limited liability company membership to sign the application.

II-d. An applicant intending to employ a trade name in the proposed business shall submit evidence with its application which demonstrates that the trade name is currently registered in New Hampshire.

II-e. A separate license application shall be filed with respect to each place of business sought by a single licensee.

II-f. The commissioner shall receive and evaluate sufficient information to identify and to evaluate the qualification of all persons with the de jure or de facto right to control the operations and policies of the proposed licensee. Among other things, license applications shall disclose fully and accurately:

(a) The applicant's identity, the applicant's permanent residence address in the case of an individual, and the applicant's principal place of business.

(b) The names and addresses of any persons who own or have the right to control an interest in the proposed licensee.

(c) Any agency agreement or other contract between the applicant and third persons intended to affect the operation of the proposed business, and the identity of the third party involved.

(d) The applicant's other business interests.

(e) The name, location, physical layout and nature of the proposed business.

(f) All licenses issued to and all other license applications filed by the applicant and its principal owners pursuant to this title during the previous 5 years.

(g) The name and address of the actual manager of the proposed business and his qualifications to perform such work.

II-g. Corporate applicants shall disclose the names and permanent addresses of all directors, officers and shareholders, except that corporations with more than 20 shareholders may disclose only those persons owning or controlling 5 percent or more of the outstanding shares. Limited liability company applicants shall disclose the names and permanent addresses of all members. Partnership applicants shall disclose the names and ad-

dresses of all partners, except that partnerships with more than 20 partners may disclose only those persons who are managing partners and those persons who own or control a partnership share of 5 percent or more. If the principal controlling shareholders, members, or partners are themselves owned or controlled by other persons, then the information required by this paragraph shall also be furnished for each such person until the person or persons with the ultimate legal right to control the applicant's proposed business have been fully identified. No license shall be issued under this section to any person who has been convicted of a felony, or to any partnership, limited liability company, or corporation when a partner, director, officer, member or any other person with a controlling interest in the operation of the business has been convicted of a felony.

II-h. The commissioner shall not issue a license under this section unless the commissioner is satisfied that:

(a) The application is complete in all respects.

(b) The applicant, and any principal controlling owners, directors, natural persons who are members of any business entity, or officers disclosed pursuant to paragraphs II-f and II-g, are at least 21 years of age.

(c) In the case of corporate, limited liability company, or partnership applicants controlled by persons who do not reside in the United States, the proposed business would not be managed in a manner which would unduly hinder the commissioner from exercising the commissioner's regulatory responsibilities. Inaccessibility of relevant records or unresponsiveness to inquiries which result from foreign control shall be grounds for revoking or suspending a license which has already been granted.

III. The state license may be issued to an applicant who, at the time such license is issued, possesses a permit issued in accordance with the provisions of Title 18, United States Code, governing fireworks, and a permit issued pursuant to RSA 160-C:3, I. No license shall be issued for the sale of permissible fireworks unless the applicant establishes that it will locate its business in a permanent structure which meets all applicable fire safety codes, building codes, zoning codes, and the requirements of local ordinances. No license for the sale of permissible fireworks shall be issued to any person who has been convicted of any offense involving fireworks or explosives within the 2-years prior to the application or who has been found to have violated any fireworks or explosives laws, rules, or regulations within the 2 years prior to the application. No license shall be issued to any person under 21 years of age.

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.

V. Prior to the issuance of a state license, the department of safety may conduct a background investigation of the applicant and may conduct an inspection of the site, including all buildings, at which the permissible fireworks are to be sold or stored.

VI. If the application for a state license is denied, the reasons for such denial shall be stated in writing, in duplicate, the original of which shall be delivered to the applicant, and the copy thereof kept in the office of the department of safety.

VI-a. Any applicant denied a license under this chapter shall be granted a hearing by the commissioner, upon the applicant's request.

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.

VIII. No person under the age of 21 shall be engaged in the business of handling or selling any permissible fireworks; provided, however, that a person less than 21 years of age but at least 18-years of age may handle and sell permissible fireworks at a licensed sales location if he or she is under the direct supervision of a person 21 years of age or older.

IX. Any person who knowingly provides false information to the department on an application for the sale of permissible fireworks as provided in this section shall be guilty of a misdemeanor.

X. No licensee shall employ a person to handle or sell fireworks who has been convicted of any offense involving fireworks or explosives within the past 2 years or who has been found to have violated any fireworks or explosives laws, rules, or regulations within the past 2 years.

2 New Sections; Retail Sale of Fireworks and Bottle Rockets Prohibited; Penalty. Amend RSA 160-B by inserting after section 16-a the following new sections:

160-B:16-b Retail Sale of Firecrackers Prohibited; Penalty. The retail sale of firecrackers is prohibited. In this section, "firecracker" means a small, paper-wrapped or cardboard tube that contains not more than 50 milligrams of explosive composition, unless an aerial device, in which case it shall contain not more than 130 milligrams of explosive composition, that, upon ignition, produces noise and a flash of light. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

160-B:16-c Retail Sale of Bottle Rockets Prohibited; Penalty. The retail sale of bottle rockets is prohibited. In this section, "bottle rocket" means a cylindrical tube that contains not more than 20 grams of chemical composition with a wooden stick attached for guidance and stability, that rises into the air upon ignition, and that may result in a burst of color, sound, or both at or near the height of flight. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

3 New Paragraph; Department of Safety; Rulemaking Authority; Commissioner of Safety; Regulation of Special Effects for Entertainment. Amend RSA 21-P:14 by inserting after paragraph VII the following new paragraph:

VIII. The commissioner of safety shall adopt rules, under RSA 541-A, for the licensing of persons responsible for the use of flame, pyrotechnics, or other means of special effects for entertainment, exhibition, demonstration, or simulation before a proximate audience as regulated by the state fire code adopted under RSA 153:5 and for establishing fees for such licenses.

4 Permissible Fireworks Review Committee; Meetings. Amend RSA 160-C:13, II to read as follows:

II. The committee shall meet at least once per calendar year, prior to October 1, ***and 30 days prior to any testing and approval conducted pursuant to RSA 160-C:13, II, or earlier at the discretion of the chairperson, to ensure that testing and approval guidelines are finalized, safety preparations are complete, and issues relative to the division of labor are addressed. In addition, the committee shall meet at the request of 3 or more members of the committee.***

5 Effective Date. This act shall take effect July 5, 2005.

2004-1349s

AMENDED ANALYSIS

This bill:

I. Changes the requirements for obtaining a state license to sell permissible fireworks.

II. Prohibits the retail sale of firecrackers and bottle rockets.

III. Provides the commissioner of the department of safety with rulemaking authority relative to the licensing of persons responsible for the use of flame, pyrotechnics, or special effects before an audience.

IV. Changes the meeting requirements of the permissible fireworks review committee.

SENATOR PETERSON: Thank you, Mr. President. Thank you for bringing me back in accordance with protocol. The amendment that I have had prepared on this bill replaces the bill with House Bill 664 as passed by the Senate a week ago. We were under the impression that the agreement which had been reached on 664 to extend the effective date through next July would meet with the approval of the House and achieve concurrence there in the ways that sometimes the relationship between the bodies wend their way, that appears now not to be an agreement which will be put into effect on the other side of the wall, as a result. I believe the most important policy relative to permissible fireworks is contained in this legislation and that we need to restate that policy at this time. I would ask my colleagues to join me in amending this bill and passing it in the form it would then take. Thank you, Mr. President.

Floor amendment adopted.

PARLIAMENTARY INQUIRY

SENATOR MORSE: Parliamentary inquiry question. This bill takes the original bill out that we were looking at today. I want to make sure that the body understands that, because we have a study committee that we would like to pass. If I am reading the bill correctly, that study committee goes away.

SENATOR PETERSON: That is correct, Mr. President. That was reflected in my remarks. My assumption is that what we will have is a conference between the House and the Senate where that subject matter will still be available for that conference.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 712-FN, establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services. Public Institutions, Health and Human Services Committee. Ought to pass, Vote 4-0. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move House Bill 712-FN ought to pass. Although we know that home and community based care costs one-third less than nursing home care, we unfortunately know few details about who is taking advantage of home based care and why. Studying the methods of data collection and identifying gaps in the information is critical to delivering an efficient program. House Bill 712

is needed to ensure that the pace of change in home based care at the state level keeps up with the pace of change on the ground. The committee unanimously recommends ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1241, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care. Public Institutions, Health and Human Services Committee. Inexpedient to legislate, Vote 4-0. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I think that the title of that bill is actually as long as my comments on it. Thank you, Mr. President. I move that House Bill 1241 be inexpedient to legislate at the request of the prime sponsor. The intent of the bill has been included in a separate piece of legislation that has been signed into law and the committee unanimously recommends inexpedient to legislate. Thank you, Mr. President.

Committee report of inexpedient to legislate is adopted.

HB 1266, relative to the long-term care ombudsman. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Boyce for the committee.

Public Institutions, Health and Human Services

April 12, 2004

2004-1140s

01/09

Amendment to HB 1266

Amend RSA 161-F:12 as inserted by section 1 of the bill by replacing it with the following:

161-F:12 Long-Term Care Ombudsman. The commissioner, in consultation with the attorney general, shall designate a person as the administrator and chief executive officer of the office who shall be called the long-term care ombudsman and who shall be a person with expertise and experience in the field of long-term care advocacy. The long-term care ombudsman shall designate such other qualified persons needed to perform the functions of this office. The long-term care ombudsman shall devote his or her entire time to the duties of the position. The long-term care ombudsman shall receive such salary as shall be provided in a classified position as determined by the division of personnel, unless administered on a contract basis.

Amend RSA 161-F:13, I(d) as inserted by section 1 of the bill by replacing it with the following:

(d) Provide information as appropriate to facilities, other agencies, and the public regarding the problems and concerns of residents of facilities.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 1266 ought to pass with amendment. The bill primarily renames the Office of Ombudsman to the Office of the Long-Term Care Ombudsman, which is what the actual duties of that office are. It also makes technical corrections to the long-term care ombudsman law in order to bring New Hampshire statutes into line with federal law. The committee amended

the bill to clarify that the federally funded long-term care ombudsman position is a classified position. The committee unanimously recommends ought to pass on House Bill 1266. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 698-FN, relative to electronic toll collections. Transportation Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Transportation

April 15, 2004

2004-1225s

06/09

Amendment to HB 698-FN

Amend the bill by replacing section 5 with the following:

5 Toll Criteria; Discounts. RSA 237:11, V is repealed and reenacted to read as follows:

V. In establishing tolls or charges pursuant to RSA 237:9, RSA 237:24, or RSA 237:40, the governor and council may discount or reduce the established tolls on any of the turnpikes in the system. In determining which vehicles shall receive a discount and the amount of the discount, the governor and council may consider criteria including, but not limited to:

- (a) Use of tokens.
- (b) Use of the regional electronic toll collection system.
- (c) Time of day.
- (d) Use of certain entrance or exit ramps.
- (e) Commercial or non-commercial registration.
- (f) Public transit use.
- (g) In-state or out-of-state account status for participants in the regional electronic toll collection system.
- (h) Congestion management.

2004-1225s

AMENDED ANALYSIS

This bill establishes a procedure for violations of the electronic toll collection system.

This bill also establishes criteria that the governor and council may consider if they establish toll discounts.

SENATOR KENNEY: Thank you, Mr. President. I move House Bill 698-FN ought to pass with amendment. This bill establishes a procedure for violations of the electronic toll collection system. In order for the state to efficiently implement EZ Pass by March 2005, it is necessary for the legislature to approve the installation of video surveillance equipment at toll plazas. This equipment will be used as a tool for law enforcement officials to apprehend violators of the electronic toll collection system. Any individual that fails to pay the established toll will be subject to a violation and a fine that includes the full payment of the toll and an administrative fee of up to \$25 per violation. The amendment to House Bill 698, which is a Transportation Committee amendment, clarifies that the Governor and Council maintain the authority to discount or reduce the toll rates within the turnpike system. It also recommends certain crite-

ria that the Governor and Council should consider if they choose to set new discounts. The suggested criteria include the use of tokens, time of day, site specific entrance or exit ramps, congestion management, and an individual's in-state or out-of-state EZ Pass account status. The Transportation Committee recommends House Bill 698-FN ought to pass with amendment and asks for your support. Thank you, Mr. President.

SENATOR ESTABROOK: Thank you, Mr. President. I just wanted to get up and thank the committee for rejecting the House approach to discounts on tokens and EZ Pass that was contained in the original bill. I am sure that some of you, as I have, have been contacted by constituent commuters who are very concerned about the financial hardship that would have been created by the House decision to cut back on the current discount on tokens. In supporting the Senate recommendation of its amendment to place authority for decision making on toll discounts to the G and C, I want to urge that body to protect New Hampshire commuters. It is important, not just because of the financial impact on individual commuters and their families, but also because of potential resulting traffic pattern changes. In addition to individual constituents, I was also contacted by local city planners extremely concerned about the impact of traffic pattern changes on local traffic flows. The committee amendment, especially its criteria cited in section G, provides an opportunity for G and C to consider these issues and I hope they will. Thank you, Mr. President.

SENATOR BOYCE: Thank you, Mr. President. Senator Kenney, I remember in some other states they had some problems with what they call Red Light Cameras, where they went out and contracted with somebody to set up a camera at an intersection and then, based solely on the photographs taken, a violation was issued to somebody, to the driver. That process did not involve a police officer and actually just involved the contractor set up the cameras. There was quite a concern about that process, that the ticket was actually issued by someone other than a police officer from the state. I just wanted to make sure that there is nothing in this that would allow that type of process to happen. Under this, if there is a violation and there is the photograph is taken, then some police officer has to actually look at that photo and then issue the violation so it is not some contractor doing it. It is not somebody other than a police officer. The police officer actually has to do what they do now. They have to see that there was a violation of something and issue a citation from that?

SENATOR KENNEY: Well I appreciate that question. It is a very good question. It is the intent, I believe, of the Transportation Committee to make sure that the commissioner of DOT works with safety to make sure that the appropriate ticketing measure is in place for these video cameras. So that is our intent. I am concerned as you are, in those other states, when it comes to private contracting outfits who are issuing tickets. That is the intent as I see it, with this legislation, and I will reiterate that to the commissioners.

SENATOR BOYCE: Thank you.

SENATOR LARSEN: Thank you, Mr. President. Senator Kenney, the exact language of the bill actually says that the Commissioner of Transportation or their designee would be the one who would notify the owner in writing by first class mail that the owner's driving privileges may be suspended. It appears that there is the allowance for the designee could in fact be a contracted agency, the way the bill is written. I am aware of the companies which are red light camera kind of companies.

I am aware that they, under some states, can issue tickets. But it appears that this could happen in our state. I have thought that, in fact, it might happen with passage of this bill.

SENATOR KENNEY: Are you saying, Senator Larsen, you feel uncomfortable with the language and that you feel that it should specifically say that the Department of Safety should issue that ticket?

SENATOR LARSEN: I primarily want to bring it out into the open that there is in fact the possibility that a contracted agency could be the designee under the way that we have written it. I haven't yet determined in my own mind who should be issuing these tickets, but it appears to me that the language would allow a designee rather than a commissioner.

PARLIAMENTARY INQUIRY

SENATOR KENNEY: Parliamentary, Mr. President? Is this going to Fiscal?

SENATOR EATON (In the Chair): This will be going to Finance and an amendment could be brought back at the next session.

SENATOR KENNEY: Thank you, Mr. President. I will take that up at the Finance Committee.

SENATOR LARSEN: Thanks. I think that is something that we ought to pay attention to.

SENATOR KENNEY: Thank you for picking that out.

SENATOR GATSAS: Thank you, Mr. President. Senator Kenney, you understand that going with the Finance Committee, normally we don't change policy there?

SENATOR KENNEY: I do understand that.

SENATOR GATSAS: Being the chairman of Transportation, you don't have a problem with the policy change happening in Finance?

SENATOR BARNES: Depends on what it is.

SENATOR KENNEY: We can always come back and present it as a floor amendment. I will work with this body to do the right thing.

SENATOR GATSAS: Thanks.

SENATOR EATON (In the Chair): That was the anticipated part that it would come back to the floor later on as a floor amendment.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Referred to the Finance Committee (Rule #26).

HB 1183, relative to transporting manufactured housing or modular buildings. Transportation Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Transportation

April 15, 2004

2004-1220s

06/01

Amendment to HB 1183

Amend RSA 21-L:12-a, XVII as inserted by section 4 of the bill by replacing it with the following:

XVII. Establishing criteria to determine the need for police escort vehicles for the transport of manufactured housing or modular buildings as authorized by RSA 266. In determining such criteria, the commissioner shall consider the anticipated road, traffic, and weather conditions that indicate that the safety of the public will be increased or the likelihood of damage to roadside objects will be reduced by providing a police escort.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 New Subdivision; Special Rules for Manufactured or Modular Building Transportation. Amend RSA 265 by inserting after section 158 the following new subdivision:

Special Rules for Manufactured or
Modular Building Transportation

265:159 Manufactured or Modular Building Transportation. Transporters of manufactured or modular housing shall be responsible for causing the least possible inconvenience to other traffic by using every opportunity to allow following traffic to pass. If traffic buildup behind the transporting unit becomes 6 or more vehicles, the entire transporting unit shall pull off of the traveled way to allow traffic to pass. The transporter shall locate a safe place, which allows the towing load to clear from the roadway, so that traffic following the load can safely pass.

2004-1220s

AMENDED ANALYSIS

This bill:

I. Establishes the maximum height and length of manufactured homes or modular buildings that can be transported on the highways of New Hampshire.

II. Grants the commissioner of transportation certain rulemaking authority relative to the transport of manufactured housing.

III. Requires a transporter of manufactured housing to pull off the traveled way to allow traffic to pass if traffic buildup exceeds 5 vehicles.

SENATOR KENNEY: Thank you, Mr. President. I move House Bill 1183 ought to pass with amendment. This bill establishes the maximum height and length of manufactured homes or modular buildings that can be transported on the highways of New Hampshire. It grants the Commissioner of Transportation certain rulemaking authority relative to the transport of manufactured housing. The bill also requires a transporter of manufactured housing to pull off the traveled way to allow traffic to pass if traffic build up exceeds five or more vehicles. Actually six. Recent changes in the size, design, and dimensions of the manufactured housing have created a situation where it is imperative for the state to update our statutes. House Bill 1183 will properly balance public safety needs with the state's goals of continued economic development. Please join the Transportation Committee in voting House Bill 1183 ought to pass with amendment. Thank you, Mr. President.

SENATOR PETERSON: Thank you, Mr. President. Senator Kenney, thank you for yielding to the question. My understanding on this bill is that some of the more narrow state highways in the state, if you are following a manufactured home as described in your remarks, and there is no where safe to pull off, where traffic can get around, they would merely continue on forward until they found such a safe spot to **TAPE CHANGE** interpret the language of the bill?

SENATOR KENNEY: Thank you for that question. It is a good question, Senator Peterson. That is indeed the intent of the amendment. When that modular home is being transported down our highways that might be two lane highways, and there are in places where they can't stop off, and there are six cars behind this particular modular home that is going down the road, again, if they can't turn off the road to a rest area, that they continue going forward, even if there are six or more vehicles behind them.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1243, prohibiting the collection of biometric data. Transportation Committee. Ought to pass with amendment, Vote 4-0. Senator Morse for the committee.

Senate Transportation

April 14, 2004

2004-1210s

03/05

Amendment to HB 1243

Amend RSA 260:10-b, II as inserted by section 1 of the bill by inserting after subparagraph (b) the following new subparagraph:

(c) The taking of fingerprints for the purpose of performing criminal records checks required under federal regulations governing the issuance of hazardous materials endorsements on drivers' licenses.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1243 ought to pass with amendment. This bill prohibits the state from collecting or retaining any biometric data in connection with the registration or operation of a motor vehicle or the licensing of a driver. For the purposes of this statute, biometric data includes, but is not limited to finger or palm prints, facial feature pattern characteristics, voice data, handwriting characteristics, retinal scans, and DNA. House Bill 1243 provides the legislature with sole decision making authority to determine when the collection of biometric data is necessary. Our committee amended the bill at the request of the Department of Safety to include a recent Homeland Security provision. In the near future, it will be required that all state commercial driver's licenses carry a thumbprint on the license. The federal government wants commercial licenses to be positive identifiers of the operator of the commercial vehicle. The Transportation Committee recommends House Bill 1243 ought to pass with amendment and requests your support. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1230-FN, relative to abandoned deposits held by telephone utilities and relative to public interest payphones. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator Odell for the committee.

Senate Ways and Means**April 14, 2004****2004-1180s****10/03****Amendment to HB 1230-FN**

Amend the bill by replacing section 7 with the following:
7 Effective Date.

I. Sections 3-5 of this act shall take effect July 1, 2005.

II. The remainder of this act shall take effect 60 days after its passage.

SENATOR ODELL: Thank you, Mr. President. I move House Bill 1230 ought to pass with amendment. The Public Utilities Commission has determined that various parts of the state are eligible for public interest payphones which serve public health, safety and welfare concerns where cell service is not available. The commission established criteria for determining the eligibility and at least one town has been approved. House Bill 1230 will fund public interest payphones with abandoned customer deposits held by telephone companies. There is a precedent in funding the program with abandoned property. In the mid-1990s the legislature allowed the electric and gas companies to divert a percentage of their abandoned customer deposits to help fund the Neighbor Helping Neighbor Program. House Bill 1230 includes a cap of about 30 payphones that could be funded and all parties agree this is a fair number and an equitable approach to funding the program. The committee amended the bill to allow the policy piece of the bill to go forward while the funding portion would be effective on July 1, 2005. The committee unanimously recommends ought to pass with amendment on House Bill 1230. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

RESOLUTION

Senator Clegg 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 all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION**Third Reading and Final Passage**

HB 176, relative to listing candidates on ballots.

HB 230, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act.

HB 285, relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting.

HB 422, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases.

HB 643-FN, relative to the family division of the courts.

HB 712-FN, establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.

HB 713-FN, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning re-hearings.

HB 729-FN, relative to the regulation of tanning facilities.

HB 767-FN, relative to political advertising not authorized by the candidate.

HB 1134, relative to appointment of the chief justice of the supreme court.

HB 1135, relative to appointment of the chief justice of the superior court.

HB 1159, relative to prohibited employment for state liquor commission employees.

HB 1162, relative to school district policies on bullying.

HB 1165, relative to extending domestic violence protection orders.

HB 1169, relative to child support calculations based on one-time or irregular income.

HB 1183, relative to transporting manufactured housing or modular buildings.

HB 1202, relative to third-party payment of covered services ordered by the juvenile court.

HB 1210, relative to self-service storage facility liens.

HB 1226-L, establishing a debt retirement fund in the Governor Wentworth regional school district.

HB 1230-FN, relative to abandoned deposits held by telephone utilities and relative to public interest payphones.

HB 1243, prohibiting the collection of biometric data.

HB 1257-FN, relative to penalties for driving under the influence with a minor in the vehicle.

HB 1266, relative to the long-term care ombudsman.

HB 1295, relative to certain court records.

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

HB 1308-FN, relative to lobbying activities by state employees.

HB 1312, relative to the court's discretion to extend child support obligations.

HB 1320, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans.

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks.

HB 1329, relative to the length of time consumer credit reporting agencies retain individual credit information.

HB 1336, relative to the procedures for the legislative ethics committee.

HB 1361, relative to sentences for certain offenses committed on or near a public college or university campus.

HB 1372, defining certain terms relating to military service.

HB 1374, relative to lightning protection systems.

HB 1380-FN, relative to unauthorized video surveillance.

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purposes of introducing legislation, receiving messages, and processing Enrolled Bill Reports and Amendments, and forming Committees of Conference.

Adopted.

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 1254-FN, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program, and authorizing the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook.

April 22, 2004

2004-1354-EBA

08/01

Enrolled Bill Amendment to HB 1254-FN

The Committee on Enrolled Bills to which was referred HB 1254-FN

AN ACT relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program, and authorizing the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook.

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 1254-FN

This enrolled bill amendment makes 2 technical corrections.

Enrolled Bill Amendment to HB 1254-FN

Amend RSA 6:12, I(b)(140) as inserted by section 2 of the bill by replacing lines 2 and 3 with the following:

(140) Moneys deposited in the [~~postsecondary education loan fund~~]
forgivable loan fund in the workforce incentive program under
RSA [~~188-D:18-h~~] **188-D:18-f**.

Senator Eaton 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(s):

HB 712-FN, establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.

HB 1254-FN, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program, and authorizing the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook.

SB 450-FN, relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs.

Senator D'Allesandro moved adoption.

Adopted.

April 21, 2004
2004-1330-EBA
04/01

Enrolled Bill Amendment to HB 736

The Committee on Enrolled Bills to which was referred HB 736

AN ACT relative to duties of the fish and game commission and complaints against fish and game commissioners.

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 736

This enrolled bill amendment corrects the paragraph numbering in a statutory section.

Enrolled Bill Amendment to HB 736

Amend RSA 206:4-a as inserted by section 1 of the bill by replacing it with the following:

206:4-a Duties. In addition to other duties provided by law, it shall be the duty of the fish and game commissioners, as the citizens' representatives, to be the stewards of the fish, wildlife, and marine resources of the state of New Hampshire and to set general policy in the following areas:

I. Conservation, protection, and management of wildlife populations and habitats, the collection of necessary scientific information, and the enforcement of fish and game laws for the purpose of sustaining healthy populations of fish, wildlife, and marine resources;

II. Development, funding, and implementation of a long-range strategic plan to direct the operation of the fish and game department;

III. Acquisition, development, and maintenance of public access to lands and waters for recreational use consistent with New Hampshire law;

IV. Public education and building support for department programs and objectives; and

V. Establishment of positions on proposed legislation that affects fish, wildlife, and marine resources and the overall management of the fish and game department.

Senator Eaton moved adoption.

Adopted.

April 21, 2004
2004-1338-EBA
05/10

Enrolled Bill Amendment to HB 403

The Committee on Enrolled Bills to which was referred HB 403

AN ACT requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual 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 403

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to HB 403

Amend RSA 651-B:1, III as inserted by section 1 of the bill by replacing line 2 with the following:

insanity, of any violation or attempted violation of:

Senator Eaton moved adoption.

Adopted.

April 20, 2004
2004-1293-EBA
08/09

Enrolled Bill Amendment to HB 1423-FN

The Committee on Enrolled Bills to which was referred HB 1423-FN

AN ACT relative to reimbursement of travel expenses for judges.

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 1423-FN

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to HB 1423-FN

Amend RSA 502-A:6-c as inserted by section 3 of the bill by replacing line 2 with the following:

personal expenses when absent from their assigned court in the performance of their official duties.

Senator Eaton moved adoption.

Adopted.

April 21, 2004
2004-1326-EBA
04/10

Enrolled Bill Amendment to HB 1225-FN-A

The Committee on Enrolled Bills to which was referred HB 1225-FN-A

AN ACT making administrative changes to the historic agricultural structure matching grants 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 1225-FN-A

This enrolled bill amendment corrects a statutory citation in the bill.

Enrolled Bill Amendment to HB 1225-FN-A

Amend section 4 of the bill by replacing line 1 with the following:

4 Recapture; Agencies Which Determine Non-Eligibility. Amend RSA 227-C:31 to read as follows:

Senator Eaton moved adoption.

Adopted.

April 21, 2004
2004-1341-EBA
03/10

Enrolled Bill Amendment to SB 416

The Committee on Enrolled Bills to which was referred SB 416

AN ACT relative to 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 SB 416

This enrolled bill amendments corrects certain references in the bill.

Enrolled Bill Amendment to SB 416

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

AN ACT relative to membership of the advisory council on child care.

Amend section 1 of the bill by replacing line 1 with the following:

1 Advisory Council on Child Care; Membership; Early Learning New Hampshire Added.

Senator Eaton 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(s):

HB 133, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district.

HB 440, relative to prohibited methods of taking wildlife in certain fish and game laws.

HB 444, relative to summoning witnesses from another state in certain actions involving children.

HB 622-FN, clarifying certain exemptions from the right-to-know law.

HB 652-FN, relative to qualified wellness or disease management programs.

HB 1138, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

HB 1161, relative to solicitation and marketing of insurance products.

HB 1166, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads.

HB 1414, establishing a commission to study issues regarding the women's prison facility.

HB 1417, relative to examination of persons called as jurors in civil cases.

HB 1419, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services.

SB 311, relative to civil penalties for unlawful campaign practices.

SB 330-FN, relative to creditable service of retirement system members reemployed after qualifying military service.

SB 337, relative to the regulation of traps by the fish and game department and relative to the liability of trappers for certain injuries to domestic animals.

SB 345, exempting payroll accounts from trustee process.

SB 346, relative to prohibiting the operation of snowmobiles on open water.

SB 347-FN, relative to financial responsibility and conduct after an OHRV accident.

SB 358, relative to incompatibility of municipal offices.

SB 379, relative to safety inspection and certification of certain equipment of vehicles.

SB 412, extending a public trust grant for the Gunstock Area ski resort's snowmaking.

SB 424-FN, relative to boating and carnival-amusement regulation by the department of safety.

SB 438, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities.

SB 456, relative to record books maintained by registers of deeds.

SB 457, relative to animal population control.

SB 466, relative to records management services of a municipality.

SB 497-FN, relative to renewal of electrician's licenses.

SB 499, making a change to the electrician licensing exemption.

Senator D'Allesandro 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 369, relative to examinations of insurance companies by the insurance department.

SB 388-FN, relative to proof of successful completion of an impaired driver intervention program.

SB 513, relative to the death penalty.

SB 529, making a technical correction to the eminent domain procedure act.

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 53, relative to the sale of salvage and rebuilt vehicles and relative to abandoned vehicles.

HB 532, relative to notice and filing of divorce petitions.

HB 761, enabling municipalities to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

HB 1133, relative to disclosures required prior to a condominium sale.

HB 1155, clarifying alternative budget adoption procedures in school administrative units.

HB 1212, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18.

HB 1301, relative to extensions to the intent to cut and relative to the care, maintenance, and repair of the law enforcement memorial.

HB 1309, relative to noise pollution from shooting ranges.

HB 1311-FN, establishing a committee to study decreasing the insurance premium tax.

HB 1355, changing the name of the sweepstakes commission to the lottery commission.

HB 1370, establishing a committee to study property tax relief.

HB 1410, relative to the release of information to persons receiving a child for placement and relative to the department of health and human service's disclosure of information regarding the death of a child from abuse and neglect.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

SB 525-FN-A, relative to land and community heritage investment program administration.

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:

CACR 27, relating to elective franchises. Providing that the right to vote in elections shall be limited to citizens of the United States.

SB 318, relative to the applicability of driving while intoxicated prohibitions.

SB 320-FN, relative to penalties for damaging emergency vehicles.

SB 372, relative to the definition of necessary shelter for dogs.

SB 417, relative to vicious dog assaults.

SB 505-FN-A-L, authorizing CROP zone tax credits for taxpayers within the town of Whitefield.

SB 518, establishing a commission to study railroad matching funds and authorizing an expenditure for a certain feasibility study.

SB 532-FN, exempting biodiesel from the road toll.

HOUSE MESSAGE

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

HB 1363, establishing a policy for naming state highways, bridges, and buildings.

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

April 29, 2004

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

Good morning! It is good to be back. It occurs to me from what I read in the paper that next door, they are dealing with guns and marriage on the very same day, quite an interesting combination if you think about it. Seems like issues generating a fair amount of interest and passion and tension. Please remember to be full of care as you help us to sort out what our rights are and what our responsibilities are. President Kennedy once said this: "Our privileges can be no greater than our obligations. The protection of our rights can endure no longer than the performance of our responsibilities." And so, in your various conversations, you get to decide who is responsible for what parts of their lives, and in so doing, you will determine where that elusive line is to be found which separates individual rights from the common good. God help you and us.

Let us pray:

Lord, for some strange reason You have hard wired free will into our very beings, and You invite us and demand of us that we use that capacity to honor You and to care for one another. Give to the members of this Senate, and to those who advise them, the capacity to see what is right and best and bravest that our privileges might always be used in the service of our responsibilities.

Amen

Senator Larsen led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

HB 1413, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Peterson for the committee.

Senate Judiciary
April 21, 2004
2004-1337s
06/09

Amendment to HB 1413

Amend RSA 519-B:3, I-IV as inserted by section 1 of the bill by replacing them with the following:

I. The chief justice of the superior court shall maintain a list of active and retired judges from which the chief justice of the superior court shall choose a panel chairperson under paragraph II of this section. The chief justice of the superior court shall maintain a list of active and retired judges and arbitrators to serve on panels under this chapter.

II. Panel members shall be selected by the chief justice as follows.

(a) Upon the entry of a medical injury case, the clerk of the superior court in which the medical injury case is filed shall notify the chief justice of the superior court.

(b) Within 14 days following the return date, the chief justice shall choose a judge or retired judge from the list maintained by the chief justice to serve as chairperson of the panel to screen the claim. If at any time a chairperson chosen under this paragraph is unable or unwilling to serve, the chief justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chairperson.

(c) The chief justice of the superior court shall choose 2 additional panel members from the lists.

III. The panel process shall not delay or postpone the trial of a medical injury case. The superior court, in coordination with the chairperson of the panel, shall establish a trial date at a structuring conference, or other scheduling conference, and all interim deadlines as it would in any other case.

IV. The chief justice of the superior court shall establish the compensation of panel members not otherwise compensated by the state of New Hampshire.

Amend RSA 519-B:9, I(b) and (c) as inserted by section 1 of the bill by replacing them with the following:

(b) If the panel findings under RSA 519-B:6, I(a) are unanimous and unfavorable to the defendant, the findings shall be admitted in accordance with RSA 519-B:10.

(c) If the panel findings as to any question under RSA 519-B:6, I are unanimous and unfavorable to the plaintiff, the findings shall be admitted in accordance with RSA 519-B:10.

Amend RSA 519-B:10 as inserted by section 1 of the bill by replacing it with the following:

519-B:10 Mandatory Instructions.

I. When the panel makes unanimous findings on all questions under RSA 519-B:6, I, the court shall furnish the following information to provide a basis for the jury to understand the nature of the panel findings and to put the panel findings in context in evaluating all of the evidence presented at the trial:

(a) The panel process is a preliminary procedural step through which malpractice claims proceed;

(b) The panel in this case consisted of (insert the name and identity of the members);

(c) The panel conducts a summary hearing and is not bound by the rules of evidence;

(d) The hearing is not a substitute for a full trial and may or may not have included all of the evidence that is presented at the trial;

(e) The jury is not bound by the findings of the panel and it is the jurors' duty to reach their own conclusions based on all of the evidence presented to them; and

(f) The panel proceedings are privileged and confidential. Consequently, the parties may not introduce panel documents or present witnesses to testify about the panel proceedings, and they may not comment on the panel findings or proceedings except as provided in subparagraphs (a) through (f).

II. The information specified in paragraph I shall be provided to the jury when the findings are admitted into evidence and when the court instructs the jury prior to submitting the case to the jury.

Amend the introductory paragraph of RSA 519-B:13, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The committee may:

Amend RSA 519-B:13, II as inserted by section 1 of the bill by replacing it with the following:

II. The committee shall consist of 9 members as follows:

(a) Seven members of the house of representatives, appointed by the speaker of the house as follows:

(1) Three members of the house judiciary committee.

(2) Two members of the house health, human services and elderly affairs committee.

(3) Two members of the house commerce committee.

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

Amend RSA 519-B:13, IV as inserted by section 1 of the bill by inserting after subparagraph (d) the following new subparagraph:

(e) Investigate available no-fault insurance and other alternatives to address the particular needs of obstetric and gynecologic providers.

SENATOR PETERSON: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1413. This legislation creates mandatory panels for medical injury claims and establishes a committee to study medical malpractice insurance rates as well as the panel's effectiveness. Additionally, the House amended version of the bill established expert witness criteria. The legislation was filed in response to the loss of specialty care providers in New Hampshire because of ever-increasing medical malpractice insurance rates. This bill has taken on several forms during its life in the legislature. The bill before you today, with the Senate Judiciary Committee's amendment, establishes the panels from a list of retired and active judges and arbitrators (with no medical care providers or practicing attorneys on the panels). Under our provisions of the committee's version, if the panel's findings were unanimous, then they were admitted in court in accordance with RSA 519-B. The study committee looking at the results of the panel as well as the medical information regarding malpractice claims would have two members of the Senate and an additional duty, to investigate available no fault insurance and other alternatives to address the particular needs of obstetric and gynecologic providers in our state. Mr. President, the Judiciary Committee labored long and hard and heard from all parties on this contentious matter. We understand that although the debate seemed at times, a battle between the doctors and the lawyers, there are actually the interest of the New Hampshire citizens at stake and those are the inter-

est that we held foremost in our minds. There is a concern in this state, at this time, about losing doctors and having appropriate providers of care accessible to our citizenry and we would like to see the Senate move forward and work constructively on this bill with the House, so that we can have progress on this issue this year. It is my understanding that Senator Gallus and others have another amendment to this bill which they will present in due course. It is our hope that whatever our position following the acts of the Senate today, that we will be able to have a constructive conference with the House that would allow the bill to have three important features. One, that these panels be mandatory. Two, that a 3-0 vote from a panel will be admissible in trial. And three, that the legislation will be in a form that is constitutional under our laws that indeed can go into effect and bring the benefits for which I think I can speak for us all in the committee and say that we most hope. Thank you, Mr. President. The committee recommends the legislation as adopted with the committee amendment and asks for your support.

SENATOR SAPARETO: Thank you, Mr. President. Mr. President, I rise in support of this bill. We need tort reform now. We have already tabled a number of other Senate Bills that dealt with the tort reform. The version that the House has sent us over has some major flaws and constitutional issues. Number one, is that you can't have indigents under that 'can't afford to pay.' A losers pay provision does not allow the same justice to everyone equally, because they can't afford to lose. No one is going to write a bond for them. There is a problem with that portion. But the second thing, is if you don't make these panels mandatory in their findings, you have pretty much negated the use of these panels. We have to have these panel's unanimous findings admissible in court in order for these panels to have any meaning. I strongly oppose the House position as we did unanimously as a committee. This is greatly needed. The insurance premiums right now for malpractice premiums in the state are outrageous. We heard testimony from people who were paying up to \$70,000, \$80,000 and \$90,000 a year for malpractice premiums. With those types of costs, we just can't provide the type of health care in this state that we should be providing and I hope that you support the committee position on this bill.

Question is on the adoption of the committee amendment.

A division vote was requested.

Yeas: 6 - Nays: 16

Amendment failed.

Senator Gallus offered a floor amendment.

Sen. Gallus, Dist. 1
 Sen. Gatsas, Dist. 16
 Sen. Barnes, Dist. 17
 Sen. Johnson, Dist. 2
 Sen. Sapareto, Dist. 19
 Sen. Odell, Dist. 8
 Sen. Green, Dist. 6
 Sen. Below, Dist. 5
 Sen. Estabrook, Dist. 21
 Sen. Martel, Dist. 16
 Sen. Kenney, Dist. 3
 Sen. Roberge, Dist. 9

April 28, 2004
2004-1447s
06/01

Floor Amendment to HB 1413

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

AN ACT creating panels for medical injury claims and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

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

1 New Chapter; Screening Panels for Medical Injury Claims. Amend RSA by inserting after chapter 519-A the following new chapter:

CHAPTER 519-B

SCREENING PANELS FOR MEDICAL INJURY CLAIMS

519-B:1 Findings, Purpose and Intent.

I. Availability and affordability of insurance against liability for medical injury is essential for the protection of patients as well as assuring availability of and access to essential medical and hospital care. This chapter affirms the intent of the general court to contain the costs of the medical injury reparations system and to promote availability and affordability of insurance against liability for medical injury. Claims for medical injury should be resolved as early and inexpensively as possible to contain system costs. Claims that are resolved before court determination cost less to resolve than claims that must be resolved by a court. Meritorious claims should be identified as quickly as possible, as should non-meritorious claims. Defendants should consider paying or compromising meritorious claims and plaintiffs should consider withdrawing or compromising non-meritorious claims, as soon as the merits of the claims are known to the parties. Presentation of claims to a medical review panel is intended to help identify both meritorious and non-meritorious claims without the delay and expense of a court trial. It is essential to the effectiveness of the panel process that panel proceedings be confidential unless and until a matter heard by a panel proceeds to trial. It is equally essential to the effectiveness of the panel process that a panel's unanimous findings be presented to the jury in any matter that is not resolved prior to trial. The panel process will encourage the prompt resolution of claims, because both sides will be given an objective view of the merits. If the panel finds that a claim has merit, the defendant will be more likely to pay the claim or negotiate a compromise that is favorable to the claimant. If the panel finds that the claim lacks merit, the claimant is more likely to withdraw the claim or accept a nominal settlement.

II. The purposes of pretrial screening panels are:

(a) To identify claims of professional negligence which merit compensation and to encourage early resolution of those claims prior to commencement of a lawsuit; and

(b) To identify claims of professional negligence and to encourage early withdrawal or dismissal of nonmeritorious claims.

519-B:2 Definitions. In this chapter:

I. "Action for medical injury" means an action for medical injury as defined in RSA 507-E:1, I.

II. "Medical care provider" means a medical care provider as defined in RSA 507-E:1, II.

III. "Medical injury" means a medical injury as defined in RSA 507-E:1, III.

519-B:3 Formation and Procedure.

I. The chief justice of the superior court shall maintain a list of retired judges, persons with judicial experience, and other qualified persons to serve on screening panels under this chapter, from which he or she shall choose a panel chairperson under paragraph II of this section. The chief justice of the superior court shall maintain lists of health care practitioners and attorneys with litigation experience, recommended by their respective professional organizations to serve on screening panels under this chapter. As required by the chief justice, the professional organization of each profession shall inform the chief justice of the names of volunteers to serve on panels.

II. Screening panel members shall be selected as follows:

(a) Upon the entry of a medical injury case, the clerk of the superior court in which the medical injury case is filed shall notify the chief justice of the superior court.

(b) Within 14 days following the return date, the chief justice shall choose a retired judge, a person with judicial experience, or other qualified person from the list maintained by the chief justice to serve as chairperson of the panel to screen the claim. If at any time a chairperson chosen under this paragraph is unable or unwilling to serve, the chief justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chairperson. Persons other than retired judges or those with judicial experience may be appointed as chairperson based on appropriate trial experience. If the chief justice appoints as chairperson a person who is not a retired judge or who does not have judicial experience, each side may make one challenge to the appointment.

(c) The chief justice shall notify the clerk of the name of the person designated to serve as chairperson and shall provide the clerk with the lists of health care practitioners, health care providers, and attorneys maintained under this section. Upon notification of the chief justice's choice of chairperson, the clerk shall notify the chairperson and the parties, and provide them with the lists of health care practitioners, health care providers, and attorneys. The chairperson shall choose 2 or 3 additional panel members from the lists as follows:

(1) One attorney.

(2) One health care practitioner. If possible, the chairperson shall choose a practitioner who practices in the same specialty or profession as the person or entity accused of professional negligence.

(3) Where the claim involves more than one person accused of professional negligence the chairperson may choose a fourth panel member who is a health care practitioner. If possible, the chairperson shall choose a practitioner or provider in the specialty or profession of a person accused.

(4) When agreed upon by all the parties, the list of available panel members may be enlarged in order to select a panel member who is agreed to by the parties but who is not on the chief justice's list.

III. The screening panel process is not intended to delay or postpone the trial of a medical injury case. The superior court may establish a trial date at a structuring conference, or other scheduling conference, and all interim deadlines as it would in any other case.

IV. The chief justice of the superior court shall establish the compensation of the panel chairperson if he or she is not otherwise compensated by the state of New Hampshire. Other panel members shall serve without compensation or payment of expenses.

V. The clerk of the superior court in the county in which a medical injury case is filed shall, with the consent of the chief justice of the superior court, provide clerical and other assistance to the panel chairperson.

VI.(a) Only challenges for cause shall be allowed.

(b) If a panel member other than the chairperson is challenged for cause, the party challenging the member shall notify the panel chairperson. If the panel chairperson finds cause for the challenge, he or she shall replace the panel member.

(c) If the chairperson is challenged for cause, the party challenging the chairperson shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the chairperson.

VII. The panel, through the chairperson, shall have the same subpoena power as exists for a superior court judge. The chairperson shall have sole authority, without requiring the agreement of other panel members, to issue subpoenas.

VIII. The New Hampshire superior court rules shall govern discovery conducted under this chapter. The parties shall attempt in good faith to resolve discovery issues themselves. The chairperson shall rule on disputes regarding discovery. Any person aggrieved by a chairperson's ruling regarding discovery may appeal to the superior court, which shall defer to the chairperson's factual findings unless they are clearly erroneous.

519-B:4 Panel Procedures.

I. All documents filed with the court in a medical injury action that are part of the screening process are confidential.

II. Within 20 days of the return date, the person or persons accused shall contact the claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical and provider records necessary to a determination by the panel. If the parties are unable to agree on a timetable within 60 days of the return date, the claimant shall notify the chairperson of the panel. The chairperson shall then establish a timetable for the filing of all relevant records and reasonable discovery, which shall be filed at least 30 days before any hearing date. The hearing shall be no later than 6 months from the return date, except when the time period has been extended by the panel chairperson in accordance with this chapter.

III. The pretrial screening may be bypassed if all parties agree upon a resolution of the claim by trial.

IV. All parties to a claim may, by written agreement, submit a claim to the binding determination of the panel. Both parties may agree to bypass the panel for any reason, or may request that certain preliminary legal affirmative defenses or issues be litigated prior to submission of the case to the panel. The panel shall have no jurisdiction to hear or decide, absent agreement of the parties, dispositive legal affirmative defenses, other than comparative negligence. The panel chairperson may require the parties to litigate, by motion, such dispositive legal affirmative defenses in the superior court prior to submission of the case to the panel. Any such defense, as well as any motion relating to discovery that the panel chairperson has chosen not to rule on may be presented, by motion, in superior court.

V. Except as otherwise provided in this section, there shall be one combined hearing for all claims under this section arising out of the same set of facts. Where a medical injury case has been filed against more than

one person accused of medical injury based on the same facts, the parties may, upon agreement of all parties, require that hearings be separated. The chairperson may, for good cause, order separate hearings.

VI. All requests for extensions of time under this section shall be made to the panel chairperson. The chairperson may extend any time period for good cause, except that the chairperson may not extend any time period that would result in the hearing being held more than 11 months following the return date unless good cause is shown.

VII.(a)(1) On failure of the plaintiff to prosecute or to comply with rules or any order of the chairperson, or if the plaintiff fails to attend a properly scheduled hearing, and on motion by the chairperson or any party, after notice to all parties has been given and the party against whom sanctions are proposed has had the opportunity to be heard and show good cause, the chairperson may order appropriate sanctions, which may include dismissal of the case. If any sanctions are imposed, the chairperson shall state the sanctions in writing and include the grounds for the sanctions.

(2) Unless the chairperson or the panel in an order for dismissal specifies otherwise, a dismissal under this subparagraph is with prejudice for purposes of proceedings before the panel. A dismissal with prejudice is the equivalent of a finding for the defendant on all issues before the panel.

(b)(1) On failure of a defendant to comply with the rules or any order of the chairperson, or if a defendant fails to attend a properly scheduled hearing, and on motion by the chairperson or any party, after notice to all parties has been given and the party against whom sanctions are proposed has had the opportunity to be heard and show good cause, the chairperson may order appropriate sanctions, which may include default. If any sanctions are imposed, the chairperson shall state the sanctions in writing and include the grounds for the sanctions.

(2) Unless the chairperson or the panel in its order for default specifies otherwise, a default under this paragraph is the equivalent of a finding against the defendant on all issues before the panel.

(c) Any person aggrieved by a chairperson's ruling regarding sanctions may appeal to the superior court, which shall defer to the chairperson's factual findings unless they are clearly erroneous.

519-B:5 Hearing.

I.(a) The claimant or a representative of the claimant shall present the case before the panel. The person accused of professional negligence or that person's representative shall make a responding presentation. The panel shall afford the parties wide latitude in the conduct of the hearing including, but not limited to, the right of examination and cross-examination by attorneys. Depositions are admissible whether or not the person deposed is available at the hearing. The chairperson shall make all procedural rulings, which shall be final. The New Hampshire rules of evidence shall not apply. Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The panel shall make findings upon such evidence as is presented at the hearing, the records, and any expert opinions provided by or sought by the panel or the parties.

(b) After presentation by the parties, the panel may request additional facts, records, or other information from either party to be submitted in writing or at a continued hearing, which continued hearing shall be held as soon as possible. The continued hearing shall be attended by

the same members of the panel who have sat on all prior hearings in the same claim, unless otherwise agreed by all parties. Replacement panel members shall be appointed pursuant to this chapter.

II. The panel shall maintain a tape-recorded record. Except as provided in RSA 519-B:8, the record may not be made public and the hearings may not be public without the consent of all parties.

III. The chair of the panel shall attempt to mediate any differences of the parties before proceeding to findings.

519-B:6 Findings by Panel.

I. At the conclusion of the presentations, the panel shall make its findings regarding negligence and causation in writing within 30 days by answering the following questions:

(a) Whether the acts or omissions complained of constitute a deviation from the applicable standard of care by the medical care provider charged with that care;

(b) Whether the acts or omissions complained of proximately caused the injury complained of; and

(c) If fault on the part of the medical care provider is found, whether any fault on the part of the patient was equal to or greater than the fault on the part of the provider.

II. The standard of proof used by the panel shall be as follows.

(a) The plaintiff shall prove negligence and proximate causation by a preponderance of the evidence; and

(b) The defendant shall prove comparative negligence by a preponderance of the evidence.

519-B:7 Notification of Findings. The panel's findings, signed by the panel members, indicating their vote, shall be sent by registered or certified mail to the parties within 7 days of the date of the findings. The findings and record of the hearing shall be preserved until 30 days after final judgment or final resolution of the case, after which time it shall be destroyed. All medical and provider records shall be returned to the party providing them to the panel.

519-B:8 Confidentiality and Admissibility.

I. Except as provided in this section, all proceedings before the panel, including its final determinations, shall be treated as private and confidential by the panel and the parties to the claim.

(a) The findings and other writings of the panel and any evidence and statements made by a party or a party's representative during a panel hearing are not admissible in court and shall not be submitted or used for any purpose in a subsequent trial and shall not be publicly disclosed, except as follows:

(1) Any testimony or writings made under oath may be used in subsequent proceedings for purposes of impeachment.

(2) The party who made a statement or presented evidence may agree to the submission, use, or disclosure of that statement or evidence.

(b) If the panel findings as to both the questions under RSA 519-B:6, I(a) and (b) are unanimous and unfavorable to the defendant, the findings are admissible in any subsequent trial of the medical injury case.

(c) If the panel findings as to any question under RSA 519-B:6, I are unanimous and unfavorable to the plaintiff, the findings are admissible in any subsequent trial of the medical injury case.

II. The confidentiality provisions of this section shall not apply if the findings were influenced by fraud.

III. The deliberations and discussion of the panel and the testimony of any expert, whether called by a party or the panel, shall be privileged and confidential, and no such person may be asked or compelled to tes-

tify at a later court proceeding concerning the deliberations, discussions, findings or expert testimony or opinions expressed during the panel hearing, unless by the party who called and presented the nonparty expert, except such deliberation, discussion, and testimony as may be required to prove an allegation of fraud.

519-B:9 Mandatory Instructions.

I. When panel findings are offered and admitted into evidence in a subsequent court action in accordance with RSA 519-B:8, I(b) or (c), the trial court shall provide the following information to the jury to provide a basis for the jury to understand the nature of the panel findings and to put the panel findings in context in evaluating all of the evidence presented at the trial:

(a) The panel process is a preliminary procedural step through which malpractice claims proceed.

(b) The panel in this case consisted of (insert the name and identity of the members).

(c) The panel conducts a summary hearing and is not bound by the rules of evidence.

(d) The hearing is not a substitute for a full trial and may or may not have included all of the evidence that is presented at the trial.

(e) The jury is not bound by the findings of the panel and it is the jurors' duty to reach their own conclusions based on all of the evidence presented to them.

(f) The panel proceedings are privileged and confidential. Consequently, the parties may not introduce panel documents or present witnesses to testify about the panel proceedings, and they may not comment on the panel findings or proceedings except as provided in subparagraphs (a) through (e).

II. The information specified in paragraph I shall be provided to the jury when the findings are admitted into evidence and when they the court instructs the jury prior to submitting the case to the jury.

519-B:10 Effect of Panel Findings. Unanimous findings entered by the panel under RSA 519-B:6, I shall be implemented as follows.

I. If findings are in the plaintiff's favor, the defendant shall promptly enter into negotiations to pay the claim or admit liability. If liability is admitted, the claim may be submitted to the panel, upon agreement of the parties, for determination of damages. If the claim goes to a trial, the findings of the panel are admissible as provided in RSA 519-B:8, I(b).

II. If the findings are in the defendant's favor, the plaintiff shall release the claim or claims based on the findings, without payment, or be subject to the admissibility of those findings under RSA 519-B:8, I(c).

519-B:11 Medical Malpractice Panel and Insurance Oversight Committee Established.

I. There is established a committee to study medical malpractice insurance rates in this state and the mandatory panels for medical injury claims process.

II. The committee shall consist of 4 members of the senate appointed by the senate president, and 4 members of the house of representatives, appointed by the speaker of the house. The house members shall include at least:

(a) One member of the house judiciary committee.

(b) One member of the house health, human services and elderly affairs committee.

(c) One member of the house commerce committee.

III. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called

by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Five members of the committee shall constitute a quorum.

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

V. The committee shall review and analyze information provided by the administrative office of the courts and the insurance department related to medical injury liability claim activity in order to determine the effectiveness of mandatory screening panels for medical injury claims established in this chapter. The committee's review shall include, but not be limited to, whether medical malpractice insurance premiums have been affected and whether there has been any limitation of access to the courts by injured parties.

VI. Oversight committee reports.

(a) The committee shall make an interim report of its findings about medical insurance rates and the mandatory panel process 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, 2007.

(b) The committee shall make a final report of its findings about medical insurance rates and the mandatory panel process 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, 2009. The report shall include a recommendation to terminate, continue, or amend RSA 519-B.

519-B:12 Reports.

I.(a) The administrative office of the courts shall collect data on medical injury claims and submit a report on the screening panel process to the committee established in RSA 519-B:11 and to the insurance commissioner on or before September 30 of each year.

(b) The report required by this paragraph shall include the number of medical injury cases filed, pending, and resolved; and the number of panel hearings and the number of panel hearing days during the fiscal year ending on the June 30 preceding the report date.

(c) The report required by this paragraph shall also include, for medical injury cases resolved during the fiscal year,

(1) The mean and median lengths of time from initial filing to final resolution.

(2) The number and average settlement amount of cases that were resolved prior to the panel hearing.

(3) The number and average settlement amount of cases that were resolved after a panel hearing but before trial.

(4) The number and average settlement amount of cases that were resolved by or after a jury verdict.

(d) The report required by this paragraph shall also include, for medical injury cases in which a panel made findings during the fiscal year, the number of cases that fell into each category of possible results of a panel hearing (unanimous for the plaintiff; majority for the plaintiff; unanimous for the defendant; majority for the defendant), the status, and, if applicable, the results of the cases in each category.

(e) To the extent possible, the report required by this paragraph shall include comparative data from the previous 5 years.

II.(a) The insurance commissioner shall report to the committee established in RSA 519-B:11 annually, on or before November 1 of each year, on the medical malpractice market and the effects of the panel process

established in this chapter. Such reports shall include, but not be limited to, the average rates of medical liability insurance for categories of medical providers and specialties identified by the insurance commissioner, the frequency and severity of medical injury claims, and the time for resolution of medical injury claims from first notice to final resolution.

(b) The insurance commissioner may adopt rules to collect the data from insurers necessary to prepare the report required by this paragraph. To the extent the commissioner collects information from insurers regarding individual claims, loss adjustment and other expenses, reserves, indemnity payments, or other financial information that is not otherwise reported to the commissioner and available to the public, such information shall be treated as examination materials, kept confidential and not be subject to RSA 91-A.

2 Repeal. RSA 519-A, relative to professional malpractice claims, is repealed.

3 Repeal. The following are repealed:

I. RSA 519-B:11, relative to the medical malpractice panel and insurance oversight committee.

II. RSA 519-B:12, relative to reports.

4 Effective Date.

I. Section 3 of this act shall take effect December 31, 2009.

II. The remainder of this act shall take effect 60 days after its passage.

2004-1447s

AMENDED ANALYSIS

This bill:

I. Creates panels for medical injury claims.

II. Establishes a committee to study medical malpractice insurance rates and the effectiveness of the mandatory panel process.

III. Requires certain reports relative to medical malpractice insurance and the mandatory panels.

IV. Repeals the current hearing panels for professional malpractice claims.

SENATOR GALLUS: Mr. President and members of the Senate. I wish to present my amendment to House Bill 1413. The present bill is unacceptable to those it was designed to help. My amendment, 1447s is more in keeping with the Maine law, which has proved to be effective. Medical malpractice rates are 40 percent lower in Maine than in New Hampshire. My amendment is supported by the Medical Society, the Retail Merchants, the Business Industry Association, as well as many others. I have worked with Senator Gatsas to refine the amendment so that it reflects the current Maine law. This is our one chance to pass meaningful legislation that will allow justice to work for both those truly injured as well as our medical providers with mandatory panels that work. This issue is close to me, as the North Country continues to lose medical specialists due to high cost of malpractice insurance. I am sure that some other areas of our state are having the same problems. I do thank Chairman Peterson and the Judiciary Committee for their hours of labor. Again, I urge you to pass 1413 with my amendment. The people of New Hampshire and I thank you for your very courageous stand. Thank you, Mr. President.

SENATOR COHEN: Thank you, Mr. President. Senator Gallus, you mentioned that rates are 40 percent lower in Maine. Can you demonstrate to me, I am genuinely curious about this, can you demonstrate specifically

to me that that is simply and directly because of the law that was passed in Maine and not other factors of which there are many, such as it is my understanding that all of the medical providers in Maine are participating in that, whereas, here in New Hampshire, there are certain groups of medical practitioners who have their own practice. Some of the best in the state are buying into their own source of insurance and doesn't that affect it? I am really curious. If you can find a direct causal connection.

SENATOR GALLUS: There all kinds of things, of course, that actually end up affecting insurance rates. This has been in place in Maine for 20 years. It appears to be contributing to the lower rates. We have looked at various other things, for instance, with Senate Bill 110. We have looked for lower rates and it hasn't happened. But in this particular case, we have a 20 year history in the state of Maine as this being part of the package, and it appears to work.

SENATOR COHEN: I have yet to see a direct casual connection there. I mean I cannot help but suspect...but it appears to be is not direct enough to satisfy my questions.

SENATOR GALLUS: It has to enter into the mix.

SENATOR COHEN: Well, I have heard from other people in Maine that there isn't necessarily a connection here. That it has caused a lot of difficulties for average citizens who have had concerns who feel a significant chilling effect in their ability to go for legal recourse. So I remain concerned about that. I will talk about that later.

SENATOR GALLUS: Well, let's hope that this is a starting point. If we can look into some of those other things that are happening in Maine, it is something maybe that we should be doing.

SENATOR COHEN: I think that we all want to keep our rates down for the doctors and keep our doctors here.

SENATOR GALLUS: Absolutely.

SENATOR COHEN: I am really concerned about some of the fear campaign that has been brought into this thing. I have a lot of questions about this.

SENATOR GALLUS: I don't think it is necessarily a fear campaign. I think that what you are looking at is you have seen the out migration of the docs, especially from the north country. And from what I hear in the seacoast, you have some problems too. So I think that we really have to concentrate on keeping doctors and having a liability climate in New Hampshire that helps these people stay in practice. You wouldn't operate a business on a day to day basis with that kind of liability hanging over you.

SENATOR COHEN: Would you believe that I am certainly supportive, very much supportive, of keeping the good doctors in the area. One of the things that makes the seacoast so valuable is our quality of medical care. No question about that. I just want to find, if you will, the right medicine that is going to actually address the question. I have some continuing questions, but I am sure that this discussion will go on for quite some time.

SENATOR ESTABROOK: Thank you, Mr. President. I just wanted to add to the comments here today that I feel that there is some urgency to moving this legislation forward. In addition to the fact that, as Senator Gallus mentioned, in the North country we have already lost the only practicing obstetrician. In the seacoast area I met with a group of about

a dozen obstetrician-gynecologists and heard about how they have already had to cut back their practice. How they have already had to stop doing certain surgical procedures. I see this bill as really necessary to maintaining the availability of healthcare services for women. So I hope that you will act favorably upon it for that reason too.

A roll call was requested.

The roll call was withdrawn.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

SENATOR CLEGG: Thank you, Mr. President. I rise in support of the bill, but I rise also with some caution. People think that this is going to be an instant reduction in rates. In the testimony that we heard from Maine Mutuel said it will take between 2 and 5 years. So I don't want people to think that tomorrow after the Governor signs the bill, or the day after the Governor signs the bill, that rates are instantly going to go down because that is not happening. I would also like to point out why the doctors have a hard time paying their medical malpractice rates. Doctor Miller, who was a neurosurgeon in the state, spoke to us on a couple of issues this year on malpractice. What he says is there has been an exorable decline since I started practicing neurosurgery in New Hampshire in the mid 1980's from, originally, maybe the insurance companies were reimbursing us ninety or eighty five cents on the dollar, it is now down to forty-eight cents on the dollar and is going down yet further. Every year we make sacrificial concessions to the health care payers in order to get paid at all. I say that in light of the fact that a CEO from Anthem received a \$42 million merit check. That \$42 million, had it been spread across the doctors in the state of New Hampshire, not only would have helped them pay their malpractice insurance, but also would have maybe kept some of them in the North Country just a little bit longer. So again, while I agree that we need to do this, I also think that we need to take a good look at how health insurance costs have risen on our side and been handed off in profit at the expense of the doctors a second time. Thank you, Mr. President.

SENATOR GATSAS: Thank you, Mr. President. Senator Clegg, would you agree then, that we should find a piece of legislation that is in the possession of the Senate, to include that 25 percent cap that we included to make sure that health insurance rates do not escalate as they have?

SENATOR CLEGG: When you can grant a CEO a \$42 million merit paycheck, I would have to agree that rates are far too high.

SENATOR GATSAS: Thank you, Senator.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I speak in opposition to the bill. If I could be assured that insurance premiums would go down because of the passage of legislation, I would certainly support that piece of legislation. But I think about the victims on the other side who, by virtue of this legislation, really never get heard from. As a person who runs for public office with the desire to protect the public, I feel it incumbent upon me to get up here and to talk about the public. That little guy, that little person, that individual who suffers and who in the long run is the big loser. Senator Clegg just alluded to the fact that an executive reached an enormous amount of money as a bonus. We have seen these enormous amounts of money taking place right across the spectrum. The chosen few come out on top. That little person, that per-

son who pays that health premium gets nothing. I have great empathy for Senator Gallus. I lived in the North Country. I recognize the fact that medical care is absolutely essential. I was on the council when we put the bond issue together for the Androscoggin Hospital. I went to the opening of that hospital. It was a quantum leap forward for the North Country. It really was. To provide a facility that could service the people of the North Country and do it in an efficient and effective manner. The fact that doctors are leaving, I think, is certainly problematic. On the other hand, that person who is affected has to be thought of. Because that person sometimes loses and loses dramatically. I don't think we can forget that person, because that person has to be protected. We are the only ones that can protect that person. We, the public officials. So we can't forget that. There is a tendency to bash one side or the other. To bash the lawyers who represent these people. But in essence, those people have only received what a jury of their peers believes they should receive. I think that we have seen the pendulum swing from one side to the other. But we can't forget those people because those people are our people. Thank you, Mr. President.

SENATOR FOSTER: Thank you, Mr. President. I rise in opposition to the bill. I was prepared to support the committee amendment. We really didn't talk about the differences between the committee amendment and the Gallus amendment. There are a lot of them. But the one that was important to me was the makeup of the panel. The committee amendment had three judges and/or arbitrators sitting on the panel. That was important to me because this whole process that we are doing, to some extent, turns the jury system on its head. Our constitution mandates the right to a jury trial and it refers to the jury trial right as being sacred. Pretty strong words. What the amendment that the Senate has just adopted has is an attorney, it doesn't say what kind of an attorney, but there is sort of a suggestion that maybe it is a trial lawyer or somebody who is involved in these cases, a health care practitioner and I believe a judge. In a much, maybe less, important kind of an environment, imagine you had a claim on your automobile. It was a lemon. You had to go before a panel, and at least one of the panel members was a member of the same company that manufactured your automobile. You might have some question about whether you are getting a fair shake. I am sure any health care practitioner is going to serve on these panels, and they are voluntary, are going to go there pure of mind and heart and try to do the right thing. They probably will most of the time, but there is still that question, I think, if you put yourself in the shoes of the plaintiff who believes that they have a claim and have been injured, wondering, am I going to get a fair shake out of this panel because there is somebody on there from the industry or, in this case, the medical profession that I am bringing a claim against. It just troubled me too much, that is why I, from the beginning, have felt that it is important to have three judges. Three people who are professional fact finders, who have no axe to grind. They are not a trial lawyer, they are not a doctor, they are just people who are in the profession and are independent. I would even promote it from time to time to have a medical consultant to the panel so that they would have that expertise available to them. The Senate has decided to go a different way, so I am going to have to go a different way, because the impartiality of that panel, I think, is important, particularly when we are tampering with the jury system. Thank you, Mr. President.

SENATOR COHEN: Thank you very much, Mr. President. Not that it makes any particular difference, but I assure you that I have lost sleep

over this issue. I am sure that we all lose sleep over a number of different issues. But this is one that affects us all very greatly. We have great medical care in the seacoast and throughout New Hampshire and I am absolutely sincerely concerned that we may lose doctors here. I am concerned about what the insurance companies are doing. You know, the Peterson amendment looks at the core issue. The Gallus amendment does not. As I have told doctors who have called me in support of this issue and emailed me, I am not against the idea of screening panels. I don't think that anybody should be. But the question is on the details. Who is on the screening panel? And, are we going to look at the core problem, which is what the insurance companies are doing. If we are passing something here and ignoring what the insurance companies are doing, then we're not doing anything. Then we are also being manipulated by the insurance companies. We have to open up the books and look at what they are doing. If we are not doing that, we are abdicating our responsibility to both the doctors and the patients. I don't know if any of you saw this article from April 8, Anthem to give CEO \$42.5 million merit award. Anthem exceeded the key goal established of 15 percent growth in the company's net income in each of the three years. As it turned out, their profits grew an average of 41 percent a year during the three year period. We need to look at the core issue here. Attack the real problem, whatever they are doing there. To have the doctors and lawyers pitted against one another is ignoring what is going on here. The insurance companies are making out very well. I have yet to see proof. If I saw convincing proof that there was a direct causal connection between passage of this in Maine and a 40 percent drop, yeah, I would probably go for it. I have not seen any proof of that. What I have seen from people in Maine, is that the little guy is getting frozen out because they have to have double trials, they have to pay for two sets of trials. That is very definitely a chilling affect and I have a real, real hard time with that. The cases worked up before the screening panel, just as if it were going to trial, and the panel process in Maine has created essentially, a two-trial system with double the expense, double the time delay and double the effort for both parties. You know, I think that we really, really have to be careful here. If we are not looking at the core issue, I don't think that we are getting to the problem here. There has been a lot of emotion on both sides of this issue. If we have a screening panel that is going to include looking at the core issues and opening up the books, yes, I think that is something that we can move forward with. I think that a lot of people here recognize that should the Gallus amendment pass, the House is probably not going to accept it. I don't know where the votes are on this thing, but I think that it is a difficult issue and we have to look and see what is really going to bring the rates down. Can we be convinced that this is actually going to bring the rates down? I don't see the evidence of that. So, I think that the Peterson amendment is something that is taking a real look at this and is opening up to things that we ought to look at. But this other amendment, I believe, goes too far and is not necessarily going to help keep our doctors in this area. Thank you, Mr. President.

SENATOR PRESCOTT: Thank you, Mr. President. Senator Foster, I wanted to ask you if you have read the amendment? On page two, line 19, it says that "The Chief Justice of the Superior Court maintain a list of retired judges with judicial experience and they will select them as a chairperson." Then on page three, lines 28-30, "the panel member

other than the chairperson is challenged for cause." They can remove that person or even the chairperson can be challenged for cause. This is not too far away from the panel makeup of the Peterson amendment, and I wanted to get your comments on that.

SENATOR FOSTER: I guess I am not sure I see the point you are raising. Yes, I think somebody can be challenged for a cause, but unless I am reading the amendment wrong, and if I am, I would like to be corrected, I thought there was supposed to be a health care practitioner and an attorney on the panel. If there is a reason for challenging somebody for cause, I would assume that the health care practitioner would be replaced with another health care practitioner or a lawyer would be replaced with a lawyer. My concern is I wanted three independent professional fact finders, making this very important determination to the claim, not people who come with a particular, either expertise or bias. Clearly the health care practitioners come with an expertise. I am not denying that. I just want to have somebody coming into a room, looking at three people, probably sitting there in robes, who they feel are going to give them a real fair shake as their case is presented and no question about that.

SENATOR COHEN: Thank you, Mr. President. Senator Foster, it has been argued by the proponents of this particular amendment that one of the cost drivers of malpractice insurance premiums has been outsized verdicts and legal fees. Outsized verdicts, do we have punitive damages here in New Hampshire, as a lawyer?

SENATOR FOSTER: New Hampshire doesn't permit punitive damages. I think we have what we call an enhanced compensatory damages which is something somewhat different than punitive damages.

SENATOR COHEN: With your legal knowledge of the legal system and the legal practice in the state of New Hampshire, is there a problem of outsized verdicts and over-compensation? Is there a problem with the jury system right now that needs to be fixed?

SENATOR FOSTER: I don't see that there is a problem. There is clearly a problem with malpractice premium rates. I am not at all convinced that they are related to verdicts or settlements. I think there may be other drivers in the system that is driving up the premium rates. Maine has had some lower rates, people are attributing it to this process. I think that there are a lot of other explanations why Maine's rates might be lower apart from this. As I said, I was prepared to try this to see whether it would work, but only with a panel that I was comfortable with.

SENATOR COHEN: Thank you.

SENATOR FLANDERS: Thank you, Mr. President and members of the Senate. I want to just very briefly speak on this issue. It doesn't make any difference what we do to help the doctors or to help the attorneys or whatever. We have to get to the insurance companies. These are the ones that are paying out the money, therefore collecting the premium. We have to realize that premiums are set by departments. Their books are looked at and based upon what they paid out is what they can collect on a premium. So what we are trying to do and what we have to do here is to say, okay, there is no way that we can lower payouts so the companies won't raise fees. I will guarantee you that if we don't do something that they are going to go up. I can guarantee that. Senator D'Allesandro brings up a very interesting point and I agree with him. If you cross the street and come down the other side, how about the people who are looking for treat-

ment? There are two different sides to this street. There is a way that if someone gets injured, Senator D'Allesandro, that they do have a course to go to. In our automobile cases, our personal injuries cases, we have arbitration that they go through before trial. Nobody is complaining that costs a lot of money. What is this going to cost a lot of money? Serious automobile accidents go to arbitration before they go before a judge. That is no problem in that system, why is there a problem with this system? But remember, we are not talking attorneys, we are not talking doctors, we are trying to get somebody's attention, which is the insurance company, to say that I am going to lower my premiums if I don't pay out as much money. If you think this does that, then you should vote for it. I am going to just say this. It is not a warning, but I think that everybody should know this. I have spoken to Commissioner Sevigny several times in the last week. We have two companies that write malpractice claims of insurance in New Hampshire. If we don't do the right thing, they can walk. If we pass legislation that they don't like, they can ignore it and walk. So let's be careful. Let's make sure that we do it right. I happen to think this is right. Because the same companies are writing in New Hampshire are the same writing in Maine. So there must be some connection of why they can do 35 percent less premium in Maine than they do in New Hampshire. I am not sure we are looking for a reduction in premiums. I think the doctors would be very happy to keep the premiums where they are. I would think that the trial attorneys would be very happy to take on the same amount of money they are. That can happen. I ask you to look at this and remember that we are not talking about doctors and we are not talking attorneys. We are talking insurance companies. We have to convince the insurance companies that they are going to lower those premiums to keep these doctors. It is not only the fact that somebody has the right to have a claim, because they always have a right to have a claim. But also, we should have a right to see a doctor and have treatment available and we need this type of protection to have that to continue.

SENATOR COHEN: Thank you, Mr. President. Senator Flanders, you know, I think what we are talking about here is getting the right medicine. We got a problem here. No question about it. We all, I think, want to help keep our constituents rates down and keep good doctors here. You said that if we don't do something, rates are going to go up. You know, I think that I have heard that before with regard to Senate Bill 110. You know, that was "We have to do something." But you know what happened with Senate Bill 110? Rates went up a lot, for a lot of people. We have to chose the right medicine. Are you convinced, as you were I believe with Senate Bill 110, that this indeed is the right medicine?

SENATOR FLANDERS: I want to answer your question because you brought it up. You are comparing bananas and apples. Anthem Blue Cross do not write malpractice insurance. You are talking about what their president is making and so forth. I agree, that is wrong. It has nothing to do with this issue. We have different companies that write different types of insurance.

SENATOR COHEN: I understand.

SENATOR FLANDERS: So therefore, you and I don't agree on 110. I am saying a year from now, you are going to be happy that I voted for 110 because it is going to work. We have companies coming in. We have something like six companies signing up in the next month or two to come in.

It is going to work. I am convinced of it. You have heard Senator Clegg say that they had testimony that if this passes it doesn't work over night. You heard the testimony of the companies, but they said it would work.

SENATOR COHEN: Would you believe that I would support a screening panel that included taking a look at the insurance practices. Without including them, I believe, would you believe, that if we don't look at the insurance practices that we are not going to get to the real problem? I am prepared to be surprised about 110 working. It could happen I suppose. I would be surprised if it did. Thank you.

SENATOR BOYCE: Thank you, Mr. President. Just briefly. Last week the House passed a bill, my bill, Senate Bill 452 which dealt with the expert witness testimony. As this bill, 1413, came from the House, it had language in it about expert witnesses. This amendment removes that language, I am supposing, because the House already passed that. However, the House, I understand, is reconsidering that bill today because 1413 as it came from them, had that language in it. So I just want to make the point that if they do reconsider that and don't pass it today, I would hope that, assuming it goes to Committee of Conference, that that language would be reinserted into this bill because it is important language and it is the Senate position already that we have that go forward. So if that bill dies in the House, I would hope that that language would be amended to this bill in the Committee of Conference and that there wouldn't be any objection to that. So I just wanted to get that out here before that Committee of Conference was taken out.

Question is on the adoption of the bill as amended.

A roll call was requested by Senator Gatsas.

Seconded by Senator Sapareto.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Below, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Estabrook, Morse, Prescott.

The following Senators voted No: Foster, D'Allesandro, Cohen.

Yeas: 19 - Nays: 3

Adopted.

Ordered to third reading.

Senator Larsen rule #42 on HB 1413.

SENATOR PETERSON (Rule #42): Senator Barnes, what do you feel is the price of victory for the Red Sox this year?

SENATOR BARNES: Well I would say a lot of blood, sweat and tears, and a little bit of luck sometimes.

SENATOR PETERSON: Well I would suggest to you, Senator, that the price is now the cost of one schilling.

SENATOR BARNES: Very good. Very good, Senator.

Recess.

Out of recess.

HB 1282, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees. Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Roberge for the committee.

Insurance
April 20, 2004
2004-1279s
01/09

Amendment to HB 1282

Amend the bill by replacing section 3 with the following:

3 Insurance; Orders and Penalty. Amend RSA 417:10 to read as follows:
 417:10 Orders and Penalty.

I. If after hearing or at the expiration of the period set forth in a show cause order issued pursuant to this chapter, any person is found to have violated RSA 417:3, the commissioner may suspend, revoke, or refuse to renew the license of that person. The commissioner, in the commissioner's discretion, in addition to or in lieu of such suspension, revocation, or refusal to renew, may impose upon that person an administrative penalty of not more than \$2,500 for each method of competition, act, or practice found to be in violation of RSA 417:3. The commissioner shall collect the amount so imposed and may bring an action in the name of the state to enforce collection.

II. In lieu of the monetary penalties provided for under paragraph I, the commissioner, after hearing, may order relief for actual economic losses to restore, in whole or in part, any individual consumer, as opposed to a group or class of consumers, in interest to the position that the consumer formerly occupied either by the return of that which the consumer formerly had or by receipt of its equivalent in money. Unless the parties agree, an order of relief under this paragraph shall not exceed \$2,500 for each method of competition, act, or practice found to be in violation of RSA 417:3 and where a pattern of conduct or practice has been established. Relief may be ordered under this paragraph only when the consumer in interest has agreed that such relief shall constitute a waiver of any action for the same cause that might otherwise be filed before an administrative agency or any court. Relief ordered under this paragraph shall not apply to disputes regarding claims or losses.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1282 ought to pass with amendment. This bill authorizes the commissioner of insurance and of banking to order restitution to individuals by unfair or deceptive trade practices of licensees. All interested parties have worked together and are in agreement with this amendment. The amendment allows the commissioner of insurance to order relief for economic loss, after a hearing, to any individual consumer, as opposed to a group or class of consumers. An order of relief should not exceed \$2,500 and should not apply to disputes regarding claims or losses. The Insurance Committee asks for your support as amended. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1335-L, establishing a commission to examine the workers' compensation system in New Hampshire. Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Martel for the committee.

Insurance
April 20, 2004
2004-1277s
05/10

Amendment to HB 1335-LOCAL

Amend paragraph I as inserted by section 2 of the bill by replacing it with the following:

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

(a) Six members of the house of representatives, 2 of whom shall serve as alternates, appointed by the speaker of the house of representatives.

(b) Three members of the senate, one of whom shall serve as an alternate, appointed by the president of the senate.

(c) The commissioner of labor, or designee.

(d) The insurance commissioner, or designee.

(e) A representative of the governor's office, appointed by the governor.

(f) Two attorneys, appointed by the department of labor, one of whom shall have expertise defending workers compensation claims and one of whom shall have expertise representing plaintiffs in workers compensation cases.

(g) A licensed physician, familiar with workers compensation issues, appointed by the New Hampshire Medical Society.

(h) Two representatives of business interests, one of whom shall be appointed by the Business and Industry Association of New Hampshire and one of whom shall be appointed by the New Hampshire chapter of the National Federation of Independent Businesses.

(i) One member of the labor field, appointed by the AFL-CIO.

Amend the bill by replacing section 4 with the following:

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

MOTION TO TABLE

Senator Martel moved to have **HB 1335-L**, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1335-L, establishing a commission to examine the workers' compensation system in New Hampshire.

CACR 5, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule. Internal Affairs Committee. Ought to pass, Vote 2-0. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I move ought to pass on Constitutional Amendment Concurrent Resolution number five. The language in Constitutional Amendment Concurrent Resolution 5 is nearly identical to that which received a 63.7 percent of the vote in the last election. This Constitutional Amendment Concurrent Resolution restores the

proper and intended balance between the legislature and the courts when it comes to the court's rule-making authority. In the event of a difference between the court's rule and a legislatively enacted statute, the statute, as long as it is constitutional, shall prevail over the rule. The Internal Affairs Committee recommends that this resolution be adopted so that it can be placed before the voters again this year. Thank you, Mr. President.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

April 29, 2004

2004-1459s

06/09

Floor Amendment to CACR 5

Amend the resolution by replacing paragraph I with the following:

I. That part II, article 73-a of the constitution be repealed and re-enacted in order to clarify that both the judiciary and the legislature have the authority to regulate court practices and procedures and to resolve potential conflicts that may arise, so that it reads as follows:

[Art.] 73-a. [Court Practices and Procedures.] The chief justice of the supreme court shall be the administrative head of all the courts in the state. The chief justice shall have the power, with the concurrence of a majority of the other supreme court justices, to make rules of general application regulating court administration and the practice, procedure, and admissibility of evidence, in all courts in the state. The legislature shall have a concurrent power to regulate the practice, procedure and admissibility of evidence in the courts by statutes of general application, except that such legislative enactments may not abridge the judiciary's necessary adjudicatory functions. In the event of a conflict between a rule promulgated by the judiciary and a statute enacted by the legislature, the statute, if not otherwise contrary to this constitution shall prevail over the rule.

Amend the resolution by replacing paragraph IV with the following:

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

"Are you in favor of repealing and reenacting part II, article 73-a of the constitution in order to clarify that both the judiciary and legislature have the authority to regulate court practices and procedures and to resolve potential conflicts that may arise so that it reads as follows:

[Art.] 73-a. [Court Practices and Procedures.] The chief justice of the supreme court shall be the administrative head of all the courts in the state. The chief justice shall have the power, with the concurrence of a majority of the other supreme court justices, to make rules of general application regulating court administration and the practice, procedure, and admissibility of evidence, in all courts in the state. The legislature shall have a concurrent power to regulate the practice, procedure, and admissibility of evidence in the courts by statutes of general application, except that such legislative enactments may not abridge the judiciary's necessary adjudicatory functions. In the event of a conflict between a rule promulgated by the judiciary and a statute enacted by the legislature, the statute, if not otherwise contrary to this constitution shall prevail over the rule."

SENATOR LARSEN: Thank you, Mr. President. I rise to suggest that we consider a floor amendment to Constitutional Amendment Concurrent Resolution 5. It was brought out in committee that it is time that what

we need to do is clarify the regulation of the courts so that the amendment states more clearly, what I think should be our oversight. We heard from the administrator of the courts that the judicial branch, and this is a statement which I agree with, is concerned that we are altering our system of government with this bill. Currently, we have oversight. What we need to clarify is that the oversight of the courts is in fact, in procedure admissibility of evidence and practice, but not in the overall administration of the courts. I think everyone understands the need for the separation of powers and that giving one branch of government administrative control over another is just as unfair for us to do to the courts as it would be if the courts would be to take over our administrative features in the legislature. So the amendment that I am asking you to consider and that has been handed out to you, would separate and clarify that the rules of general application regulating court administration and the practice procedure and admissibility of evidence, would be that which with the chief justice would have control. The legislature would have the concurrent power to regulate the practice, procedure and admissibility of evidence in the courts but not, in fact, the administration of the courts. Clearly, if you believe in the separation of powers and the very fundamental issues that that is important that we separate the powers between legislative and the courts. If we put this to the voters, I think that it will, in fact, be a workable and constitutional question. If we accept Constitutional Amendment Concurrent Resolution 5 as drafted, it gives the legislature undue influence and, in fact, it stretches the arm of the legislature into what should be separate powers and that would be that it would put the legislature into the administration of the courts. So you have the question before you in floor amendment 1459 to say, in fact, that the courts do have authority for court administration, but the legislature has the power to regulate practice procedures and admissibility of evidence. This is a question before you in this floor amendment and I would urge you to support 1459. Thank you, Mr. President.

SENATOR BELOW: Thank you, Mr. President. I rise in support of the floor amendment. I think there is an interest in the legislature in trying to get this passed with the general public. It failed last time and it failed I think, in part because it is just hard to get 2/3 vote. But there was also some opposition to this question when it was put on the ballot last time. It was very low key, but people did ask about it. I told people that I opposed it because it did not reflect the issue that Senator Larsen is trying to get at, which is the court should be responsible for its own administration. The concurrent power should be with regard to practice, procedure and admissibility of evidence, except where it impinges on the necessary adjudicatory functions. What this amendment does is, it is virtually the same as the way the committee reported the bill, except at line 8 & 9. Instead of saying the same matters, it repeats the words "practice, procedure and admissibility of evidence" as the legislature's concurrent power. So it separates out the rules regulating court administration and leaves that with the court. I think that if we did this amendment, virtually any and all opposition to this would fall by the wayside and we'd have a much better chance of getting it enacted. I would certainly openly support this, if we adopt the amendment. If we don't, I think that we are going to be in the same situation where it is a difficult to achieve that 2/3. This amendment would help with that, and it helps avoid an unnecessary confrontation down the road as to whether their own internal administration is part of their inherent powers and whether this is clear or not. Thank you, Mr. President.

Question is on the adoption of the floor amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Barnes.

The following Senators voted Yes: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

Yeas: 6 - Nays: 17

Floor amendment failed.

Question is on the committee report of ought to pass.

A 3/5 vote is necessary.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

The following Senators voted No: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 18 - Nays: 6

Adopted.

Ordered to third reading.

HB 1422, relative to qualifications for persons who negotiate on behalf of the state. Internal Affairs Committee. Ought to pass with amendment, Vote 2-0. Senator Boyce for the committee.

Internal Affairs

April 14, 2004

2004-1212s

05/10

Amendment to HB 1422

Amend RSA 273-A:9, III-a as inserted by section 1 of the bill by replacing it with the following:

III-a. No person who is appointed to serve as a state negotiator or as a member of the state negotiating team or any person who serves as a member of the employee bargaining committee shall use his or her position to obtain anything of value for the private benefit of such person or the person's immediate family. Nothing in this section shall prevent an employee or taxpayer from serving on a negotiating team or bargaining committee.

SENATOR BOYCE: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1422. The legislation clarifies that persons negotiating on the behalf of the state are to place the state's interests above all others and that they are not negotiating on behalf of any private interests they may have. The Committee amendment further clarifies that no state negotiator or member of a negotiating or bargaining team shall use their position to obtain anything of value for their private benefit or for the benefit of their family members. The Internal Affairs Committee recommends that this legislation be adopted as amended and asks for your support. Thank you, Mr. President.

SENATOR LARSEN: Thank you, Mr. President. I rise to express concern about the committee amendment and I expressed this in the committee and would repeat it to you today. I hope through clarification, this amendment maybe, we can better understand it. The amendment presents a curious dilemma which is that it says no person who is appointed to service as state negotiator, shall use his or her position to obtain anything of value for their private benefit of a person, of such person or persons immediate family. The question really is, how do you as say a state employee, go to be a negotiator on the state employee contracts and not have some benefit result as you negotiate a state employee contract and your immediate family or you, of course, are part of the contract negotiations and the contracted benefits. While the second sentence would appear to try to clarify this, I would hope that we would have an understanding if we are going to pass this that the second sentence is intended to do what is really written more clearly in our own ethics guidelines. The intent would be that there would be no benefit reasonably expected to accrue to the employee to any greater extent than any other member of such occupation or a group. If that is the intent of this amendment, then perhaps it is a reasonable amendment. I have concerns that it is not in fact written clearly enough to accomplish what is the intent. The second sentence of the amendment on page ten says, "Nothing in this section shall prevent an employer taxpayer from serving on a negotiating team or bargaining committee." Perhaps that sentence was meant to include this concept, but I think that we ought to be as clear as possible that we understand that if you are a state employee and you are part of a state negotiating team, obviously when that contract is negotiated, you will see some private benefit to your negotiated contract and your immediate family will as well. So if we are all going to agree that the intent of the second sentence is to mean that there will be no benefit that would accrue to the negotiator to any extent greater than any other member of such profession or group, then perhaps we can pass this amendment. But I do think it is important that we have legislative intent. So if you are going to vote to approve of this amendment, I hope you will agree that that is the intent that is meant to say that there is no greater accrual of benefit, to any greater extent than any other member of that negotiating team. If that is how you are going to pass this kind of vague language and that is our intent, then I hope that we will all agree in passing it, if that is our intent.

SENATOR CLEGG: Thank you, Mr. President. I rise in support of the amendment. I think the amendment is very clear. It says "private benefit of such person or persons immediate family." I don't think anyone who is negotiating on behalf of the taxpayers or anybody who is negotiating on behalf of a union, even if they are a member of the union or they are a taxpayer, doing it for private benefit. The private benefit, in my opinion, is when you cut a deal that says, I will do this if you elevate my sister to a higher position. Or I will do this if you let me use your ski lodge next week. I think that is the intent of the bill that no one can be bought off or paid off, but everybody has a benefit in negotiations. You are either a taxpayer or you are a union member. I don't think that this puts that in question. I think it says succinctly, private benefit, which means, you personally, and only you, or you personally or your families personal benefit, in that nothing shall prevent a taxpayer or an employee from serving on the negotiations team. Thank you, Mr. President.

SENATOR BELOW: Thank you, Senator Clegg, for clarifying that. Just to be crystal clear, would you say that it is reasonable to say that if some-

body is negotiating for a benefit that inures to the bargaining unit as a whole or if you are a taxpayer to the taxpayers as a whole, that that is not a private benefit. What you are looking for is something that is above and beyond that, if you will, but something that inures to the bargaining unit as a whole is not a private matter?

SENATOR CLEGG: I think that if you negotiate that everybody in the bargaining unit gets a dollar raise, I don't think there is any private benefit there. I think it is a benefit on the whole.

SENATOR BELOW: Fair enough. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I think that Senator Clegg's representation clarifies the point and is on the public record. So the public record clearly indicates that an employee who is negotiating in good faith, and certainly the benefits that accrue to the entire body that he is negotiating for, will accrue to himself, clearly is not gaining something that is for that individual specifically. As a result of that, clearly the legislative history would indicate that they are bargaining in good faith, they are not receiving anything and as a result, aren't violating the law. I think that is critically important that the testimony at this hearing, and that is taking place in this session, becomes part of that record and that is why our record is so important and is looked upon in cases as the true legislative reference to what was the intent of that law. So given that statement, I think clearly, the state employee is covered and is not in violation. Thank you, Mr. President.

SENATOR CLEGG: Thank you, Mr. President. I would just like to clarify that all the benefits that we just spoke of for the employee are also the same benefits that go to the other side of the table, and that this bill is meant to stop anyone who thinks they can sell or buy for personal use, anything in that negotiations.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1224, establishing the Uniform Trust Code in New Hampshire. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

Senate Judiciary

April 21, 2004

2004-1340s

09/01

Amendment to HB 1224

Amend RSA 564-B:3-301 as inserted by section 1 of the bill by replacing it with the following:

564-B:3-301 Representation; Basic Effect.

(a) Notice to a person who may represent and bind another person under this article has the same effect as if notice were given directly to the other person.

(b) The consent of a person who may represent and bind another person under this article is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(c) Except as otherwise provided in RSA 564-B:6-602, a person who under this article may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

(d) During the lifetime of the settlor, the provisions of this article shall not apply and prior law shall continue to apply in connection with a modification or termination of a trust.

Amend RSA 564-B:4-411 as inserted by section 1 of the bill by replacing it with the following:

(a) A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(b) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(c) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the beneficiaries.

(d) If not all of the beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

(1) if all of the beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) the interests of a beneficiary who does not consent will be adequately protected.

Amend RSA 564-B:4-412(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Upon petition by the trustee or trustees, the director of charitable trusts or an interested party other than the settlor, the court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

Amend RSA 564-B:4-413(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) upon petition by the trustee or trustees, the director of charitable trusts or an interested party other than the settlor, the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, to a charitable purpose which is useful to the community and which fulfills as nearly as possible the general charitable intent of the settlor.

SENATOR FOSTER: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1224. This legislation is the result of months of work by attorney practitioners, bankers, and the probate court regarding trust law in New Hampshire. The committee used the Uniform Act as the basis and tailored sections to compliment New Hampshire law, especially in areas concerning Charitable Trusts. The adoption of this act will make New Hampshire more user friendly for practitioners, which in turn may attract certain persons to establish and maintain residency in New Hampshire. The Uniform Act also works to make trusts more consistent from state to state. The committee amendment deals with a recent

development dealing with federal tax law. The Judiciary Committee recommends that this legislation be adopted and asks your support. Thank you, Mr. President.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Cohen, having voted with the prevailing side, moved reconsideration of **HB 1422**, relative to qualifications for persons who negotiate on behalf of the state, whereby we ordered it to third reading.

Recess.

Out of recess.

Motion failed.

HB 1367, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Sapareto for the committee.

Senate Judiciary

April 22, 2004

2004-1359s

04/10

Amendment to HB 1367

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

AN ACT permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings; relative to simple assault; relative to requiring written notification concerning certain offenders against children; and relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses.

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

1 New Paragraph; Sexual Assault; Testimony and Evidence. Amend RSA 632-A:6 by inserting after paragraph IV the following new paragraph:

V. At the request of a sexual assault victim who is 16 years of age or younger, the court shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

2 Simple Assault. Amend the introductory paragraph to RSA 631:2-a, I, and RSA 631:2-a, I(a) to read as follows:

I. A person is guilty of simple assault if he *or she*:

(a) Purposely or knowingly causes bodily injury *to another*; or *purposely or knowingly causes* unprivileged physical contact to another *after being warned by such person not to cause such contact*; or

3 New Subparagraph; Registration of Criminal Offenders; Availability of Information. Amend RSA 651-B:7, IV by inserting after subparagraph (b) the following new subparagraph:

(c) A municipality may adopt an ordinance which requires that the neighbor of any person whose name appears on the list compiled under

this section, and who has been released into the municipality, be notified of such person's release. The local governing body shall establish the definition of "neighbor" that is best suited to the particular municipality.

4 Involuntary Admission for Persons Found Not Competent to Stand Trial. Amend RSA 171-B:4 and RSA 171-B:5 to read as follows:

171-B:4 Petition. The petition for admission on an involuntary basis shall include:

I. The name of the person sought to be admitted and such person's last known address.

II. The specific facts that the petitioner alleges satisfy RSA 171-B:2, ***I - IV. Satisfaction of these 4 criteria shall create a presumption that the person sought to be admitted poses a potentially serious likelihood of danger to others and therefore satisfies RSA 171-B:2, IV.***

III. ~~[A certificate from a physician, psychiatrist, or psychologist who shall have experience and training in mental retardation, who has examined the person and reviewed the condition or behavior of the person sought to be admitted within 10 days of the date the petition is filed and who agrees that, based on this examination, such person satisfies RSA 171-B:2, IV and V.~~

IV.] The names and addresses of witnesses who can testify to the specific acts, conditions, or behaviors of the person sought to be admitted which the petitioner alleges will satisfy the requirements of RSA 171-B:2.

IV. The name and address of the victim of the person's alleged felonious conduct. If the victim was a minor, the petition shall include the name and address of the victim's parent or guardian.

171-B:5 Hearing Date. The probate court judge of original jurisdiction shall, upon receipt of the petition, set a hearing date. The hearing shall be held within 20 days, excluding Saturdays, Sundays, and legal holidays, from the date of receipt of the petition. ***The court shall provide notice of the hearing date to the victims identified in the petition.***

5 Involuntary Admission for Persons Found Not Competent to Stand Trial. Amend RSA 171-B:7, II to read as follows:

II. Whether involuntary admission ***into the state developmental services delivery system*** is necessary; and

6 Involuntary Admission for Persons Found Not Competent to Stand Trial. Amend RSA 171-B:12 to read as follows:

171-B:12 Order of Court.

I. If, after the hearing, the court finds by clear and convincing evidence that the person meets the standard set forth in RSA 171-B:2, the court shall order the person to submit to:

[H:](a) Treatment and services in a receiving facility within the state developmental services delivery system;

[H:](b) Treatment and services within the state developmental services delivery system other than in-patient treatment; or

[H:](c) Treatment and services in the secure psychiatric unit if the court determines that the programs and placements enumerated in paragraph I or II do not provide sufficient security and protection to the public.

II. The court shall provide a copy of the order to the victims identified in the petition.

7 Effective Date. This act shall take effect January 1, 2005.

2004-1359s

AMENDED ANALYSIS

This bill:

I. Provides that the court, at the request of a sexual assault victim who is 16 years of age or younger, shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

II. Provides that an actor who purposely or knowingly ignores another person's warning not to engage in physical contact with such person shall be guilty of simple assault.

III. Provides that a municipality may adopt an ordinance which requires that the neighbor of any person whose name appears on the list of registered criminal offenders, and who has been released into the municipality, be notified of such person's release.

IV. Makes various changes to the petition and hearing procedures for involuntary commitment.

SENATOR SAPARETO: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1367. The bill permits parents or legal guardians of children who are victims of sexual assault to remain with their children during the legal proceedings. Unfortunately, some prosecutors will subpoena the parents in order to keep them from being with their children during the trial. This is not right and should not be allowed. The committee amendment merely reaffirms the Senate positions on three bills that have been held up in the House. The Judiciary Committee recommends that this legislation be adopted with amendment and asks your support. Thank you, Mr. President.

SENATOR BELOW: Yes, I would like to move to divide the question such that we vote on sections 1 & 3, separate from sections 2, 4, 5 & 6.

Senator Below moved to divide the question.

The Chair announced that if there were no objections it would be divisible.

There were no objections.

SENATOR O'HEARN: Mr. President, just to clarify this one further, why don't we make it one, three and seven since we will all agree with the effective date, so we don't lose that this year.

The question is on adoption of sections one, three and seven.

Adopted.

The question is on the adoption of sections two, four, five and six.

SENATOR ESTABROOK: Thank you, Mr. President. I rise in opposition to sections four, five and six, which deal with the subject matter that had been contained in Senate Bill 339, which moved over to the House and was ruled inexpedient to legislate there. When Senate Bill 339 was on the Senate floor, I distinctly remember that that was the first time that I had seen it not being on the committee that it went through, and I raised concerns then which continued, regarding its purpose in changing the process by which someone who is developmentally disabled would be involuntarily committed. At the time, the disabilities community was totally unaware of the existence of Senate Bill 339. Did not speak to it at that time. When they did, upon arrival in the House, the Attorney General's office sought to amend the bill in response to concerns that it was unconstitutional. The problem with the language, which is now contained in House Bill 1367 was that it created a presumption of dangerousness. The

bill would allow someone to be committed without a court actually finding by clear and convincing evidence that the person was dangerous to themselves or others. That is explicitly required by a U.S. Supreme Court case decided in 1979. Also while the House considered Senate Bill 339, the Division of Developmental Services of HHS, our own department, raised concerns about the bill because it would allow persons to be committed without any input by the division, which is responsible for providing services to the developmentally disabled in New Hampshire. Current state statute requires a certificate from a physician, psychiatrist or psychologist who shall have experience in training in mental retardation, to examine the person and find that such person has mental retardation and poses a potentially serious likelihood of danger to others. That present system seems to be working well. I see no reason to further abridge the rights of the developmentally disabled. I hope that you will oppose sections four, five and six. Thank you, Mr. President.

SENATOR PETERSON: Thank you, Mr. President. This bill, which was noticed in the calendar and which we heard in its originally drafted form before the Senate Judiciary Committee was discussed somewhat on the floor of the Senate, but passed by a strong vote from this body. I think the issues contained within it are ones which merit further consideration in a Committee of Conference along with the other issues involved here. The bill was drawn with the help of the Attorney General's Office because they are sensitive to a concern that there is a loophole in our laws which has been borne out by the experience of at least one constituent of mine and I understand others in the state. This is born of a situation where a person who was found incompetent to stand trial, was a person who had confessed to felonious sexual assault in the case of two of her children and yet still lived down the street without any requirement for treatment or for commitment to an institution. This person never came before a judge to consider the actual facts of the case of whether or not the person was an appropriate party for involuntary commitment. The Attorney General's Office in response to some of the concerns that were brought up by the Health and Human Services Department prepared an amendment before the House, which at least Ann Rice believed had satisfied the department. But those that represent the mentally ill, continue to object to the bill and killed it at the House level. I believe that we need to look at this issue and decide whether or not there is language that can be crafted that will, while taking into account, the constitutional concerns, still have a balancing accounting for victims rights in our state and not grant special rights to offend, to a certain class of people. That is the concern that is in this bill. It is a serious concern. I ask the Senate to move it on to Conference with the House so that we can have a serious discussion about that concern. Thank you, Mr. President.

The question is on the adoption of sections two, four, five and six.

A roll call was requested by Senator Estabrook.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Foster, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

The following Senators voted No: Below, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 17 - Nays: 5

Adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

Senator Boyce is excused.

HB 1394, relative to de novo appeals in certain criminal proceedings. Judiciary Committee. Inexpedient to legislate, Vote 5-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move inexpedient to legislate on House Bill 1394. This bill sought to have the Attorney General's Office establish guidelines in order for a case to be brought in Superior Court. This would have been a dramatic switch of power from the legislative branch to the executive branch by taking away the legislature's authority to define court responsibilities. The bill sought to fix a problem where none exists. The Senate Judiciary Committee recommends that this legislation be killed and asks for your support. Thank you, Mr. President.

Committee report of inexpedient to legislate is adopted.

HB 493, relative to the municipal budget act. Public Affairs Committee. Ought to pass, Vote 4-0. Senator Morse for the committee.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 493 ought to pass. This bill includes a warrant article as a purpose for which appropriations may be changed or transferred. The purpose of this bill is to clarify that when a municipality puts a warrant article before the voters, the voters' decision holds. Our committee heard testimony of towns putting warrant articles on their ballots, asking voters to make specific decisions regarding the allocation of funds. In some cases when the voters said no to the proposal, the local governing bodies went ahead with it anyway. The towns were able to find money from somewhere else in their budget and to use it to do what the voters had specifically said no to. This deceitful process is alienating voters across the state. Please join the Public Affairs Committee in voting House Bill 493 ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1172-L, relative to compensation of county convention members for county business. Public Affairs Committee. Inexpedient to legislate, Vote 3-1. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1172-Local inexpedient to legislate. This bill would allow County Convention members to receive compensation for attending to, discharging, or participating in county business, as approved by the County Chair. Due to the fact that the bill's true fiscal impact has not been determined, our committee felt that passage of this bill is inappropriate and irresponsible. This issue can be reviewed at another time if its fiscal impact can be more clearly defined. Please join the Public Affairs Committee in voting House Bill 1172 inexpedient to legislate. Thank you, Mr. President.

Committee report of inexpedient to legislate is adopted.

HB 1263, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program. Public Affairs Committee. Inexpedient to legislate, Vote 4-0. Senator Green for the committee.

SENATOR GREEN: Thank you, Mr. President. I move that House Bill 1263 be inexpedient to legislate. This bill establishes a study committee to review the feasibility of creating a trust fund to support a state program for family and temporary disability leave. While this bill has commendable goals, our state's current fiscal situation is at a point that we cannot afford to implement any new programs that would further decrease the state's general fund. The Public Affairs Committee recommends House Bill 1263 inexpedient to legislate. Thank you, Mr. President.

SENATOR LARSEN: Thank you, Mr. President. I rise to simply oppose the inexpedient to legislate motion. Creating a study committee costs our state no money but there certainly is a need to study how we are supporting our families as they deal with the difficult issues that come before them in terms of temporary disability leave and other issues of working families. The idea that we are not even going to look at family leave act is one in which says to families across the state that we are not sensitive to the kinds of problems that families face as they have ill members in their family or parental duties that might cause them to be out of work for a set time. So I wanted to voice my opposition to the inexpedient to legislate. I think this is, in fact, something which we should study. I think it is something which is good for New Hampshire's families to discuss.

Committee report of inexpedient to legislate is adopted.

HB 1302, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces. Public Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Barnes for the committee.

Public Affairs

April 21, 2004

2004-1332s

06/09

Amendment to HB 1302

Amend RSA 540:11-a, II as inserted by section 1 of the bill by replacing it with the following:

II. The lessee or tenant shall give notice of termination within 7 days of receipt of notice of being called to active duty or being reassigned out of the state.

III. The lessee or tenant shall terminate the lease or rental agreement by a written notice in accordance with the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C., section 534.

2004-1332s

AMENDED ANALYSIS

This bill allows a member of the armed services reserve or national guard, who is called to active duty, or a member of the military on active duty who is transferred to another state, to terminate a real estate lease or rental agreement.

SENATOR BARNES: Thank you, Mr. President. As I read this blurb, you might like to look at the amendment that I am going to ask for in a floor amendment after I give the blurb. It is just a technical correction that was picked up before the bill got to the floor. I move House Bill 1302 ought to pass with amendment. This bill replicates a provision in the Soldiers' and Sailors' Civil Relief Act of 1940. It allows service members that have been called to active duty or reassigned out of state to terminate their real estate rental or lease agreement by written notice. Service members will be required to present their landlord with a notice

of termination within seven days of receiving notification that they are being called to service. House Bill 1302 is good state policy and will protect the interests of the brave men and women in our armed services, National Guard and armed services reserve. Please join the Public Affairs Committee in voting House Bill 1302 ought to pass with amendment. I hope that you can also vote for the correction. The amendment that you have on the table when the time comes for that. Thank you, Mr. President.

Amendment adopted.

Senator Barnes offered a floor amendment.

Sen. Barnes, Dist. 17

April 28, 2004

2004-1425s

06/01

Floor Amendment to HB 1302

Amend RSA 540:11-a, III as inserted by section 1 of the bill by replacing it with the following:

III. The lessee or tenant shall terminate the lease or rental agreement by a written notice in accordance with the Service members Civil Relief Act, Public Law 108-189, Section 305.

SENATOR BARNES: Thank you, Mr. President. It is nothing but a technical correction that was picked up. A mistake that was made in drafting the bill.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

SENATOR KENNEY: Thank you, Mr. President. I just wanted to do some clarification. In the floor amendment, it is in accordance with the service members' civil relief act which, in my understanding, was signed into law by President Bush in December 19, 2003 and it has been many years since a solider and sailors civil relief act has been updated. In the goals of this new act is really to make the act easier to read, understand by clarifying the language and putting it into modern legislative drafting form, to incorporate into the act many years of judicial interpretation, and to update the act to take into account generally accepted practice under its provisions and new developments in American life not envisioned by the original drafters. I would just like to thank legal counsel Rick Lehmann for alerting me of this new change and this new act. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1376, relative to agency fees assessed pursuant to public employer collective bargaining agreements. Public Affairs Committee. Ought to pass, Vote 4-0. Senator Roberge for the committee.

MOTION TO TABLE

Senator Roberge moved to have **HB 1376**, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1376, relative to agency fees assessed pursuant to public employer collective bargaining agreements.

HB 1401-FN, limiting the use of traffic signal preemption devices. Transportation Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

Senate Transportation
April 14, 2004
2004-1211s
04/10

Amendment to HB 1401-FN

Amend RSA 265:15, II (c) as inserted by section 1 of the bill by replacing it with the following:

(c) This paragraph shall not apply to:

(1) Federal, state, or local law enforcement personnel while in the course of their official duties.

(2) Firefighters while in the course of their official duties.

(3) Emergency medical services personnel while in the course of their official duties.

(4) State or municipal department of transportation or highway personnel while in the course of their official duties.

(d) The exemptions set forth in subparagraphs (c)(1)-(c)(4) shall only apply to such personnel when they are operating licensed ambulances, licensed fire apparatus, or government-owned vehicles.

SENATOR KENNEY: Thank you, Mr. President. I move House Bill 1401-FN ought to pass with amendment. This bill makes it a violation under the Motor Vehicle Code for any unauthorized persons to use or attempt to use any on board traffic signal preemption device. These devices are designed to assist emergency personnel in faster response times by allowing them to pass through intersections safely and unimpeded. Under the bill, federal, state, county, and local law enforcement personnel, firefighters, emergency medical service personnel, and state or municipal department of transportation or highway personnel working in an official capacity will be exempt from its provisions. Please join the Transportation Committee in voting House Bill 1401-FN ought to pass with amendment. Thank you, Mr. President.

SENATOR LARSEN: Thank you, Mr. President. Senator Kenney, in the hearing report it appears that one of the problems why we need to address this is that some volunteer fire departments have been selling their older traffic signal preemption devices to the general public on eBay. Why would we not prohibit the sale to the general public of such preemption devices when they are meant for emergency purposes only? And was that considered by your committee as part of the amendment?

SENATOR KENNEY: Thank you for the question, Senator Larsen. We recognize that on eBay, these preempted devices are there and they are being sold. The state of New Hampshire and the legislature needed to update its law or actually put into law who could use these preempted devices in an official capacity. Now the question about whether to outlaw selling preempted devices on eBay, that is more of a commerce issue and we really didn't address that in its full state.

SENATOR LARSEN: Alright. I think it just may become an issue of enforcement where if you prohibit its sale in the state, that you might end up with a better regulation without so much enforcement required.

SENATOR KENNEY: Right. I think the Transportation Committee does recognize that whoever is using these, should be using them in a offi-

cial capacity. They have to be in an official vehicle. That anyone else who is using these types of preempted devices are doing so at their own risk and are doing it illegally.

SENATOR LARSEN: Thanks.

SENATOR BELOW: Thank you, Mr. President. Just a quick comment. Because of the nature of the Interstate and International trade, I think it would be difficult for us to have much effect on the potential availability if somebody wants to buy one, they can go out of state and do it. So the main thing that we can do is say who legitimately can use and not use these preemption devices. That is the focus of the legislation. Thank you, Mr. President.

Amendment adopted.

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

April 15, 2004

2004-1236s

04/05

Floor Amendment to HB 1401-FN

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

AN ACT limiting the use of traffic signal preemption devices, establishing a commission to study railroad matching funds, and authorizing an expenditure for a certain feasibility study.

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

2 Commission Established. There is established a commission to study railroad matching funds.

3 Membership and Compensation.

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

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

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

(c) The governor, or designee.

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

(e) A member of the New Hampshire Railroad Revitalization Association, nominated by the association and appointed by the governor.

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

4 Duties. The commission shall study innovative ways to fund railroad construction and shall look at the availability of matching funds for railroad projects.

5 Chairperson; Quorum. The governor, or designee shall be the chairperson. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

6 Report. The commission 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, 2004.

7 New Subparagraph; Feasibility Funding Added. Amend RSA 228:69, I by inserting after subparagraph (b) the following new subparagraph:

(c) To provide funding for the Boston to Montreal High Speed Rail Planning and Feasibility Study for the high speed rail connection between Boston and Montreal in an amount not to exceed \$100,000.

8 Effective Date.

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

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

2004-1236s

AMENDED ANALYSIS

This bill:

I. Prohibits the use of traffic signal preemption devices, except for official use by federal, state, or local law enforcement personnel, firefighters, emergency medical services personnel, and state or municipal department of transportation or highway personnel.

II. Establishes a commission to study innovative ways to fund railroad construction including matching fund programs.

III. Authorizes the commissioner of transportation to spend money in the special railroad fund for the feasibility study for the high speed rail connection between Boston and Montreal.

SENATOR FLANDERS: Thank you, Mr. President. I rise to offer a floor amendment. I will speak to one portion. If you will recall some time ago, I presented a Senate Bill to the Senate, concerning the study of the railroad from Boston to Montreal. I had found in a railroad fund that Senator D'Allesandro helped me find, \$650,000 approximately of which we wanted to take \$85,000 for study of this railroad. The House saw fit to kill both the study committee and the funds for this railroad. I thought that the state of New Hampshire is really missing the boat, because if Massachusetts has their funds and Vermont has their funds, and we don't. I really would like to have another bite at the apple in committee to see if we can't convince the House to expend this \$85,000 to join this committee. I think that we would be doing a great disservice to our grandchildren not to have railroad service coming back to the state. This is the same bill I think we passed unanimous about a month ago, so I ask for your support. Now there is another portion of this amendment that I believe that I am not familiar with. Oh, I am sorry, you made separate ones. Okay. I misunderstood.

SENATOR EATON (In the Chair): Congratulations for looking under the cushions.

SENATOR PETERSON: Thank you, Mr. President. Senator Flanders, is this the fund that is used for repair and replacement of existing track lines within the state?

SENATOR FLANDERS: With the approval of the committee, the Governor and Council, the purchase, operation or maintenance of railroad properties acquired or to be acquired pursuant to the provisions of this subdivision. I feel that if you don't have a track, then you probably are not going to have buildings on the side of it to maintain, so therefore, I think that \$85,000 to study that fits within here. It is only a one time dip into this fund. It is paid for by all railroads in New Hampshire. It is paid for by the railroads that run in the summer that do tours and so forth and it is also paid for by other rail roads that carry some freight and do that type of business.

SENATOR PETERSON: Senator Flanders, so the answer is yes?

SENATOR FLANDERS: Yes.

SENATOR PETERSON: Senator Flanders, the concern is that those who run these lines pay into this fund and then are looking for those monies to be able to be available to come back for track replacement and repair, which is really quite expensive. I wonder if we are depleting funds there. I am very much in favor of studying this. I am also very much in favor of expanding rail lines. I know some of the interrelationships between the corporate interest have been involved and some of the difficulties that we have had in getting it going quicker. But my question to you is, are we taking funds away from what might be used for track improvement of existing lines?

SENATOR FLANDERS: Since you used the word "might", I will have to agree with you. It might.

SENATOR PETERSON: Thank you.

SENATOR BELOW: Thank you, Mr. President. I rise in support of Senator Flanders' proposed floor amendment. This corridor is already, for what it is worth, contributed some actual track back to the state that is being used on other state corridors. So this corridor in a sense, that this state mostly owns, is already sort of contributed to what that fund might have otherwise been used for. Part of the purpose of this is to provide the state's share of a multi-state effort which involves Massachusetts and Vermont coming up with funds to leverage federal funds to advance this study. So in that sense, I think it is worth at least trying to get the House to discuss this with us. It is probably going to trigger a Committee of Conference but I think it is worth the effort. Thank you, Mr. President.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise in support of the amendment. I believe from my days on public works in the House, Senator Peterson, if I might, there is a revolving fund that handles the items that you were referring to, repair, maintaince and purchase. That is a different fund. There are a couple of those funds. I think that the use of the monies from this fund is appropriate as it is something that I think we should be participating in. I don't think in any way it curtails the issue that you are concerned about. Thank you, Mr. President.

SENATOR PETERSON: Thank you, Mr. President. I rise to speak. I wanted to thank Senator D'Allesandro for the clarification because I know there are a number of constituents in my area who are concerned about monies they have placed in this fund. So I appreciate the answer to the question, that this is not the same fund and we can move forward with this. Thank you, Mr. President.

Floor amendment adopted.

Senator Kenney offered a floor amendment.

Sen. Kenney, Dist. 3

Sen. Below, Dist. 5

Sen. Barnes, Dist. 17

April 29, 2004

2004-1465s

04/10

Floor Amendment to HB 1401-FN

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

AN ACT limiting the use of traffic signal preemption devices, establishing a commission to study railroad matching funds, authorizing an expenditure for a certain feasibility study, and relative to landowner permission for OHRV operation and loading and unloading OHRVs on highways.

Amend the bill by replacing all after section 7 with the following:

8 OHRV Operation; Permission; Private Property and Public Property. Amend the introductory paragraph of RSA 215-A:29, XI to read as follows:

XI. No person shall operate an OHRV on the [private] property of another unless such operator has obtained written permission from the landowner except as follows:

9 Repeal. RSA 215-A:9, VI, relative to loading and unloading OHRVs on highways for trail access, is repealed.

10 Effective Date.

I. Sections 1, 8, and 9 of this act shall take effect January 1, 2005.

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

2004-1465s

AMENDED ANALYSIS

This bill:

I. Prohibits the use of traffic signal preemption devices, except for official use by federal, state, or local law enforcement personnel, firefighters, emergency medical services personnel, and state or municipal department of transportation or highway personnel.

II. Establishes a commission to study innovative ways to fund railroad construction including matching fund programs.

III. Authorizes the commissioner of transportation to spend money in the special railroad fund for the feasibility study for the high speed rail connection between Boston and Montreal.

IV. Requires persons operating OHRVs to have permission from private and public landowners.

V. Repeals an exception for loading and unloading OHRVs on highways from the prohibition on operating in highway rights-of-way.

SENATOR KENNEY: Thank you, Mr. President. I rise to offer a floor amendment. Mr. President, floor amendment 1465 is addressing a concern that we have with an ATV bill that is on the concurrence calendar, which we feel has a lot of good substantive language in it, but there is one part which we have already taken a position on, which we sent to interim study. In this floor amendment, it would simply take out the good parts of that bill. That is Senate Bill 343. The parts that we think are good, that we believe that when using an OHRV on someone's property, that they should give permission to that landowner, that they use an OHRV. That goes without saying, but currently we don't have that in law. So that is a good part of Senate Bill 343. The part obviously that we have sent to interim study is to look at the public water protection zoned area which is currently 4,000 feet, which seems to be an issue whether it was 400 feet or whether that was a clerical error or not. So this amendment protects the Senate position when it comes to OHRVs and I would just hope that this bill, assuming that most likely it will go to a Committee of Conference, that we stand by the Senate position. Thank you, Mr. President.

SENATOR SAPARETO: Thank you, Mr. President. Senator Kenney, if I was taking my son off road vehicle or for riding in the north country and a ten foot section of the trail that we are riding on, happens to go through town property of some town, would I not need written permission from the town council to drive across that section for that day?

SENATOR KENNEY: It is my understanding that the way that the floor amendment is written, private property and public property, that no person shall operate an OHRV on the property of another unless such

operator has obtained written permission from the landowner. So if it is public property, I would say no. If it is private property I would say, yes, you would have to get written permission.

SENATOR SAPARETO: Thank you, Mr. President. So to clarify, that if I were riding for the day, I would not have to go the following week to the town council meeting and get permission from the town council to ride across that section of trail for that afternoon? Am I correct in that?

SENATOR KENNEY: Well, I mean, that is my interpretation of this floor amendment. I will also share with you a ruling that came out of the courts about a week and a half ago, which says that if someone who is a private landowner has 700 acres and wants to set up any ATV trail system that they have to go back to the planning board for a site review. So, under those set of circumstances, obviously that land owner, that entrepreneur, will be trying to set up an ATV trail system. But still, you would still have to get written permission to use an arrangement like that. But when it comes to public lands, I am not aware that you have to get written permission if it is designated as a trail.

SENATOR SAPARETO: Thank you, Mr. President.

SENATOR ESTABROOK: Thank you, Mr. President. Senator Kenney, I just wondered if you could explain section nine of the bill, lines 14 & 15? What are we repealing?

SENATOR KENNEY: I am going to defer to Senator Below.

SENATOR BELOW: Both sections 8 & 9 of this floor amendment are legislation that has already passed both the Senate and the House. It simply, I think, offered here to keep our options open on the other issue. I mean there is another issue which we will get into a debate on when we get into the question of concurrence or nonconcurrence with a Committee of Conference. But the concern was that we didn't want the Senate and House have already agreed to be at risk. This was Senator Odell's bill originally and it went through the Senate and was approved. I think that the section 9 of the bill, I don't know all the history of it, but that I think it was actually the recommendation of the department's originally, but it concerns the current law that allows people to unload their OHRV's along the side of the highway and it gets rid of that permission because there was concerns about that is a way to get onto other peoples property without their permission. People need to pull off the highway and get into a parking lot to properly unload this equipment.

SENATOR ESTABROOK: Thank you.

SENATOR BARNES: Thank you, Mr. President. I just wanted to clarify something that was said, Senator Sapareto. You were concerned about going over town property and having to go to the board of selectmen or whatever that body is that you have to go to. If that is an existing trail, that has already happened. So there is no need to go to the town. The town has already approved that trail going through there.

SENATOR FLANDERS: Thank you, Mr. President. On the same subject. The clubs go and get the permission to go through these. Let's say that you have got a state trail that is two miles up on somebody else's land, you personally could go to the landowner and say "may I go over your land to get to the trail?" That goes on until they take it away from you. The trail people will go and get that every year. They will get a signed permission to go on that land every year. So once you got the permission, it is there until the following year if they take it away from you.

SENATOR SAPARETO: Would that apply even if I am not a member of the club?

SENATOR FLANDERS: Oh, yeah.

SENATOR SAPARETO: Thank you.

SENATOR GALLUS: Thank you, Mr. President. Senator Kenney, my only question is, we have a number of ATV clubs in the north country. One of them has approximately 2,000 members and they have a working relationship with most of the landowners, signed permission to cross an extensive trail system. But the way that this is written, it says, "no person shall operate on the property of another unless the operator himself, has obtained permission." Does that require each and every member of that 2,000 member club to go out to these individual landowners and acquire permission?

SENATOR KENNEY: My understanding is that, much like the snowmobile club, is that once you have written permission from the association to go over those trails that you are covered. Not only from an individual standpoint, but also from a liability standpoint. The question what happens is that someone coming in posing as someone who belongs to that club or that particular association and that has been a problem. But my understanding on this is that association members, and if you want further clarification on that, we can try to do that, but my understanding is they would be covered.

SENATOR GALLUS: Okay. As long at that is read into the record. Thank you, Mr. President.

SENATOR BELOW: Thank you, Mr. President. Just real quickly. That line 11 or line 13, I should say, "except as follows:" then the colon that follows is "verbal permission and written permissions through the chief of the Bureau trails to OHRV clubs" so that is all the "except as follows", those are all the additional provisions, including individuals operating on trails that have been designated as trails. So that is where you don't have to go to the town and all that. But it even includes some verbal permission conditions.

SENATOR PETERSON: Thank you, Mr. President. Senator Kenney, could you refresh my memory on what an OHRV is under our laws? I know that we had some changes in the amount of weight and so forth that is involved with these vehicles. My simple question is, would a jeep that is registered to drive on the road typically be considered an OHRV under these laws? Could you just refresh my memory on that point?

SENATOR KENNEY: Well, my understanding is that a jeep would not be considered an off road vehicle. That it is a Highway Recreation Vehicle. That is the key point. "It is a mechanically propelled vehicle used for pleasure or recreational purposes. Running on rubber tires, belts, cleats, track, skis or cushions of air and dependent upon the ground or surface for travel or other unimproved terrain, whether covered by ice or snow or not, where the operator sits in or on the vehicle." It goes on to say that, "All legally registered motorized vehicles when used for off highway recreational purposes should fall within the meaning of this definition, provided that when said motor vehicle is being used for transportation purposes only, it shall be deemed that said motor vehicle is not being used for recreational purposes. For the purpose of this chapter, off highway recreational vehicles shall be abbreviated as OHRV." So that is the definition of an OHRV.

SENATOR PETERSON: Thank you for the clarification. Mr. President, just to speak briefly. I would like to support Senator Kenney in the passage of this amendment. Thank you, Mr. President.

SENATOR FLANDERS: Thank you, Mr. President. We passed a bill about a month ago saying that any vehicle on the trail had to be no more than 52 inches wide and weigh 1,000 pounds, if you remember? That is what the restriction is. That replaces everything that was just read to you. The House has amended that to go to 54 inches and 1,200 pounds. It has come back and I think that we are going to concur. That is why a jeep would not be able to go on the trail because it is not 54 inches wide or 1,000.

SENATOR KENNEY: Thank you, Senator Flanders. I do have that bill as far as whether we are going to concur with the House version of 54 inches or 1,200 pounds/ But for the sake that we hadn't passed it yet, I appreciate you bringing that out.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SENATOR BARNES (Rule #44): Thank you very much, Mr. President. I will tell you what, Senator Green is back so why don't I wait until the end of the session to do this, so we don't slow down the process.

Recess.

Out of recess.

HB 1316-FN-A, relative to the computation of tax on certain telecommunications services under the communications services tax and establishing a committee to study the feasibility of unbundling communications services charges. Ways and Means Committee. Ought to pass, Vote 4-0. Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I move ought to pass on House Bill 1316 which clarifies how certain telecommunications services are taxed. Under 1316, if a telephone call passes through three states then a third of the tax would go to each state regardless of the distance traveled in each state, while if the call originates in New Hampshire and ends in a state that does not have similar legislation then 100 percent of the tax is paid to New Hampshire. This concept, called sourcing, has been adopted by statute in 17 states, by rule or agreement in two states, six states do not tax telecommunications and 26 states are pursuing the legislation. This bill also establishes a committee to study the feasibility of unbundling communications services charges and the committee unanimously recommends ought to pass on House Bill 1316. The bill does not create a new tax. What it clarifies is an existing tax. Thank you, Mr. President.

Adopted.

Ordered to third reading.

MOTION TO TAKE OFF THE TABLE

Senator Gatsas moved to have **HB 1221**, taken of the table.

Adopted.

HB 1221, urging the oversight committee on telecommunications to study aspects of federal universal service funding.

Question is on the adoption of the committee amendment (1100).

SENATOR BELOW: Thank you, Mr. President. I have the committee report here which we hadn't done when it went on the table. Thank you, Mr. President. I move ought to pass with amendment on House Bill 1221. Telephone companies currently collect from users a universal service fund fee. These monies are sent to the national government then dispersed to states based on grant and aid requests from organizations within the states. The states themselves cannot apply for these grants. The grants cover four types of programs, high cost, rural telephone systems, low income support, rural healthcare programs and schools and libraries, with regard to their Internet connections. In the category of schools and libraries, New Hampshire receives far less in these funds per capita than most other states. Many other states have more aggressive and well organized framework set up for requesting USF funds. The committee amendment deleted the first section, which was some findings with language that we were unable to verify, and changed the wording on line 11 of the House amended bill to read, "loss of money from the state. The lower rate of funding for schools and libraries and to identify viable ways of remedying the situation, creating a study committee." The Energy and Economic Development Committee recommends this legislation be adopted with amendment and asks for your support. However, I would say that Senator Gatsas has a floor amendment that actually incorporates the committee amendment, and I think, has the support of the committee, and he will explain that. So as a practical matter, it would just be easier to go ahead and defeat the committee amendment at this point and we can consider the floor amendment that incorporates it. Thank you, Mr. President.

Amendment failed.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

April 28, 2004

2004-1420s

03/04

Floor Amendment to HB 1221

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

AN ACT relative to the universal service fund.

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

1 Oversight Committee on Telecommunications Study. The oversight committee on telecommunications, established in RSA 374:22-h, is hereby urged to study the reasons for the net loss of money from the state, the low rate of funding for schools and libraries, and to identify viable ways of remedying the situation, whether by:

I. Decreasing payments to the fund, if possible.

II. Advocating for revised program grant criteria that would be more favorable to applicants from New Hampshire.

III. Implementing an ongoing, coordinated, statewide effort to increase the number of successful applications to the fund by eligible New Hampshire parties.

2 Universal Service Fund; Application Instructions. The commissioner of the department of education shall, within 60 days of the effective date

of this section, develop and distribute to New Hampshire school districts concise instructions on the proper methods for application for the schools and libraries portion of the universal service fund.

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

2004-1420s

AMENDED ANALYSIS

This bill:

I. Urges the oversight committee on telecommunications to study aspects of federal universal service funding.

II. Requires the commissioner of the department of education to develop and distribute application instructions for universal service funding.

SENATOR GATSAS: Thank you, Mr. President. I rise to offer a floor amendment. What this amendment does is it incorporates what the committee's amendment was. It also includes in the universal fund, that the commissioner of the Department of Education shall within 60 days of the effective date of this section, develop and distribute to New Hampshire school districts concise instructions on the proper methods of application for the schools and libraries portion of the Universal Service Fund. What we heard in committee was that the state of Maine, collects far in excess of what the state of New Hampshire does out of this fund. And the state of New York collects roughly, approximately \$396 per student and the state of New Hampshire is somewhere down around \$36. So we thought it would be imperative for the Department of Education to notify the school districts throughout the state so that they can get some of the money that we from New Hampshire are sending to the federal government and not getting back. Thank you, Mr. President.

SENATOR LARSEN: Thank you, Mr. President. Senator Gatsas, I didn't hear this bill, but is the problem that school districts aren't applying for these funds because it is so complicated to do so or because they truly don't have concise instructions on how to apply?

SENATOR GATSAS: I think it is a little bit of both. I don't know if they really understand that it is available to them.

SENATOR LARSEN: So the first step is to let them know it is available?

SENATOR GATSAS: Correct.

SENATOR LARSEN: Thanks.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO TAKE OFF THE TABLE

Senator Roberge moved to have **HB 85-FN-L**, taken off the table.

Adopted.

HB 85-FN-L, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

SENATOR ROBERGE: Thank you, Mr. President. This bill provides for certain changes to the budget option procedure for political subdivisions which have adopted the official ballot voting. House Bill 85 will help

make the local budgeting process more accountable and transparent for our constituents. The bill requires towns to show their calculations and expenditures on a special default budget form prepared by the Department of Revenue. Once the budget process is complete, the town's governing bodies or budget committees must post certified copies of the default budget form and the proposed operating budget for all to see. These requirements will provide increased opportunities for the public to see their default budget, ask questions, and learn how it was calculated. The Public Affairs Committee recommends House Bill 85 ought to pass with amendment. Thank you, Mr. President.

Question is on the adoption of the committee amendment (1186).

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Sapareto moved that the rules of the New Hampshire Senate be so far suspended as to dispense with the referral to committee, a committee hearing, notice of hearing, a committee report, and notice of report in the calendar and that **SJR 3**, be on second reading at the present time.

SENATOR SAPARETO: Thank you, Mr. President. Senate Joint Resolution 3 is a resolution urging the United States Supreme Court to retain the words "under God" in the pledge of allegiance. It has been signed on by quite a few Senators. Thank you, Mr. President.

SENATOR ESTABROOK: Thank you, Mr. President. Senator Sapareto, what is accomplished by this bill?

SENATOR SAPARETO: It is stating the New Hampshire's Senate position to the Supreme Court.

SENATOR ESTABROOK: We state a Senate position to the Supreme Court?

SENATOR SAPARETO: Yes.

SENATOR ESTABROOK: Is that something that we have done before on measures that are pending before the United States Supreme Court?

SENATOR SAPARETO: To my knowledge, no. But I am sure that it has happened before.

SENATOR ESTABROOK: Thank you.

SENATOR EATON (In the Chair): And it is a Joint Resolution of a statement from the House, Senate and the Governor.

Adopted by the necessary 2/3 vote.

SJR 3, urging the United States Supreme Court to retain the words "under God" in the pledge of allegiance.

Senator Sapareto moved ought to pass.

Question is on the adoption of ought to pass.

SENATOR LARSEN: Thank you, Mr. President. I rise to just say that I believe that this is an ineffective and probably unnecessary resolution to the Supreme Court of the United States in that I believe that they

will make their decision not based on our resolution but, in fact, the constitutionality of the language. I voted in rules to allow this Joint Resolution to come before us and certainly with great comfort, say the pledge of allegiance. But I do believe this is an inappropriate method for communicating our beliefs and that the Supreme Court, hopefully, will remain independent enough to make their decision based on our constitution.

Question is on the adoption of ought to pass.

A roll call was requested by Senator Barnes.

Seconded by Senator Gatsas.

SENATOR EATON (In the Chair): I want to remind everyone that Senator Boyce is on this Joint Resolution and he has been excused.

The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Morse, Prescott, Cohen.

The following Senators voted No: None.

Yeas: 21 - Nays: 0

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 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services.

Senator Johnson moved to concur.

SENATOR LARSEN: Thank you, Mr. President. Can we have a discussion on the concurrence and any changes made by the House?

SENATOR JOHNSON: Thank you, Mr. President. What the changes were was a change of 30 days to 45 days. We changed "may" to "shall" on page 14 of the bill. And we changed the effective date to 60 days after passage. Those, I believe, were the three changes.

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 128-FN, transferring the bureau of vital records and health statistics from the department of health and human services to the department of state.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 128-FN, transferring the bureau of vital records and health statistics from the department of health and human services to the department of state.

Senator Prescott 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 176, relative to standards for plats recorded in the registry of deeds.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 176, relative to standards for plats recorded in the registry of deeds.

Senators Roberge moved to concur.

SENATOR GREEN: Thank you, Mr. President. Could I have the information regarding what the amendment was from the House?

SENATOR JOHNSON: Thank you, Mr. President. Senator Green, I did check with all the parties involved. There were substantial changes in the House version and I did have a concern about it, but in checking with the sponsors and with all parties involved, they all agreed to the change, so that is why I concurred. It is quite a bit here, if you would like to have me read it, I'd be glad to read the House version.

SENATOR GREEN: I don't think that is necessary, Senator. I guess that I would just like to see it before we act on it please.

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 344, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 344, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees.

Senator Gallus 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 351-FN, relative to concurrent enrollment at regional vocational education centers.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 351-FN, relative to concurrent enrollment at regional vocational education centers.

Senator O'Hearn moved to concur.

SENATOR BARNES: Thank you, Mr. President. I just want to hold for a couple of seconds. There is a Senator that is looking through the material, he wants to look at it before he votes on it.

SENATOR GATSAS: I am just looking at my sheet here to see if I can find it. Okay, go ahead.

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 355, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 355, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems.

Senator Roberge 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 361-FN-A, relative to fees of the postsecondary education commission for preserving certain academic records.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 361-FN-A, relative to fees of the postsecondary education commission for preserving certain academic records.

Senator Green 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 377, relative to damage to land by certain recreational uses.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 377, relative to damage to land by certain recreational uses.

Senator Gallus moved to concur.

SENATOR KENNEY: Thank you, Mr. President. I would like to ask Senator Gallus what the amendment was to that bill from the House?

SENATOR GALLUS: There was one little change in section three that says "the landowners shall not be liable for violations of this chapter caused by persons operating OHRV's in a location or manner not authorized by the landowner." So it is just a minor little change.

SENATOR KENNEY: Thank you for that clarification.

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 380, establishing a statewide incident command system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 380, establishing a statewide incident command system.

Senator Prescott 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 399-FN, relative to the sale of animals.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 399-FN, relative to the sale of animals.

Senator Gallus 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 432-FN, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services and a division of fire safety in the department of safety.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 432-FN, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services and a division of fire safety in the department of safety.

Senator Prescott moved to concur.

SENATOR LARSEN: Thank you, Mr. President. Could we have an explanation of the House amendment?

SENATOR PRESCOTT: Thank you, Mr. President. I'd defer to Senator Clegg.

SENATOR CLEGG: Is it because the amendment is so thick? It appears that they have changed State Fire Marshall to the Director of Division of Fire Safety. Again, they changed the Chief of the Bureau of Fire Safety to a director. They have changed the name from the Division of Fire Standards and Training to the Division of Fire Standards, Training and Emergency Medical Services. I can keep going. It looks to me like it is all just simple changes and the differences between what we called it and what they wanted to call it.

SENATOR GATSAS: Thank you, Mr. President. Senator Clegg, are there any pay grade changes?

SENATOR CLEGG: Well since you seem to have gone through it...

SENATOR GATSAS: Senator, I didn't go through it, I just grabbed the amendment that was in the House calendar and I am just asking the question, cause I don't know whether we had it in the original bill.

SENATOR CLEGG: Pay grade changes in the original bill did not change. So a little somebody whispered in my ear.

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 451, giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 451, giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing.

Senator O'Hearn moved to concur.

SENATOR D'ALLESANDRO: Thank you, Mr. President. Senator O'Hearn this is a great one. This is one of the great, great changes that was made in the House. We think it was just laudable, Senator.

SENATOR O'HEARN: I would be happy to explain that. We added a quick amendment to it which was the St. Joseph's School of Nursing and it happens to be St. Joseph School of Nursing. So it was just a removal of an apostrophe "s".

SENATOR GATSAS: Thank you, Mr. President. Senator O'Hearn, did Senator D'Allesandro move the rest of that railroad money over here?

SENATOR O'HEARN: I would hope so.

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 455, removing the requirement that district courts be open on Saturdays for arraignments.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 455, removing the requirement that district courts be open on Saturdays for arraignments.

Senator Peterson moved to concur.

Adopted.

PARLIMENTARY INQUIRY

SENATOR LARSEN: Thank you, Mr. President. Under what system are you taking bills amended, Senate Bills amended by the House off for concurrence or nonoccurrence?

SENATOR EATON (In the Chair): They are in the Senate Bill numbered ordered. There is no other way to come in.

SENATOR LARSEN: By my count, there are a lot of bills that we are not taking up today.

SENATOR EATON (In the Chair): We will be taking them up next week then, because that will be the last week we will be able to do that.

SENATOR LARSEN: Well that will help me next week, but it doesn't help me this week to prepare for what bills are coming up and what amendments there are to them. I just am questioning why we are ready to do some and not others.

SENATOR EATON (In the Chair): Senator, all the bills that were amended by the House, the Senate Bills, are listed below there, so you have the availability to get any information you want on these at any time. We do not have all of the bills over here yet, and that is one of the problems too.

SENATOR LARSEN: So the bills listed here are not necessarily bills that are in our possession?

SENATOR EATON (In the Chair): The bills that are in our possession are below all the numbers there. They are Senate Bills amended by the House, so they are all right here.

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 465, relative to testimony of witnesses about confidential settlements.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 465, relative to testimony of witnesses about confidential settlements.

Senator Peterson 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 467, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 467, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry.

Senator Johnson 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 469, relative to licensing of boiler inspectors.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 469, relative to licensing of boiler inspectors.

Senator Prescott 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 488, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 488, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams.

Senator Odell 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:

SCR 5, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans.

SENATE CONCURS WITH HOUSE AMENDMENT

SCR 5, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans.

Senator Prescott moved to concur.

SENATOR PETERSON: Thank you, Mr. President. Senator Prescott, if you could just let us know what the amendment was in the House, I would appreciate it?

SENATOR PRESCOTT: Certainly. Senator Sapareto, I defer to you. Thank you.

SENATOR SAPARETO: Actually the House had a problem with their use of "full concurrent receipt" since not all disabled veterans are eligible, but they made 85 percent of them eligible which was a big leap forward. So the House committee felt that it was inappropriate to call it "full concurrent receipt" for that reason. But it is essentially the same bill that we passed, with just a technical change. Thank you, Mr. President.

SENATOR PETERSON: Thank you, Mr. President. Thank you Senator.

Adopted.

RESOLUTION

Senator Clegg 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 all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION**Third Reading and Final Passage**

HB 85-FN-L, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

HB 493, relative to the municipal budget act.

HB 1221, urging the oversight committee on telecommunications to study aspects of federal universal service funding.

HB 1224, establishing the Uniform Trust Code in New Hampshire.

HB 1282, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

HB 1302, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces.

HB 1316-FN-A, relative to the computation of tax on certain telecommunications services under the communications services tax and establishing a committee to study the feasibility of unbundling communications services charges.

HB 1367, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

HB 1401-FN, limiting the use of traffic signal preemption devices.

HB 1413, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

HB 1422, relative to qualifications for persons who negotiate on behalf of the state.

CACR 5, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule.

SJR 3, urging the United States Supreme Court to retain the words "under God" in the pledge of allegiance.

ANNOUNCEMENTS

SENATOR BARNES (RULE #44): Thank you, Mr. President. I have one thing as a notice. It was mentioned earlier that we have a gentleman coming to the State House next Wednesday. If any of you have veterans who have questions about anything, this is the time to bring them in here. You got the cabinet head from Washington coming up here to answer them. So, if you have some veteran's groups in your towns, between now and Wednesday you might want to ask if they can come in and ask those questions of the man in charge. Now my personal privilege. Thank you, Mr. President. What I have here is a message that was read on the floor of the United States Senate, February 12 of this year. It was put there and said by U.S. Senator Zell Miller who is a democrat from Georgia. "The Old Testament prophet Amos was a sheep herder who lived back in the Judean hills, away from the larger cities of Bethlehem and Jerusalem. Compared to the intellectual urbanites like Isaiah and Jeremiah, he was just an unsophisticated country hick." Now those are the words of the Senator in Washington. "But Amos had a unique grasp of political and social issues, and his

poetic literary skill was among the best of all the prophets. That familiar quote of Martin Luther King, Jr. about, "Justice will rush down like waters and righteousness like a mighty stream" are Amos' words. Amos was the first to propose the concept of a universal God and not just some tribal deity. He also wrote that God demanded moral purity, not rituals and sacrifices. This blunt-speaking moral conscience of his time warns in chapter 8, verse II of the Book of Amos, as if he were speaking to us today: That, "The days will come, sayeth the Lord God, that I will send a famine in the land. Not a famine of bread, nor a thirst for water, but of hearing the word of the Lord. And they shall wander from sea to sea, and from the north even to the east. They shall run to and fro to seek the word of the Lord, and shall not find it." "A famine in the land." Has anyone more accurately described the situation we face in America today? "A famine of hearing the words of the Lord." But some will say, Amos was just an Old Testament prophet – a minor one at that – who lived 700 years before Christ. That is true. So how about one of the most influential historians of modern times? Arnold Toynbee, who wrote the acclaimed 12-volume *A Study of History*, once declared, "Of the 22 civilizations that have appeared in history, 19 of them collapsed when they reached the moral state America is in today." Toynbee died in 1975, before seeing the worst that was yet to come. Yes, Arnold Toynbee saw the famine. The "famine of hearing the words of the Lord." Whether it is removing a display of the Ten Commandments from a Courthouse or the Nativity Scene from a city square, whether it is eliminating prayer in schools or eliminating "under God" in the Pledge of Allegiance, whether it is making a mockery of the sacred institution of marriage between a man and woman or, yes, telecasting around the world made-in-the-U.S.A. filth masquerading as entertainment. The culture of far-left America was displayed in a startling way during the Super Bowl's now infamous halftime show, a show brought to us courtesy of Valueless Moonves and the pagan temple of Viacom-Babylon. I asked the question yesterday, "How many of you have ever run over a skunk with your car?" I have many times, and I can tell you the stink stays around for a long time. You can take the car through a car wash and it's still there. So the scent of this event will long linger in the nostrils of America. I'm not talking just about an exposed mammary gland with a pull-tab attached to it. Really, no one should have been too surprised at that. Wouldn't one expect a bumping, humping, trashy routine entitled "I'm going to get you naked" to end that way? Does any responsible adult ever listen to the words of this rap crap? I'd quote you some of it, but the sergeant-of-arms would throw me out of here, as well he should. And then there was that prancing, dancing, strutting, rutting guy evidently suffering from jock itch, because he kept yelling and grabbing his crotch. But then, maybe there's a crotch-grabbing culture I've unaware of. But as bad as all this was, the thing that yanked my chain the hardest was seeing that ignoramus with his pointed head stuck up through a hole he had cut in the flag of the United States of America" and there is a picture of it here. Some kids of ours out there say this guys a hero, huh? Boy I got news for you. "screaming about having a bottle of scotch and watching lots of crotch." Think about that. This is the same flag that we pledge allegiance to. This is the flag that is draped over coffins of dead, young, uniformed warriors killed while protecting Kid Crock's bony butt. He should be tarred and feathered and ridden out of this country on a rail. Talk about

a good reality show, there's one for you. The desire and will of this Congress to meaningfully do anything about any of these so-called social issues is nonexistent and embarrassingly disgraceful. The American people are waiting and growing impatient with us. They want something done. I am pleased to be a co-sponsor of Senate Joint Resolution 26, along with Senator Wayne Allard, Republican from Colorado and others, proposing an amendment to the Constitution of the United States relating to marriage, and Senate Resolution 1558, the Liberties Restoration Act, which declares religious liberty rights in several ways, including the Pledge of Allegiance and the display of the Ten Commandments. And today I join Senator Richard Shelby Republican from Alabama and others with the Constitution Restoration Act of 2004 that limits the jurisdiction of federal courts in certain ways." I am going to stop reading this. You have had enough, but I am going to tell you that when I saw this about two days ago, it is this month's *American Legion Magazine*. I have had these thoughts that this man has had, but I haven't been clever enough to put them into words. That is all that I want to say. If I'd have been smart enough, it wouldn't have been him saying them first, it would have been me saying them first. Thank you very much, Mr. President.

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purposes of receiving Messages, processing Enrolled Bill Reports and Amendments, and forming Committees of Conference.

Adopted.

In recess to the Call of the Chair.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

SB 429, relative to state and municipal contracting practices for public works.

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 419, relative to the use of standardized health statements and relative to renewals of certain policies.

HOUSE MESSAGE

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

SB 352-FN-L, relative to computing school building aid grant amounts.

SB 484, establishing the Collaborative Practice for Emergency Contraception Act.

SB 504-FN, relative to disbursements from the alcohol abuse prevention and treatment fund.

SJR 2, designating a Purple Heart Trail in New Hampshire.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

SB 362, changing the name of the college for lifelong learning to Granite state college.

SB 411-FN-L, relative to liability for special education transportation costs.

SB 482-FN, relative to captive insurance companies and reciprocal insurers.

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 230, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act.

HB 1183, relative to transporting manufactured housing or modular buildings.

HB 1221, relative to the universal service fund.

HB 1224, establishing the Uniform Trust Code in New Hampshire.

HB 1226-L, establishing a debt retirement fund in the Governor Wentworth regional school district.

HB 1243, prohibiting the collection of biometric data.

HB 1302, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces.

HB 1422, relative to qualifications for persons who negotiate on behalf of the state.

April 28, 2004
2004-1450-EBA
04/01

Enrolled Bill Amendment to HB 1410

The Committee on Enrolled Bills to which was referred HB 1410

AN ACT relative to the release of information to persons receiving a child for placement and relative to the department of health and human service's disclosure of information regarding the death of a child from abuse and neglect.

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 1410**

This enrolled bill amendment corrects a statutory reference.

Enrolled Bill Amendment to HB 1410

Amend section 1 of the bill by replacing line 2 with the following: Information to Placements. Amend RSA 170-E:34, I(g) to read as follows:

Senator Eaton moved adoption.

Adopted.

April 29, 2004
2004-1467-EBA
03/01

Enrolled Bill Amendment to HB 1355

The Committee on Enrolled Bills to which was referred HB 1355
 AN ACT changing the name of the sweepstakes commission to the lottery commission.

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 1355

This enrolled bill amendment updates a statutory reference and makes technical corrections.

Enrolled Bill Amendment to HB 1355

Amend section 2 of the bill by replacing lines 1-2 with the following:

2 Name Change. Amend RSA 6:12, I(b)(1) to read as follows:

(1) Moneys received by the state [~~sweepstakes~~] **lottery** commission, which shall be

Amend section 5 of the bill by replacing lines 1-3 with the following:

5 Name Change. Amend RSA 284:21-i, I-III to read as follows:

I. The [~~sweepstakes~~] **lottery** commission shall be empowered to employ such technical

Amend section 9 of the bill by replacing line 2 with the following:

I. All existing rules, regulations, and procedures in effect, in operation, or adopted by the

Senator Eaton moved adoption.

Adopted.

April 29, 2004
2004-1464-EBA
06/09

Enrolled Bill Amendment to HB 532

The Committee on Enrolled Bills to which was referred HB 532

AN ACT relative to notice and filing of divorce petitions.

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 532

This enrolled bill amendment makes technical corrections to the bill.

Enrolled Bill Amendment to HB 532

Amend RSA 458:9, II(a) as inserted by section 1 of the bill by replacing line 2 with the following:

(1) A sheriff, in hand or by leaving an attested copy of the petition, orders of

Amend RSA 458:9, II(a) as inserted by section 1 of the bill by replacing line 6 with the following:

(2) Certified mail, return receipt requested, restricted delivery, mailed within 7

Amend RSA 458:9, II(b) as inserted by section 1 of the bill by replacing line 2 with the following:

(1) An officer authorized to make service of process in the state where the

Amend RSA 458:9, II(b) as inserted by section 1 of the bill by replacing line 6 with the following:

(2) Certified mail, return receipt requested, restricted delivery, signed by the

Senator Eaton moved adoption.

Adopted.

April 22, 2004
2004-1347-EBA
06/10

Enrolled Bill Amendment to HB 520-FN

The Committee on Enrolled Bills to which was referred HB 520-FN

AN ACT relative to maintaining records of greyhounds used in pari-mutuel racing.

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 520-FN

This enrolled bill amendment contingently renumbers an RSA section in the bill.

Enrolled Bill Amendment to HB 520-FN

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Contingent Renumbering. If SB 450-FN of the 2004 legislative session becomes law, then RSA 284:12, VII as inserted by section 2 of this act shall be renumbered to RSA 284:12, VIII.

Senator Eaton moved adoption.

Adopted.

April 29, 2004
2004-1469-EBA
04/01

Enrolled Bill Amendment to HB 53

The Committee on Enrolled Bills to which was referred HB 53

AN ACT relative to the sale of salvage and rebuilt vehicles and relative to abandoned vehicles.

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 53

This enrolled bill amendment makes a grammatical change to the bill.

Enrolled Bill Amendment to HB 53

Amend RSA 261:22, V as inserted by section 1 of the bill by replacing line 7 with the following:

a certificate of title or registration disclosing that the vehicle is a rebuilt vehicle.

Senator Eaton moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives has voted to Lay On The Table the following entitled Bill(s) sent down from the Senate:

SB 390, relative to liability of third person under workers' compensation.

HOUSE MESSAGE

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

HB 664-FN, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

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 341-FN, relative to prohibited methods of taking wildlife in certain fish and game laws.

SB 389, relative to certain insurance contracts.

SB 433-FN, establishing a committee to study utility rate review by the public utilities commission.

SB 454-FN, relative to carrying a concealed weapon without a license.

SB 492, relative to registration requirements for home inspectors.

HOUSE MESSAGE

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

HB 326, relative to establishing a 6-year capital budget.

HB 422, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases.

HB 729-FN, relative to the regulation of tanning facilities.

HB 1131, establishing a committee to study exotic aquatic weeds and species.

HB 1136, relative to homeowner exemptions from certain environmental permitting, relative to certification as a wetland scientist, and making certain technical corrections.

HB 1202, relative to third-party payment of covered services ordered by the juvenile court.

HB 1230-FN, relative to abandoned deposits held by telephone utilities and relative to public interest payphones.

HB 1257-FN, relative to penalties for driving under the influence with a minor in the vehicle.

HB 1266, relative to the long-term care ombudsman.

HB 1312, relative to the court's discretion to extend child support obligations.

HOUSE MESSAGE

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

SB 335, relative to access to birth records.

SB 356, relative to the powers and duties of the community development finance authority.

SB 403, relative to the board of medicine.

SB 452, relative to testimony of expert witnesses.

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(s):

HB 53, relative to the sale of salvage and rebuilt vehicles and relative to abandoned vehicles.

HB 1355, changing the name of the sweepstakes commission to the lottery commission.

HB 1410, relative to the release of information to persons receiving a child for placement and relative to the department of health and human service's disclosure of information regarding the death of a child from abuse and neglect.

SB 335, relative to access to birth records.

SB 451, giving degree-granting authority to the Hellenic American University and the St. Joseph School of Nursing.

SB 467, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry.

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(s):

HB 285, relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting.

HB 761, enabling municipalities to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

HB 767-FN, relative to political advertising not authorized by the candidate.

HB 1133, relative to disclosures required prior to a condominium sale.

HB 1134, relative to appointment of the chief justice of the supreme court.

HB 1135, relative to appointment of the chief justice of the superior court.

HB 1155, clarifying alternative budget adoption procedures in school administrative units.

HB 1159, relative to prohibited employment for state liquor commission employees.

HB 1169, relative to child support calculations based on one-time or irregular income.

HB 1210, relative to self-service storage facility liens.

HB 1212, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18.

HB 1301, relative to extensions to the intent to cut and relative to the care, maintenance, and repair of the law enforcement memorial.

HB 1308-FN, relative to lobbying activities by state employees.

HB 1309, relative to noise pollution from shooting ranges.

HB 1311-FN, establishing a committee to study decreasing the insurance premium tax.

HB 1329, relative to the length of time consumer credit reporting agencies retain individual credit information.

HB 1336, relative to the procedures for the legislative ethics committee.

HB 1361, relative to sentences for certain offenses committed on or near a public college or university campus.

HB 1372, defining certain terms relating to military service.

HB 1374, relative to lightning protection systems.

SB 513, relative to the death penalty.

SB 529, making a technical correction to the eminent domain procedure act.

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(s):

HB 403, requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual offenders.

HB 736, relative to duties of the fish and game commission and complaints against fish and game commissioners.

HB 1225, making administrative changes to the historic agricultural structure matching grants program.

HB 1370, establishing a committee to study property tax relief.

HB 1423, relative to reimbursement of travel expenses for judges.

SB 416, relative to membership of the advisory council on child care.

Senator D'Allesandro moved adoption.

Adopted.

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

May 6, 2004

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

Good Morning.

When, on the one hand, the freedom to choose is disconnected from corporate responsibility, it suffocates itself and dies an agonizing death. On the other hand, when responsibility and duty are forced to run in a single channel and do not enjoy the liberty of a range of options from which to freely choose, that sense of duty degenerates into mere slavish and resentful acquiescence. So beware of any attitude or, worse yet, any legislation that inappropriately limits our choices, but be just as wary, and perhaps even more wary of encouraging any choosing that damages the greater and common good. Now there is a task for you to take on. Elbridge Gerry was a patriot during the American Revolution, a signer of the Declaration of Independence, later Governor of Massachusetts and, at the end, Vice President of the United States. He did not really desire that last position, but upon being asked to consider it, he gave this answer: "The question respecting the acceptance, or non-acceptance of this proposition, involved many considerations of great weight in my mind, but it is neither expedient or necessary to state those points, since one was paramount to the rest, that in a republic, the service of each citizen is due to the state, even in profound peace, and much more so when the nation stands on the threshold of war." There is the spirit that will enable you to succeed. So let us pray:

Teach us, kind Lord, about freedom, options and choices that are always linked closely to duties, responsibilities and the same deep and profound care for others, that You are always showing for us. Amen

Senator Gatsas led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

SENATOR LARSEN (Rule #44): What is called the SHARC Committee, the State House Employees Committee, is sponsoring a bake sale today to support our troops from 11:30 to 1:30 in the basement of the LOB. The committee has been sending care packages for a year and a half and has had up to 18 soldiers who have received care packages as a result of their efforts. Presently there are six soldiers, because twelve of them have returned home. We want to thank you for supporting this worthwhile project and encourage everyone to attend the bake sale 11:30 to 1:30, basement of the LOB. Thank you. Chocolate cake is there and it has your name on it.

COMMITTEE REPORTS

HB 1188, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan. Finance Committee. Inexpedient to legislate, Vote 5-2. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 1188 be inexpedient to legislate. This legislation would have set aside limited funds to help schools develop, or actually to require schools to develop a written building maintenance plan by taking into consideration air quality standards. The committee was not convinced that any schools would actually apply for this. We therefore voted to ITL; how-

ever, I understand there is a floor amendment that will be offered on this bill. So in the cooperation with that, I would recommend everyone vote no on the ITL. Thank you very much.

Motion failed.

Senator Boyce moved ought to pass.

SENATOR ESTABROOK: Thank you, Mr. President. We were unaware that this bill was going to be moved up on the calendar. I was having a floor amendment prepared. I understand that the amendment that will be brought in to do what we all know needs to be done with regard to school funding, will delete the bill as it currently exists. My amendment was to bring back the bill as it currently exists after we add on the piece that we all know we need. I would like to speak to that at the appropriate moment, but I don't know that that is available yet.

SENATOR LARSEN: I, too, have an amendment, a floor amendment to 1188 that is in the drafters and would have been ready if we were going in order. But, if we take this bill out of order, our floor amendments are not prepared. One of which is...one which Senator O'Hearn and I have been speaking about, is an amendment that may be beneficial to the bill itself.

SENATOR CLEGG: Mr. President, with all due respect to my colleagues, they were told yesterday that this bill would come up first on the calendar and would be a technical corrections amendment.

SENATOR LARSEN: If I can respond Mr. President. We were not...we were informed that it would be a technical corrections amendment, but not that it would come up first. There is a good reason to bring it up in order so that all of us can be prepared.

Recess.

Out of recess.

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

May 5, 2004

2004-1500s

04/10

Floor Amendment to HB 1188

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

AN ACT relative to the formula for determining education grants and establishing education grant amounts for the 2005 fiscal year.

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

1 Statement of Intent. It is the intent of the general court to clarify the law relating to education funding as enacted under 2003, 241 and to specify education aid grant amounts to municipalities for the 2005 fiscal year.

2 Education Aid Grant Amounts for Fiscal Year 2005. Notwithstanding any provision of law to the contrary, total education aid grant amounts for the 2005 fiscal year shall be as follows:

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
ACWORTH	411,533
ALBANY	507,613

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
ALEXANDRIA	658,056
ALLENSTOWN	3,712,569
ALSTEAD	1,110,916
ALTON	-
AMHERST	2,607,904
ANDOVER	684,420
ANTRIM	2,194,411
ASHLAND	639,785
ATK. & GILMANTON ACAD	-
ATKINSON	746,123
AUBURN	1,269,276
BARNSTEAD	2,037,165
BARRINGTON	2,811,681
BARTLETT	-
BATH	376,992
BEAN'S GRANT	-
BEAN'S PURCHASE	-
BEDFORD	2,347,213
BELMONT	3,287,869
BENNINGTON	901,482
BENTON	96,783
BERLIN	7,669,119
BETHLEHEM	1,003,254
BOSCAWEN	1,797,803
BOW	2,928,167
BRADFORD	517,552
BRENTWOOD	705,245
BRIDGEWATER	-
BRISTOL	748,384
BROOKFIELD	223,210
BROOKLINE	2,397,114
CAMBRIDGE	-
CAMPTON	1,591,169
CANAAN	1,705,166
CANDIA	1,053,164
CANTERBURY	207,986
CARROLL	-
CENTER HARBOR	-
CHANDLER'S PURCHASE	-
CHARLESTOWN	4,274,490
CHATHAM	62,446
CHESTER	1,450,221

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
CHESTERFIELD	923,270
CHICHESTER	543,661
CLAREMONT	8,516,045
CLARKSVILLE	56,061
COLEBROOK	1,604,897
COLUMBIA	318,302
CONCORD	,645,863
CONWAY	2,184,641
CORNISH	762,306
CRAWFORD'S PURCH.	-
CROYDON	194,958
CUTT'S GRANT	-
DALTON	555,961
DANBURY	622,396
DANVILLE	2,053,805
DEERFIELD	1,601,209
DEERING	824,505
DERRY	22,885,507
DIX GRANT	-
DIXVILLE	-
DORCHESTER	289,251
DOVER	4,463,601
DUBLIN	165,965
DUMMER	129,267
DUNBARTON	306,840
DURHAM	1,073,662
EAST KINGSTON	348,601
EASTON	-
EATON	40,611
EFFINGHAM	714,883
ELLSWORTH	10,048
ENFIELD	726,978
EPPING	2,125,758
EPSOM	1,404,169
ERROL	-
ERVING'S GRANT	-
EXETER	2,891,486
FARMINGTON	4,766,697
FITZWILLIAM	671,124
FRANCESTOWN	469,336
FRANCONIA	-
FRANKLIN	6,068,956

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
FREEDOM	-
FREMONT	1,328,505
GILFORD	1,090,812
GILMANTON	823,190
GILSUM	425,781
GOFFSTOWN	4,002,444
GORHAM	1,554,086
GOSHEN	434,744
GRAFTON	579,960
GRANTHAM	-
GREENFIELD	684,584
GREENLAND	367,203
GREEN'S GRANT	-
GREENVILLE	1,991,176
GROTON	274,745
HADLEY'S PURCH.	-
HALES LOCATION	-
HAMPSTEAD	2,442,211
HAMPTON	-
HAMPTON FALLS	241,643
HANCOCK	270,360
HANOVER	-
HARRISVILLE	154,985
HART'S LOCATION	-
HAVERHILL	2,796,426
HEBRON	-
HENNIKER	2,414,773
HILL	388,690
HILLSBORO	3,700,646
HINSDALE	3,565,805
HOLDERNESS	-
HOLLIS	956,210
HOOKSETT	1,598,121
HOPKINTON	1,077,105
HUDSON	5,018,161
JACKSON	-
JAFFREY	2,457,836
JEFFERSON	446,827
KEENE	9,430,457
KENSINGTON	295,312
KILKENNY	-
KINGSTON	1,083,765

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
LACONIA	4,465,848
LANCASTER	2,783,263
LANDAFF	59,636
LANGDON	295,656
LEBANON	2,230,536
LEE	2,428,890
LEMPSTER	545,915
LINCOLN	-
LISBON	1,415,796
LITCHFIELD	4,040,946
LITTLETON	2,749,246
LIVERMORE	-
LONDONDERRY	11,326,768
LOUDON	1,663,063
LOW & BURBANK GR.	-
LYMAN	120,279
LYME	238,652
LYNDEBOROUGH	436,161
MADBURY	994,779
MADISON	378,905
MANCHESTER	45,121,313
MARLBOROUGH	864,687
MARLOW	434,759
MARTIN'S LOCATION	-
MASON	168,412
MEREDITH	1,428,832
MERRIMACK	6,811,530
MIDDLETON	1,069,618
MILAN	993,883
MILFORD	6,038,760
MILLSFIELD	-
MILTON	2,457,711
MONROE	174,298
MONT VERNON	988,763
MOULTONBOROUGH	-
NASHUA	22,025,758
NELSON	162,098
NEW BOSTON	1,370,540
NEW CASTLE	-
NEW DURHAM	491,169
NEW HAMPTON	432,070
NEW IPSWICH	2,690,379

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
NEW LONDON	-
NEWBURY	-
NEWFIELDS	185,532
NEWINGTON	-
NEWMARKET	1,753,655
NEWPORT	5,484,148
NEWTON	1,708,243
NORTH HAMPTON	-
NORTHFIELD	3,653,253
NORTHUMBERLAND	2,010,436
NORTHWOOD	1,940,604
NOTTINGHAM	859,695
ODELL	-
ORANGE	180,653
ORFORD	131,200
OSSIPEE	1,511,754
PELHAM	1,807,725
PEMBROKE	3,945,432
PETERBOROUGH	1,843,909
PIERMONT	329,893
PINKHAM'S GRANT	-
PITTSBURG	159,120
PITTSFIELD	3,927,011
PLAINFIELD	709,396
PLAISTOW	1,216,914
PLYMOUTH	3,020,941
PORTSMOUTH	-
RANDOLPH	51,724
RAYMOND	5,521,064
RICHMOND	697,548
RINDGE	1,050,985
ROCHESTER	15,901,242
ROLLINSFORD	316,025
ROXBURY	40,222
RUMNEY	574,512
RYE	-
SALEM	3,814,013
SALISBURY	434,949
SANBORNTON	442,959
SANDOWN	3,176,622
SANDWICH	-
SARGENT'S PURCHASE	-

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
SEABROOK	-
SECOND COLLEGE GR.	-
SHARON	52,878
SHELBURNE	65,057
SOMERSWORTH	5,570,859
SOUTH HAMPTON	97,355
SPRINGFIELD	243,762
STARK	344,322
STEWARTSTOWN	450,205
STODDARD	-
STRAFFORD	1,978,685
STRATFORD	728,736
STRATHAM	858,722
SUCCESS	-
SUGAR HILL	-
SULLIVAN	392,424
SUNAPEE	-
SURRY	293,105
SUTTON	262,887
SWANZEY	4,550,345
TAMWORTH	445,503
TEMPLE	466,007
THOM. & MES. PURCH	-
THORNTON	393,226
TILTON	933,866
TROY	1,728,674
TUFTONBORO	-
UNITY	569,242
WAKEFIELD	1,405,686
WALPOLE	1,084,286
WARNER	986,234
WARREN	548,805
WASHINGTON	220,871
WATERVILLE VALLEY	-
WEARE	5,676,558
WEBSTER	349,792
WENTWORTH	644,210
WENTWORTH LOC	-
WESTMORELAND	622,085
WHITEFIELD	1,385,808
WILMOT	269,969
WILTON	596,644

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
WINCHESTER	3,562,257
WINDHAM	1,610,178
WINDSOR	48,871
WOLFEBORO	-
WOODSTOCK	222,015

3 School Money; Distribution of Education Grants. Amend RSA 198:42, II to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA ~~[198:40-c]~~ **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-c, subtract the aggregate amount of the statewide enhanced education 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 education grants.

4 Effective Date. This act shall take effect July 1, 2004 at 12:01 a.m.

2004-1500s

AMENDED ANALYSIS

This bill deletes a provision in the formula for determining education aid grants and establishes education aid grant amounts for the 2005 fiscal year.

SENATOR CLEGG: Mr. President, we have heard recently in the news and elsewhere that the Department of Education has determined that we made a mistake in the bill, House Bill 608 last year, and that the intent of the Senate was to only pass out \$194 million to the communities. Since none of us here ever saw a spreadsheet that only spent \$194 million, I don't believe that any of us here believe that the DOE is correct. We all saw a spreadsheet that spent over \$428 million. What this floor amendment does is restate the intent of the legislature by putting in the total grant aid that we expected that would go to the communities in the '05 year and then the last page of the amendment it takes out the piece of the bill that the Department of Education claimed dropped us to \$194 million. It stops what they claim as double subtraction. So the amendment is strictly to reiterate the legislative intent to spend almost \$429 million for education, and it clarifies to the public, that under no circumstances, and at no time, did this legislature try to sneak through a severe and drastic cut of education aid. Thank you, Mr. President.

SENATOR SAPARETO: Thank you, Mr. President. Mr. President, I rise in strong support of this legislation. It is bad enough that we have a difficult time trying to agree on a funding plan that, when we do come

to an agreement with both bodies, the House and Senate, that we have to have departments that have to misinterpret this, I think, intentionally, and it should never happen. This only adds more controversy to the education funding issue and I am sorry that this ever existed and I am hoping that further legislation will make sure that it is clear that with the passage of this, that no departments will misinterpret the legislative intent again.

SENATOR ESTABROOK: Thank you, Mr. President. I just want to follow up my earlier remarks, to say that I object to the deletion of the entire contents of this bill which had wide support until it reached Senate Finance. I will speak to the merits of that later as an amendment to 1281, given our procedures today.

SENATOR GATSAS: Senator Clegg, if I read this correctly, basically what the interpretation of a department was is that the funding of education adequacy is as it was done for four years, that created the double subtraction was because of the statewide enhanced education tax and as subtracted from the balance and not the way that the interpretation or the intent that the legislature understood it.

SENATOR CLEGG: I agree that they were not doing the formula the way that the legislature had intended and had voted for.

SENATOR GATSAS: Wouldn't you agree that the only changes that were made to the education funding formula as it originated from Senate Education, was changing the property tax from \$3.50 to \$3.26 to the \$3.24 level? Those were the only changes that were changed in the entire formula because the formula is still based on equalized evaluation per child.

SENATOR CLEGG: I would agree with that.

SENATOR GATSAS: Thank you.

SENATOR PETERSON: Thank you, Mr. President. Senator Clegg, my mind was focused on line 34 of this sheet and the amendment on page six because we just were meeting last night with the Rindge selectmen who are very concerned about their school funding. I believe the number that is stated on this may be at variance with what the spreadsheets had previously stated on 608 where it was over \$1.3 million and this says \$1.50 million. Could you comment please?

SENATOR CLEGG: I would tell you that the numbers we have here were verified by Legislative Budget (LBA) as to what was exactly in the spreadsheets that they had supplied under the 608 plan.

Recess.

Out of recess.

MOTION TO TABLE

Senator Clegg moved to have **HB 1188** laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1188, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan.

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds. Capital Budget Committee. Ought to pass with amendment, Vote 5-0. Senator Morse for the committee.

Capital Budget
April 27, 2004
2004-1387s
06/01

Amendment to HB 2004-FN-LOCAL

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

AN ACT relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds, relative to frivolous actions against the state concerning state construction projects, and relative to financing federally aided highway projects.

Amend the bill by replacing all after section 5 with the following:

6 Purpose; Frivolous Actions Relative to State Construction Projects. The general court finds that it is in the interests of the state that state construction projects be able to proceed without delay. Legal actions that unnecessarily delay state construction projects increase taxpayer expense and merit limitation.

7 New Section; Frivolous Actions Relative to State Construction Projects. Amend RSA 507 by inserting after section 15 the following new section:
 507:15-a Frivolous Actions Relative to State Construction Projects.

I. If, upon the hearing of any action against the state pertaining to a state construction project, which has commenced after the necessary state and federal approvals for construction have been issued, it appears to the court that the action is frivolous or intended to otherwise harass or intimidate the prevailing party, then the court, upon motion of a prevailing party or on its own motion, may order summary judgment or other relief against the party who brought such action, and award the amount of costs and attorneys' fees incurred by the prevailing party. Costs shall include, but not be limited to, increased construction costs incurred by the state.

II. For purposes of this section, "state construction project" shall mean a capital budget project.

8 New Chapter; Federal Highway Grant Anticipation Bonds. Amend RSA by inserting after chapter 228 the following new chapter:

CHAPTER 228-A

FEDERAL HIGHWAY GRANT ANTICIPATION BONDS

228-A:1 Title; Definitions. This chapter may be referred to as the "Federal Highway Anticipation Bond Act." For purposes of this chapter, unless a different meaning clearly appears from the context, the following words shall have the following meanings:

I. "Bonds" means any bonds, notes, or other evidences of indebtedness issued under this chapter.

II. "Federal highway construction program" means the state's federally assisted highway program, as it may be provided for from time to time, including without limitation, projects financed by the issuance of bonds under this chapter or any other federal highway project previously undertaken or to be undertaken at any time hereafter while any such bonds are outstanding as part of such program.

III. "Federal highway construction trust funds" means all federal highway construction reimbursements and any other federal highway assistance received from time to time by the state with respect to the federal highway construction program, or received from time to time by the state under any successor program established under federal law.

IV. "Project costs" means all the costs of constructing, reconstructing, altering, or dismantling any highway eligible to receive federal funds in accordance with RSA 235:7 or any other applicable federal or state law, and, without limiting the generality of the foregoing, may include the costs of planning, designing, constructing, reconstructing, altering, dismantling, and landscaping any such highway and all approaches, bridges and roads connecting thereto or connecting parts thereof, of all lands, property rights, rights-of-way, easements and franchises necessary or convenient for such construction, of all machinery and equipment, and of traffic estimates, administration, engineering, architectural and legal services, labor, plans, specifications, surveys, and estimates of costs and revenues, financing charges, interest prior to or during construction, and all such other expenses as may be necessary or incident to the financing and construction of such highway and the placing of the same fully in operation, and may include the funding of reserves for debt service and other expenses as may be determined in a bond resolution or trust or security agreement adopted or entered into pursuant to this chapter.

V. "Revenues" means all federal aid for highways received by the state pursuant to Title 23 of the United States Code and all other federal laws, heretofore or hereafter enacted, relating to federal aid for highways and all rights to receive the same, and any grants, loans, and other contributions from any governmental unit relating thereto or to projects financed, in whole or in part, pursuant to this chapter, investment earnings, and the proceeds of any borrowing hereunder or of any sale or disposition or insurance of any highway assets of the state.

228-A:2 Issuance of Revenue Bonds. The state may issue bonds under this chapter to be known as "federal highway grant anticipation bonds." The bonds may be issued from time to time for the purpose of financing project costs related to the widening of Interstate 93 from Manchester to the Massachusetts border and any other federally aided highway project hereafter authorized by the general court to be financed under this chapter. Bonds issued hereunder shall be special obligations of the state and the principal of, premium, if any, and interest on all bonds shall be payable solely from the particular funds provided therefor under this chapter. The bonds shall be issued by the treasurer in such amounts as the governor and council shall determine, not exceeding in the aggregate \$333,000,000. Bonds of each issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate or other method as may be determined by the treasurer, and shall mature at such time or times as may be determined by the treasurer, except that no bond shall mature more than 15 years from the date of its issue. Bonds may be made redeemable before maturity either at the option of the state or at the option of the holder, or on the occurrence of specified events, at such price or prices and under such terms and conditions as may be fixed by the treasurer prior to the issue of bonds. The treasurer shall determine the form and details of bonds. Subject to RSA 93-A, the bonds shall be signed by the treasurer and countersigned by the governor. The bonds may be sold in such manner, either at public or private sale, for such price, including above or below par value, at such rate or rates of interest, or at such discount in lieu of interest, as the treasurer may determine.

228-A:3 Trust or Security Agreement or Resolution.

I. Any bonds issued under this chapter may be secured by a resolution or by a trust or security agreement between the state and a corporate trustee or by a trust or security agreement directly between the

state and the purchasers of the bonds. Any corporate trustee that is a party to such resolution or trust or security agreement may be any trust company or bank having the powers of a trust company within or without the state. Any such resolution or trust or security agreement shall be in such form and executed in such manner as may be determined by the treasurer, with the approval of the governor and council. Such trust or security agreement or resolution may pledge or assign, in whole or in part, the revenues held or to be received by the state and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the state, and any proceeds thereof. Such trust or security agreement or resolution may contain such provisions for protecting and enforcing the rights, security and remedies of the bondholders as may, in the discretion of the treasurer, be reasonable and proper and not in violation of law. Without limiting the generality of the foregoing, such agreement or resolution may include:

(a) Provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities; and

(b) Covenants setting forth the duties of, and limitations on, the state in relation to:

(1) The custody, safeguarding, investment and application of moneys;

(2) The issue of additional or refunding bonds;

(3) The use of any surplus bond proceeds;

(4) The establishment of reserves;

(5) The construction and operation of any highway or project related thereto;

(6) Any contracts relating thereto; and

(7) Subsequent amendments of such provisions and contracts.

II. It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues or other moneys under a trust or security agreement or resolution. It shall be lawful for any bank or trust company to furnish such indemnification or to pledge such securities and issue such letters or lines of credit or other credit facilities as may be required by the state acting under this chapter. Any such trust or security agreement or resolution may set forth the rights and remedies of bondholders and of the trustee and may restrict the individual right of action by bondholders.

228-A:4 Credit Facilities and Insurance. Any bonds issued under authority of this chapter may be issued pursuant to lines of credit or other banking arrangements under such terms and conditions not inconsistent with this chapter, and under such agreements with the purchasers or makers thereof, as the treasurer may determine to be in the best interests of the state. In addition to other security provided herein or otherwise by law, bonds issued by the state under this chapter may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued to the state by any bank, trust company, or other financial institution, within or without the state, and the state may pledge or assign any of the revenues as security for the reimbursement by the state to the issuers of such letters or lines of credit, insurance, or credit facilities of any payments made thereunder.

228-A:5 Pledge of Revenues or Other Property. Any pledge of revenues or other property made by the state under this chapter shall be valid and binding and shall be deemed continuously perfected for the purposes of RSA 382-A and other laws from the time when the pledge is made; the

revenues, moneys, rights, and proceeds so pledged and then held or thereafter acquired or received by the state shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the state, irrespective of whether such parties have notice thereof. No such revenues may be used in a manner inconsistent with the pledge. Neither the resolution, any trust or security agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the secretary of state and no filing need be made under RSA 382-A.

228-A:6 Enforcement of Rights. Any owner of a bond issued under the provisions of this chapter and any trustee under a trust or security agreement or resolution securing the same, except to the extent the rights given in this section may be restricted by such agreement or resolution, may bring suit upon the bonds and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust or security agreement or resolution and may enforce and compel the performance of all duties required by this chapter or by such agreement or resolution to be performed by the state or by any officer thereof.

228-A:7 Refunding Bonds. The treasurer, when authorized by the governor and council, may issue refunding bonds for the purpose of paying any bonds issued under the provisions of this chapter at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such times prior to the maturity or redemption of the bonds being refunded as the treasurer may determine. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other expenses from the proceeds of such refunding bonds as may be required by a trust or security agreement or resolution securing the bonds. The authorization and issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the state in respect to the same shall be governed by the provisions of this chapter relating to the issue of the bonds other than refunding bonds insofar as the same may be applicable.

228-A:8 Bonds Not General Obligations. Except as provided in the following sentence, bonds issued under the provisions of this chapter shall not be general obligations of the state for which its full faith and credit is pledged, nor shall they be payable out of any funds other than the funds provided therefor in this chapter nor shall they be deemed debt of the state in determining its borrowing capacity under any applicable law. Notwithstanding the foregoing, the general court may from time to time authorize the use of any other funds of the state to pay any portion of bonds issued under the provisions of this chapter.

228-A:9 Separate Funds. Any debt service fund, construction fund, debt service reserve fund, or other fund established in connection with the issuance of bonds under this chapter shall be kept separate from other moneys of the state. The moneys deposited in any such funds, together with income derived from any investments held as part of such funds,

shall be expended without further authorization or appropriation as provided for in the trust or security agreement or resolution establishing such funds.

228-A:10 Trust Funds. All moneys received pursuant to the provisions of this chapter, whether as proceeds from the issue of bonds, as revenues, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. All such trust funds shall be deposited, upon receipt, into the federal highway grant anticipation bond trust fund, which is hereby established as a subaccount of the highway fund. In order to increase the marketability of any bonds issued by the state pursuant to this chapter at the lowest possible cost to the state, all federal highway construction trust funds, any other funds hereafter appropriated to the federal highway grant anticipation bond trust fund, and investment earnings on funds held or credited to the federal highway grant anticipation bond trust fund or on the proceeds of any bonds issued pursuant to this chapter and secured by the federal highway grant anticipation bond trust fund, are hereby impressed with a trust for the benefit of the owners from time to time of such bonds. Such funds may be applied by the state, without appropriation, solely for the purposes of paying the principal or purchase price of, redemption premium, if any, and interest on such bonds in the fiscal year in which such funds are received or in any subsequent fiscal year, as such amounts come due or may be paid or deemed paid prior to maturity in accordance with their terms and further satisfying the terms of any trust or security agreement or resolution entered into in accordance with RSA 228-A:3 or credit facility entered into in accordance with RSA 228-A:44. Such payments with respect to the bonds may include, without limitation, the payment of any fees and expenses related to the bonds, maintaining reserves, if any, under any trust or security agreement or resolution or credit facility and paying reimbursement amounts in respect of any credit facility.

228-A:11 Investment of Funds. Moneys in any fund or account created under the provisions of this chapter, subject to the terms and provisions of any trust or security agreement or resolution applicable thereto, may be invested in accordance with RSA 6:7 and RSA 6:8. Except as otherwise provided by any such trust or security agreement or resolution, obligations so purchased as an investment of moneys in said fund or account shall be deemed at all times to be a part of said fund or account, and the interest thereon and any profit arising on the sale thereof shall be credited to said fund or account, and any loss resulting on the sale thereof shall be charged to said fund or account, respectively.

228-A:12 Agreement with Bondholders. The state pledges to and agrees with the holders of bonds issued under this chapter that until such bonds, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged, or unless expressly permitted or otherwise authorized by the terms of each contract and agreement made or entered into by or on behalf of the state with or for the benefit of such holders, the state shall:

I. Carry out and perform, or cause to be carried out and performed, each and every promise, covenant, agreement, or contract made or entered into by the state or on its behalf by or under the provisions of this chapter and on its behalf to be performed; and

II. Not issue any bonds, notes, or other evidences of indebtedness, other than federal highway grant anticipation bonds, having any rights secured by any pledge of or other lien or charge on the revenues or any

moneys or securities paid or to be paid to or held or to be held by the state or the treasurer hereunder, and shall not create or cause to be created any lien or charge on the revenues, any such moneys or securities, other than a lien and pledge thereon created by or pursuant to the provisions of this chapter; provided that nothing in this section shall prevent the state from issuing evidences of indebtedness which:

(a) Are secured by a pledge or lien which is and shall on the face of said evidences of indebtedness be expressed to be subordinate and junior in all respects to every lien and pledge created by or pursuant to the provisions of this chapter; or

(b) Pledge the full faith and credit of the state and which are not expressly secured by any specific lien or charge on revenues or any such moneys or securities; or

(c) Are secured by a pledge of or lien on moneys or funds to be derived on and after such date as every pledge or lien thereon created by or pursuant to the provisions of this chapter shall be discharged and satisfied; and

III. Not divert federal highway construction trust funds from the purposes identified herein except as provided in the trust or security agreement or resolution or credit facility relating thereto nor shall the trusts with which they are hereby impressed be broken, and the pledge and dedication in trust of such funds shall continue unimpaired unaborogated

228-A:13 Prior Covenants and Contracts Not Affected. The provisions of this chapter shall not in any way limit, restrict, or alter the obligation or powers of the state to carry out and perform in every detail each and every promise, covenant, agreement, or contract made or entered into, prior to the enactment of this chapter, or limit, restrict, or alter the powers, rights, authority, duties, or obligations of the treasurer or the commissioner of transportation or any other officer of the state to do and perform each and every act or thing required on the part of the state or any such officer to be done or performed by any such promise, covenant, agreement, or contract.

228-A:14 Tax Exemption. Bonds issued under this chapter, their transfer and income therefrom, including any profit made on the sale or transfer thereof, shall at all times be exempt from all taxation by or within the state.

228-A:15 Investment Securities. Notwithstanding any of the provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be investment securities under RSA 382-A.

228-A:16 Eligible Investments. Bonds issued under the provisions of this chapter are hereby made securities in which all public officers, agencies and authorities of the state and of its political subdivisions, insurance companies, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency, authority, or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state or of any political subdivision is now or may hereafter be authorized by law.

228-A:17 Construction and Effect of Other Laws.

I. The provisions of this chapter shall be deemed to provide an additional and alternative method for the effectuation of the purposes of

this chapter and shall be construed to be supplemental to, and not in derogation of, powers otherwise conferred by law; provided, however, that insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, administrative order or rule, or any limitation imposed by the state, the provisions of this chapter shall be controlling.

II. The provisions of this chapter are severable, and if any provision hereof shall be held invalid in any circumstances, such invalidity shall not affect or impair any other provisions or circumstances.

III. This chapter shall be construed in all respects so as to meet all Constitutional requirements. In carrying out the purposes and provisions of this chapter, all steps shall be taken which are necessary to meet Constitutional requirements.

IV. This chapter shall be liberally construed to effect the purposes thereof.

9 New Subparagraph; Special Fund; Federal Highway Grant Anticipation Bond Trust Fund. Amend RSA 6:12, I by inserting after subparagraph (227) the following new subparagraph:

(228) Moneys received under RSA 228-A, which shall be deposited in the federal highway grant anticipation bond trust fund.

10 Effective Date.

I. Sections 6 and 7 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect 60 days after its passage.

2004-1387s

AMENDED ANALYSIS

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Establishes a committee to study the adequacy of funding for the state's 10-year transportation plan.

III. Grants authority to the commissioner of transportation to make improvements to the turnpike system required by the 10-year transportation plan.

IV. Changes appropriations for certain projects in the turnpike system.

V. Allows the prevailing party, in a suit brought concerning a state construction project, to recover costs, attorneys' fees, and damages that include any increased construction costs incurred by the state.

VI. Establishes a class of state bonds for the purpose of financing project costs related to the widening of Interstate 93 and other federally aided highway projects.

SENATOR MORSE: Thank you, Mr. President. I move ought to pass with amendment on House Bill 2004-FN. This legislation deals with the state's ten-year Transportation Plan which remains the same as passed by the House. The committee amendment addresses the serious and costly matter of frivolous lawsuits filed on state construction projects and would enable the court to order summary judgment or other relief such as legal fees as well as increased construction costs. The other section of the amendment deals with the federal highway grant anticipation bonds and would allow the treasurer to issue them only on the I-93 widening project. Because of the huge anticipated costs of this project, having the ability to use these special bonds would benefit the state. The Capital Budget Committee recommends this legislation be adopted and asks for your support.

Amendment adopted.

SENATOR LARSEN: Mr. President, actually I have been busy enough not to know I have a floor amendment and I don't know if it is to the committee amendment or if it is to the regular bill. So, I don't want us to go past the point of floor amendment. So, I need some advice.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. D'Allesandro, Dist. 20

Sen. Cohen, Dist. 24

Sen. Below, Dist. 5

Sen. Foster, Dist. 13

Sen. Estabrook, Dist. 21

May 5, 2004

2004-1496s

06/01

Floor Amendment to HB 2004-FN-LOCAL

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

AN ACT relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds and relative to financing federally aided highway projects.

Amend the bill by deleting sections 6 and 7 and renumbering the original sections 8-10 to read as 6-8, respectively:

Amend the bill by replacing section 8 with the following:

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

2004-1496s

AMENDED ANALYSIS

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Establishes a committee to study the adequacy of funding for the state's 10-year transportation plan.

III. Grants authority to the commissioner of transportation to make improvements to the turnpike system required by the 10-year transportation plan.

IV. Changes appropriations for certain projects in the turnpike system.

V. Establishes a class of state bonds for the purpose of financing project costs related to the widening of Interstate 93 and other federally aided highway projects.

SENATOR LARSEN: Thank you, Mr. President. The amendment that we are asking support for addresses the issue which was presented to you in discussion already. That is the issue of frivolous lawsuits. This...if we do not remove this language from the ten-year highway plan, what we will be doing is chilling any action by citizens or concerned individuals who seek to raise issues relating to safety or environmental issues. This amendment will remove the language regarding frivolous actions and in fact, return the ten-year highway plan to one which is purely a ten-year highway plan. It was suggested in the testimony during the hearing on this particular amendment that it would in fact...former Senate Bill 169 would have had a chilling effect on the public's ability to question, challenge and get involved in public construction projects. It was argued that any good construction project would be able to withstand lawsuits, but in fact, we should not be dissuading average citizens

who have a concern about a particular project from bringing their issues to court. I would urge you to support this floor amendment and allow for those who seek to have their concerns heard, to have them heard without the kind of penalties which this frivolous language would impose upon people. Thank you.

SENATOR CLEGG: Thank you, Mr. President. I rise in opposition to this amendment. Frivolous lawsuit is the Senate position. It's passed out of here once. Not one case has been proven...let me start over. There is nothing in the frivolous lawsuit amendment that would stop an honest case from moving forward. What it does stop is things like I read in the paper where Conservation Law Foundation has said that they will hold up I-93 forever because, even though they have the corridor designated for rails, it doesn't have rails and it doesn't have a railroad train on it. So that, in my opinion, is frivolous. To cost the taxpayers hundreds of thousands of dollars to delay a project which means jobs to the public, and to delay a project which will stop the death and injuries created on that highway because you want the state to give you something that others don't agree with, is in my opinion, extremely frivolous. Those are the cases we need to stop. We shouldn't be blackmailed by any organization to do anything other than what the legislature is required of it and what the people of the state of New Hampshire have required. We have rules and regulations that we follow. Using the courts to stop projects because you want the state to give you money for something else is frivolous, it is wrong, and it's theft to taxpayer money. Thank you, Mr. President.

SENATOR FOSTER: It says on the motion... "Then the court upon motion of the prevailing party may order a summary judgment or other relief against the party who brought the action, an award, costs and attorney fees, and cost would include increased construction costs." Are you suggesting that any time the court grants summary judgment of a lawsuit that involves a construction project, that this gets triggered? That I think, would chill all kinds of litigation. Somebody could have an interpretation of an environmental or other regulation, bring a case and the court could say, no, you are wrong about the law and this would be triggered?

SENATOR CLEGG: I am not sure that that is the case. I still think that someone would have to prove that it was a frivolous lawsuit and only intended to halt to...or intended to, as it says, "frivolous or intended to otherwise harass or intimidate the prevailing party." So I think if the court sees that the action was intended only to stall, intimidate or harass, that they would get all of the costs including the increase of the construction costs.

SENATOR FOSTER: So the intent here is just where the court makes a finding where it was for harassment or pure delay, as opposed to a good faith belief that an environmental regulation or some other regulation was being impaired.

SENATOR CLEGG: I think that if it is a legitimate question of the law, I don't see where that is harassment or intimidation.

SENATOR FOSTER: Thank you.

SENATOR COHEN: Thank you very much. I think the problem with this bill, with the section staying in there was pointed out very clearly by my colleague Senator Clegg. He said, in his opinion, "frivolous in his opinion." Well we are talking about public dollars here. The public deserves openness and accountability and access. We are talking about using our

public dollars. We have to make sure, we the people here, have to make sure that it is the highest possible public good. This is obviously designed to, you know, ramrod things through and avoid legitimate court cases here. I just think it is obvious that, you know, what one person calls frivolous, you know, we don't know what that may be. It may be a legitimate concern as legitimate concerns have been raised about the project you specified here. We expect public accountability and answerability to the public on this. This would have clearly a chilling affect on that.

SENATOR CLEGG: Senator Cohen, since the Conservation Law Foundation has publicly stated to the press that it is their intent to hold up the construction of I-93 through lawsuits until they are given an actual railroad with trains and tracks, do you think that is frivolous or do you think that is a legitimate use of the court system against the state to gain what they need?

SENATOR COHEN: Senator Clegg, it is not up to me to say whether I think it is frivolous or not. This is a matter that should be before the courts. If the state has a good strong case to make, well then the state should be able to make its case rather thoroughly. If the state's case is strong enough, then indeed it will proceed.

SENATOR CLEGG: Senator Cohen, if...I want to make sure that I clearly understand. You don't think that that would be a frivolous use of the court system or the taxpayers' money?

SENATOR COHEN: Senator Clegg, as I said, it is not up to me to say.

SENATOR CLEGG: You have no opinion?

SENATOR COHEN: It is not up to me to say.

SENATOR CLEGG: Thank you.

SENATOR SAPARETO: Thank you, Mr. President. Senator Cohen, if a delay, in following up, I have the same question my colleague Senator Clegg has that, if we now have a delay that runs maybe, I am just going to pick a number, let's say it costs \$15 million, and the delay costs the taxpayers \$15 million, who should pay that \$15 million?

SENATOR COHEN: Well, I would hope that it would not delay it, that we would build it in a way that the public can be satisfied that it is in the public good. Of course, it would not delay it that long. That it be done in a way that, if the state you know, can make the convincing case, as I imagine that it can in this case, but I don't know, I am not involved in the lawsuit, that it would be strong enough to go forward without the delay.

SENATOR SAPARETO: So, in your opinion, any delays would have no price tag to it?

SENATOR COHEN: Of course not.

SENATOR SAPARETO: Then, who should pay?

SENATOR COHEN: I believe the courts will be in a position as they always have been.

SENATOR MORSE: Thank you, Mr. President. First, I would urge my colleagues to vote no on this amendment. Now my experience has been with I-93 through the process, but let me tell you how open that process is. Not only do we go through all these public hearings throughout the southern tier, we go through a ten-year highway process up here and we keep rearranging it. Then when we go through that process, you are

allowed to file for a month later with your concerns about it. Then, when we are through with that process, the Governor and the Department of Transportation have the opportunity to hold it up one more time until they think it is perfect and all the departments sign off on it, which they have. Even after that, there are three more meetings that have to happen before we get the permit from the federal government. Now, if they haven't had ample amount of time to sue within this period, and if the public hasn't had ample amount of time to address their concerns, I am not sure how you are going to improve the process. We here in the state of New Hampshire, on that highway, are offering over 10-1 replacement on mitigation, yet our friends across the border built Route 3 and do 1 to 1, yet we still hear from this group that they are going to come and sue the state of New Hampshire to hold up the project. I find that to be frivolous. I think, if we calculate the dollars at a 3 percent increase on the project for every year we hold it up, or let's take it in reverse. For every year we don't put that dollar into construction projects that increase our economy by \$7, it borderlines ridiculous for our state. I think that we should vote against this amendment, send it over to the House and have them stamp it along with our ten-year highway plan, which is actually a 15-year plan that we are trying to fit into ten-years and let's move forward.

SENATOR BELOW: Senator Clegg, does this amendment say that the court has to make a finding that an action is frivolous before it orders summary judgment and payment of costs including increased construction costs, or does it say merely that it has to appear to the court that the action is frivolous?

SENATOR CLEGG: Well, I think that if it appears to the court they are going to make a finding. I am not a judge and I am not a lawyer, but I have been around courts before, and if something appears to be incorrect, the judge usually finds to that satisfaction.

SENATOR BELOW: So your intent is that they have to make a finding?

SENATOR CLEGG: My intent is that the judge has to decide that attorneys' fees need to be awarded because of the frivolous nature of the suit.

SENATOR BELOW: Thanks.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Estabrook.

The following Senators voted Yes: Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

Yeas: 6 - Nays: 17

Floor amendment failed.

The question is on the adoption of the bill as amended.

A roll call was requested by Senator Clegg.

Seconded by Senator Prescott.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Below, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senators voted No: None.

Yeas: 24 - Nays: 0.

Adopted.

Ordered to third reading.

HB 1281, permitting the adoption of an alternative cost apportionment method in a cooperative school district. Education Committee. Ought to pass with amendment, Vote 4-0. Senator O'Hearn for the committee.

Senate Education

April 28, 2004

2004-1457s

09/04

Amendment to HB 1281

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

AN ACT permitting the adoption of an alternative cost apportionment method in a cooperative school district and establishing a legislative oversight committee for the school administrative unit system.

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

1 New Section; Cooperative School Districts; Alternative Method of Apportioning Costs. Amend RSA 195 by inserting after section 14 the following new section:

195:14-a Alternative Apportionment of Operating Costs.

I. As an alternative to the apportionment of operating costs set forth in RSA 195:14, the cooperative school board may fix a specific percentage of the state education grant amount received in a given year to be applied to the operating costs of the cooperative school district, before the apportionment of remaining cooperative school district operating costs. Such percentage shall not be less than zero percent and not more than 100 percent and shall be the same in each city or town in the cooperative school district.

II. The question shall be proposed as an article in the warrant of the next cooperative school district annual or special meeting pursuant to RSA 195:13. A majority vote in each city or town in the cooperative school district voting on the question shall be required for adoption.

III. The procedure for modification or rescission of a specified percentage shall be as set forth in this section, and shall not be subject to the provisions of RSA 195:18, III(i). A majority vote in each city or town in the cooperative school district voting on the question shall be required for modification or rescission.

2 New Sections; School Administrative Units; Legislative Oversight Committee. Amend RSA 194-C by inserting after section 10 the following new sections:

194-C:11 Legislative Oversight Committee. An oversight committee shall be established consisting of:

I. The chairperson of the house education committee, or a designee.

II. The chairperson of the senate education committee, or a designee.

III. One member of the house of representatives, appointed by the speaker of the house of representatives.

IV. One member of the senate, appointed by the senate president.

V. One member of the house finance committee, appointed by the speaker of the house of representatives.

VI. One member of the senate finance committee, appointed by the senate president.

194-C:12 Duties of the Legislative Oversight Committee. The oversight committee shall monitor the process of organization and withdrawal of school districts from school administrative units and shall oversee the general operation, creation, or dissolution of school administrative units. The committee shall submit an annual report to the speaker of the house of representatives, the president of the senate, and the state board of education summarizing its findings.

3 Effective Date.

I. Section 2 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect July 1, 2004.

2004-1457s

AMENDED ANALYSIS

The bill allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

This bill establishes a legislative oversight committee to oversee the school administrative unit system.

SENATOR O'HEARN: Thank you, Mr. President. I move House Bill 1281 ought to pass with amendment. This legislation is enabling and allows municipalities to work together to come to an agreement to change their apportionment formula if approved by a majority vote in each of the towns in the cooperative. They may also determine whether or not the state education grants should be applied before the operating costs. The legislation provides communities with the flexibility to determine which apportionment formula is most fair and what communities are able to afford. The committee amendment includes a committee to address a consistent problem. This is a committee to monitor the growth and expansion or the dissolution of SAUs in the state. The Education Committee asks your support for the motion of ought to pass with amendment. Thank you.

SENATOR FLANDERS: Senator O'Hearn, just to make sure that I am familiar with this. This is home rule, all decisions are decided by the towns?

SENATOR O'HEARN: That is correct.

SENATOR FLANDERS: There is no decision made by this legislation on formulas?

SENATOR O'HEARN: That is correct.

SENATOR FLANDERS: Thank you.

Amendment adopted.

Senator O'Hearn offered a floor amendment.

Sen. O'Hearn, Dist. 12

May 5, 2004
2004-1509s
04/10

Floor Amendment to HB 1281

Amend the bill by replacing section 1 with the following:

1 New Section; Cooperative School Districts; Alternative Method of Apportioning Operating Costs. Amend RSA 195 by inserting after section 14 the following new section:

195:14-a Alternative Method of Apportioning Operating Costs.

I. As an alternative to the apportionment of operating costs set forth in RSA 195:14, the cooperative school board may fix a specific percentage of the state education grant amount received in a given year to be applied to the operating costs of the cooperative school district, before the apportionment of remaining cooperative school district operating costs. Such percentage shall not be less than zero percent and not more than 100 percent and shall be the same in each city or town in the cooperative school district.

II. The question on the adoption of an alternative method of apportioning operating costs shall be proposed as an article in the warrant of the next cooperative school district annual or special meeting pursuant to RSA 195:13. A majority of voters present and voting in each city or town in the cooperative school district shall be required to approve the alternative method of apportioning operating costs. Upon approval, the clerk of the cooperative school district shall send to the state board of education a certified copy of the warrant.

III. The procedure for modification or rescission of an alternative method of apportioning operating costs shall be as set forth in the alternative method of apportioning operating costs and shall not be subject to the provisions of RSA 195:18, III(i). A majority of voters present and voting in each city or town in the cooperative school district shall be required to approve the modification or rescission.

2004-1509s

AMENDED ANALYSIS

The bill allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

This bill establishes a legislative oversight committee to oversee the school administrative unit system.

SENATOR O'HEARN: Mr. President, I rise to offer a floor amendment. Thank you, Mr. President. I know it is 22 lines, but I am going to refer to one particular line. We were informed both by the Department of Education and by DRA that there has to be information of when towns take this vote and change their apportionment formula that the Department of Education needs to be notified so that the DRA, as they work their tax rate, can work the tax rate back for the correct apportionment formula. So the new language that appears on line 16 & 17 "upon arrival, the clerk of the cooperative school district shall send to the state Board of Education a certified copy of the warrant" so it is notifying the Department of Education of the vote taken locally. I ask for your support on this amendment.

Floor amendment adopted.

Senator O'Hearn offered a floor amendment.

Sen. O'Hearn, Dist. 12

Sen. Foster, Dist. 13

May 4, 2004
 2004-1495s
 04/09

Floor Amendment to HB 1281

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

AN ACT permitting the adoption of an alternative cost apportionment method in a cooperative school district; relative to establishing a legislative oversight committee for the school administrative unit system; and relative to authorizing the city of Nashua to use its school capital reserve fund to retire school bonded indebtedness incurred by the city as a result of the issuance of school bonds.

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

3 City of Nashua; School Capital Reserve Fund. Notwithstanding RSA 33:2, the city of Nashua is authorized to use funds in its school capital reserve fund to retire school bonded indebtedness incurred by the city as a result of the issuance of school bonds.

4 Effective Date.

I. Section 1 of this act shall take effect July 1, 2004.

II. Section 2 of this act shall take effect 60 days after its passage.

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

2004-1495s

AMENDED ANALYSIS

This bill:

I. Allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

II. Establishes a legislative oversight committee to oversee the school administrative unit system.

III. Authorizes the city of Nashua to use its school capital reserve fund to retire school bonded indebtedness incurred by the city as a result of the issuance of school bonds.

SENATOR O'HEARN: Thank you, Mr. President. This is like the trailer bill in Education. We are trying to take care of all of the education issues in this one bill. This is...I would like to offer amendment 1495-s to House Bill 1281. This is an amendment and I will explain it as it is being passed out. Two weeks we passed a bill to allow the Governor Wentworth District to sell property within their school district and use their money for bonded indebtedness. We have an RSA 33:2 that does not allow this, so we need special legislation. It has been done before for...it was done two weeks ago for Governor Wentworth. It was done a few years ago for Exeter, and now Nashua was informed by DRA that they cannot use money set aside in their fund for bonded indebtedness and DRA informed them that they needed legislation in order to do this. This is allowing Nashua as we have...are almost at completion of our new high school, that we need this money for bonded indebtedness for our new high school, which we have set aside money and need to release it for that purpose. I ask the support of the Senate for this amendment.

SENATOR GATSAS: Thank you, Mr. President. Senator O'Hearn, is this kind of like bringing the pork to Nashua?

SENATOR O'HEARN: No, Senator Gatsas. This is money that they have set aside recognizing that we have a tremendous amount of money in our new high schools and we have our bond coming due. This is to help our taxpayers.

SENATOR GATSAS: But, without your assistance and Senator Foster's assistance, this additional funding going to Nashua couldn't happen?

SENATOR O'HEARN: It is not additional funding.

SENATOR GATSAS: The funding that they have in reserve. I am sorry.

SENATOR O'HEARN: The funding that they have in reserve could only be used for additions and for renovations, so this is helping the citizens of Nashua with their tax rate. Yes.

SENATOR GATSAS: Thank you.

SENATOR O'HEARN: Thank you.

Floor amendment adopted.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. D'Allesandro, Dist. 20

Sen. Below, Dist. 5

Sen. Foster, Dist. 13

Sen. Estabrook, Dist. 21

Sen. Cohen, Dist. 24

May 6, 2004

2004-1527s

09/04

Floor Amendment to HB 1281

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

AN ACT permitting the adoption of an alternative cost apportionment method in a cooperative school district, establishing a legislative oversight committee for the school administrative unit system, and relative to notification of education grant amounts to municipalities.

Amend the bill by replacing section 3 with the following:

3 New Paragraph; Determination of Education Grants; Notification. Amend RSA 198:41 by inserting after paragraph II the following new paragraph:

III. The department of education shall notify municipalities of the estimated amount of aid to which they are entitled for the following school year by November 1.

4 Effective Date.

I. Section 2 of this act shall take effect 60 days after its passage.

II. Section 3 of this act shall take effect July 1, 2004 at 12:01 a.m.

III. The remainder of this act shall take effect July 1, 2004.

2004-1527s

AMENDED ANALYSIS

The bill allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

This bill establishes a legislative oversight committee to oversee the school administrative unit system.

This bill requires the department of education to notify a municipality of the estimated education grant amount to which it is entitled for the following school year by November 1.

SENATOR LARSEN: I rise for the purpose of offering amendment number 1527s. As it is being passed out, the issue of our understanding of the education funding formula and our surprise at finding that, instead of having distributed \$428 million, the formula all of a sudden was only distributing \$194 million, would have been corrected if this amendment had been law. This amendment says that the Department of Education shall notify municipalities of the estimated amount of aid, meaning education aid, education grants, to which they are entitled for the following year, by November 1. We were informed by both the Attorney General's Office and the Department of Education that if this language had been law, both our school districts and we wouldn't have had to file right to know legislation to find out what kind of education grants were going out or scheduled to go out by the formula. We would have been able to see that there was an error, and we would have all been able to work towards correcting that error. So this amendment, and in discussing it with Senator O'Hearn and Senator Gatsas, I hope there is agreement that this amendment would mean that, in the future, not only would school districts know what is the anticipated aid by the formula that is law, but also we and the public, would have that information and it would never be a situation where it had been withheld for any reason. So it is a very clear statement that the Department of Education shall notify the municipalities of the aid to which they are entitled for the following school year by November 1. As I say, it was a suggestion by both the Attorney General's Office and the Department of Education that this corrective legislation is one under which they can work and one which would avoid future problems. So, I encourage you to support amendment 1527. Thank you.

SENATOR O'HEARN: Senator Larsen, the Department of Education has indicated that they can do this by November 1st?

SENATOR LARSEN: That is what they indicated to me. They requested this language. They drafted it, but through dictation. It was my understanding that what they will use is the language that is in law and they will develop the distribution and notify the municipalities by November 1. It does not preclude the legislature on December 1 or January or February 1. It doesn't preclude the legislature from changing that formula, but the department would notify estimated aid to which they are entitled by the law under which is in effect on November 1.

SENATOR O'HEARN: Senator Larsen, the other question that I had then is estimated aid. Is it going to be clear to the districts that it is going to be an estimation and not the exact amount?

SENATOR LARSEN: That is written "estimated amount of aid." So, if the school districts are not clear that it is estimated, then they would...the department would need to make sure that it is clear.

SENATOR O'HEARN: Thank you.

SENATOR GATSAS: Thank you, Mr. President. I certainly rise to support this amendment, but I think the scrutiny that House Bill 608 went through and the...I would say 1,000 but it is probably more like 10,000 pairs of eyes that read that legislation. And probably the accountants, the CPAs and everybody else that gyrated the numbers, along with the Department of Education, nowhere was the intent of this body or the

House to distribute anything less than \$428 million. So, even though I support this amendment, if this amendment was put in last year, into 608, if we believe for one second that the intent of this body was not to distribute \$428 million, I guess I conclude, why didn't the Department of Education come forward then, if they had a problem? Because certainly they read the legislation. Certainly they talked about. And in the 13 weeks that we met in the committee, we were only told that it increased spending by \$60 million. Never did anybody say the interpretation of the formula that was before us had a problem. Many eyes read it and nobody looked at it and said there was a problem. So, as long as the eyes that are reading it are going to tell the communities that it is an estimate, then that is fine. But we should all understand that nobody ever had the intent of sending any communities less than what \$428 million sent them. Thank you, Mr. President.

SENATOR FOSTER: I rise in support of the floor amendment. Things that have happened around here, this is one of the things that has made me the most upset, this problem. I have asked a lot of people to try to find out who knew what, when who knew what when and so forth, and I don't have any answers. I don't know who knew what when. I don't know whether the Department of Education had the numbers and withheld them. I don't know whether the Attorney General knew about it. One thing that I do know is it took a freedom of information act request to get information which all of us were entitled to. Everybody in this body was entitled to. Whether some people knew and some people didn't know, I don't know. Newspapers have editorialized, mine today, that some people knew. I don't know whether that is true or not. I actually don't care very much, because the one thing that I know is it won't happen again if this floor amendment is passed. We'll all have the information. All 24 of us will be working off the same numbers. We will be producing spreadsheets on stuff like Senate Bill 302 that are accurate. I know what everybody's intent in here was. When our technical correction bill comes back up, even though I opposed 608, because I don't like some of the things about the formula, I am going to support that because all of us agreed that amount of money was going to be distributed and we need to fix that. But this amendment won't allow people to withhold information from us. Why it was withheld I don't know. But we all know that it was because it took a freedom of information act request to have it released and it is a darn good thing it was. Probably would have been fixed anyway, it probably would have been, but at least we know we have to fix it now, all of us. Thank you, Mr. President.

SENATOR CLEGG: Thank you. Senator Foster, do you believe that this will or will not stop us from filing a right to know request prior to November 1 if we felt we had to?

SENATOR FOSTER: I don't think that it will stop us.

SENATOR CLEGG: We could still file a right to know request prior to November 1?

SENATOR FOSTER: Well, the right to know request would be if the information is already produced prior to November 1st, then we could get it. I think that we ought to be able to get it without a right to know request, at any time, frankly. I don't know why it was, although there is a suggestion that that information was subject to an attorney/client privilege, that is what I've heard. Now let me follow up. If it is subject to an attorney/client privilege, how does it get released based on a right

to know request? That doesn't make any sense to me. An attorney/client privilege is absolute. You can't break it when you feel like it. I've not yet had an explanation which makes a bit of sense to me as to why that just wasn't given over to us.

SENATOR CLEGG: Thank you, Senator.

SENATOR SAPARETO: Thank you. Senator Foster, would you...I don't know if I can put this as a would you believe or not, but I guess the question would be, would you believe, is that I don't see anything in here that would prohibit the Department of Education from changing its mind on the grants, in which case we could end up in this position again? But I do support this legislation. I think that you are correct in your assertion. Thank you. Would you believe?

SENATOR FOSTER: Would you believe? I suppose the Department of Education could revise the numbers. I suspect that is why it says estimated amount. It also may say estimated because we can change it afterwards. You may well be correct.

SENATOR PETERSON: Senator Larsen, thank you for bringing the amendment. My concern is that the type of discussions we've had this year are not likely from past history, to be limited to just this year. We may have a number of years where legislatures come into this building, after all, we are going to elect new body after this date, for example, this year, and they will be coming in there and be responsible to balance the books on behalf of the citizens of the state of New Hampshire. Can you state unequivocally at this time that this communication by the Department of Education an executive branch department, will not constitute a guarantee to the communities of a certain amount of funding for the next year?

SENATOR LARSEN: Well, in answer to your question, it would state quite clearly if we adopt this that the Department of Education shall notify municipalities of estimated amount of aid. If they portray it as "confirmed" amount of aid, "verified", "vouched for", any other thing than estimated, then they will be breaking the law. It says "estimated" amount of aid. So we can certainly notify the Department of Education that we want them to make it exceedingly clear that it is an estimate, but it will help, I think, communities in setting their budgets or in notifying their elected representatives that if that estimate amount of aid is one which they find a problem with, then they will be able to say we have problems with this estimated aid and there will be a dialogue. But at least we will be out in the sunshine and both the towns, the cities, the school districts across the state and we legislators, will all have the numbers that the law, through its calculated formula, says they will receive until such time as it is changed by lawmakers. It puts everyone on a level playing field knowing the same thing. That is why it says "estimated." It means "estimated" and if we need to later go over to the Department and say, put it in big typed print that this is your estimated aid, then that is the way that it should be. But the law says estimated if we pass this.

SENATOR PETERSON: So, what you are stating for the record and for which the communities should understand, that this in no way constitutes a guarantee or ties the hands of the legislature yet to be elected at the time the numbers are **TAPE INAUDIBLE**.

SENATOR LARSEN: The language upon which they will calculate the estimated aid will presumably be using the formula that is in law. So, it will be their best estimate of what the formula says they will receive.

As I said, if the legislature were to change the distribution in the subsequent session, then they would at least know that it was a change and that what they received in November was estimated aid based on the law that stood when they estimated it.

SENATOR PETERSON: Thank you.

Floor amendment adopted.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. D'Allesandro, Dist. 20

Sen. Below, Dist. 5

Sen. Foster, Dist. 13

Sen. Estabrook, Dist. 21

Sen. Cohen, Dist. 24

May 6, 2004

2004-1518s

09/10

Floor Amendment to HB 1281

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

AN ACT permitting the adoption of an alternative cost apportionment method in a cooperative school district, establishing a legislative oversight committee for the school administrative unit system, and relative to determination of education grant amounts to municipalities.

Amend the bill by replacing section 3 with the following:

3 Determination of Education Grants. RSA 198:41 is repealed and re-enacted to read as follows:

198:41 Determination of Education Grants.

I. Except as provided in paragraph II, the department of education shall determine the amount of the education grant for the municipality by adding all sums received by a municipality under RSA 198:40, RSA 198:40-a, and RSA 198:40-b.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the education grant for each municipality as the lesser of the following:

(a) The amount calculated in accordance with paragraph I of this section; or

(b) The total amount paid for items of current education expense as determined by the department of education.

III. The department of education shall notify municipalities of the estimated amount of aid to which they are entitled for the following school year by November 1.

4 Effective Date.

I. Section 2 of this act shall take effect 60 days after its passage.

II. Section 3 of this act shall take effect July 1, 2004 at 12:01 a.m.

III. The remainder of this act shall take effect July 1, 2004.

2004-1518s

AMENDED ANALYSIS

The bill allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

This bill establishes a legislative oversight committee to oversee the school administrative unit system.

This bill corrects the formula for determining a municipality's education grant amount and requires the department of education to notify a municipality of the estimated education grant amount to which it is entitled for the following school year by November 1.

SENATOR LARSEN: Mr. President, thank you. This next floor amendment reflects what is a discussion that we have had and, unfortunately, it also reflects that we haven't had a real...we have never in this whole session had a good sit down on a bipartisan basis with all of us together to talk through the education funding formula. As a result, we believed that we needed to have a technical correction bill that corrected the education grant formula. We believed that the language was going to be different from what you presented to us which we didn't see until just sitting down with you. We believe that a technical correction would look more like what you are receiving in this floor amendment. We believe that the language that would make a technical correction to the distribution of education grants in current law, should have looked like this, which is, and I didn't bring the language in error, but this in essence, is the true formula which we all intended to pass. We met with the Attorney General's Office on this language. We met with the Department of Education on this language. This was the technically correct formula language that should have been in statute reflecting that we intended to distribute \$428 million in aid. The language that we saw earlier this morning that is the leadership's position on House Bill 1188, is a different way of correcting it and that way you presented to us was simply a list of the communities and what aid they should be receiving. But if we intend in fact, to correct the statute to make a formula that if we like it, which most, which some of us don't, but the language should be in statute how the formula is arrived at, not just a printout of every town and how much money they receive, but how did you get there. So, our language creates the formula correctly, which would show communities how their aid is arrived at. It is similar to 1188 in that it presents the same amount of aid to the communities, but it puts the formula in law that in fact should be in law, if that is our intent. So, we felt this was the technically correct way to create the education grant distribution language in the correct version. The one point that I should make to you is that it adopts what we did in Senate Bill 302, which is the language that would have changed the CPI cap. We removed the CPI cap in this amendment in a similar way to the way that we removed it when we passed Senate Bill 302. So this bill creates the formula the correct way, it creates the CPI...it eliminates the CPI cap that we passed in Senate Bill 302 and it removes the CPI cap just as we removed it in Senate Bill 302, and it includes the language of notification. As I say, if we had known what you were doing on 1188, we might have had this discussion as a group, but since we didn't know that, we felt it important for everyone to understand and to vote on a formula that will go into law which is presumably the Gatsas formula as intended.

SENATOR MORSE: Senator Larsen, first I applaud your efforts. But, having sat through what I sat through from last June through the 13 weeks in the fall, then going into the House and following them through the 302 process, I think anything short of a spreadsheet being attached, because we have asked for technical corrections at every one of these meetings. The Attorney General did submit that would not accomplish what you are trying to do. My question to you is, you can get these over-

night from the Department of Education, why weren't they here last fall, and, would that have stopped the problem so that we don't need a spreadsheet to prove what we want?

SENATOR LARSEN: We had this sit down with the Department of Education and the Attorney General's Office just in the last two days to say, okay, where is the language in the law that is in error? They showed us what to remove and we drafted it the way they told us to. I understand that some may feel safer printing out the exact distribution of aid to every community in this state, but the normal way we would have passed this education grant formula would be in a formula version and not putting it into law. The problem with putting every community's aid into law is, of course, that there will be no formula for future use or anticipating aid in the future. So it will fall upon the legislature to rewrite the formula in language or add more communities again the way we did this year. It is what we have been guaranteed. This removes the error and corrects the language, and. That's the best that we could figure out to do. I think it works better than putting, as you have suggested in the House Bill 1188, putting every community's aid in law and then having nothing to anticipate for the future.

SENATOR MORSE: Senator Larsen, you stopped short of saying guarantee. And God bless you if got a guarantee out of the Department of Education.

SENATOR LARSEN: Well as I...to finish, Mr. President, it was a mixture of both the Department of Education and the Attorney General's Office, and hopefully the combination of the two is enough to accomplish what we are trying to do.

SENATOR GATSAS: Thank you, Mr. President. Senator Larsen, I believe that the attempt that we had in 1188 was to clarify what we in the Senate had initially passed to the House and what the House conferees and the Senate conferees came to an agreement. That agreement did not include removing the cap, because that is still in 608. The cap removal came when we did 302.

SENATOR LARSEN: Right.

SENATOR GATSAS: The original bill as 608 had a discount for free and reduced lunch students to give the House their \$10 million for their distribution of funding for targeted towns. This doesn't, with this verbiage, because, in 302, we put that \$300 back into the formula. So I applaud you for the effort of trying to do it, but when you go through this, the Attorney General probably...we would be into a same problem if we pass this legislation because some of these things were not affixed to 608 as it left here. The determination and the grant changes that you have before us with the amendment, would change the total amounts of grants that we have that we passed in 1188, because those numbers and the words that you have here on paper don't coincide with the numbers we have in 1188. I think that it is the Senate's intent that 1188 was going to be passed as it passed in Committee of Conference. Do you agree? Sorry. I guess I should have spoken. My question is, Senator Larsen, did anybody put these numbers or the words that you have here, to the numbers that we have for the 608 spreadsheet?

SENATOR LARSEN: No. The Department's recommendations and the Attorney General's advisory to us was to delete certain language which I unfortunately don't have in my folder up here, but it was language which related to subtracting the amounts of the warrant. I can't do it

in my head, but it was language that caused a subtraction to occur that reduced our \$428 million aid down to \$194. They showed us which language caused that subtraction to occur and indicated how to correct that. There was no discussion of 608 distributions. It just was, here is what made the \$428 drop to \$194 without anyone realizing that it was doing it.

SENATOR GATSAS: So Senator Larsen, do you have the same quandary that a lot of us had that DOE is good with throwing words around, but they don't want to produce numbers that follow those words?

SENATOR LARSEN: We did not request...the assumption was if we corrected that subtraction, that your formula would work. If that is wrong, then perhaps we should have asked for a distribution chart, but we did not ask for that. We were dealing with how do you fix the formula so that it is in law the way that it was intended.

SENATOR GATSAS: Thank you.

SENATOR GREEN: Senator Larsen, I applaud you for trying to wrestle with this complex issue. But, as I read this, I just want to ask you a question because I think that what we do here makes a big difference to every Senator in this room. Can you give or do you feel comfortable giving assurances that every Senator's contribution number for each community will not change?

SENATOR LARSEN: As I said, we did not say...we did not request that the department run numbers on this language. We trusted...

SENATOR GREEN: Wrong word.

SENATOR LARSEN: I know. We believed that, by correcting the subtraction language, we would restore the original intent of the formula and we did not run numbers on a town by town basis.

SENATOR GREEN: May I suggest to you that I am not going to be one to vote for this amendment without knowing what the numbers are. We have wrestled with these numbers for a long time, we have worked hard on this. We got the run around about the numbers. I am not going on something that I know would change the numbers and give them the ability to change the numbers and we are right back to where we are. I think that we ought to stay pact, we know what the numbers are and let's move forward. I think this amendment just confuses the issue further. It gives us all further doubt. I encourage other people not to vote for it.

SENATOR LARSEN: Senator Green, given your understanding of budgeting, both on the local and state level, when you have a proposal such as floor amendment to House Bill 1188 that just for one year tells you what your education aid grants amounts are for '05, don't...doesn't it result in communities not knowing, and the state not knowing its budgeted...anticipated budget for any year other than '05?

SENATOR GREEN: The answer is yes. But I also make the assumption that people who are asking for data has given me accurate data and interpreting the way that we think it should be interpreted based on the intent of this legislature. If they give any different numbers, even though we understand what our intent was, I am going forward with that until they burn us. They burned us. I think that they are forcing us into position of putting our distribution numbers in bills every year until we get this straightened out legally, because...I don't...even the amendment

that we just passed just now, that November 1st doesn't guarantee you that the number that they are giving you is going to be the number that is finally distributed to the districts. I mean, our intentions are good. Our desires are correct. But this does not solve your problem. Until they start being honest with us, we are going to have to put the numbers in legislation. I feel bad about that because that is not the way it is supposed to be.

SENATOR LARSEN: Isn't it our job in fact write into law how education grants are determined so that everyone can budget in anticipation using that formula?

SENATOR GREEN: Exactly true. But I am going to tell you, this language does not guarantee you or me anything, because we are not going to be the ones who interpret it.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I applaud the action of Senator Larsen in bringing this amendment forward. I think it is imperative that we do this. But I also side with this premise that, unless we put the numbers in law, we are going to be doing a disservice to our constituency. We have said repeatedly that the Department of Education has not responded properly to us. When we have asked, we get less than the proper answer. We don't get an answer. As a result, we are in a state of limbo when our constituents are looking for dollars. So it seems to me, as Senator Green rightfully pointed out, unless you put it in law, you are subject to their changes, and subject to their changes means when we are out of here, something may happen that we did not intend to happen. Now every one of us knows what we voted on initially. We knew that those were the numbers that were going to our communities. We run into a situation where all of a sudden those numbers don't exist anymore. Who knew what the problem was, when the problem occurred, and when was it brought to the attention of the legislature? Had we put those numbers in statute, there wouldn't have been a problem. So I agree with Senator Larsen, but I agree with Senator Morse and Senator Green that, if you don't put these numbers in statute, you run the risk of another change. That is unacceptable to me as a member of this body. I have seen poor data over and over again. I am tired of it. I think all of you should be tired of it. We have spent countless amounts of money trying to upgrade the Department of Education so that they are able to respond to our needs. That has not happened. As a result, we are in a quandary right here today. We are trying to solve that problem. We have Senators who have to go home to their district and say, I don't know what happened. Well that shouldn't happen, and it won't happen if we put it in statute. Thank you, Mr. President.

SENATOR CLEGG: Thank you, Mr. President. I rise in opposition to the amendment. Not for the work that went into it, but again to reiterate what others have said. Nothing in here says that we are going to get what we think we are going to get because it leaves it open to the Department of Education's personal interpretation. Now we knew after 608 or we were told, that the Department of Education sent a letter over to the Attorney General's Office to interpret sections of 608. When we heard that was up, I called and said, "can we have copies"? Absolutely not. It is attorney/client privilege. So I called the AG's Office and said, "will you give us copies?" Well, if the Department of Education won't release it, then it is sealed under attorney/client privilege. So the only information we had and the only numbers we had are what they got those 13 weeks they worked last summer and we thought that there was a shortfall of

money, not going out to the communities, but to give to the communities. It is all based on one or two people's interpretation of what we have said. I can't support the amendment because again, I am letting somebody over at the Department of Education interpret what we just said here. I have no idea what numbers are going to change, whose numbers are going to change, or whether or not we will even be told because maybe they will send this amendment over to the Attorney General under the guise of attorney/client privilege and we won't know about it until DOE decides to release the attorney/client privilege, which they can do, and allow it to come out in the right to know law. Knowing how things work, that will either be the day before the primary or the day before the general election. So I would prefer to go back to where we were and actually put into statute the numbers we expect to go to the communities unless we have changed something like Senate Bill 302. Thank you, Mr. President.

SENATOR BARNES: Senator Clegg, when all of the departments in this state get their paychecks, what does it say on the top?

SENATOR CLEGG: I think it says "the State of New Hampshire."

SENATOR BARNES: Thank you. A follow up question. Who is the state of New Hampshire?

SENATOR CLEGG: I believe everyone that is a resident and pays taxes here, and I believe we represent them.

SENATOR BARNES: So, one last question. Would you assume with what you have just said, that all of the departments in this state work for everybody in this state?

SENATOR CLEGG: I would, but I would also have to use the old adage when it comes to DOE, assuming anything makes an "ass out of you and me."

SENATOR BARNES: "Ass out of you and me." But it is true that their paychecks are paid for by the citizens of this state?

SENATOR CLEGG: That is correct.

SENATOR BARNES: Therefore the citizens of this state deserve to get the information that is not a secret thing that is going on.

SENATOR CLEGG: You bet.

SENATOR BARNES: Thank you.

Floor amendment failed.

Senator Estabrook offered a floor amendment.

Sen. Estabrook, Dist. 21

May 6, 2004
2004-1533s
04/05

Floor Amendment to HB 1281

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

AN ACT permitting the adoption of an alternative cost apportionment method in a cooperative school district; establishing a legislative oversight committee for the school administrative unit system; relative to indoor air quality and indoor environmental standards in public schools; and requiring public schools to develop a written building maintenance plan.

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

3 New Paragraph; School Building Aid; Approval of Plans. Amend RSA 198:15-b by inserting after paragraph I the following new paragraph:

I-a. A school district, or other entity listed in paragraph I of this section, shall be entitled to receive an additional amount equal to 1.5 percent of the total school building aid grant amount for which such school district or other entity may be eligible under paragraph I of this section. In any fiscal year, the aggregate amount of additional moneys available under this paragraph shall not exceed \$100,000. If in any fiscal year, this amount is insufficient, the amount shall be prorated proportionally among the school districts or other entities eligible to receive additional moneys. To be eligible for additional moneys, construction projects, as built, shall comply with all of the following requirements:

(a) Achieve indoor air quality equal to or better than the standards for clean indoor air in state buildings established pursuant to RSA 10-B:3, II. Achievement shall be demonstrated by providing a copy of the results of indoor air quality testing performed within 6 months of the date of building occupancy or the date of substantial project completion, whichever is later. The number of samples taken shall be sufficient to reasonably conclude that the standards are met throughout the entire new or renovated portions of the facility. The report of the air quality testing shall indicate the specific location of all samples taken including height above the floor and shall be signed by a certified industrial hygienist.

(b) Achieve total energy use that is at least 15 percent below the maximum allowable energy use for the building under the current state energy code. Achievement shall be demonstrated by a report of energy use calculations using a method provided by the United States Department of Energy or other method of calculation acceptable to the department of education. The report shall be signed and stamped by a mechanical engineer licensed to practice in the state of New Hampshire.

(c) Achieve a 2 percent minimum daylight factor of uniformly distributed daylighting, with no direct sunlight penetration, in 75 percent of all classroom space. The daylight factor is expressed as a percentage of daylight at the task level, measured in foot candles or lux, to the total amount of outdoor daylight. Achievement shall be demonstrated by a report signed and stamped by an electrical engineer licensed to practice in the state of New Hampshire. The report shall indicate the daylight factor in each classroom in new or renovated portions of the facility.

(d) Perform commissioning of all heating, ventilation, and air conditioning (HVAC) systems and all life safety systems. The school district or entity shall provide a commissioning report which describes the commissioning process used and which indicates that all systems are performing according to all design specifications. The commissioning report shall be signed and stamped by a mechanical engineer licensed to practice in the state of New Hampshire.

4 School Building Aid; Approval of Plans. Amend RSA 198:15-c to read as follows:

198:15-c Approval of Plans, Specifications and Costs of Construction or Purchase.

I. A school district maintaining approved schools, desiring to avail itself of the grants herein provided shall have the plans, specifications, and cost estimates for school plant construction or proposals for the purchase of school buildings, or both, and the costs for them approved by the state board prior to the start of construction. For this purpose the district

shall submit its plans, specifications, cost and purchase estimates in writing to the state board on such forms as the board prescribes. Application for school building aid shall be submitted before January 1 of each year in order to be eligible for school building aid in the fiscal year following the year of submittal. The state board shall not approve the plans, specifications, cost or purchase estimates, if in the board's judgment the facilities planned will not adequately meet the educational requirements, or if its cost estimates are excessive or unreasonable. The state board shall not approve the plans, specifications, cost or purchase estimates if in the board's judgment the proposed construction or purchase is in conflict with effective statewide planning. Necessary costs of the purchase of school buildings may be determined by any recognized method of real estate appraisal with appropriate adjustments for remodeling or other expenditures. Upon approval of the construction or purchase, or both, by the state board of education, the school district shall be entitled to receive an annual grant as provided herein.

II. In addition to the requirements of paragraph I, each school district shall, submit a written maintenance plan describing in detail how the school district will maintain facilities constructed with state aid. The required maintenance plan shall provide the following information:

(a) The manner in which the following building services are or will be provided using in-house staff, contracted services, or a combination of both. For work performed by in-house staff, an indication of the staffing level expressed as full-time equivalent positions for:

- (1) Daily facility cleaning.*
- (2) Grounds maintenance.*
- (3) Refuse removal.*
- (4) Snow removal.*
- (5) Minor maintenance and repair.*
- (6) Pest management.*
- (7) Periodic equipment servicing.*

(b) The average amount of space, in square feet, assigned to each custodian for daily cleaning.

(c) The process for reporting, recording, verifying, and prioritizing building problems, how corrective work is assigned and performed, and how the success of corrective actions is determined.

(d) The process for tracking and analyzing recurring problems.

(e) The process for scheduling and completing preventive maintenance services and inspections on installed equipment and major building systems including, but not limited to heating, ventilation, and air conditioning, (HVAC), life safety, elevators, plumbing, roof, windows and doors, and kitchen appliances.

(f) Custodial and/or maintenance staff increases or reductions that result from the project.

(g) The training program for employees who will be required to operate and maintain new equipment installed through the construction project.

(h) A statement of assurance, signed by the superintendent of schools or the chair of the school board, which indicates that the district intends to maintain and service all installed equipment according to the manufacturer's instructions.

5 Repeal. RSA 198:15-b, I-a, relative to additional grant moneys for certain school construction projects, is repealed.

6 Effective Date.

I. Section 3 of this act shall take effect July 1, 2011.

II. The remainder of this act shall take effect 60 days after its passage.

2004-1533s

AMENDED ANALYSIS

The bill allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

This bill establishes a legislative oversight committee to oversee the school administrative unit system.

This bill requires the department of education to develop and implement indoor air quality standards for public elementary and secondary schools and requires that a written maintenance plan be developed and submitted as part of the process for applying for school building aid grants.

SENATOR ESTABROOK: Thank you, Mr. President. I rise to offer floor amendment 1533s. Thank you, Mr. President. As I mentioned earlier when we were considering 1188, I was very concerned that that bill, after being successful in both House and Senate Education Committees and even passing muster in the House Finance Committee, was turned down by the Senate Finance Committee. So, I wanted to have an opportunity for us to reconsider that. I am bringing back the contents of 1188 as an amendment to 1281 now. House Bill 1188 addressed the issue of air quality in our public schools. Several years ago I'd introduced a bill to have public schools meet the air quality standards that we set for all state buildings. The study which resulted from that bill found ample cause for concern, but the committee could not bring itself to recommend action because of the potential costs to districts in the state. We couldn't provide clean air for our school children because it would cost money. At the same time, the committee on the Environment and Public Health, identified the problem of poor school air quality and recommended it be addressed. Rising rates of childhood asthma were a reason for the committee's recommendation. Thus evolved House Bill 1188. This bill that we have before us concerns only building projects moving forward, is a voluntary incentive program, and uses only a modest capped amount of state dollars. It even sunsets. How can the Finance Committee recommend no funding for improving public school air quality and, at the same time, recommend spending millions on vouchers. How can that be in the best interest of children? Please reconsider children's health and children's learning are being affected by this problem. Please consider adding this to 1281. I request a roll call.

SENATOR O'HEARN: Thank you, Mr. President. As I am reviewing my notes on this, and I see this is something that would take place in the year 2005, but it is also allowing time for plans to be implemented so that can have a written maintenance agreement from our school districts to apply for this, and it is limited to \$100,000. What it does is help not only the learning environment of our children, because I know that we do have six schools, and in fact, I think it was Senator Barnes' district that had a group of people coming in last year that testified before us about what they considered a sick school. And \$100,000 is a minimal amount to be putting into our budget to help maintain our schools. This is for maintaining our schools. This is to make sure that the roofs are taken care of and the air conditioners, if they do get air conditioners, the heating systems are cleaned and so forth, so that our school buildings are a safe place for our children to be. I will support Senator Estabrook's

amendment to bring this forward. I think this is something that we ought to consider. Without outstanding exactly why Senate Finance overturned it, I think it is something that we should do.

SENATOR PETERSON: Senator Estabrook, there is a repeal on lines 25 & 26 about additional grant monies for certain school construction projects. Could you enlighten me as to what that is?

SENATOR ESTABROOK: Sure, that is the sunset of the program that is established in the bill.

SENATOR PETERSON: Could you also explain to me the 2011 effective date of section three that seems to be the majority of the bill?

SENATOR ESTABROOK: I am going to yield on that to Senator O'Hearn, given that the bill went through her committee and she is more familiar with the way that it was amended in her committee, if she would.

TAPE CHANGE

SENATOR O'HEARN: I'm not positive of that. I would have to reread my notes on this. I know we were concerned... This is a quick reminder to me. This is so schools can apply for it right away although their construction may not take place until the future. The other piece of this is what we going to do if schools don't comply and a failure to comply will result in withholding of state money to school construction bonds. So, I think it is a good program to require schools to at least maintain the buildings that we are helping them pay for. So, I think it is an important piece of legislation.

SENATOR MORSE: I am just concerned about the amendment that has been adopted. Line 9 says "amend, replace after section 2". Are we wiping out anything we have done already on this bill? Senator O'Hearn had an amendment earlier and I don't.. Will this wipe out your amendment at all just because of the way it is worded right now? It says amend after section 2.

SENATOR O'HEARN: I would have to ask for a technical opinion on that. I'm not sure.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Estabrook.

Seconded by Senator O'Hearn.

The following Senators voted Yes: Below, Peterson, O'Hearn, Foster, Larsen, Martel, Sapareto, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Clegg, Gatsas, Barnes, Morse, Prescott.

Yeas: 10 - Nays: 13

Floor amendment failed.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO TAKE OFF THE TABLE

Senator Clegg moved to have **HB 1188** taken off the table.

Adopted.

HB 1188, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan.

Senator Clegg withdrew his floor amendment (1500).

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

May 6, 2004

2004-1532s

04/10

Floor Amendment to HB 1188

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

AN ACT relative to the formula for determining education grants and establishing education grant amounts for the 2005 fiscal year.

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

1 Statement of Intent. It is the intent of the general court to clarify the law relating to education funding as enacted under 2003, 241 and to specify education aid grant amounts to municipalities for the 2005 fiscal year.

2 Education Aid Grant Amounts for Fiscal Year 2005. Notwithstanding any provision of law to the contrary, total education aid grant amounts for the 2005 fiscal year shall be as follows:

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
ACWORTH	411,533
ALBANY	507,613
ALEXANDRIA	658,056
ALLENSTOWN	3,712,569
ALSTEAD	1,110,916
ALTON	-
AMHERST	2,607,904
ANDOVER	684,420
ANTRIM	2,194,411
ASHLAND	639,785
ATK. & GILMANTON ACAD	-
ATKINSON	746,123
AUBURN	1,269,276
BARNSTEAD	2,037,165
BARRINGTON	2,811,681
BARTLETT	-
BATH	376,992
BEAN'S GRANT	-
BEAN'S PURCHASE	-
BEDFORD	2,347,213
BELMONT	3,287,869
BENNINGTON	901,482
BENTON	96,783

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
BERLIN	7,669,119
BETHLEHEM	1,003,254
BOSCAWEN	1,797,803
BOW	2,928,167
BRADFORD	517,552
BRENTWOOD	705,245
BRIDGEWATER	-
BRISTOL	748,384
BROOKFIELD	223,210
BROOKLINE	2,397,114
CAMBRIDGE	-
CAMPTON	1,591,169
CANAAN	1,705,166
CANDIA	1,053,164
CANTERBURY	207,986
CARROLL	-
CENTER HARBOR	-
CHANDLER'S PURCHASE	-
CHARLESTOWN	4,274,490
CHATHAM	62,446
CHESTER	1,450,221
CHESTERFIELD	923,270
CHICHESTER	543,661
CLAREMONT	8,516,045
CLARKSVILLE	56,061
COLEBROOK	1,604,897
COLUMBIA	318,302
CONCORD	13,645,863
CONWAY	2,184,641
CORNISH	762,306
CRAWFORD'S PURCH.	-
CROYDON	194,958
CUTT'S GRANT	-
DALTON	555,961
DANBURY	622,396
DANVILLE	2,053,805
DEERFIELD	1,601,209
DEERING	824,505
DERRY	22,885,507
DIX GRANT	-
DIXVILLE	-
DORCHESTER	289,251

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
DOVER	4,463,601
DUBLIN	165,965
DUMMER	129,267
DUNBARTON	306,840
DURHAM	1,073,662
EAST KINGSTON	348,601
EASTON	-
EATON	40,611
EFFINGHAM	714,883
ELLSWORTH	10,048
ENFIELD	726,978
EPPING	2,125,758
EPSOM	1,404,169
ERROL	-
ERVING'S GRANT	-
EXETER	2,891,486
FARMINGTON	4,766,697
FITZWILLIAM	671,124
FRANCESTOWN	469,336
FRANCONIA	-
FRANKLIN	6,068,956
FREEDOM	-
FREMONT	1,328,505
GILFORD	1,090,812
GILMANTON	823,190
GILSUM	425,781
GOFFSTOWN	4,002,444
GORHAM	1,554,086
GOSHEN	434,744
GRAFTON	579,960
GRANTHAM	-
GREENFIELD	684,584
GREENLAND	367,203
GREEN'S GRANT	-
GREENVILLE	1,991,176
GROTON	274,745
HADLEY'S PURCH.	-
HALES LOCATION	-
HAMPSTEAD	2,442,211
HAMPTON	-
HAMPTON FALLS	241,643
HANCOCK	270,360

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
HANOVER	-
HARRISVILLE	154,985
HART'S LOCATION	-
HAVERHILL	2,796,426
HEBRON	-
HENNIKER	2,414,773
HILL	388,690
HILLSBORO	3,700,646
HINSDALE	3,565,805
HOLDERNESS	-
HOLLIS	956,210
HOOKSETT	1,598,121
HOPKINTON	1,077,105
HUDSON	5,018,161
JACKSON	-
JAFFREY	2,457,836
JEFFERSON	446,827
KEENE	9,430,457
KENSINGTON	295,312
KILKENNY	-
KINGSTON	1,083,765
LACONIA	4,465,848
LANCASTER	2,783,263
LANDAFF	59,636
LANGDON	295,656
LEBANON	2,230,536
LEE	2,428,890
LEMPSTER	545,915
LINCOLN	-
LISBON	1,415,796
LITCHFIELD	4,040,946
LITTLETON	2,749,246
LIVERMORE	-
LONDONDERRY	11,326,768
LOUDON	1,663,063
LOW & BURBANK GR.	-
LYMAN	120,279
LYME	238,652
LYNDEBOROUGH	436,161
MADBURY	994,779
MADISON	378,905
MANCHESTER	45,121,313

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
MARLBOROUGH	864,687
MARLOW	434,759
MARTIN'S LOCATION	-
MASON	168,412
MEREDITH	1,428,832
MERRIMACK	6,811,530
MIDDLETON	1,069,618
MILAN	993,883
MILFORD	6,038,760
MILLSFIELD	-
MILTON	2,457,711
MONROE	174,298
MONT VERNON	988,763
MOULTONBOROUGH	-
NASHUA	22,025,758
NELSON	162,098
NEW BOSTON	1,370,540
NEW CASTLE	-
NEW DURHAM	491,169
NEW HAMPTON	432,070
NEW IPSWICH	2,690,379
NEW LONDON	-
NEWBURY	-
NEWFIELDS	185,532
NEWINGTON	-
NEWMARKET	1,753,655
NEWPORT	5,484,148
NEWTON	1,708,243
NORTH HAMPTON	-
NORTHFIELD	3,653,253
NORTHUMBERLAND	2,010,436
NORTHWOOD	1,940,604
NOTTINGHAM	859,695
ODELL	-
ORANGE	180,653
ORFORD	131,200
OSSIPEE	1,511,754
PELHAM	1,807,725
PEMBROKE	3,945,432
PETERBOROUGH	1,843,909
PIERMONT	329,893
PINKHAM'S GRANT	-

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
PITTSBURG	159,120
PITTSFIELD	3,927,011
PLAINFIELD	709,396
PLAISTOW	1,216,914
PLYMOUTH	3,020,941
PORTSMOUTH	-
RANDOLPH	51,724
RAYMOND	5,521,064
RICHMOND	697,548
RINDGE	1,050,985
ROCHESTER	15,901,242
ROLLINSFORD	316,025
ROXBURY	40,222
RUMNEY	574,512
RYE	-
SALEM	3,814,013
SALISBURY	434,949
SANBORNTON	442,959
SANDOWN	3,176,622
SANDWICH	-
SARGENT'S PURCHASE	-
SEABROOK	-
SECOND COLLEGE GR.	-
SHARON	52,878
SHELBURNE	65,057
SOMERSWORTH	5,570,859
SOUTH HAMPTON	97,355
SPRINGFIELD	243,762
STARK	344,322
STEWARTSTOWN	450,205
STODDARD	-
STRAFFORD	1,978,685
STRATFORD	728,736
STRATHAM	858,722
SUCCESS	-
SUGAR HILL	-
SULLIVAN	392,424
SUNAPEE	-
SURRY	293,105
SUTTON	262,887
SWANZEY	4,550,345
TAMWORTH	445,503

<u>CITY/TOWN</u>	<u>TOTAL AID GRANT</u>
TEMPLE	466,007
THOM. & MES. PURCH	-
THORNTON	393,226
TILTON	933,866
TROY	1,728,674
TUFTONBORO	-
UNITY	569,242
WAKEFIELD	1,405,686
WALPOLE	1,084,286
WARNER	986,234
WARREN	548,805
WASHINGTON	220,871
WATERVILLE VALLEY	-
WEARE	5,676,558
WEBSTER	349,792
WENTWORTH	644,210
WENTWORTH LOC	-
WESTMORELAND	622,085
WHITEFIELD	1,385,808
WILMOT	269,969
WILTON	596,644
WINCHESTER	3,562,257
WINDHAM	1,610,178
WINDSOR	48,871
WOLFEBORO	-
WOODSTOCK	222,015
TOTAL	428,553,890

3 School Money; Distribution of Education Grants. Amend RSA 198:42, II to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA [~~198:40-e~~] **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-c, subtract the aggregate amount of the statewide enhanced education 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 education grants.

4 Effective Date. This act shall take effect July 1, 2004 at 12:01 a.m.

2004-1532s**AMENDED ANALYSIS**

This bill deletes a provision in the formula for determining education aid grants and establishes education aid grant amounts for the 2005 fiscal year.

SENATOR CLEGG: Thank you, Mr. President. The major difference between the 1500 amendment and the 1532 is that, in the original amendment, they had left off just a couple of numbers in Concord, it really didn't make much difference, but what is two numbers? But Senator Larsen saw that the \$13 million was missing and she was only going to get \$645. It was definitely a typo. OLS had the original copy and it had \$13,624,000 but somehow when they copied it, that \$13 million left. I checked Senator Green's voucher bill, it didn't move over there. So I believe now that we have everything correct. The numbers have been checked and double checked. There is a total that we are spending \$428,553,890. It has been said in this chamber numerous times today, this is what the legislative intent was and that the Senate wants to reiterate to all those outside that this is what we always intended to spend, what we continue to intend to spend, barring any changes from the House.

SENATOR LARSEN: I just want to rise to vouch for the fact that Concord truly could not afford to have lost that \$13 million through a typographical error, but in fact to point out that it is errors like these that show that putting our educational adequacy grants in this way can lead to errors just in the same way that putting it in formulas can lead to. Perhaps it has minimized the amount of the error, but I think that we need to continue to keep an eye on how we...if we are funding our schools adequately, and if we are giving them adequate information so that they can calculate on a year to year basis how they are going to run the schools. I appreciate that you did not use the \$13 million to pay for vouchers and I am glad that the Senate will hopefully agree that...

SENATOR BARNES: That was to see if you were watching.

SENATOR LARSEN: That they have an attentive Senator in Concord.

SENATOR BARNES: Yes they do.

SENATOR SAPARETO: Thank you, Mr. President. Senator Larsen, would you believe that I would rather catch the errors before we pass legislation than after, and that is why I believe that this would be the best way to do it?

SENATOR LARSEN: I can agree. In fact, when it was suggested to me that I could just assume it was a misprint and that the \$13 million really was meant to be there, I said that I really couldn't go along with that.

SENATOR ESTABROOK: Thank you, Mr. President. I just wanted to rise and state for the record that I will support this simply as a correction, not to express my support for this as the amount of school aid that should be distributed overall.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator Sapareto.

The following Senators voted Yes: Gallus, Johnson, Kenney, Below, Green, Flanders, Odell, Roberge, Eaton, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senators voted No: Boyce, Peterson.

Yeas: 22 - Nays: 2

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

SUSPENSION OF THE RULES

Senator Clegg moved that the rules of the Senate be so far suspended as to allow **HB 1188** to be ordered to third reading in the early session and, by this motion, be passed at the present time.

A division vote was requested.

Yeas: 22 - Nays: 1

Adopted by the necessary 2/3 vote.

Ordered to third reading.

Senator Boyce is in opposition to the final passage of HB 1188.

HJR 26, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3). Executive Departments and Administration Committee. Ought to pass, Vote 2-0. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move ought to pass on House Joint Resolution 26. House Joint Resolution 26 is a request of JLCAR. JLCAR, in September 2003, voted to oppose the implementation of the proposed rule which would limit occupancy for extended liquor permits. It is JLCAR's opinion that the commission does not have the authority to implement the rule. In addition, local police and fire departments have the authority and the personnel to control occupancy numbers which are determined after much advance planning at the local level. House Joint Resolution 26 asks the legislature to stop the Liquor Commission from implementing the rule and asks the appropriate policy committees in the House and Senate to determine if additional legislation is necessary. The committee unanimously recommends ought to pass. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 369, relative to the Henniker and Hillsborough district courts. Finance Committee. Ought to pass with amendment, Vote 6-2. Senator Boyce for the committee.

Senate Finance

April 28, 2004

2004-1416s

09/01

Amendment to HB 369

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

AN ACT relative to the Henniker and Hillsborough district courts.

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

1 Notwithstanding the provisions of RSA 502-A:1, XV and XXIII, all court business, proceedings, and activities scheduled for the Henniker

district court on or after July 1, 2004 shall be transferred to the Hillsborough district court. The Henniker district court shall cease operations on or before June 30, 2004.

2 Effective Date. This act shall take effect June 30, 2004.

2004-1416s

AMENDED ANALYSIS

This bill transfers Henniker district court business, proceedings, and activities to the Hillsborough district court.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 369 ought to pass with amendment. This bill originally asked for a three-year extension for the consolidation of the Hillsborough and Henniker and Exeter and, it's left off of my text here, Hampton courts. The amendment by the Finance Committee deletes the Hampton and Exeter situation because we were told that was being dealt with through the Capital Budget and it is already in process. The committee amendment does look at the Henniker and Hillsborough situation. We found that the Henniker Court is only used one day a week. The Hillsborough Court is used two and a half days a week. We also found that the Henniker Court lease is up this year and that the Hillsborough had just signed a new lease recently. So the feeling of the committee was that we should simply consolidate the two as has been the plan for ten years, and let them share one building until they decide to build a new building through the capital budget process. Thank you.

SENATOR PRESCOTT: Senator Boyce, an amendment was brought forth by myself to the Judiciary Committee to not combine the Exeter, Hampton District Court, as that would be something that the local police departments do not want to engage with, and from local input, both Senator Estabrook, Senator Barnes and myself brought forward that amendment. Now I believe that it passed out of this Senate to Finance and then you are saying that it has been removed. Could you explain again the purposes for removing the lapse or the stopping of the combination of the Exeter, Hampton District Court?

SENATOR BOYCE: I believe that what we were told in the committee was that, in the current Capital Budget process, there is money to build that joint court and that to change it at this date would actually be causing more expense for the towns and for the state. And that the intent for the last ten years has been to combine some of these smaller courts in order to make the system more efficient. That was what we were told in the committee.

SENATOR PRESCOTT: Thank you, Mr. President. I am speaking to the body as a whole. I would ask that we would consider tabling this bill. Ten years ago there was that idea that combining Hampton and Exeter District Courts would be a good thing. However, the seacoast growth pattern has far exceeded expectations and at this time, I do not believe that it is the proper avenue to take. I would like to have time to leave this on the table for a moment, and possibly take it off today to see if my opinion is still correct. Thank you, Mr. President.

SENATOR ESTABROOK: Thank you, Mr. President. I would like to just support the idea of tabling this bill. We attended together, the Senators representing the communities affected by this, a meeting of all of the police officials and judicial officials. It is very clear that there is definite problem here as we move forward due to growth as Senator Prescott has

said. We would appreciate an opportunity to try and consider an alternative for that need. It is my understanding that the money that is currently being spent on it is simply for design. There is no construction that has been undertaken. So I don't think it is too late for us to do that. Thank you.

MOTION TO TABLE

Senator Larsen moved to have **HB 369** laid on the table.

A division vote was requested.

Yeas: 12 - Nays: 5

Adopted.

LAIID ON THE TABLE

HB 369, relative to the Henniker and Hillsborough district courts.

HB 618-FN-A, making technical corrections to certain local property tax laws. Finance Committee. Ought to pass with amendment, Vote 6-1. Senator Green for the committee.

Senate Finance

April 28, 2004

2004-1419s

09/01

Amendment to **HB 618-FN-A**

Amend the bill by inserting after section 10 the following and renumbering the original section 11 to read as 12:

11 Low and Moderate Income Homeowners Property Tax Relief; Refund of Tax Claims. Amend RSA 198:61 to read as follows:

198:61 Refund of Tax Claims. The department of revenue administration shall review a claim for tax relief filed with it and, if such claim is determined to be valid, shall certify such amount to the state treasurer within 120 days[. The state treasurer shall pay the claim to the claimant] *who shall pay such claims* from funds in the education trust fund. *Such sums are hereby appropriated and 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 revenue administration shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the payment of valid claims.* The department shall notify a claimant whose claim is rejected in whole or in part of such determination within 90 days of the department's receipt of the claim and all required documentation.

2004-1419s

AMENDED ANALYSIS

This bill:

I. Makes technical corrections to certain local property tax laws allowing for exemptions.

II. Clarifies the requirements for posting of the budget with the warrant for a town or school district meeting.

III. Limits the filing period for late low and moderate income homeowners property tax relief claims to the November 1 after the June 30

filing deadline for that tax year. The bill extends the late filing allowance to claimants who have requested an extension for filing their federal income tax returns. The bill also authorizes the commissioner of the department of revenue to audit low and moderate income property tax relief claims up to 3 years after the claim has been paid.

IV. Provides that valid claims for low and moderate income homeowner property tax relief shall be paid from the education trust fund and authorizes the governor to draw a warrant to pay such claims regardless of the balance of the fund.

V. Allows the city of Manchester to issue certificates of occupancy and local building permits with respect to aeronautical facilities within the airport district.

VI. Allows Manchester Airport to tow and impound abandoned vehicles.

SENATOR GREEN: On a vote of 6-0 we are going to pass this I assume, Senator. Mr. President, I don't believe we have a quorum.

Recess.

Out of recess.

SENATOR GREEN: Thank you, Mr. President. I move that House Bill 618 ought to pass with amendment. You will find the amendment on page 10 of your calendar. This legislation makes technical corrections to the enabling legislation for local property tax relief and clarifies the deadline for filing. The bill also allows the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities. The Finance Committee amendment was a request of DRA in order to provide them with the authority to issue checks from the Education Trust Fund for low and moderate-income hardship relief. This language is similar to existing language for state education grants. The Finance Committee asks your support for the motion of ought to pass with amendment. Thank you.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 640-FN, relative to post-conviction DNA testing. Finance Committee. Ought to pass, Vote 8-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move ought to pass on House Bill 640. Technology is constantly being developed and improved. If new DNA technology should be developed during the course of one's incarceration that could exonerate someone, this bill allows that individual to apply to the court and ask for testing. The revised Fiscal Note on the bill shows that it will not cost any money and may actually be a financial savings. The Finance Committee recommends that the bill ought to be adopted. Thank you.

Adopted.

Ordered to third reading.

HB 697-FN, relative to the sale of motor fuel. Finance Committee. Ought to pass, Vote 8-0. Senator Below for the committee.

SENATOR BELOW: Thank you, Mr. President. I move House Bill 697 ought to pass. This legislation would enable the Safety Department to improve its enforcement over individuals and business entities that in-

tentionally evade motor fuel taxes. The bill is expected to have a positive affect on revenue. The Finance Committee voted unanimously in support of this bill and asks your support. Thank you.

Adopted.

Ordered to third reading.

HB 698-FN, relative to electronic toll collections. Finance Committee. Ought to pass, Vote 7-0. Senator Below for the committee.

SENATOR BELOW: Thank you, Mr. President. I move House Bill 698 ought to pass. This bill ensures that the Governor and Executive Council will have appropriate authority to determine toll discounts and that the departments of Transportation and Safety have the authority and ability to minimize toll evasion when the EZ pass electronic toll system is implemented. This will preserve toll revenue. The Finance Committee asks your support for ought to pass. Thank you.

SENATOR KENNEY: Thank you, Mr. President. I'd also rise in support of House Bill 698. There was a question asked of me last time by Senator Boyce and by Senator Gatsas and, I believe Senator Larsen, in regard to EZ Pass cardholders that go through without actually swiping their card and whether it would be the vendor's responsibility to penalize or to pass out fines whether physically on site or through some other means. My understanding is that they would be contacted through the vendor that if they were an EZ Pass user and if they went through without swiping the card that they would have to pay, whether it be fifty cents, they would get a notice in the mail. However, if they don't have an EZ Pass system and they use the lane that goes through that EZ pass lane, then that matter would be brought to the Department of Safety and they would be fined accordingly. So that actual picture that is snapped of the car is only of the license plate and it is handled with the Department of Transportation, the vendor and the Department of Safety. So I just wanted to go on record to say that everything is working in order.

Adopted.

Ordered to third reading.

HB 727-FN-L, establishing a legislative oversight committee for the school administrative unit system. Finance Committee. Ought to pass with amendment, Vote 5-2. Senator Green for the committee.

Senate Finance

April 28, 2004

2004-1444s

04/10

Amendment to HB 727-FN-LOCAL

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

AN ACT establishing a school choice certificate program, relative to imposing a nonparticipating manufacturer equity assessment, and relative to reports on the status of monthly tax refunds.

Amend the bill by replacing section 3 with the following:

3 New Section; Tobacco Tax; Nonparticipating Manufacturer Equity Assessment. Amend RSA 541-C by inserting after section 3 the following new section:

541-C:4 Nonparticipating Manufacturer Equity Assessment.

I. In this section, "nonparticipating manufacturer" means a tobacco product manufacturer that is not a participating manufacturer within the meaning of subsection II(jj) of the Master Settlement Agreement, as defined in RSA 541-C:2, V.

II. There is levied an equity assessment, at the rate 35 cents per package of 20 for all cigarette packages of nonparticipating manufacturers to which a stamp is affixed as required under RSA 78:12.

(a) The equity assessment imposed by this section is in addition to all other assessments, fees, and taxes levied under existing law.

(b) The equity assessment imposed by this section shall be paid by affixing a stamp in the manner and at the time described in RSA 78:12.

(c) Except as otherwise provided in this section, the equity assessment shall be collected, paid, administered, and enforced in the same manner as the tax on cigarettes levied by RSA 78:7.

III. The purposes of this equity assessment are:

(a) To recover health care costs to the state imposed by nonparticipating manufacturers.

(b) To prevent nonparticipating manufacturers from undermining the state's policy of reducing underage smoking by offering cigarettes for sale substantially below the prices of cigarettes of other manufacturers.

(c) To protect funding, which is reduced as a result of the growth of nonparticipating manufacturer cigarette sales, for programs funded in whole or in part by payments to the state under the Master Settlement Agreement, as defined in RSA 541-C:2, V.

(d) To recoup settlement-payment revenue lost to the state as a result of nonparticipating manufacturer cigarette sales.

(e) To fund enforcement and administration of:

(1) RSA 541-C relative to tobacco manufacturers not entering the Master Settlement Agreement; and

(2) The equity assessment imposed by this section.

IV.(a) Each manufacturer, distributor, wholesaler, or retail dealer who under RSA 78:12 affixes a stamp to a package of cigarettes, shall report monthly to the commission for each place of business, the number and denominations of stamps affixed to individual packages of nonparticipating manufacturer cigarettes sold by the manufacturer, distributor, wholesaler, or retail dealer in the preceding month, including the manufacturer and brand family.

(b) A person required to file a report under this section is subject to the penalties under RSA 78:12, III for failing to file a report in a timely manner, or for supplying false or fraudulent information.

V. Funds collected under this section shall be deposited in the education trust fund as established in RSA 198:39.

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

5 New Subdivision; Reports on Status of Monthly Tax Refunds. Amend RSA 21-J by inserting after section 44 the following new subdivision:

Reports

21-J:45 Reports on Status of Monthly Tax Refunds.

I. The commissioner of the department of revenue administration shall report to the fiscal committee within 10 days after the close of each month, the status of monthly refunds pending from the combined general fund and education trust fund for the following taxes:

(a) Business profits tax.

(b) Business enterprise tax.

(c) Interest and dividends tax.

II. This report shall include, but not be limited to, the number of refunds claimed, dollar value of refunds carried over from the prior month, current claims, paid out refunds, and refunds outstanding at the end of the month. This report shall also include the total anticipated refund for the next 3 calendar months for each tax in subparagraphs I(a)– (c).

6 Effective Date. This act shall take effect July 1, 2004.

2004-1444s

AMENDED ANALYSIS

This bill:

I. Establishes a school choice certificate program.

II. Imposes a nonparticipating manufacturer equity assessment of 35 cents per package of 20 for all cigarette packages of manufacturers which do not participate in the Master Settlement Agreement and requires such funds collected to be deposited in the education trust fund.

III. Requires the commissioner of the department of revenue administration to make reports to the fiscal committee on the status of monthly tax refunds.

SENATOR GREEN: Thank you, Mr. President. House Bill 727, we move that it ought to pass with amendment. This bill establishes a limited school choice program in New Hampshire. This program will enable low income parents to choose between sending their children to their local public schools for free or sending their children to a nonpublic school of their choice with tuition assistance from the state. You will see the amendment for this on page 11 of your calendar and, based on discussions with my colleagues, I am going to ask that the Senate vote down the amendment so that I may offer a new amendment to the floor. The Finance Committee asks your support, at least, for the bill itself, but at this time, please vote no on the amendment as currently in the bill. Thank you.

Amendment failed.

Senator Boyce is in favor of the committee amendment (1444) on HB 727-FN-L.

Senator Green offered a floor amendment.

Sen. Green, Dist. 6

Sen. Prescott, Dist. 23

Sen. Johnson, Dist. 23

Sen. Clegg, Dist. 14

Sen. Kenney, Dist. 3

May 6, 2004

2004-1531s

04/10

Floor Amendment to HB 727-FN-LOCAL

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

AN ACT establishing a school choice certificate program and relative to reports on the status of monthly tax refunds.

Amend RSA 193-I:2, II as inserted by section 2 of the bill by replacing it with the following:

II. Certificates shall be made available as follows:

(a) In the first year of the program, to children entering grades 1-2, up to a maximum of 1,000 certificates statewide.

(b) In the second year of the program, to children entering grades 1-3, up to a maximum of 2,000 certificates statewide.

(c) In the third year of the program, to children entering grades 1-4, up to a maximum of 3,000 certificates statewide.

(d) In the fourth year of the program, to children entering grades 1-5, up to a maximum of 4,000 certificates statewide.

Amend RSA 193-I:11, II as inserted by section 2 of the bill by replacing it with the following:

I. Beginning July 1, 2008, the oversight committee shall conduct a review of the school choice certificate program and evaluate the status of the program to date. The committee shall submit a report of its review, including recommendations, to the senate president, the speaker of the house of representatives, and the governor no later than November 1, 2008.

Amend the bill by replacing section 3 with the following:

3 School Choice Certificate Program; Funding. If the revenue received from the utility property tax pursuant to RSA 83-F for the fiscal year ending June 30, 2004 exceeds the official revenue estimate as issued by the Legislative Budget Assistant, the first \$3,000,000 of such excess shall not lapse but shall be carried forward and used exclusively to fund the school choice certificate program set forth in RSA 193-I.

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

5 New Subdivision; Reports on Status of Monthly Tax Refunds. Amend RSA 21-J by inserting after section 44 the following new subdivision:

Reports

21-J:45 Reports on Status of Monthly Tax Refunds.

I. The commissioner of the department of revenue administration shall report to the fiscal committee within 10 days after the close of each month, the status of monthly refunds pending from the combined general fund and education trust fund for the following taxes:

- (a) Business profits tax.
- (b) Business enterprise tax.
- (c) Interest and dividends tax.

II. This report shall include, but not be limited to, the number of refunds claimed, dollar value of refunds carried over from the prior month, current claims, paid out refunds, and refunds outstanding at the end of the month. This report shall also include the total anticipated refund for the next 3 calendar months for each tax in subparagraphs I(a)- (c).

6 Repeal. RSA 193-I:1-12, relative to a school choice certificate program, are repealed.

7 Effective Date.

I. Section 6 of this act shall take effect June 30, 2009.

II. The remainder of this act shall take effect July 1, 2004 at 12:01 a.m.

2004-1531s

AMENDED ANALYSIS

This bill establishes a school choice certificate program which shall be repealed June 30, 2009 and requires the commissioner of the department of revenue administration to make reports to the fiscal committee on the status of monthly tax refunds.

SENATOR GREEN: Thank you, Mr. President. I offer for the body to consider amendment 1531. The amendment is co-sponsored by myself, Senator Prescott, Senator Johnson, Senator Clegg and Senator Kenney. The amendment as it is presented to you does a few things that are different than the previous amendment that was defeated. It continues the language on school choice certificate program. The amounts

and the timeframe of certificates have changed. Under section two, line 8 of the amendment, you will find that the certificate shall be made available as follows: In the first year of the program, children in grades one and two, up to a maximum of 1,000 certificates statewide. The second year we will grades one and three with 2,000 certificates statewide. The third year of the program would have one through four with 3,000 certificates and year four would have one through five for a maximum of 4,000 certificates. That is substantially different. It is like a pilot program. We were at 14,000 out of seven years. We are now at 4,000 in four years. The next section deals with the oversight committee, which is already in the bill, but the section that changes is part II of the committee, which the Oversight Committee shall conduct a review of school choice certificate program and evaluate the status of the program to date as of July 2008, which is at the end of the third year of the program. This committee shall submit a report of its review including recommendations to the Senate President, the Speaker of the House of Representatives and the Governor no later than November 1, 2008. That is the period between the third and fourth year of the program. So you will have three years of data. You will have information and you will know what effect the program is having in terms of helping the children who come from low income families in terms of their participating in an educational opportunity program. Line 27 talks about the funding issue. We removed the funding issue that dealt with the tobacco assessment and replaced it with the following: If the revenue received from the utility property tax pursuant to RSA 83-F for the fiscal year ending June 30, 2004 exceeds the official revenue estimate as issued by the Legislative Budget Office, the first \$3 million of such excess shall not lapse, but shall be carried forward and used exclusively to fund the school choice certificate program set forth in RSA 193-I. Let me just tell you how we arrive at that so you will know how we get there. Currently in our revenue projections, that particular fund is about \$3.1 million in excess of expected revenues. There is one...there are four quality payments, there is one more payment to go at the end of this year in June. So the excess will be more than \$3.1 at that point in time. This is a one time, one time, it doesn't go on, it is just a one time \$3 million that doesn't lapse. Because what happens now under the current law, any thing that is left...anything that is over the amount needed in the trust fund lapses to the general fund or vice versa. I want to make sure you understand. If the trust fund doesn't have enough money, money gets transferred from the general fund to make sure that we can meet the requirements of the trust fund. So either way, the money will be there. The next one is a new section that was added. It was also in the amendment that we just defeated. But we maintained this language which has nothing to do with the voucher program, but it has to do with education, so it finds itself here. That is the report of status of monthly tax refunds, which, from our point of view as Finance Committee people, it is very important that we start to get this information on a timely basis, and we as the Finance Committee felt very strongly that that was important language for us to get timely data that we need to make decisions about the revenues and when they are coming in. That is the amendment. I'd be willing to answer any questions except that I would just like to say to all of you, that if you go back to the original bill with this amendment, you have a bill that creates in New Hampshire a voucher program for low income children to have a choice of going to school that they would like to go to. As a real

supporter of choice in education, I put this bill in the same category as home schooling, charter schools, public school choice and private school choice. I think the concept of choice is long overdue. We should take affirmative action and do what we should do to make this a program available to young children who are in need to have a choice and vote for this bill at this time. I would ask for your support. I will answer any questions of any members of the body.

SENATOR GATSAS: Thank you, Mr. President. Senator Green, I noticed that you removed a funding mechanism from the bill that was originally proposed out of Finance. Can you tell me why?

SENATOR GREEN: The reason, Senator, was that there was so much debate over that issue, that I felt that, in looking at and evaluating my concern of getting a voucher bill passed, I felt that it was a liability to that bill; however, I still support that as a funding mechanism, but I just felt that it was going to do more harm to this bill than it was going to do to help it.

SENATOR GATSAS: Senator, I have never known you to be one that runs from a debate.

SENATOR GREEN: I never run from a debate, Senator. But I also count votes, too, Senator.

SENATOR JOHNSON: Senator Green, we have heard, I believe, that some people consider this an entitlement program for low and medium income people. But would you agree with me that we have already established that policy in health care, fuel assistance and those types of things?

SENATOR GREEN: Absolutely.

SENATOR JOHNSON: So, why should we not consider the low and medium income people in this formula?

SENATOR GREEN: First of all, we have established that as a precedent in many other programs. We certainly established it in educational policy. And, as you know, when we had the discussion on the policy in here, the issue was you know we do this in the GI Bill, we do it in public and private hospitals, so the idea that public funds can't be used for this purpose just fly in the face of what we have done in the past.

SENATOR JOHNSON: Thank you, Senator Green.

SENATOR GREEN: You are welcome.

SENATOR ESTABROOK: Thank you, Mr. President. I rise in opposition to this bill as I have before. Last week the Senate, by a one vote margin, voted in favor of the policy of this bill. And today, we are supposed to put the policy aside and decide whether to fund it; whether we can afford it. In my mind, the policy and the financing are one and the same. The core question remains. Should we use scarce public dollars to support the private school vouchers this bill creates? My already strong opposition to this bill on state Constitutional grounds, our state Constitution Part I, Article 6 and Part II, Article 83, grows stronger each day the bill survives. The thought of dismantling this piece of the wall of separation between church and state is so disturbing it is hard to describe. It comes from a look around the world, present and past, at places and times such as the earliest twentieth century when my grandparents fled the Czars Pogroms. This bill promotes discrimination with no public accountability. Where does it say you can choose which ones to fund? Just how would those who scoff at the idea of religious extremist schools

funded with tax dollars propose to stop them? And my opposition comes from the contrasting experience of the next generation, my parents, who obtain professional careers possible only because of their access to public education. An educated and informed electorate is the most important element to maintain democracy and economic growth. Why should tax dollars go to educating children in schools which can pick and choose which children to accept? This bill proposes to ignore these core values. All of this so we can say that we are providing choice to low income families. Baloney. Low income families won't be able to use the vouchers and the only ones choosing will be the private schools. We are really proposing to ignore these core values because the proponents think it is a cheaper way to educate students. If I hear one more person tell me that we need to do this because public schools are a one size fits all model that needs alternatives, I'll scream. As a professional educator, I know as well as anyone that differing learning styles exist and students come with different strengths, requiring different teaching approaches. Maybe that person can tell me why we can't achieve that goal within the public schools. Finally, if we suddenly have \$3 million, we should send it to the towns whose public school funding we are slashing. All of this to say that this is a lousy choice for exception to the spending constraints imposed on everything else this term. I sure would like to see the \$3 million or whatever the cost really would be of this program, invested back into LCHIP or substance abuse treatment. Having spent two years with my colleagues here who have made many difficult spending choices, it boggles my mind that this would rise to the top. Let's not let it.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise in opposition to the bill. As Senator Estabrook so eloquently has pointed out, when people say public education is one size fits all, public education has open access to all and, as a result, people derive the benefits from public education. Now as a college freshmen, I wrote an essay. That essay was segregation, a threat to American democracy. You know, as I look at this, I see something of that nature developing. What I see is a heterogeneous situation being dissolved and the creation of a homogeneous situation. I don't want to see that. My children went through the public school system, K through 12 and beyond. They were the beneficiaries of a public education. My family, my father, went through public education. It was through public education that he had an opportunity to succeed in this country. It just seems to me that if you spend one dollar as a voucher, one dollar, you have opened the door, never mind \$3 million or \$4 million. The first dollar that is spent opens the gates. The gates don't close and we know that. We spent the bulk of the morning defending our position on public education and saying to our communities these dollars are going to you and we, as your legislators, are guaranteeing it. Now we are saying well, listen, there is \$3 million more, but you don't need that in the public sector. That is going to go to a voucher program, and a limited number of people are going to get it. There are more opportunities for choice in this country than ever have been around. There are more new schools opening up in New Hampshire every day and people have an opportunity to go to those schools. Yet, we say public education must provide a spot for every individual and that individual stays there until they are 16 years of age when they make a determination whether they want to leave. We spend hours and hours and hours talking about accountability, talking about this and talking about that as it relates to public education. Public education is easy to bash. But we don't talk about

the glories of public education, and the quality of public education, and the fact that this country owes a tremendous debt of gratitude to the education system that it has created. That we get Rhodes Scholars that come out of the public system in Manchester. We get highly successful individuals that have come out of Manchester West. The founder of McDonald's, Jack, came from Manchester High School West. The founder of Revlon came out of Manchester High School Central. The founder of the Rassias method of language education came out of Central High School in Manchester, the most sophisticated language technique in the country. Those are products of public education. Immigrant families that came to this country went to public education and produced tremendous success. What we should be advocating in this chamber is bringing the resources together to enhance opportunity in the public sector. To take the lowest school in this state, elevate it to a level playing field so that those children have the same opportunity as everyone else. Anything that detracts from that, in my opinion, is an abrogation of our responsibility and I won't be part of that. I believe strongly that public education has done a great deal for all of us. It is of a tremendous honor to have been allowed to go to school, to learn and to bring that education to our life's endeavors. To me, that is what public education is all about. The first dollar that you spend detracting from that is the beginning of the end. Thank you, Mr. President.

SENATOR GATSAS: Thank you. I rise to speak. I guess if I'd have known that this amendment was coming forward, I would have voiced my opinion on the first amendment as it came out of Finance. But I didn't know this amendment was coming forward this way. Senator Green has a problem with the revenue source that we found in Finance. Utah doesn't have a problem with that revenue source. Texas doesn't have a problem with that revenue source. Minnesota doesn't have a problem with that revenue source, yet our Attorney General says it may be unconstitutional. It is an equity assessment. That is the funding solution that we had for this. Not taking money out of the adequacy grants, not taking money out of the educational trust fund. There was a financing mechanism to go forward with it. Now we have jeopardized that because now we are saying that we are taking money out of the adequacy grants. I think that is wrong. I think it is proper that we take a look at that equity assessment we had in the front end of financing vouchers because it wasn't affecting anybody. It was a funding source that we could have done educational opportunity with. We could have made that attempt and could have gone forward with it. I don't know if this is the proper way of doing it, 'cause it takes money out of the Educational Trust Fund. Thank you, Mr. President.

SENATOR O'HEARN: Thank you, Mr. President. We are dealing with an issue where we are trying to find what is best for our children in the educational process, and we continue seeking different ways. Over the years I will tell you, I have had calls from different parents that need some kind of change, some kind of choice and some kind of opportunities, and rightly so. Parents should be making decisions on where their children go, and it should be based on sound decisions. Over the years I have had calls from special education parents who see a program that works extremely well for a child like theirs with that certain type of disability in another public school system in the state and could not move their child there. There were openings in that place, in that public school, but you have to get the school districts to agree. That is wrong. When you see a program working and you have a child that has a disability...a severe disability, and

you know a program is working, there should be some way to access that other public school. Last night I went to a meeting with the chairman of the state Board of Education in Hopkinton for gifted and talented children. I think my eyes were opened on some of these issues because I never realized that these kids don't fit into their school systems either. That these are kids that are diagnosed early with psychological disabilities when actually they are bored. But their boredom becomes a disability. I have had parents calling me with children with allergies that are going to a sick school. They need to move out of that school because they are really sick. Also, victims of sexual assault need to get out of that school in order to feel safe. We need to enhance opportunities for these kids. We need to provide some kind of choice. This past week, talking with the chairman of the state Board of Education and with talking with the NEA, they're ready and willing to work with us on opening our public schools around the state so that we can enhance these opportunities. Vouchers shouldn't be the only way to go. We should probably work first with the opportunity that we have before us, which is opening the doors to our public schools around the state. The end of this month there is a program that the state board is putting on called the "real world education." I hope everyone from the Education Committee goes to this and makes this available so that you can be heard, so you can see the ideas that are out there. But I hope the whole Senate goes to this and gets their two cents in on some of this. I think we owe it to our children to do the right thing with what we can do first, rather than rushing into a voucher program which could be challenged, which is a pilot program. I will tell you the one piece that I am concerned about with this piece of legislation is making it a pilot program. Yes, we need to keep looking at it. We need to make sure we are doing it right. But I think that any of us who have had children in school, or had to move children from one school to another, or had to pick up and move from one town to another, know how difficult it is for children to go through change. I'd hate to see a child go into one of these schools with a voucher and find out three years down the road that the voucher system is coming to an end and that they are going to have to go back to the public school. I don't think that is a healthy thing that we should be doing for our children. I think that is a policy that we should be looking at and talking to different people to find out how well kids adapt to change like this. I am opposing this piece of legislation. I think there are better ways of addressing choice in schools. I don't think this is it.

SENATOR GREEN: Thank you, Mr. President. Senator O'Hearn, this is the first time that I have heard since I have been in this chamber, in the two years that I have been here, this time, and the last time when I was here, a few years back, I never heard anybody complain about a pilot program. We do pilot programs all the time in this chamber. We do studies all the time in this chamber. Nobody complains about that unless they find an issue that they don't want to vote for. Then, all of a sudden something's wrong with the pilot program. What is wrong with the pilot program?

SENATOR O'HEARN: I think the pilot program is concerning when you are taking it for three to four years and it could end at the end of three to four years based on budget, or based on a program that is not working right. I think we are playing specifically with children's lives. When you are talking the school system that should be 1-8.

SENATOR GREEN: Thank you, Mr. President. Do you recall if there was a pilot program on charter schools?

SENATOR O'HEARN: Yes.

SENATOR GREEN: Thank you.

SENATOR JOHNSON: Senator O'Hearn, on those cases that you cited earlier on in your testimony, wouldn't those people have access to the hardship statutes to correct those situations?

SENATOR O'HEARN: Not all of them. I know the one with special education required agreement between the town that the child could go to, plus the town that the child was in. The town that the child was in would not agree to send the child to the other public school for that program. Gifted and talented, there are some school districts that offer gifted and talented programs. Last night we were discussing dual enrollment as another choice option that we have in our laws. But dual enrollment also requires the receiving district to accept that policy of taking the student in and you have to have some form of an agreement between the districts. That is why I think we ought to take a look at public school choice or the opportunities within our local communities from town to town in order to provide it. The child being harassed. Yes, I agree with you. The child with allergies. Yes, I agree with you. The victim of sexual assault. Yes, I agree with you.

SENATOR MARTEL: Thank you, Mr. President. I rise...I should get the first reaction from Senator Estabrook, by saying that one school system fits all or one size fits all, and I will just wait for her to scream. But, this is too serious an issue okay, to bring that up. I stand representing one of the largest school districts in the state. I do have some qualms about whether or not I can fully support this bill. I haven't made up my mind yet. There are some good factors to it. I did vote for vouchers, okay, the last time that we voted for vouchers, as long as there was a designated form of funding. I am being told that there is a dedicated source of funding this time, but I did hear that it was coming out of the Education Trust Fund. I know that this is a very, very difficult subject for many, many people. And understanding that we just had made some cuts in the education funding, which lower the amount of money that we were passing through the school system. I just don't know if this is the proper way. I am certainly going to vote my conscience on this bill and I am going to vote for what I think is the best thing for not only my constituents, but also for constituencies across the state who have children okay, in public education. Do I agree that public education is always the answer? And I will say no to that. I have had five children. My youngest one is graduating from public high school this coming June from Manchester Memorial High School. But, my four previous sons also went to parochial school and also to some private schools. So I understand because I have been through the whole realm of education and the different avenues of teaching in schools. I think that they are all wonderful. It is just a matter of finding systems, okay, that fit you personally. So I am going to end this conversation today by just saying that I am thinking about this very seriously, and by the time that we vote on this, I will have made a decision. I want to thank you, Mr. President, for the time that you have given me on the floor.

SENATOR LARSEN: Thank you, Mr. President. I am amazed with this amendment. When we know that we have both budget shortfalls and education funding reductions in most of our communities, so many of our communities, I am amazed that we are seeing a willingness to put \$3 million from our excess revenues from the utility property tax into a

brand new program. If anything, we ought to be funding the schools we have. So it is interesting that...or what about offsetting the budget shortfalls that we all anticipate for this next session? So it is interesting to me that we are using what we hope will be additional revenues from the utility property tax to create a brand new program. School vouchers are known to cost states huge amounts of money once implemented. This is just a small pilot program. But in states from Ohio to Florida to Wisconsin, Ohio's estimated in 2001/2002 their cost of their school voucher was \$10 million. In Wisconsin, the program diverted approximately \$60 million for vouchers from public schools in 2002. Florida saw a diversion. They have two voucher programs in Florida where they saw in one voucher program, \$2 million diverted from the public school system, and an additional \$50 million diverted from the second Florida program. Public polls, Gallup polls, show a declining number of Americans who support diversion of public funds for private school tuition. Thirty-eight percent in school voucher referendums and initiatives across the country, these have failed. When the question is put to the public, do you want to divert your public school monies to private schools? It fails. It has failed in eight different states. Referendums are failing. There are huge issues relating to vouchers themselves, not just the cost. We already debated this last session where we believe that vouchers are unconstitutional based on Part I, Article 6 and Part II, Article 83 of our own Constitution in that it allows the diversion or transfer of public resources into private religious schools - a direct violation of the New Hampshire Constitution. There is a problem with this bill in that it creates an uneven playing field for schools. It means that some schools have to meet accountability standards and teacher certification standards and others don't. There is a third problem with this bill in that the funding of it of course, diverts monies that are desperately needed in all of our schools as we reduce aid to those schools and divert it into private school education. Fourth problem with this bill, and a very big one as I mentioned last...in our last debate, is that the New Hampshire system of public education is built on the principle that education is a public good and not a private right of an individual citizen; that all citizens benefit from a strong public school system. Any transfer of funds, if they were to occur, should be through local voter approval and local citizen oversight. There are issues that haven't been ever determined. For example, who pays for transportation costs within a school district that has vouchers? Who does the delivery of special education services for those students who are identified and then moved to nonpublic schools? How does that work? There are questions relating to who is responsible for adequately yearly progress for all students and those in private schools. These are issues which no one has answers to. Vouchers are the wrong way to go. I predict that the majority of you in this room believe that. I hope you vote that way because it is the wrong year to be doing this. I would maintain that it is the wrong year to ever be creating a voucher system. We need to focus on the public education system of our state, fund it adequately for every child regardless of where they live. Thank you.

SENATOR BARNES: Thank you very much. All I have is a technical correction, Mr. President. Senator D'Allesandro mentioned a McDonald founder. The problem with that is there were two McDonald founders. They were McDonald brothers, so there wasn't one that came out of that school, there were two. I just wanted to correct that for historical references so Senator D'Allesandro would know that and I don't think that he had either of them in his classes.

SENATOR FLANDERS: Thank you, Mr. President. As you all know, I thought I was not going to be involved in this argument. That is why I went to Florida. You were supposed to take care of this and I was supposed to come back and we were going to live happily ever after. I have had a very difficult time with this since I have come back. I literally, over the weekend, sat at my kitchen table and read over 135 emails. I have talked on the phone to many, many people and I have had a very difficult time making up my mind. Here's what I found. Senator D'Allesandro is very fortunate because he has good schools in his city, and people go to those public schools and they come out well. A lot of us in our districts have schools that aren't as good as that, and our children are stuck in those schools and they can't go anywhere. The reason those schools are as bad as they are is because people go to the polls and they vote no. The people, the home rule votes no. We are not going to spend any more money on that school. We don't care if it is not a safe school. We don't care if they have good teachers. I have talked to many, many parents and they said I've got a child who is having a problem in such and such a school. I would think the public school would say, fine, we've got a child who is a problem. If the child is a problem, I am sure that they have a parent who is a problem. Let that child, if he is having a problem, be taken out of the public school and go to a school where it is going to learn, where he or she is going to learn and be a better student and a better person. Now we have heard nothing but bad things about vouchers. I have also heard it. I am one of the ones that got this cut back to four years. I talked to the sponsors of the bill. If all of the things that you people say are going to happen, then let's see. Four years this dies. It sunsets in four years. If everything is going to happen that Senator Larsen says is going to happen, Senator D'Allesandro says is going to happen and Senator Estabrook says is going to happen, then we will know. Because I think the beauty of this bill is we have an oversight committee that is going to be right beside it. As this thing grows very, very small, one thousand students, it is going to grow very, very slowly because people are going to watch it. If something is going wrong, we can change it, we can watch it, we can fix it, and we can do it right or we can vote a study committee and guess what is going to happen, 'cause that is where it is going to go is to a study committee, and we can guess what is going to happen or we can do it right. It is small. There are pilot programs all over the place. We gave a pilot program for the north country, we gave a pilot program to Senator Odell to look at some things up in his area. So let's look at this. Let's find out if it works. My personal belief is there is no cost to it. We have so much money for this child. If that child goes to Antrim Middle School, that money goes to the Antrim Middle School. If the parent takes that child out of the Antrim Middle School and goes off to the school in Peterborough, \$3,600 goes to the parent, but money goes to the school. They are getting paid not to have a child. So say this thing works well and, all of a sudden, you have a smaller class in the Antrim Middle School, all of a sudden you don't need a teacher. Teachers are hard to find. Good teachers are almost impossible to find. So your school costs go down. If your classes...Antrim happens to be a town that is growing. Maybe we wouldn't have to build onto the school like we just spent a \$20 million...all I am saying is this is a chance to look at it. It is not full scale. Somebody said, let's jump into vouchers. I think that I have heard the word vouchers long before I came here. I was on the school board 20 years ago in ConVal and we heard about vouchers. So we are not jumping into something. We are postponing something exactly the

same way that we postponed charter schools. So I ask you to look at this. Look at it for four years. Let's find out if it works or not and then we will know. Thank you very much.

SENATOR BARNES: Thank you, Mr. President. Senator Flanders, this is a would you believe. I was on the school board in Raymond for a year and I found a lot of darn good teachers in Raymond. And, as I go throughout my district, visiting the different schools, I find a lot of darn good teachers out there.

SENATOR FLANDERS: And I agree with you.

SENATOR BARNES: Thank you.

SENATOR BOYCE: Senator Flanders, did you get, as I did, over the last few days, a couple of reports, one detailing the original bill that showed that it would save over the term of the original program that was in the original bill, some \$50 million to the state education plan and another one that was written by former congressman and former supreme court justice Chuck Douglas who went through the Constitutionality of this plan and the original plan, saying that there was no unconstitutional parts in this, that it would be found to be Constitutional based on previous Supreme Court decisions here in the state? Did you get those two items?

SENATOR FLANDERS: I did and I read completely the one from Chuck Douglas and the other one I read part of it. Let me say that the beauty of this program is if we have a Constitutional problem, we have a four-year program. All of these things will be decided before we have to vote on it again. All of the Constitutional issues will be taken care of. So I think that is the beauty of it. I think that Chuck Douglas' opinion is correct. But, if it isn't, it doesn't dissolve the system because we have a four-year pilot program.

SENATOR BOYCE: Thank you.

SENATOR COHEN: There have been some very, very eloquent statements on this and I am sure that this won't be one of them, but I recognize that. It is amazing to me how far we have strayed from the values of the founders of this country who recognized that public education was the number one priority. What are we doing here? We have strayed so far from that. Here we are at a time that there are some difficulties being faced in our schools, largely from No Child Left Behind, which is certainly one size fits all, which is an unfunded mandate, which is causing further pressure on our schools. This is not the time to be increasing the downward pressure on our schools. As Senator Flanders said, good teachers are hard to find. This is not going to make it any easier. I got an email from someone in Meriden, New Hampshire that pointed out that this is National Teacher Appreciation Week. She suggests, well she is concerned that the legislature is not even interested in hearing from teachers about what the real needs are in public education. That might be a better approach. Ask those people who are directly involved in the system what we can do to make it better. This clearly, I think we all know, would make it worse. This is certainly not the way to go.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Prescott.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Clegg, Barnes, Prescott.

The following Senators voted No: Below, Odell, Peterson, O'Hearn, Foster, Larsen, Gatsas, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Cohen.

Yeas: 10 - Nays: 13

Floor amendment failed.

MOTION TO TABLE

Senator Estabrook moved to have **HB 727-FN-L** laid on the table.

A division vote was requested.

Yeas: 11 - Nays: 12

Motion failed.

SENATOR KENNEY: Thank you, Mr. President. I would rise in support of House Bill 727 and the Green amendment 1531. I speak from my Senatorial district standpoint of 17 towns and they are rural. I represent a rural area, and one of those areas is, or towns is Madison. I have received a lot of support for the school choice certificate program in my area. I would like to just summarize it in one brief letter by a constituent Donna Lane of Madison. "Senator Kenney, just dropping you a note to express my support for the private school voucher program. I send my children to private school for what I hope is improved education, along with a strong emphasis on moral and social responsibility. I believe the vouchers would impact the public schools by encouraging them to raise their standards. Competition generally has that effect. Many of us would prefer to send to our children to our local schools, avoid the huge transportation issue, avoid the extra expense and keep our children in their social circle close to home. Unfortunately, the local public schools do not always meet our needs. In addition, one of my children needed a smaller learning environment. She had to attend a private school to allow her to grow and learn happily. Public school was not a good fit for her. I had to put her in a private school. The cost of the private school for my child is approximately \$4,000 a year. If my child attended the local junior high school, the sending town's cost is nearly double that. Unfortunately, I currently pay both the entire cost of the school and the town taxes is not an easy task. Sadly, there are many families that cannot afford a private or religious school that would prefer their child to attend. The voucher system would give those families a choice. Every child should have the opportunity to attend a school that best suits her needs. Education choices would make New Hampshire a more attractive place to raise young children. We are fortunate to have a great environment in this state and education choices would add to its appeal." Now I heard from Senator O'Hearn, there was a question about the displacement after this pilot program was put into place potentially of children. Well, I would argue that currently children, because we don't have a school voucher program in place, are being displaced as we speak. I would further say that, as a young adult who grew up in a rural community that had to travel 25 miles each day to high school, and I know that this bill doesn't address high school. But I will say that put personally, a tremendous stress on me as growing up as a young adult to know that I had to hitchhike back and forth to basketball practice. I had some of my East Wakefield students who travel down to Spaulding, who had to travel 30 miles, but yet, if we had some of these school choice programs, we could have gone to local private

schools or we could have gone to or developed some other arrangements. So I think that when we are addressing school voucher programs in this state, that we are addressing a lot of people from small families who don't necessarily have a voice, and I think that this bill would give them this voice. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. Question of Senator Green please. Senator Green, last week I voted to send this voucher bill to the Senate Finance Committee. I believe in vouchers. I have run on that as a campaign issue. I voted on that for the reason that was stated on this floor, you as the Chairman, I believe, made a comment something like, "we are going to find a source to be able to fund this situation." Now, what I am hearing here, and I am hearing three or four different things as I am listening here today. Some people are saying that it is coming out of the Education Fund. Some people say it isn't. Where the heck is it coming from? Is it coming out of the Education Fund that will deprive the public schools of that money that is already in there for them?

SENATOR GREEN: Let me tell you where it is. It is part of the total Educational Trust Fund, and there are a number of items in that trust fund that generate revenues. Some of them are from the Education Property tax. The rest of it comes from normal, normally in the past, until the Educational Trust Fund was set up, with general fund revenues such as business profits tax, BIT, BET, it comes from the lottery is in there. There are a number of items in there. One of the items, one of the line items in there is called the Utilities Property Tax. That particular line item is in the trust fund. Any amount of money in that trust fund at the end of the biennium, by law, if there is additional money in the trust fund, would lapse into the general fund and vice versa. If there is not enough money in the trust fund to honor what we have authorized to be distributed, would be added to the trust fund first out of general fund dollars. What we have done here is we have taken one line item which is the utility property tax line item. It is currently running ahead of projected revenue by \$3.1 million with one payment still to go in June. It is estimated that that overage on the revenue projection in that one line item will be about \$5 million. Now, if that money stayed there and didn't get earmarked for anything, it would stay in the trust fund. If it was still there and hadn't been spent, and needed, because we identified \$428 million to actually disburse, it would then lapse into the general fund.

SENATOR BARNES: It would make it \$433 million?

SENATOR GREEN: No, no, it would not do that. So the point is, that money...and the thing that you have to remember to is that this is a one time issue. The only time I know about is the situation we are in now. I don't know what is going to happen going forward. But, in terms of...don't forget, that is a property tax. I would suggest to you that property taxes are not going to go down. If you think they are going to go down, I think that you better go talk to your residents back home or they haven't been paying their property taxes.

SENATOR BARNES: Go lay on a table somewhere.

SENATOR GREEN: Yes, exactly. So the question is, do we earmark \$3 million of that which is already over estimates now, and put it earmarked for this as a one time source of revenue for one year? Because every other year going forward for four years, there is three years left, would be determined each year by the budget committee, the Finance Committee.

SENATOR BARNES: Now, when we sent it in good faith to the Finance Committee a week ago, what did your committee vote 5-2 on?

SENATOR GREEN: We voted for a tobacco equity assessment tax. We voted that in good faith. I think it was a good action. I don't disagree with the action, but we got legal opinions and concerns. The legal opinions came from the Attorney General's Office and the concerns came from DRA that it was not constitutional for them to do that. I didn't agree with that opinion, okay? But the fact is that was in writing and I had to deal with it. There was something I was dealing with. I had the issue with this body that there were people who were not going to vote for that tobacco tax. Whether you call it an assessment or whatever you call it, but it was a tax.

SENATOR BARNES: You have several Senators that mentioned that they looked at it as a tax.

SENATOR GREEN: So...and if they said that to me, and I am trying to figure out how to pass this bill, it is not because I don't agree with that tax. I think that is a viable assessment and is not an additional tax. It is getting money from people who aren't paying a tax. Now I see that much different than a new tax. It is not a new tax, but I had to figure out. Just look at it, just like everybody else. You try to figure out how you are going to get enough votes. I couldn't get enough votes with that language in the bill. So, we took it out today and we gave a different source of revenue for the bill. Still I am having those kinds of concern. All I am saying is we've got a good piece of legislation here. We've got a viable way to look at it for one year for funding, with going forward in budgeting. We can look at it from the point of view of the bill; we can look at from other ways which we discussed. But, the point is it is a good piece of legislation and it does have funding tied to it. Some people don't like what we got now. I don't think...it is like, no matter what we do, everybody, if they want to kill the voucher program, they will find a reason to kill it, in my opinion. We have everything running around here, people trying to figure out how to kill this bill. So they jump on anything they can that they think that they can get enough folks to kill it.

SENATOR BARNES: I appreciate you answering my question. I have a question of Senator Estabrook, if I could, Mr. President.

SENATOR BARNES: Senator Estabrook, you were very eloquent in your comments and you were saying, I think I understood you to say it is coming out of the public education fund, and you heard the Senator say it isn't coming out of there. Can you explain why you think it is and why he might be wrong? Can you clarify to me so I will know whether it is or it isn't? Right now I am hearing that it isn't. So can you tell me why it is?

SENATOR ESTABROOK: I didn't refer to it coming from any particular place. My position is that no matter where it comes from, this isn't what it should be spent on.

SENATOR BARNES: Oh, okay. Thank you, Senator. I appreciate that. Thank you very much, Mr. President.

SENATOR GATSAS: Thank you, Mr. President. I am going to urge my colleagues to vote down this amendment so I can make a motion of reconsideration on the original bill, because the original bill had a separate funding source. The separate funding source in the state of Texas just passed. It is a separate funding bill. It does nothing more than do what we want. People can call it a tax. What it does is it prevents the

state of New Hampshire from losing money from manufacturers that don't pay into the master settlement agreement. The erosion of those cigarettes being sold in this state affects the revenue we have in this state. Texas and Utah just passed the same legislation. It is an equity assessment. The state of New Hampshire sells 185 million packs of cigarettes. We get \$40 million from the master settlement agreement. They pay about 40 cents a pack into the master settlement agreement. We get revenues for 100 million packs of cigarettes. Eighty-five million packs of cigarettes have no assessed value. The equity assessment puts us in a position to collect revenue. I think it is very clear in the amended version what we put in there and what the purpose of it was. I think that is the most important thing, to understand what the purpose of the equity assessment is. To recover health care cost to the state imposed by nonparticipating manufacturers. To prevent nonparticipating manufacturers from undermining the state's policy of reducing underage smoking by offering cigarettes for sale substantially below the prices of cigarettes from other manufacturers. To protect funding which is reduced as a result of the growth of nonparticipating manufacturer cigarette sales. I got to tell you that we heard this in Interstate Cooperation three months ago. Not because of the Attorney General's research, but because of Senate research. Because of Senate Research, we found that the state of Utah passed this legislation. Because of Senate Research, we found out that they passed it in Texas yesterday. Four other states are entertaining it. This is an equity assessment. We are losing money from people that aren't paying in. So I would ask you to vote down this amendment so that I can make a motion for reconsideration so that we can bring the original bill back. Thank you, Mr. President.

SENATOR EATON (In the Chair): Just for clarification. It would be the original committee amendment.

SENATOR BELOW: Thank you, Mr. President. I rise in opposition to the amendment and the bill. Let's look at what the choices that this bill is really about. It is a choice to divest from public education. It is a choice to divide and diminish community support, public support for public education. It is a choice to reduce curriculum choices in the public schools because of that divestment, division and diminishing support. It is a choice to reduce opportunities for excellence in public education. It is a choice to walk away from an evolving system of accountability for how public tax dollars are spent on education. It is a choice to pretend like we can do education on the cheap. I mean, seriously, \$3,500 for an adequate education? It is a choice to flaunt Part II, Article 83 of our Constitution. Let there be no doubt. If this becomes law, monies raised by taxation will be used, applied for the use of schools, of institutions, of private or religious denominations in direct contradiction to the plain language of Part II, Article 83, notwithstanding fancy legal opinions. It flaunts...it is a choice to flaunt Part I, Article 28-A in which we mandate a new responsibility for local school districts to do annual income verifications for everyone who participates in this program without any state funding or without any choice. Finally, it is a choice to obligate funds that would otherwise help balance our budget, to increase the deficit in the education trust fund and to add to our budget problems. Let's not choose this path. Thank you.

SENATOR PRESCOTT: Thank you, Mr. President. I rise in great anticipation of this vote. I believe it is a water shed issue. I really, really relish this time to say yes to vote for vouchers. Go home and walk the streets of your district, knock door to door. What do you hear when you knock

door to door? I want choice. My kids go to a public school. I would like to be able to choose which public school. I would like to send them to a charter school and I would like to send them to a private school if I can. If I am paying taxes at home, I should be able to take some of those taxes and put them where I want to put them. My kids. I want to choose where my kids get educated. I am excited about voting for this bill because one, it is a pilot program, it is not going to break the bank. We have the money source. It is Constitutional by many scholars, and it is studied along the way. It is going to be studied along the way. We will know how this thing is working out. And it will not last forever if it is not doing a good job. I really do want this bill. Thank you very much, Mr. President. Looking forward to the vote.

SENATOR LARSEN: Senator Prescott, I hear your enthusiasm for voting for this, but I also know that you, like I, take your oath of supporting the Constitution pretty seriously. I don't understand and maybe you can explain to me how do you say you are upholding the Constitution of New Hampshire when the Constitution says no person shall ever be compelled to pay towards the support of the schools of any sect or denomination. Further, in Article 83, it further adds 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. How do you say that you are upholding the Constitution and vote for this bill?

SENATOR PRESCOTT: Thank you very much, Senator. I am glad that you know that I take my oath of office very seriously.

SENATOR LARSEN: I am sure that you do.

SENATOR PRESCOTT: And the Constitution, both of the United States and of this state. When there are case law that says public money can go to private sources such as this already existing in New Hampshire, I am ready to vote for this bill. That is why I am, Senator.

SENATOR LARSEN: Our own New Hampshire Supreme Court has indicated, at least through some opinions, that this in fact unconstitutional. Have you seen case law in New Hampshire to show that our own court believes this is Constitutional?

SENATOR PRESCOTT: There are case laws that are on my desk.

SENATOR LARSEN: From New Hampshire?

SENATOR PRESCOTT: I believe so. Thank you.

MOTION OF RECONSIDERATION

Senator Gatsas, having voted with the prevailing side, moved reconsideration of the **committee amendment (1444)**, whereby it was voted down.

The question is on the motion of reconsideration.

A roll call was requested by Senator Below.

Seconded by Senator Kenney.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

The following Senators voted No: Below, Peterson, O'Hearn, Foster, Larsen, Sapareto, D'Allesandro, Estabrook, Cohen.

Yeas: 14 - Nays: 9

Adopted.

SENATOR GATSAS: Thank you, Mr. President. I urge my colleagues that we now have a funding source that is outside of education adequacy and also outside the education trust fund. I am sure that we are going to hear from people saying it is not a reliable source; it is unconstitutional. But I think that we as Senators take a look at what do in here and we take them very seriously. Whether we decide that the voucher program is the right program or not, I think that we have already debated that. We now have a funding source that is outside of all of the things that we don't want it participate in. So I urge my colleagues to vote with the amendment that came from Senate Finance. Thank you, Mr. President.

SENATOR GREEN: Thank you, Mr. President. I just want to make, for the record at least, a comment regarding a memo I got from the Attorney General's Office as of today. It was on my table when I walked in this morning. I shared this with some members of the Senate because we had been told in the Finance Committee that there were some big major problems. One of the problems that we were wrestling with was we had conflicting information and finally we were told by the AG that this particular funding was not appropriate. Then we heard from DRA that it wasn't appropriate. But, as of today, from the Attorney General, there is another bill floating around here. It is called Senate Bill 453. That particular bill deals with the same issue we are dealing here with. And the bill is designed to close a loophole in RSA 541-C, the tobacco manufacturers nonparticipating in the Master Settlement Agreement Act. It is the same issue. The loophole allows nonparticipating manufacturers to sell their products into New Hampshire at dramatically reduced rates. It says 453 is model legislation that is being offered nationwide. So far, approximately 32 states have adopted it and it is under consideration in others. So as I read this, it appears that we, as a state, have the ability to do this legally and I am having a real problem. So, with this information and the dialogue that we are having here in this Senate, it would seem to me that we wouldn't have any problem supporting the amendment that is on the floor and being offered by Senator Gatsas. Thank you.

SENATOR GATSAS: Senator Green, would you believe...Thank you, Mr. President. Senator Green, would you believe that the Attorney General's letter really is not talking about the issue that I am talking about?

SENATOR GREEN: I agree. I know that, but...go ahead, I am sorry.

SENATOR GATSAS: The Attorney General's letter is talking about allocable share.

SENATOR GREEN: Yes he is.

SENATOR GATSAS: It doesn't...in this statement, it says, "the result is an estimated loss in the master settlement payments to the state of New Hampshire of approximately \$4 million in 2003."

SENATOR GREEN: Exactly. Exactly.

SENATOR GATSAS: The reason why the state of New Hampshire has lost money in the master settlement agreement is not because of the allocable share. It is because the population, the master settlement agreement is based on population.

SENATOR GREEN: I agree.

SENATOR GATSAS: So it has nothing to do with allocable share. I agree with what you are saying. This is a whole different...this is what the...this is what brought the infamous Interstate Cooperation Committee to this level of understanding of where we are at, because what happened was that the major manufacturers came in and said, thirty states have passed this. Would you believe that it doesn't do anything for the states? It does a lot for the major manufacturers because it increases price, but doesn't get anything to the states?

SENATOR GREEN: We are in complete agreement.

SENATOR GATSAS: Thank you.

SENATOR GREEN: Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise against the current amendment. I have nothing against finding a new revenue source. I think that new revenue source is there. If indeed it proves to be an acceptable source, if it stands the test of Constitutionality, which it appears it will, that money should go to the general fund. We are asked to designate that revenue source towards vouchers. Now we all have problems with designating revenue sources. That has been a problem around this legislature since I have been here. So you have two issues. In the Finance Committee I stated I am for the new revenue source if indeed it proves to be an area where we haven't been collecting the dollars that are due the state of New Hampshire. I am against designating those dollars to fund vouchers. So I think there is a clear delineation there and I want to make it perfectly clear, that anyone who finds a new revenue source, and I've got a couple of them myself that I would like to discuss someday before this body, and I would be very happy to bring them up. I will hopefully, hopefully be around here to do that. But the situation is designating those dollars for vouchers. I...my honorable colleague Senator Flanders, I would like to see more money going to his public schools so that he will feel better about those schools, feel better about those teachers and feel better about public education. I would like to give him more money so that he could feel that way. Thank you, Mr. President.

SENATOR ESTABROOK: Senator Gatsas, the way the bill is written with this amendment, this assessment is to fund the program. How's the program going to be funded if the assessment is found to be unconstitutional when we have established the obligation and then have no source of funding?

SENATOR GATSAS: Senator, I believe that there is a severability clause in the amendment. I believe.

SENATOR ESTABROOK: Which means what? That the program will go forward?

SENATOR GATSAS: That's a good question. You will have to ask the sponsor. I was only in charge of finding the funding source for them.

SENATOR GREEN: There is a severability clause, Senator. I believe it is on...I will find it for you. It is on page five of the bill, starting on line eight.

SENATOR ESTABROOK: Thank you. So, in other words, if this new funding source is deemed unconstitutional, the program moves forward without any specific funding?

SENATOR GREEN: It is, as part of everything in this bill, tied directly to the Education Trust Fund.

SENATOR ESTABROOK: So I understand that. If this funding source is unconstitutional, the fall back position is that it comes out of the Education Trust Fund?

SENATOR GREEN: You are making assumptions that it is unconstitutional. I am not making that assumption.

SENATOR ESTABROOK: I am asking you what happens if that is the finding. I am not assuming anything.

SENATOR GREEN: If that is the finding, we will be dealing with trying to fund it.

SENATOR ESTABROOK: Thank you.

SENATOR FOSTER: Senator Green, following up on Senator D'Allesandro's comments about finding a new revenue source. If the question were divided and the only thing...and one could vote for section three of your amendment, that would put into place this new revenue source, would it not? And those funds would go into the Education Trust Fund by themselves?

SENATOR GREEN: Try the question again please, I was trying to find the section that you were dealing with.

SENATOR FOSTER: I am following up on what Senator D'Allesandro's comments about finding new revenue sources.

SENATOR GREEN: Oh, okay. Let me find the location where you are so I can respond.

SENATOR FOSTER: Page 11.

SENATOR GREEN: Of the amendment?

SENATOR FOSTER: The calendar in the amendment, yes.

SENATOR GREEN: Okay. Thank you.

SENATOR FOSTER: Am I correct that section three is the part of the bill that establishes this new revenue source that might raise...

SENATOR GREEN: Yes, that is the section that raises the revenue.

SENATOR FOSTER: And, if that was the only part of the amendment that the body adopted, would that just generate funds for the Education Trust Fund? Is that where those funds would go?

SENATOR GREEN: If you adopted just that section, those revenues would be generated, and I am not sure standing here whether they would go in the trust fund. They probably would go in the general fund.

SENATOR FOSTER: I was trying to read that and find that out for myself.

SENATOR GREEN: I don't believe that...I believe that it would go into the general fund, unless it is earmarked. You see, it doesn't say where that is going, but it does identify the amount of money and then it makes it clear in this bill that out of the Education Trust Fund, the first \$3 million or whatever it is, in this particular piece, I believe it is like \$3.6 million, would go to the program.

SENATOR FOSTER: Maybe I am reading wrong, but maybe you could help me. Roman V of that section.

SENATOR GREEN: Yes, Roman V, Funds Collected...that would go into the trust fund.

SENATOR FOSTER: That would go into the trust fund?

SENATOR GREEN: Yes.

SENATOR FOSTER: Thank you.

SENATOR GREEN: You're welcome.

SENATOR D'ALLESANDRO: Senator Foster, as I understand it, if funds go into the educational trust, the first call on the educational trust is an entitlement, so those dollars flow out of the trust for any program, correct?

SENATOR FOSTER: I guess what I was wondering was whether that stand alone provision would just be a new revenue source. If nothing else passed, we would have a new revenue source we could see whether it is Constitutional or not and we would have more money for the Educational Trust Fund.

SENATOR D'ALLESANDRO: Thank you.

SENATOR LARSEN: Senator Green, we are now talking about returning to the committee amendment that is printed in our calendars on page ten and eleven.

SENATOR GREEN: Yes, we are.

SENATOR LARSEN: Can you show me, between pages ten and twelve, where this severability clause is? You referred to a page number, but as we read the calendar...

SENATOR GREEN: I was referring to the bill. This amendment is an amendment to the bill. This is not the entire bill. You have to go back to the original bill. This amends the original bill that came out of committee.

SENATOR LARSEN: So you are saying the severability is in the original bill?

SENATOR GREEN: Yes.

SENATOR LARSEN: Thank you.

SENATOR GREEN: You're welcome.

SENATOR MARTEL: Thank you very much, Mr. President. I am not going to stand up here very long because I am going to say this. I have never ever voted for a tax except for one time. I remember that. That was my freshman year in the House of Representatives when the tobacco tax came to the forefront and I was asked to support that tobacco tax because it was going for some other source of revenue, for some other program. I said, well, geez that sounds like a good idea. That way we are only going to be taxing a very few people compared to the rest. I voted for that bill and, all of a sudden, I remember after the vote was taken, I got a little tap on the shoulder. A nice Representative, Representative Riley in fact, who passed away a few years ago, came up to me and said, "what was your promise?" I said, not to vote on any taxes. She said, "you just broke it already." She was right, even though I was doing the right thing in mind. Today, I will take this vote on the assessment because it brings more money into the state, and it protects those funds, okay, which we are supposed to be getting from the equity analysis, okay, from the tobacco revenues that we are supposed to be getting. We have not been getting our fair share of those funds. If this helps in any way, I am glad to help the system. I know that some cities and towns

will get more money from this and I certainly will not step in the way of not allowing the state to get more revenue in that essence. So I will support this, okay, and we will go forward. I hope that we can solve the problems that we have. Thank you very much, Mr. President.

SENATOR FLANDERS: Just very briefly, Mr. President. I think that Senator D'Allesandro brought out a point that I would like to compare where our differences are. Senator D'Allesandro wants to throw more money to the Antrim School to make it a better school. I don't happen to believe that money makes good education. But, the point I want to make, if there is a half of dozen young children in the Antrim School that don't fit, that are having a problem, they should be moved out for a better education. Throwing money at Antrim School does not fix that; vouchers do. Thank you very much.

SENATOR SAPARETO: Senator Green, I am looking through the amendment in the bill. I am just trying to wonder, if one student goes to another district, what is the amount of money that actually follows the student? I can't seem to find that anywhere in the bill a dollar amount. Could you give me a dollar amount?

SENATOR GREEN: It is not, well, here is what the dollar amounts are. The child, the parents apply for a voucher. They have to qualify in terms of their eligibility based on income. That amount of money that they get on the certificate, is maxed \$3,600, minimum \$900. That money does not come from the school district's allocation until the allocation catches up with the student being gone because, under the program, it takes using two year old information to determine the distribution to districts. So if that one child leaves, \$3,600...that is the max...they are eligible for the max, and that school district's per pupil costs is \$10,000, the difference stays in the school district.

SENATOR SAPARETO: Would you show me where in the bill where that determines that calculation?

SENATOR GREEN: It is not a number; it is a calculation. Let me tell you where it is.

SENATOR SAPARETO: I was looking for that.

SENATOR GREEN: Yes, it is. Let me just tell you, if I can find it for you. It is not in number form; it is in written form. I will find it for you. Here it is. Thank you very much. The value of certificate, the original bill on page two. It goes...take line 33, "The Value of Certificate." "The value of the school certificate of any pupil shall be 100 percent pupil and so forth..." and RSA 198: 4-a is the calculation of the amount of money that is involved and it is by distribution in terms of grants to communities.

SENATOR SAPARETO: Thank you.

SENATOR GREEN: You are very welcome.

SENATOR LARSEN: Thank you, Mr. President. This amendment...this language relating to taxing tobacco companies is also unconstitutional in that it taxes certain tobacco companies in New Hampshire. Under Article 5 of Part II of our Constitution, we have language that says that all taxes shall be equal and proportional essentially. I won't read to you the exact language of our Constitution, but the essence of this tax is that certain tobacco companies are part of a negotiated settlement with, through a court order, and they are paying into a settlement. They are not paying a tax. Whether we call it a tax or an assessment, this is a tax.

This will tax certain tobacco companies in New Hampshire separately from others. Those who are paying into the settlement account will not be taxed. Those who are nonparticipating will be taxed. It violates our Constitution and will not stand up. Now we may be able to sever it and continue our little voucher pilot program right along, but it will not be able to be used as a source for funding and then that means that the \$3 million will come out of our Education Trust Fund. It is wrong. It doesn't work. Senator Green recognized that there was a problem and tried to fix it through an amendment. Now we are back to debating what he knew was true, which is that you can't impose this because it is an unequal tax on one group of tobacco companies and not on others. I think that there also needs to be some understanding. One, I think that everyone can chuckle and pretend like the Emperor has clothes, but this Emperor has no clothes. This is a tax. It may be hidden in fancy language calling it an assessment, but it is a tax. Further, there needs to be a distinction made between what the Attorney General wrote us in a letter today and what we are discussing. The Attorney General wrote us a letter saying that the escrow, the paying into an escrow account or the keeping of funds paid into the escrow account, might be Constitutional, or would be in his opinion, Constitutional. That is a very separate issue from what we are debating today, which is shall we impose a new tax in New Hampshire on nonparticipating tobacco companies. Senate Bill 453 has language that talks about the master settlement agreement and the House is in fact, probably passing a Constitutional assessment of those nonparticipating tobacco manufacturers because, instead of them being able to file for a rebate, it will require that as long as they pay in based on the units they sold in our state, it will be allowed to withhold those payments in the master settlement agreement to allow for payment of future lawsuits relating to injury that might occur from smoking. So they're two very different issues that we are talking about. One is Constitutional and that is coming over as an amendment from the House to Senate Bill 453. The other, we are debating today. It is printed in our calendar on page 11 and it is an unconstitutional tax on one group of tobacco companies and not on the other.

SENATOR GATSAS: Senator Larsen, do you know who brought the allocable share forward?

SENATOR LARSEN: I suspect you are going to tell me it is you, which is fine.

SENATOR GATSAS: No. Not me. Would you believe that it was the major manufacturers?

SENATOR LARSEN: I would believe that because they feel like they are bearing the brunt of this and they want to bring everybody into it.

SENATOR GATSAS: Would you believe that the allocable share does nothing for the state of New Hampshire? No revenue.

SENATOR LARSEN: You may have heard more discussion of the allocable share issue than I did, because you sit on Finance. The language that we saw from the Attorney General indicated that New Hampshire's share would have been \$4 million in 2003 alone. I have no reason to think otherwise.

SENATOR GATSAS: We didn't hear that discussion in Finance. Would you believe that we heard it in Interstate Cooperation on a bill that Senator Johnson brought forward?

SENATOR LARSEN: That is great. I knew that I used to chair Interstate Cooperation and sometimes some really important issues came through there.

SENATOR GATSAS: Thank you, Senator.

SENATOR ESTABROOK: Senator Larsen, in other words, from what you have told us, a vote in favor of this amendment from the committee will mean that you are voting in favor of moving forward the school voucher program, whether or not the funding is available from outside the trust fund? In other words, you are voting to move forward with it, if necessary, with money out of the trust fund?

SENATOR LARSEN: Precisely, because that tax will be struck down as unconstitutional and the voucher program may live a few more months, but I suspect some day it will be struck down as unconstitutional and meanwhile, the monies for vouchers will come out of the Education Trust Fund.

SENATOR ESTABROOK: Thank you.

SENATOR GATSAS: Senator Larsen, what happens if...because I believe some of the questions that you were talking about or reading in the Constitution, that the vouchers might be unconstitutional. What do we do then, give the nonparticipating manufacturers their money back?

SENATOR LARSEN: I could see...I would be happy to see it going into the Education Trust Fund and we finally begin to add some money in there to pay our obligations to fund schools adequately. If it didn't go into the Education Trust Fund, it would lapse over into the general fund just as our illustrious chairman of Finance indicated to us earlier. So, either way, it is a benefit to the state, if it were Constitutional.

SENATOR GATSAS: Thank you.

PARLIAMENTARY INQUIRY

SENATOR PRESCOTT: Parliamentary inquiry?

SENATOR EATON (In the Chair): Parliamentary inquiry?

SENATOR PRESCOTT: Thank you very much, Mr. President. If I believe that this funding source is...looks like a tax, smells like a tax, maybe walks like a tax, would I vote no on this amendment?

SENATOR EATON (In the Chair): You'd vote yes if you are for it and no if you are against it.

SENATOR PRESCOTT: Thank you very much, Mr. President.

The question is on the adoption of the committee amendment (1444).

A roll call was requested by Senator Gatsas.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Gatsas, Barnes, Martel.

The following Senators voted No: Below, Odell, Peterson, O'Hearn, Foster, Clegg, Larsen, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

Yeas: 10 - Nays: 13

Amendment failed.

Senator Green offered a floor amendment.

Sen. Green, Dist. 6

May 6, 2004
2004-1538s
04/01

Floor Amendment to HB 727-FN-LOCAL

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

AN ACT establishing a committee to study the issue of school choice in New Hampshire.

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

1 Committee Established. There is established a committee to study the issue of school choice in New Hampshire.

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 study the issue of school choice in New Hampshire. The committee is authorized to define school choice and study any issue relating to school choice which it deems relevant.

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 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, 2004.

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

2004-1538s

AMENDED ANALYSIS

This bill establishes a committee to study the issue of school choice in New Hampshire.

SENATOR GREEN: Mr. President, I would like at this point to offer another amendment please, number 1538. Mr. President, I would like to amend the bill to establish a committee to study the issue of school choice in New Hampshire. It is strictly a study committee made up of three members of the Senate and three members of the House. In the amendment you will see what the membership is and the duties of that particular study committee. The name of the study committee is to establish a committee to study the issue of school choice in New Hampshire. I would ask your support.

SENATOR LARSEN: There are some of us who are concerned that, by creating this into a study committee, we are in essence sending this bill back to the House. It in fact could become a voucher program in a Com-

mittee of Conference. That is not, I believe, the intent of the Senate; therefore, I think it makes more sense...I understood and I don't have the bill with me, but I understood there is a study going on for school choice in the House, so I see no reason for the Senate to create a study committee in the Senate on the same topic and I would move to table.

MOTION TO TABLE

Senator Larsen moved to have **HB 727-FN-L** laid on the table.

Senator Larsen requested a roll call.

Senator Larsen withdrew her request for a roll call.

A division vote was requested.

Yeas: 8 - Nays: 14

Motion failed.

SENATOR BOYCE: Mr. President, I would just like to point out that I believe the tabling motion was out of order since she was recognized to speak and then asked to table after speaking. I just wanted to point that out.

SENATOR EATON (In the Chair): I appreciate that.

SENATOR BOYCE: I am just trying to keep the parliamentary situation on the up and up.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Larsen.

Senator Larsen withdrew her request for a roll call.

The question is on the adoption of the floor amendment.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 803-FN-A-L, relative to the establishment of municipal economic development and revitalization districts by municipalities. Finance Committee. Ought to pass, Vote 6-0. Senator Below for the committee.

SENATOR BELOW: Thank you, Mr. President. I move House Bill 803 ought to pass. This legislation is enabling and expands the size of parameters that towns must follow in establishing their tax increment financing or TIF districts. It also allows towns to increase the size of districts that are less than five years old. Increased flexibility for TIF districts will allow local communities to expand their tax base over the long term while financing necessary infrastructure improvements from investments in TIF districts. This bill strengthens an important economic development tool and the Finance Committee asks your support for the motion of ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 1207-FN-A, relative to a Global War on Terrorism operations service bonus payment. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator Gatsas for the committee.

Senate Finance
April 28, 2004
2004-1453s
09/01

Amendment to HB 1207-FN-A

Amend RSA 115-A:16 as inserted by section 1 of the bill by replacing it with the following:

115-A:16 Qualifications for Bonus. Each person who actively served in any capacity as a member of the uniformed forces of the United States on or after September 11, 2001 and on or before a date to be determined by the Secretary of Defense, and who earned the expeditionary medal for Global War on Terrorism operations; and who was discharged, released or has a certificate of service therefrom, with an honorable discharge, or who is missing in action or who was killed in action; and who at the time of entry on such active service, and at the time of such service was a bona fide resident of this state shall be entitled to the benefits provided under this subdivision. A person shall demonstrate bona fide residency under this section through such person's home of record at time of entry as listed on a DD Form 214 or a written verification from a town or city clerk that such person was a resident of a New Hampshire town or city at the time of active service. No individual who has received a Global War on Terrorism operations bonus payment from another state shall be qualified to receive the benefits provided under this subdivision.

SENATOR GATSAS: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1207. This bill establishes a Service Bonus Payment for members of the armed services who serve in the Global War on Terrorism. The committee amendment merely clarifies that only those who have been honorably discharged, missing in action and a resident of New Hampshire would be qualified to receive this bonus. The Finance Committee recommends that this legislation be adopted. Thank you for your support. Thank you.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1228, relative to changes to the uniform fine schedule. Finance Committee. Ought to pass with amendment, Vote 5-0. Senator Odell for the committee.

Senate Finance
April 8, 2004
2004-1105s
09/10

Amendment to HB 1228

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

2 Reference Change. Amend RSA 262:44, III to read as follows:

III. The uniform fine schedule referred to in paragraph I shall be developed ~~[and promulgated by the New Hampshire supreme court after approval by the legislative fiscal committee]~~ **pursuant to RSA 502-A:19-b, V.**

SENATOR ODELL: Thank you, Mr. President. I move House Bill 1228 ought to pass with amendment. This bill puts the legislature in charge

of the uniform fine schedule. Currently the fine schedule is set by 12 judges and then approved by the legislative Fiscal Committee. Prior to unification, courts below the Supreme Court level benefited from the fines on the revenue side of their budget; this is no longer the case. The Department of Safety now benefits from the fee schedule and fine schedule instead of the courts. The Finance Committee asks your support for the motion of ought to pass with amendment. Thank you, Mr. President.

Amendment adopted.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

Sen. Below, Dist. 5

May 6, 2004

2004-1537s

04/09

Floor Amendment to HB 1228

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

AN ACT relative to changes to the uniform fine schedule; relative to imposing a nonparticipating manufacturer equity assessment; and relative to reports on the status of monthly tax refunds.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 5:

3 New Section; Tobacco Tax; Nonparticipating Manufacturer Equity Assessment. Amend RSA 541-C by inserting after section 3 the following new section:

541-C:4 Nonparticipating Manufacturer Equity Assessment.

I. In this section, "nonparticipating manufacturer" means a tobacco product manufacturer that is not a participating manufacturer within the meaning of subsection II(jj) of the Master Settlement Agreement, as defined in RSA 541-C:2, V.

II. There is levied an equity assessment, at the rate 35 cents per package of 20 for all cigarette packages of nonparticipating manufacturers to which a stamp is affixed as required under RSA 78:12.

(a) The equity assessment imposed by this section is in addition to all other assessments, fees, and taxes levied under existing law.

(b) The equity assessment imposed by this section shall be paid by affixing a stamp in the manner and at the time described in RSA 78:12.

(c) Except as otherwise provided in this section, the equity assessment shall be collected, paid, administered, and enforced in the same manner as the tax on cigarettes levied by RSA 78:7.

III. The purposes of this equity assessment are:

(a) To recover health care costs to the state imposed by nonparticipating manufacturers.

(b) To prevent nonparticipating manufacturers from undermining the state's policy of reducing underage smoking by offering cigarettes for sale substantially below the prices of cigarettes of other manufacturers.

(c) To protect funding, which is reduced as a result of the growth of nonparticipating manufacturer cigarette sales, for programs funded in whole or in part by payments to the state under the Master Settlement Agreement, as defined in RSA 541-C:2, V.

(d) To recoup settlement-payment revenue lost to the state as a result of nonparticipating manufacturer cigarette sales.

(e) To fund enforcement and administration of:

(1) RSA 541-C relative to tobacco manufacturers not entering the Master Settlement Agreement; and

(2) The equity assessment imposed by this section.

IV.(a) Each manufacturer, distributor, wholesaler, or retail dealer who under RSA 78:12 affixes a stamp to a package of cigarettes, shall report monthly to the commission for each place of business, the number and denominations of stamps affixed to individual packages of nonparticipating manufacturer cigarettes sold by the manufacturer, distributor, wholesaler, or retail dealer in the preceding month, including the manufacturer and brand family.

(b) A person required to file a report under this section is subject to the penalties under RSA 78:12, III for failing to file a report in a timely manner, or for supplying false or fraudulent information.

V. Funds collected under this section shall be deposited in the education trust fund as established in RSA 198:39.

4 New Subdivision; Reports on Status of Monthly Tax Refunds. Amend RSA 21-J by inserting after section 44 the following new subdivision:

Reports

21-J:45 Reports on Status of Monthly Tax Refunds.

I. The commissioner of the department of revenue administration shall report to the fiscal committee within 10 days after the close of each month, the status of monthly refunds pending from the combined general fund and education trust fund for the following taxes:

- (a) Business profits tax.
- (b) Business enterprise tax.
- (c) Interest and dividends tax.

II. This report shall include, but not be limited to, the number of refunds claimed, dollar value of refunds carried over from the prior month, current claims, paid out refunds, and refunds outstanding at the end of the month. This report shall also include the total anticipated refund for the next 3 calendar months for each tax in subparagraphs I(a)–(c).

2004-1537s

AMENDED ANALYSIS

This bill:

I. Requires that any changes to the uniform fine schedule be made by statute.

II. Imposes a nonparticipating manufacturer equity assessment of 35 cents per package of 20 for all cigarette packages of manufacturers which do not participate in the Master Settlement Agreement and requires such funds collected to be deposited in the education trust fund.

III. Requires the commissioner of the department of revenue administration to make reports to the fiscal committee on the status of monthly tax refunds.

SENATOR GATSAS: Mr. President, I guess that I don't have to speak too long because we have just heard it for the last three hours. What this is, is the equity assessment against nonparticipating manufacturers. The purpose of this is to recover health care cost to the state imposed by nonparticipating manufacturers. I think that everybody spoke in favor of looking for a new revenue source. This is a revenue source that other states are in the process of passing because they are losing revenue from the nonparticipating manufacturers. Thank you, Mr. President.

SENATOR LARSEN: I won't take the group through the same argument we just heard, but this looks like a tax that we just talked about two bills

ago. I think if you were going to do anything to get revenue, you would need to look at the bill the way the House amended Senate Bill 453 and not approach it through this equity assessment tax because, as you heard, it is a tax and unequal, unproportional tax on one group of tobacco manufacturers.

SENATOR GATSAS: Senator Larsen, would you believe that what the House did doesn't create a nickel of revenue for the state of New Hampshire?

SENATOR LARSEN: Then, if I can respond. Please tell me why the Attorney General indicated that it would be at least \$4 million into 2003?

SENATOR GATSAS: Senator, I don't know why he said that, because we in committee, all the committee members being here, never heard that from the Attorney General. He was there testifying at Interstate Commerce. We never heard that one nickel is coming to the state of New Hampshire with the allocable share.

SENATOR LARSEN: Is it not possible that he did his homework, and that on May 5 when he wrote the letter, he then had done his homework and it is a \$4 million revenue source that is Constitutional?

SENATOR GATSAS: Senator, I guess you are asking me a question and I can only tell you that you were questioning the Department of Education some six hours ago about coming forth with numbers. So, if they are telling you that they found a revenue source out of the Department of...the Attorney General's Office, then I have not heard about it. I do not believe that anybody in this body has heard about it, and we have been looking at this situation for over four months.

SENATOR LARSEN: Many of us received the letter on our desks this morning and, if you would like me to share the letter with you that indicates that it is a \$4 million revenue source that is Constitutional, I will share it with you as well.

SENATOR GATSAS: Thank you.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Below, Green, Flanders, Odell, Peterson, Gatsas, Barnes.

The following Senators voted No: Kenney, Boyce, Roberge, O'Hearn, Foster, Clegg, Larsen, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

Yeas: 9 - Nays: 14

Floor amendment failed.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1378-FN-A, relative to New Hampshire service medals for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator Green for the committee.

Senate Finance
April 28, 2004
2004-1429s
09/01

Amendment to HB 1378-FN-A

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

AN ACT relative to New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor.

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

1 New Subdivision; Service Awards for Veterans of World War II, the Korean War, and the Vietnam War. Amend RSA 115-A by inserting after section 15 the following new subdivision:

New Hampshire Service Awards

115-A:16 New Hampshire Service Awards.

I. The adjutant general shall, with the cooperation and advice of the director of the state veteran's council and the state veterans advisory committee, design and cause to be manufactured or produced service awards for service in World War II, the Korean War, and the Vietnam War. Service awards may be in the form of medals, medallions, or certificates.

II. The awards shall be designed in a manner which:

(a) Indicates the major branches of the armed forces, which are the army, navy, air force, marine corps, and coast guard.

(b) Displays the seal of the state of New Hampshire and a likeness of the "Old Man of the Mountain."

(c) Displays an inscription stating that the award is a "New Hampshire Award for Service," the name of the war in which the recipient served and the beginning and ending dates of the war.

115-A:17 Eligibility for Award. Any person who served in any of the following wars; who, if deemed necessary by the adjutant general, earned the appropriate service medal; and who was honorably discharged, or who is missing in action, or who was killed in action; and who, at the time of entry on such active service, and at the time of such service was a bona fide resident of this state shall be eligible for the award provided under this subdivision. Eligible service is service in:

I. "World War II" between December 7, 1941 and December 31, 1946.

II. The "Korean War" between June 27, 1950 and January 31, 1955.

III. The "Vietnam War" between August 5, 1964 and May 7, 1975 or between February 28, 1961 and May 7, 1975 for persons who served in Vietnam prior to August 5, 1964.

115-A:18 Application for Service Award. Any person eligible for a service award under this subdivision, or if such person is incapacitated or deceased, the surviving spouse or child of such eligible person, may apply to the adjutant general for such service award during 2-year application time periods established by the adjutant general for each war. The adjutant general shall establish application forms and procedures.

115-A:19 Rulemaking. The adjutant general shall adopt rules, pursuant to RSA 541-A, relative to:

I. The dates for the 2-year application time period for each war for which a service award may be awarded under this subdivision.

II. Application forms and procedures under RSA 115-A:18.

III. Any other matter deemed necessary by the adjutant general relative to the design, manufacture, production, or distribution of service awards under this subdivision.

115-A:20 Gifts, Grants, and Donations. Notwithstanding any other provision of law, the adjutant general may solicit and receive monetary gifts, grants, or donations for the purpose of paying costs of the design, manufacture or production, and distribution of New Hampshire service awards under this subdivision.

115-A:21 New Hampshire Service Award Fund. There is established in the office of the state treasurer a fund to be known as the New Hampshire service award fund. All monetary gifts, grants, and donations received by the adjutant general pursuant to RSA 115-A:20 shall be deposited in such fund. The fund is established to pay the costs of the design, manufacture or production, and distribution of New Hampshire service awards under this subdivision. The money in this fund shall be nonlapsing and shall be continually appropriated to the department of the adjutant general.

2 Appropriation; Adjutant General. The sum of \$10,000 is hereby appropriated to the New Hampshire service award fund for the fiscal year ending June 30, 2005, for the purposes of start-up costs for the design, manufacture or production, and distribution of New Hampshire service awards under RSA 115-A:16-21, as inserted by section 1 of this act. This appropriation shall be nonlapsing. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Contingency. If by July 1, 2006, the funds contained in the New Hampshire service award fund are insufficient to fund the costs of the design, manufacture, and distribution of New Hampshire service awards in the form of medallions or medals, the adjutant general shall use the funds contained in the New Hampshire service award fund to design, produce, and distribute New Hampshire service awards in the form of certificates.

4 Effective Date. This act shall take effect July 1, 2004.

2004-1429s

AMENDED ANALYSIS

This bill establishes New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War who were residents of New Hampshire at their time of entrance into military service. An appropriation is made to the adjutant general for purposes of design, manufacture or production, and distribution of the awards.

SENATOR GREEN: Thank you, Mr. President. I move that House Bill 1378 ought to pass with amendment. This bill creates service awards for veterans of WWII, the Korean War, and the Vietnam War who were residents of New Hampshire at the time of their entrance into military service. The amendment by the Finance Committee appropriates \$10,000 towards medals, medallions or certificates. However, if enough funds are not raised by July 1, 2006, the funds will go towards service awards in the form of certificates. The Finance Committee asks your support for the motion of ought to pass with amendment. Thank you.

SENATOR BARNES: It is not a question; I guess it is a comment. I sure as heck hope these are not certificates. I certainly hope they are medals. So whatever we have to do, this is 2006 when it happens, I hope next year can come in here and find some way to make sure it is not a piece of paper. A piece of paper is wonderful, but most of these guys appreciate the medals. I am not eligible for this because I didn't **TAPE CHANGE** New Hampshire so I have no conflict of interest on it. But, for Gods sake guys, next year when we all come back, the whole Senate

Chamber that is here that wants to come back will be here, Senator Cohen is going to be someplace else, but the rest of us, let's find a funding for medals for these people. They deserve it. A piece of paper is, well, I won't say what I think about the piece of paper. Thank you.

Amendment adopted.

Senator D'Allesandro offered a floor amendment.

Sen. Clegg, Dist. 14

Sen. Peterson, Dist. 11

Sen. O'Hearn, Dist. 12

Sen. Sapareto, Dist. 19

Sen. D'Allesandro, Dist. 20

Sen. Barnes, Dist. 17

May 6, 2004

2004-1535s

09/01

Floor Amendment to HB 1378-FN-A

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

AN ACT relative to New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor; and relative to tuition waivers and room and board scholarships at state educational institutions for children of certain firefighters and police officers who died while in performance of their duties.

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

4 New Section; State College and University System; Tuition Waived for Children of Certain Firefighters and Police Officers. Amend RSA 187-A by inserting after section 20 the following new section:

187-A:20-a Tuition Waived for Children of Certain Firefighters and Police Officers; Room and Board Scholarships.

I. A person who is a New Hampshire resident, who is under 25 years of age, and who enrolls in the university of New Hampshire, Plymouth state university, or Keene state college shall not be required to pay tuition for attendance at such institution if he or she is the child of a firefighter or police officer who died while in performance of his or her duties and whose death was found to be compensable pursuant to RSA 281-A.

II. Any person entitled to free tuition under this section shall apply to the board of trustees of the university system, and the board may require such proof as it deems necessary in order for a person to qualify for free tuition under this section.

III.(a) There is hereby established in the office of the treasurer the chancellor's scholarship endowment trust fund which shall be kept distinct and separate from all other funds. The chancellor and trustees of the university system may seek and accept private donations, which shall be credited to the trust fund to provide room and board scholarships for persons who qualify for tuition waivers under this section.

(b) The state treasurer shall be the trustee of the trust fund established in this chapter and shall invest the trust fund in accordance with RSA 6:8. Any earnings on trust fund moneys shall be added to the trust fund.

(c) All moneys in the trust fund shall be nonlapsing and shall be continually appropriated to the board of trustees of the university system for purposes of providing room and board scholarships under this paragraph.

5 New Section; Regional Community-Technical Colleges; Tuition Waived for Children of Certain Firefighters and Police Officers. Amend RSA 188-F by inserting after section 16 the following new section:

188-F:16-a Tuition Waived for Children of Certain Firefighters and Police Officers.

I. A person who is a New Hampshire resident, who is under 25 years of age, and who enrolls in the regional community-technical institute or a regional community-technical college shall not be required to pay tuition for attendance at such school if he or she is the child of a firefighter or police officer who died while in performance of his or her duties and whose death was found to be compensable under RSA 281-A.

II. Any person entitled to free tuition under this section shall apply to the commissioner, who may require such proof as deemed necessary in order for a person to qualify for free tuition under this section.

6 Effective Date. This act shall take effect July 1, 2004.

2004-1535s

AMENDED ANALYSIS

This bill establishes New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War who were residents of New Hampshire at their time of entrance into military service. An appropriation is made to the adjutant general for purposes of design, manufacture or production, and distribution of the awards.

The bill also waives tuition at state educational institutions for children of firefighters and police officers who died while in performance of their duties. The bill establishes the chancellor's scholarship endowment trust fund to provide room and board scholarships to persons who qualify for this tuition waiver at state college and university system institutions.

SENATOR D'ALLESANDRO: Thank you Mr. President. I would like to offer floor amendment 1535s and, while it is being passed out, speak to that amendment. Thank you, Mr. President. Floor amendment 1535s addresses children of firefighters and police officers who die in the act of duty. What it does is it creates a scholarship situation at the university system and we are obviously very grateful to the university system for agreeing that a tuition waiver would be put in place for the eligible descendants of these firefighters or police officers who pass away in the line of duty. The tuition waiver would be granted and, as a second part of this amendment, the chancellor's scholarship endowment fund would be established, whereby the chancellor and the trustees could seek private donations and credit it to the trust, and those private donations could be used to offset room and board scholarships for persons who qualify for the tuition waivers. It think it is a situation where I realize it won't involve a great number of people, but certainly we have seen in the last year that a number of our comrades, firefighters and police officers have passed in the line of duty, have left young children and this is an opportunity for those children, if qualified, to be part of the university system, and to be granted tuition waivers. So I hope my colleagues will support this.

SENATOR BARNES: Thank you. Senator D'Allesandro, is there a misprint here? Wasn't it supposed to say that the chancellor's scholarship provided baseball is back at UNH?

SENATOR D'ALLESANDRO: You know that is a good point, Senator Barnes, but it isn't in this situation.

SENATOR BARNES: Oh, that must be the floor amendment that I have coming down.

SENATOR D'ALLESANDRO: It must be.

SENATOR BARNES: Thank you.

SENATOR KENNEY: Thank you, Mr. President. Senator D'Allesandro, if I may ask you a question.

SENATOR D'ALLESANDRO: Sure.

SENATOR KENNEY: I want to commend you for bringing forth this bill. I think it is quite admirable. My question is in regard to the definition of a firefighter or a police officer. Where I come from, we have volunteer fire departments and we have part-time police officers. We have people that are paid full time and part time. I am wondering if this bill includes administrative rules or, if it doesn't, what is your interpretation in regards to the volunteers and the part timers?

SENATOR D'ALLESANDRO: Thank you for the question, Senator Kenney. I think it is a good one. I recognize that about 50 percent of the firefighters in the state of New Hampshire are volunteers. When we went over emergency preparedness and when we went over the communications system, we found that that was the case. In many of the local communities, the police are part time or are very few full time. So, my intention in sponsoring this was to include any firefighter or any police officer.

SENATOR KENNEY: Thank you. That is your legislative intent?

SENATOR D'ALLESANDRO: Yes.

SENATOR KENNEY: I appreciate that. Thank you.

SENATOR D'ALLESANDRO: Thank you.

SENATOR PETERSON: Thank you, Mr. President. I wanted to congratulate Senator D'Allesandro and thank him for bringing forward this bill, which I was happy to co-sponsor. I was at UNH the other day and I think that it is a very much worth the time for anyone who has an extra moment to stop by the campus and see the improvements that are going on there today. I think under the leadership of Steve Reno and the chancellors, as well as the fine president who is now in place at the university, the university is really just a striking institution that offers opportunities that many would not suspect to find at a state university. I am a parent of two, as of next year, who will be in college. My oldest daughter is at one of the finest ivy league colleges in the country, I am happy to say. And bringing my daughter on at UNH which she intends to matriculate in fall, it was very impressive to me, the facilities, the opportunities that she will have there and the reasonable cost at which they are available to New Hampshire citizens. We have a tremendous asset in the University of New Hampshire. I am sure that we all agree. This bill here, I think it would make my daughter, as she arrives on campus next fall, very glad to know that the children of those who stand in harm's way in our stead and fall in that duty would be granted free admission for their tuition payment to the University of New Hampshire. It is a fine idea. It is one which I am happy to support and wanted to offer those brief comments to particularly highlight its importance today. Thank you.

SENATOR BOYCE: I rise in opposition to this amendment, not because I don't think it is a fine thing to do for the children of the firefighters and the police officers, but because it comes in at this very late hour with

no public hearing. As far as I can tell, there is no assessment of what the financial impact this will be on the university system, and when I know that the university system has been having to raise tuition to the students going there because they don't receive as much money from the state as they think they ought to. So, for us to tell them, without any public hearing, public input, or anything, that they are going to give this tuition, and I believe it is says room and board as well...but I just have a problem with doing this at this last instant of this legislative year when we have had, what is this May? We have had four and a half months of this year to consider this as a separate bill or to bring it into a committee on a bill that was going forward. Certainly, you know, maybe there is somebody who wants to start school next fall that this would apply to, but I really think that this ought to come in through the normal channels as a bill or at least an amendment in a committee during a public hearing, where there was a chance for public input. So I am going to be voting against this, not because I don't think that it is a good idea, but I think it is in the wrong way. Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. I have to rise and say that to some extent, I share Senator Boyce's concerns. However, I will be supporting it. I think it is a very worthy cause. It is something that is a wonderful thing for us to be doing for those who did so much for us, but I do have deep concerns that this is the second time this session, the first was with the provisions that we made for the National Guard, which I also thought were extremely worthwhile, but it is the second time this session that we have asked the university system to absorb the cost of this generosity. I think we need to be very careful going into the future that we don't continue down this path very often. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I would be remiss if I didn't thank the majority leader for his help with this and I certainly appreciate that, certainly appreciate his yielding to my introducing the amendment. So I appreciate that and I thank him and I thank the other sponsors. I want to address a couple of things. You introduce legislation when you think legislation is needed. This is the kind of legislation that, in my opinion, the public hearing aspect can be waived because of the sensitivity of the issue. We don't say to the firefighters you can only fight fires on Monday, Wednesday and Friday and if they occur on Tuesday or Thursday, don't go. When somebody dies giving their life for us, I think you have to appreciate that, as we do with our police officers. I think we saw an incident, or I saw an incident, I take this responsibility upon myself because I saw something that happened to a firefighter in Meredith. He had three young children. It just seemed to me appropriate that if we wanted to do something for our public servants, we would do it. It took a while for me to find a mechanism to do that. I finally found a mechanism to do that and I brought this forward. So, I apologize to my colleagues for not doing it in another manner, but I thought it was the right thing to do it, I thought it was the right time to do it. And, as a result, I did it. I did consult with the university system. This was not done without their knowledge. I spoke to them on a number of occasions about this. Spoke to the chancellor's office and came up with this situation. So it is something that they weren't aware of. The other situation is that it does not address room and board. Room and board can be paid for by an endowment that is created by the trustees and other members of the university system going out and soliciting funds. The only thing they get is a tuition waiver and I think, when you look at the number of people involved, it would be very, very miniscule

in terms of those who will participate. But, you know, there are times when I have said in the legislature, in a bipartisan manner, you do the right thing for the right reasons. I think this is the right thing for all of the right reasons, and that is why I brought it forward. So if there is any criticism, it should come right to me because I am the person who brought it forward. I said, I did talk to the university system. I did speak with the majority leader and my colleagues. So I'd appreciate your support because I think that the people who do so much for us deserve something in return. Thank you, Mr. President.

SENATOR FLANDERS: Thank you, Mr. President. Senator D'Allesandro, I am not opposed to the bill, I just...on the second page, line 13, it says the child of a firefighter or a police officer who died while in the performance of his duties. I was wondering if you have a fireman or police officer who does not go to a hearing and not found to be compensable, they lump sum the case. What is going to happen to that child? There has no determination whether that injury occurred out or in course of the employment.

SENATOR D'ALLESANDRO: I really can't answer that, Senator.

SENATOR FLANDERS: Well, a lot of those do get settled that way. I don't know what we are going to do about the child whose father or mother got killed and no determination is made whether it was in the performance of their duties. **TAPE INAUDIBLE.**

SENATOR BARNES: I just wanted to say thank you Senator D'Allesandro. I am certainly going to vote for this. I think you deserve a lot of credit for bringing it forward. I think it is a no-brainer. So let's move the question and vote for this 'cause it is a good one. There hasn't been many good ones in a row here today so let's just go.

SENATOR CLEGG: Thank you, Mr. President. A birdie was whispering in my ear. I am sorry, Mr. President. I rise in support of the bill and, as Senator D'Allesandro had said, this is something we did talk to the chancellor's office. You will notice that there is an endowment fund called the Chancellor's something...scholarship fund. The chancellor wanted to be part of this bill in some way. They felt that it was important for the university system to do this. So they wanted to have a fund that they could raise and, with both ideas put together now, you have someone who is a child of a firefighter or police officer killed in the line of duty, can go tuition free, but maybe there still is not enough money because I will tell you, my kids went to the state system and it is not that cheap to live on campus and to buy the food plan and then there is the books and the lab fees, and I could go on and on. So the chancellor's office is now attempting to find a method to find the rest of the money. I think that is laudable of the university system. They understand that firefighters and police officers protect us everyday. If they die in the line of duty, we owe them something and their children something. I applaud the university system for agreeing and wanting and jumping to the aid of our men and women who die serving us. I guess Senator D'Allesandro said all of the rest a lot better than I could, so thank you.

SENATOR JOHNSON: Senator Clegg, did you ask the same thing of the Community Technical College? I wouldn't want the president there to be left out.

SENATOR CLEGG: We didn't ask them about offering an endowment fund on top of it, but we did talk to the technical college system, and I thank you for the question. They were very pleased to be part of this system as well.

SENATOR JOHNSON: Good. Thank you.

SENATOR CLEGG: Thank you.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1399-FN-A, establishing the telecommunications planning and development fund. Finance Committee. Ought to pass, Vote 7-0. Senator Odell for the committee.

SENATOR ODELL: Thank you, Mr. President. I move ought to pass on House Bill 1399. This legislation places the planning and development fund under the Office of the State Treasurer and allows the commissioner of DRED to accept private and public donations to the fund. Monies received in the fund will be used for initiatives promoting the telecommunications industry within our state. There is no fiscal impact to the state general fund, or local or county budgets. The Finance Committee recommends that this legislation be adopted and appreciates your support. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 264, establishing state representative districts. Internal Affairs Committee. Ought to pass with amendment, Vote 3-1. Senator Boyce for the committee.

Internal Affairs

April 28, 2004

2004-1428s

03/05

Amendment to HB 264

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

AN ACT relative to state senate districts.

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

1 State Senate Districts. RSA 662:3 is repealed and reenacted to read as follows:

662:3 State Senate Districts. The state is divided into 24 districts for the choosing of state senators, each of which may elect one senator. The districts shall be constituted as follows:

I. Senatorial district number 1 is constituted of Coos county and Albany, Bartlett, Bethlehem, Franconia, Hale's Location, Hart's Location, Jackson, Lincoln, Lisbon, Littleton, Livermore, Lyman, Sugar Hill, and Waterville Valley.

II. Senatorial district number 2 is constituted of Alexandria, Ashland, Bath, Benton, Bridgewater, Bristol, Campton, Center Harbor, Dorchester, Easton, Ellsworth, Groton, Haverhill, Hebron, Holderness, Landaff, Lyme, Meredith, Monroe, New Hampton, Orange, Orford, Piermont, Plymouth, Rumney, Sanbornton, Thornton, Warren, Wentworth, and Woodstock.

III. Senatorial district number 3 is constituted of Brookfield, Chatham, Conway, Eaton, Effingham, Farmington, Freedom, Madison, Middleton, Milton, Moultonborough, Ossipee, Sandwich, Tamworth, Tuftonboro, Wakefield, and Wolfeboro.

IV. Senatorial district number 4 is constituted of Alton, Barnstead, Belmont, Gilford, Gilmanton, Laconia, New Durham, Strafford, and Tilton.

V. Senatorial district number 5 is constituted of Andover, Cornish, Croydon, Danbury, Enfield, Franklin, Grafton, Grantham, Hanover, Hill, Lebanon, Plainfield, Springfield, and Wilmot.

VI. Senatorial district number 6 is constituted of Barrington, Madbury, Nottingham, Rochester, and Somersworth.

VII. Senatorial district number 7 is constituted of Antrim, Bennington, Boscawen, Bradford, Canterbury, Deering, Francestown, Hancock, Harrisville, Henniker, Hillsborough, Loudon, Nelson, Northfield, Salisbury, Warner, Weare, Webster, and Windsor.

VIII. Senatorial district number 8 is constituted of Acworth, Alstead, Charlestown, Claremont, Gilsum, Goshen, Langdon, Lempster, Marlow, New London, Newbury, Newport, Roxbury, Stoddard, Sullivan, Sunapee, Sutton, Unity, Walpole, Washington, and Westmoreland.

IX. Senatorial district number 9 is constituted of Bedford, Greenfield, Lyndeborough, Merrimack, Mont Vernon, and New Boston.

X. Senatorial district number 10 is constituted of Chesterfield, Dublin, Fitzwilliam, Hinsdale, Keene, Marlborough, Richmond, Surry, Swanzey, Troy, and Winchester.

XI. Senatorial district number 11 is constituted of Amherst, Greenville, Jaffrey, Milford, New Ipswich, Peterborough, Rindge, Sharon, Temple, and Wilton.

XII. Senatorial district number 12 is constituted of wards 1, 2, 5, and 9 in Nashua, and Brookline, Hollis, and Mason.

XIII. Senatorial district number 13 is constituted of wards 3, 4, 6, 7, and 8 in Nashua.

XIV. Senatorial district number 14 is constituted of Auburn, Hudson, and Londonderry.

XV. Senatorial district number 15 is constituted of Concord, Hopkinton, and Pembroke.

XVI. Senatorial district number 16 is constituted of wards 1, 2, and 12 in Manchester, and Bow, Candia, Dunbarton, and Hooksett.

XVII. Senatorial district number 17 is constituted of Allenstown, Brentwood, Chester, Chichester, Danville, Deerfield, Epsom, Fremont, Northwood, Pittsfield, Raymond, and Sandown.

XVIII. Senatorial district number 18 is constituted of wards 5, 6, 7, 8, and 9 in Manchester, and Litchfield.

XIX. Senatorial district number 19 is constituted of Derry, Hampstead, and Windham.

XX. Senatorial district number 20 is constituted of wards 3, 4, 10, and 11 in Manchester, and Goffstown.

XXI. Senatorial district number 21 is constituted of Dover, Durham, Epping, Lee, and Rollinsford.

XXII. Senatorial district number 22 is constituted of Atkinson, Pelham, Plaistow, and Salem.

XXIII. Senatorial district number 23 is constituted of East Kingston, Exeter, Kensington, Kingston, Newfields, Newmarket, Newton, Seabrook, South Hampton, and Stratham.

XXIV. Senatorial district number 24 is constituted of Greenland, Hampton, Hampton Falls, New Castle, Newington, North Hampton, Portsmouth, and Rye.

2 Application. The changes in state senate districts established by this act shall not affect constituencies or terms of office of senators presently in office. The state senate districts established by this act shall be in

effect for the purpose of electing senators at the 2004 state general election. If there shall be a vacancy in a state senate district for any reason prior to the 2004 state general election, the vacancy shall be filled by and from the same state senate district that existed for the 2002 state general election. No provision of this act shall affect in any manner any of the proceedings of the membership of the senate of the general court that assembled for a biennial session in January 2003.

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

2004-1428s

AMENDED ANALYSIS

This bill establishes new state senate districts in accordance with the latest federal decennial census.

SENATOR BOYCE: Thank you, Mr. President. I move ought to pass with amendment on House Bill 264. The committee amendment eliminates the original bill, which we have already passed on the House side. It corrects some errors in the way that the Supreme Court's redistricting plan was set up. Specifically it deals with Nashua's Ward 7 where it is split between two Senate districts and there are similar problems in Manchester in two wards. The basis for this is in the Constitution, Part II, Article 26-a or actually I think it is in 26. It says that the state shall be equally distributed with Senators and that the each consisting of contiguous towns, city wards and unincorporated places without dividing any town, city ward or unincorporated place. The court clearly did that in two cases. We need to fix that. This committee fixes those problems. It brings the deviation range below ten percent and it complies with both the U.S and the New Hampshire Constitutions. No incumbent Senators are targeted in this redistricting plan. No district will have two sitting Senators. Fifteen Senate districts are exactly as they are already configured today. There is one small problem in the committee amendment. In drafting, the town of Canaan fell through the cracks. Following the adoption of the committee amendment, I propose a floor amendment that will put Canaan back into the state map. Thank you. And it does not have Killington in it either.

SENATOR EATON (In the Chair): I know the Marines are tough, but I just want...I have to say his constituents are tough too, because Senator Kenney's constituents are still here and put up with all of this. I think that they deserve applause. And they don't even get paid to sit there.

SENATOR KENNEY: May I respond to that, Mr. President? You brought up a very good point. There is a trade off here this evening. Their father is picking up my son at preschool at six o'clock and the rest of the family members I am driving home with this evening. So the sooner we get out of here, I get to take them home with me.

SENATOR EATON (In the Chair): You never told them what the trade would really entail.

SENATOR FOSTER: Senator Boyce, I wanted to just understand section two of the bill where it talks about application. It says on the second sentence, "The state Senate districts established by this act shall be in effect for the purpose of electing Senators at the 2004 state general election." What it doesn't say is, in 2006, 2008 and so forth. Is the intent here that this is a, you know, we're done here, we're not going to be doing this every two years?

SENATOR BOYCE: As far as I am concerned, this is where we will be done.

SENATOR FOSTER: It doesn't say it there in the bill.

SENATOR BOYCE: No. I don't believe there is any intent to a redistricting every two years. We need to do this primarily because what the court did when they did it was actually outside of the Constitution, the way that they did it and we need to fix those things, your district being one of those areas. The Constitution also says that the legislature will redistrict. We haven't successfully done that for the Senate yet. The House has with the bill that we passed earlier. This is our after the census redistricting that we are called on to do by the Constitution as far as I am concerned.

SENATOR BELOW: Thank you, Mr. President. I rise in opposition to the committee amendment. I think what is being done here flies in the face of our Constitution and in the face...and is against good public government process. This is an amendment that came in at the last minute without public hearing. We have representations here about the purpose of the bill that do not conform with the facts. We have an assertion that it is due to errors in the Supreme Court plan that somehow the Supreme Court plan did not comply with the Constitution that somehow quote, "It clearly did that in two cases, which is to divide Senate districts, divide city ward lines in Senate districts," in Manchester and Nashua. Let's recollect a few facts. There is a lot of confusion in the redistricting process about ward lines in Nashua and in Manchester because, as it turns out, the numbers everybody was using, including the city clerks in those communities, did not actually conform with the actual population counts in the census blocks that constituted those ward lines. So the court went through a fairly detailed process of ascertaining what the facts were. And, in an order issued by the Supreme Court of New Hampshire on July 11, 2002, they amended their plan to make it conform with the Constitution and with the ward boundaries for Nashua and Manchester. I will just quote briefly from that. In the fifth to the last paragraph of that five page order, the court said, "the court's district plan shall be amended to use the current ward boundaries for the city of Nashua and Manchester as set forth in the certified copies of the Nashua and Manchester city charters amended to reflect the ward boundaries changed after the 2000 census." They went on, in the third to last paragraph to note that "the Senate President asserts that the Nashua City Clerk has indicated that Nashua is likely to adjust its ward boundaries in the future. The Senate President contends that if the city does so, this may greatly increase the total deviation of Senate Districts 12 and 13. Senate Districts 12 and 13 are today drawn using the current ward boundaries adopted by and in place in the city of Nashua. The boundaries of Senate Districts 12 and 13 are hereby fixed and will not be affected if the city adjusts its ward boundaries in the future. Should the city choose to adjust its ward boundaries in such a way that they no longer coincide with the boundaries between Senate Districts, then it will be the responsibility of the appropriate officials to make internal election process accommodations." The Senate district lines that were drawn conformed with all of the ward boundaries in Nashua and Manchester. In fact, this amendment makes no changes to Manchester. Beyond that, this amendment, this whole process steps outside of the boundaries the Constitution sets for when redistricting is to occur. Part II, Article 26 says rather clearly, "the legislature shall form single member districts at the next session after approval of this article" which was in 1964, "and thereafter at the regular session following each decennial federal census." At the time that this amendment was adopted, the regular session was a biennial session. It was a two year period of time. That is the custom that has been followed ever since. This legislature tried to redistrict in the

regular session following the census, and, in 2002, the legislature adjourned on May 22nd without enacting a valid Senate redistricting plan. So, the Supreme Court of this state, pursuant to very clear Constitutional authority under the United States Constitutional and United States Supreme Court decisions, undertook a legislative act, they said with great reluctance. But what they did is they did the legislative act that the Constitution requires, in the place of the legislature which they not only have the authority to do but, under the U.S. Constitution and Supreme Court decisions, they had a responsibility to do it, to create valid Constitutional Senate districts. That is what they did. They conformed with our Constitutional requirements in all respects. Nobody has questioned that. If I could have some help with a handout. The other place that this creates a problem, I believe, is that the Constitution also requires that the districts be drawn as nearly equal as may be in population. That is exactly what the court did after they amended their plan to make it fit exactly the current ward, then current ward lines in Nashua and Manchester. In the first set of columns you will see that they ended up with a range of deviation of 5.46 percent. Nobody really has suggested that they could have done better than that. They had done better than that with different number assumptions about the wards, but they changed the districts to fit the wards. The plan that is being presented today, besides the fact that it is contrary to the court's order that those district lines are hereby fixed and will not be affected if the city adjusts its boundaries in the future. Takes us out from 5.46 percent range of deviation to 9.48 percent and from a mean or average deviation of 1.65 percent to 2.02 percent. Now part of the reason that occurs is 'cause there is a bunch of redistricting that goes on beyond what comes or flows out of Nashua with regards to District two, five, seven, eight and fifteen that has nothing to do with what is going on in Nashua. To make the changes in Nashua, Districts twelve and thirteen, you do have to then make a change in District eleven and you need to make a change in Senator Roberge's district as well. I forget that number. Nine. District nine. There is nothing that flows over from those four districts into the five northern districts that are then affected. So what are we to make of this? We have heard no rationale for this, no presentation of public hearing, no debate and discussion. My clear suspicion is that what this is, is about partisan gerrymandering. It is an attempt that has come out of a majority party operative to tip the playing field in favor of incumbents; to tip the playing field away from competitive districts and in favoring the status quo and incumbents. It makes District eight, District seven and District eleven, although that might arise out of the Nashua situation, distinctly more Republican in their tendency. It makes District five and fifteen, distinctly more democratically leaning in their tendency. If my self interest is to help fend off potential Republican challengers, I would say this is great because it would be very difficult for a Republican to win in District five now. But I don't think that benefits the voters and I don't think that is what the Constitution is about. I think it is about giving voters equal voice and equal representation in the voting process. If that happens to mean competitive districts, as the court ended up ordering, where we saw a lot of shift in districts, then so be it. If the concern is to...I don't think it is legitimate to rearrange the wards in Nashua. But, if that was the goal, you could achieve a lower range of deviation; you could achieve a lower average deviation; a lower median deviation; a lower standard deviation. You could have districts that were much more equal as equal as may be in population simply by not touching Districts five, two, seven, eight and fifteen, and using the wards in

Nashua that would produce the least deviation. Namely moving wards four and eight into twelve and five, six and nine...something is wrong about that. Four and eight into thirteen and five, six and nine into twelve and so forth. I just want that for the record. I don't think this is the right thing to be doing. I urge the body to reject this.

SENATOR LARSEN: Thank you, Mr. President. There are times when there is good collegiality in these halls and there are times when it feels like the heavy hammer of partisan politics comes down hard. This bill...I sit on Internal Affairs. This bill, this change, occurred as I was running in to attend the Internal Affairs Committee from Public Affairs Committee which frequently has an overlap. I was handed this map, which I asked to be highlighted so I could at least understand what was going on with it quickly, and was told that the vote had occurred and I had to beg to at least have my vote registered, although I hadn't had time to even review the words of this amendment. There were no hearings on this amendment. There was always discussion throughout this session that, if anything, there was some look at Nashua's ward lines, maybe Manchester's ward lines. So imagine my surprise when I see what looks like a spotted newt or a salamander, or maybe we call it a gerrymander, coming out again. A couple of years ago I brought out a map which I couldn't find, but it was an antique map of something that happened in Massachusetts under Governor Gerry, creating the word Gerrymander. Now in New Hampshire, we have spotted newts, and I hope not to spot Newt anytime soon in New Hampshire. But this is a gerrymander of the first degree. When you talk about communities of common interest and you see a district that, for no reason other than gerrymandering, includes towns from Canaan, I am sorry, from Cornish and Croydon, all the way over to Franklin. When you see wrap around districts such as what is done to District seven. When you see stacking of Republican districts in one area and loading Democrats into a fewer number of districts, that is gerrymandering. It does not meet the Constitutional requirements. It is wrong to be doing off census year, and it is wrong to be doing, and I believe that all of you are aware that it is wrong to be doing, to the people who vote in this state who need to understand to learn who their Senators are, where their Senate districts are. If we have the expectations such as is presented with this bill that these things can change every two years. I just attended town meeting in Loudon just the other day. Back in March. They are beginning to get to know me. Now, I am going to have to run around and go back to the Hopkinton town meeting. Now I love the people of Hopkinton, they are wonderful people. I think that Senator Flanders would probably vouch for that. But, the courts set our districts based on deviations on equality of voters within the district based on best census data that we could get to. It is wrong to be gerrymandering this state to do that with the expectation that it might not hold beyond two years because this legislation says this only holds for the next election. It is wrong. It is the heavy hammer of partisan politics and partisan behavior on a minority. It is wrong because voters won't know who or what district where they live and who is their Senator. There will be no expectation of any consistency in the future, and it is a precedent that we ought not to set today. I know that you are all sitting here knowing exactly how you are going to vote on this. I know I am not going to change minds, but I suggest to you that you ought to take a good look once again at our Constitution and recognize that you are not upholding your oath of office in voting for this today.

SENATOR BARNES: Thank you very much, Mr. President. To say something about what Senator Larsen has said, I asked that question back a while ago, too, and I was told the Constitution says we "must" do it every ten years. That is a must. But, my understanding is from legal folks, that it can be done every two years if the legislature so desires. So it is not illegal. It might be against your wishes, but it is not an illegal thing that this thing does. I would like to speak to and I shouldn't be doing this, but I am going to do it anyway. I am talking about the House bill, I am not talking about the amendment. I followed this thing and I spoke over there and I got my hand slapped for messing in the House. I happen to have a town called Allenstown, which I think that some of you have heard about recently and probably will be later this afternoon or this evening. They were taken care of, as far as having a chance to have a Representative from that town. I get this and, up in Hooksett, which is the big Republican stronghold, is back with it again, and I think that is very wrong and I just want to go on record as saying I am disappointed that somebody in the House didn't come and say, "Jack we did it again." I went to bed last night thinking Allenstown was taking care of and here again they get the stick. Thank you, Mr. President.

SENATOR LARSEN: Senator Barnes, can you explain to me why Loudon would be part of, under this ruling, this amendment, why Loudon would become part of District seven? What was the explanation given to you of why we needed to do that?

SENATOR BARNES: I didn't ask that question. I looked at District 17 and listened to what my colleagues had to say and I really didn't get into that. I didn't ask that question. I don't know. I am sure somebody will be able to answer that for you, but I am not able to. I wasn't sitting there when this was put together. I did agree to it, to what it was, but I did not get into why this was which way.

SENATOR LARSEN: Why did you understand it was being done? Why did you agree to it? Why do we need to do it?

SENATOR BARNES: I agreed to it because I think it takes care of Manchester and Nashua. That is part of the problem that we had, and that is what the whole thing comes down to. The blocks started to tumble as we tried to take care of the Nashua problem. The court, in all honesty, I think everybody has heard that, I think it is right, that the court made a mistake on the redistricting. They did something over there to stick it to the Nashua people and, in Manchester, Ted has people voting in two different places I guess. I think it is your ward, isn't it? It is your ward that is messed up. So actually I think it was the Nashua thing that was tumbling to take care of the situation. That is my understanding of it.

SENATOR LARSEN: Mr. President, can I ask a question of Senator Boyce? Senator Boyce, because you served on the committee with me and perhaps have more intimate knowledge, can you explain to me why communities have been shifted, other than the areas of Manchester and Nashua that we knew may be? Why were communities shifted from one district to another including Loudon, Franklin and those towns of New Loudon, Sutton, Newbury? Why are they shifted from one district to another?

SENATOR BOYCE: I really have no idea.

SENATOR LARSEN: But you intend to vote for this although you have no idea why it is being done?

SENATOR BOYCE: I have no idea why some of these changes were made. None of them affected my district, so I didn't feel any compelling reason to look further into why they were being done.

SENATOR LARSEN: It is interesting that we both serve on Internal Affairs and we were given the job to try to pass laws as reasonable as possible. I would like to know why.

SENATOR BOYCE: Sometimes I ask questions of why and I get no answers.

SENATOR CLEGG: Thank you, Mr. President. It is always interesting to hear people talk about gerrymandering. When I was in the House and we went through the redistricting thing, we decided that gerrymandering was anything the other party didn't want you to do. That was the definition of gerrymandering. Now, we hear a lot about how we can't do this. Well you know it is amazing because we did a little study. They did it in 1972; they did it in 1974; they did it in 1975 and in 1983, there were one, two, three, four, five, six bills that changed districts. You know, one of the names that comes and just jumps right off the page is Representative Gross. That would be Representative Marty Gross who most of us consider to be a Constitutional expert.

SENATOR LARSEN: No, he was never a Rep. It was his wife. Caroline.

SENATOR CLEGG: He was never a Rep. This was his wife? Well...oh, it was Caroline Gross. Well she was smart, too. She has her picture up some place. In 1985, that was just two years after 1983, they put in two more bills and those passed. Now defeated legislation over time, 1994, 1995, 1996. These are all redistricting bills that came out, supposedly when it was unconstitutional, but they still got a hearing, and whether they passed or failed. And some of them, in 1997, and I remember this, House Bill 374. It wasn't gerrymandering because the sponsors were Representative Buckley, Amanda Merrill, Representative Jay Foster, Representative Weatherspoon, and Representative Burnham. It failed. In 2000, we had a bill to redistrict just the town of Alexandria, and let me note that there was Senate Resolution 15, relative to redistricting the town of Alexandria, following the 2000 census that was passed and adopted. I was in the House and we stopped it. So, this isn't something that we just decided to do. It can't be unconstitutional if everybody has been doing it before us. And gerrymandering, as I say, well, if you give me a plan that I don't like, you gerrymandered it. So I would say that we just do what we need to do. It is the least amount of work that you could do to correct Nashua, which was the biggest problem. The ward lines. It wasn't something that we created, it was something that Nashua did, but it is not something that Nashua did to create a problem, it was something that they had to do. I rise in favor of the redistricting plan and suggest that we move on so that we can get home tonight before midnight.

SENATOR LARSEN: **TAPE CHANGE** from one district to another when we had a court order, just the reverse two years ago?

SENATOR CLEGG: I don't know what court order you are talking about. If you are talking about the lawsuit filed by the Democrats against the plan that was put forth and adopted by the Senate and put forth and adopted by the House, I can tell you that that was a temporary plan in my mind, because the Constitution is clear. It says that the legislature shall redistrict. It doesn't say the Supreme Court shall redistrict. So any

changes that we made are legitimate changes. Legitimate to us. And any changes that were made were done to have the least effect on the entire state while correcting deviation problems in Nashua and a few other areas.

SENATOR LARSEN: Are we correcting a deviation problem when we change a town like Loudon into District seven?

SENATOR CLEGG: I guess we are, because we had people that we had work on this to do the least amount of changes that we possibly could. We didn't want to change every single district. We didn't want to come up with a new plan. We didn't want to take the plan that we were sued on in the court, and bring it back. We wanted to do the least amount of work that we could, so that we would have the least amount of disruption for the population.

SENATOR LARSEN: Have you seen the chart for deviation that shows that District fifteen in fact, increases its deviation because of the changes that this bill would make?

SENATOR CLEGG: I don't see DOE stamped on this, but since I haven't had a chance to check it out myself, I am not so sure that I would just accept numbers that were handed to me.

SENATOR LARSEN: Thank you.

SENATOR BELOW: I have to rise a second time. I want to use a strong word. This is bullshit! This is bullshit!

SENATOR EATON (In the Chair): Senator Below, please.

SENATOR BELOW: We are just told that this is the least deviation, the least change that is necessary. That is simply not true! It is not true! It is not true! The truth is that, even if you want to change the Senate districts in Nashua to conform with the change that was made after the redistricting plan, you don't need to make any change. In fact, there is no interaction north of Districts nine, eleven, twelve and thirteen. There is no interaction between the changes down there, and the changes in Districts seven, eight, five, fifteen and two. In fact, making those additional changes takes us away from districts that are as equal in population as may be, as our Constitution requires, which our own Supreme Court recognized as a higher standard than the U.S. Supreme Court...U.S. Constitutional standard of one person-one vote. Beyond that, switching Loudon and Hopkinton with District five, more than doubles the deviation of those two districts. More than doubles the deviation of those districts. If you don't make that change, you end up with districts that are more equal in population. Why is that change made? Because, if you don't make that change, Senator Flanders' district becomes more Democratic. If you make that change, it becomes more Republican. Senator Flanders' district, Senator Odell's district, Senator Peterson's district, were three districts that Democrats won six years ago when the only time Democrats became the majority in some 65 years or something. This is a plan to help ensure that those three seats aren't competitive districts, that they stay Republican seats so that the majority enhances its majority power, I believe, through an abuse of the legislative process, at the expense of equal voting rights. At the expense of trying to keep the minority a permanent minority. I just think that is not just. It is not right. It shouldn't be Constitutional. It is bad public policy! It is bad public policy to keep changing things around unnecessarily! Voters, citizens, expect to have a relationship with their repre-

sentatives. I have developed relationships in Republican towns that undoubtedly will vote against me. But you are saying that I should just forget those relationships because it is not in the political interest of the majority party. So, there we go. Bad public policy. Bad for the citizens and bad for the Constitution.

SENATOR O'HEARN: Mr. President. I wasn't planning on speaking, but because Nashua seems to be the burning issue here. Ward seven was the problem when we went through all of this, and I can't answer what was in the court's head. But a lot of questions have been asked today. I can tell you right now with the way my district has been redistricted that this particular district stands as good a chance of having a Democrat elected as a Republican. Two, three Senators before me, two Senators before me, there was a Senator. Senator Baldizar, a democrat who sat in this seat. Happened to live in my neighborhood and took the towns of Hollis and Brookline and Mason and wards one, two, and I am not sure what the final vote was, but she took most of those wards. Ward nine is really the only change. What we are doing in ward seven is asking our voters in ward seven to vote for two different Senators, and that is not right. Yet the court still made that decision, knowing that Nashua's going to change those lines. In fact, I'd like to ask the question why, when the Democrats submitted their plan to the courts, they knew Nashua was going to have to change their lines, and they requested that ward seven be in question so this would come up again. Ward seven should have remained with ward eight, which would have been in District 13, but yet even when the Democrat plan two years ago came forward, ward seven and ward eight were split, causing this to happen today. I don't know what was in the Democrats' heads either on this one, but we are here today because of that. If you look on a calendar, we have House Bill 829, which is dealing with the boundaries in Manchester and Nashua, so there was a hearing on what was going on in Manchester and in Nashua. But who can tell what's in their heads? Maybe someone would like to answer that question. But it is not right to the voters in one ward to be represented by two different Senators. That is not right.

SENATOR LARSEN: Senator O'Hearn, you sit with me on Internal Affairs and I think that you will probably recall the sequence of this bill coming forward. Do you recall a hearing on this amendment?

SENATOR O'HEARN: On this particular amendment, I can't say...I can say it was discussed in committee. What we discussed a year ago, I am not sure how we discussed it, whether there were amendments coming forward. I would have to pull the file out on that.

SENATOR LARSEN: But, in terms of this amendment, there was no hearing on this specific amendment?

SENATOR O'HEARN: Senator Larsen, there were a lot of amendments passed today that didn't have a hearing.

SENATOR LARSEN: Can you explain, because you sit on Internal Affairs where we might have had an explanation, maybe I got there late, but can you explain why, if the problems in which we always acknowledged may have been in Nashua and Manchester, why we are redistricting communities in Senate Districts seven, eight, five and fifteen and eleven?

SENATOR O'HEARN: I can tell you that some of these had a domino affect. You start removing some...you start moving some of these wards around in Nashua, it created a domino effect, losing some of my communities like New Ipswich, which is now in my district that I am now

losing. That is a major population area and still growing, and I would say, it just created a domino effect. As I remember two years ago, as we were trying to deal with this and come up with a plan, knowing that wards seven and eight had a problem. We recognized it had a domino effect two years ago also.

SENATOR LARSEN: But would that domino effect go all the way up to Loudon, Hopkinton, Franklin, Andover, Hill, New Loudon, Sutton, Newbury, Sunapee, Croydon, Cornish and Canaan?

SENATOR O'HEARN: I can't answer that because I paid more attention to what my district was doing and I wanted to correct a problem in my district.

SENATOR LARSEN: Thank you.

The question is on the adoption of the committee amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Estabrook.

The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

The following Senators voted No: Boyce, Below, Foster, Larsen, D'Allesandro, Estabrook, Cohen.

Yeas: 17 - Nays: 7

Amendment adopted.

Senator Boyce offered a floor amendment.

Sen. Boyce, Dist. 4

April 28, 2004

2004-1433s

03/05

Floor Amendment to HB 264

Amend RSA 662:3, II as inserted by section 1 of the bill by replacing it with the following:

II. Senatorial district number 2 is constituted of Alexandria, Ashland, Bath, Benton, Bridgewater, Bristol, Campton, Canaan, Center Harbor, Dorchester, Easton, Ellsworth, Groton, Haverhill, Hebron, Holderness, Landaff, Lyme, Meredith, Monroe, New Hampton, Orange, Orford, Piermont, Plymouth, Rumney, Sanbornton, Thornton, Warren, Wentworth, and Woodstock.

SENATOR BOYCE: I rise to offer a floor amendment, which I don't have, which puts Canaan back into the state. Thank you.

SENATOR BELOW: Thank you, Mr. President. I would just like to again restate there is no domino effect beyond 9, 11, 12 and 13. If you look at the map, there is simply no towns that are swapped between those four towns and the five town districts to the North. There is no domino effect beyond 12, 13, 9 and 11. So when you get into moving Canaan out of District five, which I daresay has been in District five as long as there has been a District five, Canaan is very much an integral part of the upper valley, it is part of the Mascoma Valley. It is part of the school district of Enfield and Grafton. You have to drive through Canaan to get to Grafton from Enfield. It has always been part of District five. I think this is a travesty to be doing this for political purposes.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 426, relative to the monitoring and approval of appraisers by the commissioner of revenue administration. Public Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Green for the committee.

Public Affairs
April 28, 2004
2004-1441s
10/03

Amendment to HB 426

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

AN ACT relative to the certification of property assessors and assessing officials, the updating of tax maps by municipalities, the form for abatement applications, the enforcement of discretionary preservation easements, and the annual appraisal of real estate.

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

1 Commissioner of Revenue Administration; Municipal Assessments; Reference Corrected. Amend RSA 21-J:3, XXVI to read as follows:

XXVI. Review and report each municipality's assessments once within every 5 years pursuant to RSA 21-J:11-a[~~-H~~].

2 Revenue Administration; Rulemaking. Amend RSA 21-J:13, VI(a) and (b) to read as follows:

(a) Evidence of the [~~financial responsibility and~~] professional capability of personnel to be employed under contract under RSA 21-J:11; and

(b) The content of the contract to be approved under RSA 21-J:11, **as provided in RSA 71-B.**

3 Assessing Standards Board; Guidelines. RSA 21-J:14-b, I is repealed and reenacted to read as follows:

I. The assessing standards board shall recommend guidelines and appropriate legislation relative to:

(a) Guidelines to be followed by assessors, selectmen, and boards of assessors throughout the state, relating to the administration of the property tax and assessment of real property used in any state property tax system.

(b) The establishment of guidelines for monitoring of local assessment practices by the department of revenue administration, guidelines for the adequacy of tax maps and other records, and guidelines for audit by the department of revenue administration of municipalities.

(c) The identification of practices which constitute sales-chasing and penalties to be adopted by the legislature regarding such practices.

(d) Any study conducted for the purpose of determining the status of assessing practices or the improvement of assessing in the state.

4 New Paragraph; Rulemaking by Assessing Standards Board. Amend RSA 21-J:14-b by inserting after paragraph I the following new paragraph:

I-a. The assessing standards board shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The establishment of certification, continuing education, and revocation and suspension standards for assessing officials. The department of revenue administration shall be responsible for the enforcement of those standards.

(b) The forms and procedures necessary to fulfill the duties of the board consistent with board recommendations and to assure a fair opportunity for public comment.

(c) The annual update and publication of an assessing procedures manual for selectmen and boards of assessors.

5 Certification and Decertification of Assessors. RSA 21-J:14-f and 21-J:14-g are repealed and reenacted to read as follows:

21-J:14-f Certification Required.

I. Every person, whether working individually, for a firm or corporation, or as a municipal employee, making appraisals of a municipality for tax assessment purposes, except elected officials making appraisals pursuant to RSA 75:1, shall be certified by the department according to rules adopted by the assessing standards board as provided in paragraph II. Department of revenue administration employees shall be certified at the level appropriate to their duties.

II. The assessing standards board shall adopt rules, pursuant to RSA 541-A, relative to qualifications for certification, requirements for continuing education, and decertification of persons required to be certified in paragraph I. Such rules shall specify the minimum qualifications with respect to education and training required for certification according to the following functional job categories ranked in ascending hierarchical order:

- (a) Building measurer and lister.
- (b) Property assessor trainee.
- (c) Property assessor.
- (d) Property assessor supervisor.

III. No person, except boards of assessors and selectmen making appraisals pursuant to RSA 75:1, shall make appraisals without first obtaining the certification required by this section. Certification is non-assignable and cannot be transferred. Any person who willfully fails to obtain certification as provided in this section shall be subject to the penalties imposed under RSA 21-J:39, IV.

21-J:14-g Decertification.

I. The commissioner may decertify any person or may refuse to issue or renew any certification for failure to comply with the rules of assessing standards board adopted pursuant to RSA 21-J:14-f, II.

II. Any person aggrieved by a decertification or refusal to certify of the commissioner may appeal from such decision by application to the board of tax and land appeals or by petition to the superior court in the county in which such person resides or maintains his or her business within 30 days after receiving written notice of the commissioner's decision. The board of tax and land appeals or the court, as the case may be, shall hear the appeal forthwith.

6 Application; Certification of Assessors. All persons approved or certified by the department or by the New Hampshire Association of Assessing Officials on the effective date of this act shall be deemed certified subject to those rules or standards for continuing education and revocation or suspension of certification adopted by the commissioner of revenue administration until the assessing standards board adopts, repeals, or replaces such rules under RSA 21-J:14-b, I-a and the department implements the board's rules.

7 Commissioner of Revenue Administration; Assessors; Decertification. Amend RSA 21-J:3, XVIII to read as follows:

XVIII. Hear appeals on disputed taxes, penalties, and interest and on [~~certification suspension, revocation,~~] **decertification** or rejection under RSA 21-J:14-g.

8 Commissioner of Revenue Administration; Assessors; Rulemaking; Decertification. Amend RSA 21-J:13, XII to read as follows:

XII. Certification, **decertification**, enforcement, and hearing requirements under RSA 21-J: 14-f and 21-J:14-g.

9 Certified Assessors; Criminal Penalties. Amend RSA 21-J:39, IV(c) to read as follows:

(c) Any person who violates subparagraph (a) or (b) shall be guilty of [~~violation~~] **a class B misdemeanor**.

10 Tax Maps; Scale; Updating. Amend RSA 31:95-a, II-IV read as follows:

II.(a) The scale on a tax map shall be meaningful and adequately represent the land contained on the map, taking into consideration the urban or rural character of the land. The scale shall be sufficient to allow the naming and numbering of, and the placement of dimensions within, **if possible**, the parcel represented in the individual plat.

(b) Nothing in this paragraph shall apply to any city or town which, prior to the imposition of such scale requirements, has drawn a tax map, appropriated funds or contracted with any person or firm to prepare a tax map or expended funds in the initial phase of preparing a tax map.

III. Each parcel shall be identified by a map and parcel number and shall be indexed alphabetically by owner's name and numerically by parcel number.

IV. Tax maps shall be [~~continually~~] updated **at least annually** to indicate ownership and parcel size changes.

11 Assessing Standards Board; Municipal Official; Designee. Amend RSA 21-J:14-a, II(f) to read as follows:

(f) Three members appointed by the governor with the consent of council, one of whom shall be a municipal governing body official **or designee who shall not be an assessor** for a town with a population of less than 5,000; one of whom shall be a municipal governing body official **or designee who shall not be an assessor** for a town with a population of more than 5,000; and one of whom shall be a municipal governing body official **or designee who shall not be an assessor** for a city. Each member shall hold office for the term of such member's position for 2 years and until a successor shall have been appointed and qualified. Any vacancy shall be filled for the unexpired term by the governor with the consent of the council.

12 New Subparagraph; Abatements; By Selectmen or Assessors; Form. Amend RSA 76:16, III by inserting after subparagraph (g) the following new subparagraph:

(h) The statement: "If an abatement is granted and taxes have been paid, interest on the abatement shall be paid in accordance with RSA 76:17-a. Any interest paid to the applicant must be reported by the municipality to the United States Internal Revenue Service, in accordance with federal law. Prior to the payment of an abatement with interest, the taxpayer shall provide the municipality with the applicant's social security number or federal tax identification number. Municipalities shall treat the social security or federal tax identification information as confidential and exempt from a public information request under RSA 91-A."

13 Assessment Report; Appeals. Amend RSA 21-J:11-a, II to read as follows:

II. The commissioner shall issue a copy of the report upon its completion to the municipality and to the assessing standards board. When issued, the report shall be a public document, **but may not be used as a basis for appeal to the board of tax and land appeals under**

RSA 71-B until after the municipality's 5-year review under RSA 21-J:3, XXVI is complete and provided that the assessing standards board has adopted standards under RSA 21-J:14-b, 1-a.

14 Discretionary Preservation Easements; Enforcement. Amend RSA 79-D:13 to read as follows:

79-D:13 Enforcement. All taxes levied pursuant to RSA 79-D:8 which are not paid when due shall be collected in the same manner as provided in RSA [~~80:1-80:42~~] **80**.

15 New Section; Appraisal of Taxable Property; Annual Appraisal. Amend RSA 75 by inserting after section 8-a the following new section:

75:8-b Annual Appraisal. Except when assessing real estate under RSA 75:8-a, any municipality intending to appraise real estate annually at market value, as defined in RSA 75:1, shall authorize such annual appraisal by a majority vote of the governing body. The governing body shall hold 2 public hearings regarding the annual appraisal process at least 15 days, but not more than 60 days, prior to the governing body's authorization vote. Any municipality annually appraising real estate at market value shall provide notification of changes to the assessed valuation prior to the issuance of the final tax bill, either by individual notice to the property owner, by public notice in a newspaper of general circulation, or by any other means deemed appropriate by the governing body.

16 Repeal. RSA 71-B:5, V, relative to petitions for corrective action before the board of tax and land appeals, is repealed.

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

2004-1441s

AMENDED ANALYSIS

This bill:

I. Provides for the certification and decertification of assessors of taxable property by the commissioner of revenue administration and the assessing standards board.

II. Allows towns and cities to change the scale and updating of tax maps, and requires certain information on abatement application forms.

III. Changes a reference to enforcement procedures applicable to discretionary preservation easements.

IV. Establishes procedures by which a municipality may adopt annual appraisals of real estate.

SENATOR GREEN: Thank you, Mr. President. I move that House Bill 426 ought to pass with amendment. This bill has four main components. One, it provides for the certification and decertification of assessors of taxable property by the Commissioner of Revenue Administration and the Assessing Standards Board. Secondly, it allows towns and cities to change the scale and updating of tax maps, and requires certain information on abatement application forms. Thirdly, the bill changes a reference to enforcement procedures applicable to discretionary preservation easements. By changing the reference, we will create a uniform collection and lien process for all parties in the state. Lastly, the final piece establishes procedures by which a municipality may adopt annual appraisals of real estate. These procedures will make the assessment process more open and help local taxpayers understand the relationship between assessments, increasing tax bills, and government spending. Please join the Public Affairs Committee in voting House Bill 426 ought to pass with amendment. Thank you.

SENATOR O'HEARN: I am going to oppose the committee amendment. If you look on page nine, I am going to see if I can explain why. There

is a section in here, and I am looking down at the bottom of the page, 75:8-b. It is the second to third sentence down. "Shall authorize such annual appraisal by majority vote of the governing body" which is a major change in how we have been doing things. I know my city is objecting to this because it is done by the board of appraisers and now we are requiring that it become a political plan that is then voted by our aldermen. This is not the direction that we should be going. I believe we should be giving local control and, rather than making this a political issue, I would suggest that we not consider this amendment, unless it is necessary to divide the question in here, and I will ask that question if we can divide the question so that we can remove 75:8-b. This is not good policy. It is something that we put into law in 2001 to have it be the assessors and/or selectmen shall value all real estate within the municipality. This is a change in policy that I don't agree with.

SENATOR CLEGG: Thank you, Mr. President. I rise in opposition to the previous speaker's suggestion that we take this out. What happens today is local communities look for a little bit more money so they can keep the tax rate down. So if a four bedroom cape down the street sells for \$250,000 and your four bedroom cape was assessed at \$150,000, suddenly everybody's cape goes up to \$250,000. Now that is just a simple example. I know, because I have been the subject of this and I can tell you that these market value business is actually political in itself. There aren't too many houses that look like mine. I built my house. But I know that after speaking at the town meeting against additional people in the assessors' office, I suddenly got an \$80,000 increase in the value of my home, based on market value. Now when I challenged the assessment, I said to the assessor, did you ever come to the property? He said, "oh yeah." I said, did you get inside? He said, "Nope, I looked in the windows." I said, that is great, I said, did you look in the back windows? He said, "Yes." I said, well, my deck is 12 feet off the ground. He said, "oh yeah, I got on the deck." I said, did you now? I am one of those people that had a severe problem with carpenter ants. I couldn't let my dog or my cat out on that deck because it was collapsing. I asked him if he noticed that it was collapsing. He said, "no, I had no problem." So I brought a selectmen over and I said, why don't you climb the stairs and get on the deck? He said, "what are you nuts?" It was totally eaten by carpenter ants, as was the back side of my house. So there was nothing more than a political roost. The guy had never been to my house; never looked in the windows. I won that one. The next year under market valuation again, my assessor has a good memory, drove by and handed my son his business card and said, tell your father I was here. Now I don't blame him for not getting out of the car. I have a couple of German Shepards. Most of you know who I like to train with. But again, my assessment went up. Not because he looked inside to see if anything was done. The only thing he had was, here is a house that is similar to yours and, once again, it sold for money than you're appraised for. So the problem that we have right now is it is political. Now, if you take Rochester, Rochester had a double increase. They had an assessment, from what I understand, from some of the representatives over there, and they all cried and all went and did what they could, and eventually said, well we got to pay what we got to pay. The second bill came up and the assessor did a market assessment on top of the assessment they just had. So those people thinking that their bill went up \$1,400 got another \$600 surprise. It is all about how can I get more money without anybody challenging me?

Putting in 75:8-b the way that it is in here, says "the governing body in the community". We all talk about home rule. What is home rule? Is home rule only the selectmen, the council or the aldermen or does home rule belong to the people who live in the community? I think that it belongs to the people in the community. This allows the people in the community to make the decision in their community whether or not they will allow political reassessment on a yearly basis. Thank you, Mr. President.

SENATOR FOSTER: I don't know about you, but usually, whether there is an assessment or a tax rate increase, what the people around me look at is their bottom line tax bill. Isn't the ultimate political answer to this, the election, when the selectmen or the aldermen have to stand for election? I guess I am not sure why we need to politicize whether a reassessment or whatever else might be a good idea and putting it into the hands of the aldermen. They're the ones who pass the budget. They are the ones that figure out how much money is going to be spent. If I don't like my tax bill, I can speak at the election.

SENATOR CLEGG: But I think you are missing the point, that under this...the current method allows them to go reassess one section of the community and not take any lumps over it. They can do it secretly. They can say, oh, gee, I didn't know. The way that the bill reads in the amendment, they have to publicly state, yes, I know. Publicly state, yes, that is the section that we are going after. There is no hiding behind anybody's skirt.

SENATOR FOSTER: I guess I'd say the same thing. Still in all, those people whose assessments are going up or their tax bills are going up, are going to see it in their bill. There is an election every two years, right?

SENATOR CLEGG: Except that you will see it in your bill, but when you go to the aldermen, and you say, gee, the appraiser in town just raised my house by \$80,000, he says, well, that is not my fault, I didn't have anything to do with that. So he doesn't take the hit at the thing, because the taxes don't go up, they just sneak up a few properties to make the money they need.

SENATOR FOSTER: I guess I just give the voters more credit than that. I think they know who to blame. Thank you.

SENATOR CLEGG: I don't think they do.

SENATOR GREEN: Thank you, Mr. President. Senator Foster, you're question is a very good question. Let me just tell you so that you will know why the elected officials are not accountable under this policy that we currently have. The assessors are independent. They can make whatever decision they make on the assessment issue. There is...they are not elected by the way, just so you will know. Most of them are appointed. So they are not accountable. They are accountable only to the city management. What my concern has been, and I am the one that brought this amendment to the committee. So we won't have any questions about where this came from. What happens now, under the Constitution, you have to have 100 percent reval every five years. What is becoming the common practice is, because we have the technology and the programs to do this, which you could not have done this in the past because it was too difficult manually. But now, with a program, you can do a full assessment of 20 percent of your community. I only use that because five years you'd get 100 percent, okay? You can do the full...you can do the 20 percent. You don't have to tell anybody. You don't have to say a word. You just do it. Then you get...now that 20 percent, you do a pretty good re-

assessment, okay? But then you take the rest of the community, which is 80 percent of the community, and through the programming, you can get an average increase in market value for that 20 percent. You then spread it out over the whole city again. So the whole city gets revalued every year; part of it through the process which we know as reval which, by the way is not a perfect science. I have sat at chairman and a member of the assessing boards so I know how it works. When you go out and hire a contractor to do a reval, you will find out that it is not a perfect science. There are a lot of judgments and assumptions made in that re-evaluation. But what they do is they get all of this reval every year. Now, I am not concerned about the assessment, as much as I am concerned about the tax bill the taxpayer gets in the mail, because they don't understand between the assessment, the tax rate, and what effect the spending has on that total big picture. All that they see is the tax bill. I want you to know that in my community, for two years, the tax rate has gone down. You know what happens to tax bills? Right out of sight. The reason they can do that is because they are actually masking the spending that they are doing in terms of the re-evaluation, in terms of reassessment. So they are really jacking up the assessment, the tax rate goes down and the tax bills go up. Now that is not kosher. What this bill says isn't right. Okay? If I offended you, I am sorry. The realities are that this bill basically puts the responsibility where it belongs, and that is in the hands of the governing body. The people have to know and they have to be notified. We have to stop allowing the assessors to play this game. We've got to stop people who are spending at the local level to play this game of spending and saying that the tax rate went down. It is not right. That is why this amendment is here. I think all of you in this room should be concerned about this because this is part of the problem we are having in terms of a major, major tax problem in the state. It is not our state taxes, I want you to know. It is local property taxes. No one here wants to take responsibility for that. We've got to get a handle on this. We have got to educate the citizens of our cities and towns how this is arrived at. We are only going to do that by having two public hearings, and this is only if the assessors decide to request from the governing body, that they are going to do an annual assessment of the entire community. If they are going to do that, it is going to take two public hearings and the governing body is going to have to be on record as voting for it. I just think that that is appropriate for the good of the people who are paying property taxes in this state. It is a real right to know information amendment.

SENATOR JOHNSON: Thank you. Senator Green, did the New Hampshire Municipal Association weigh in on this?

SENATOR GREEN: Yes, they did weigh in on it. They weighed in that they were actually opposed to it.

SENATOR JOHNSON: Oh. Thank you.

SENATOR GREEN: You're welcome.

SENATOR BELOW: Thank you, Mr. President. I think that this section 15 is a mistake. Right now a governing body can set policy. Assessors are accountable to the administration of a city or town which is in turn accountable to a governing body. I think this is designed to discourage annual evaluation updates. Ironically, before the Sirrell decision our law actually did require that values be brought up every year to full value, but no body was doing that, so we recognized that and we changed the law. But the industry trend, the professional practice, what I believe

we have been actually trying to encourage as a state, is to keep evaluations up to date, because you maintain better proportionality, you maintain better equity, it is more transparent for taxpayers, because when they look at their value compared to how things are selling, they are in line, rather than having these huge discrepancies build up that only get corrected every five years. To say that you can only update values every five years, which is the minimum that the Constitution requires, the minimum, would be like saying that we are going to only...you only have to figure out your business enterprise tax base once every five years. We are going to levy the business enterprise tax on what your tax base is once every five years, or we are going to charge your rooms and meals tax based on one year with revenue and ignore the fact of what happens to that value, that income over the next four years. I think that this is contrary to good policy. If a governing body wants to direct their assessors to update in any particular manner, they can do that. But this does politicize the process and creates a false hope that simply by keeping out of date values on property that somehow is going to avoid property taxes. When what happens with taxes is that the community figures its budget, what its tax commitment is and then that is raised over whatever the tax base is. Whether it is at current value or 50 percent of value, you will still divide that to get the tax rate. I think what would be more helpful to the voters is if we required disclosure of changes in the communities evaluation, changes in the tax commitment, changes in the tax rate, and what has happened to your own property tax bill relative to that, so that you get a sense of whether your own property is increasing at a faster or slower rate than the rest of the property, and whether the taxes being raised are increasing faster or slower than the values are going up. But it doesn't make sense to create these hurdles for good assessing practices. I might add the Assessing Standards Board when they discussed this at a recent meeting, which Senator Green and I are both a member of, unfortunately, Senator Green wasn't there, but nobody felt that this was a good idea.

SENATOR GREEN: Senator Below, would you believe there is nothing in here that says that you can't reassess every year if your community decides?

SENATOR BELOW: Yes.

SENATOR GREEN: Nothing in here says that you can't...that you only have to re-evaluate every five years. Nothing in here says that.

SENATOR BELOW: But, what it seems to say is that you can't do annual updates to values unless you first go through these hurdles.

SENATOR GREEN: Without public information basically. Would you also say that your issue about people knowing what is going on, if you read the last paragraph, that is pretty much a very strong public notice as to what is going on? This is not an anti-taxpayer bill. This is a right to know bill that the taxpayers have a right to know what is going on. That is all that we are trying to accomplish here. We are trying to make sure that whatever is going on, is on the responsibility where it lies, and that is the elected officials, not the appointed officials.

SENATOR BELOW: If that is the case, Senator Green, and I will answer your question with a question is why doesn't it say that whatever frequency a municipality is going to assess at, they have to determine it after public hearings, whether they do it every year, every five years or every other year or they update portions of the community each year, all of which are valid approaches...

SENATOR GREEN: Which they can still do.

SENATOR BELOW: But this just says that if you use the approach that actually is most recommended in terms of recommending professional practice, for that particular approach, you have to go through hurdles.

SENATOR GREEN: Well I guess that I don't read that in here. I guess it just simply says that, if you are going to do reval every year on an annual basis, you have to notify the public, you have to have a public hearing, and you have to have printed material to inform them. It is part of an educational process and it also says that that makes a big difference in terms of tax bills if you are reassessed every year.

SENATOR BELOW: No, I don't believe that. I think reassessment makes no difference per se in the tax bill unless there is a shift in the valuation from some taxpayers to others or unless there is a change in the total taxes being raised. If you have \$1 million worth of value and you are trying to raise \$1,000 and if you have twice...that is one rate, and if you have \$2 million in value and still trying to raise \$1,000 value, it doesn't change the total taxes being paid.

SENATOR GREEN: Thank you. Do you believe what I said earlier that the tax rate can go down?

SENATOR BELOW: Yes.

SENATOR GREEN: And you can still get a larger tax bill?

SENATOR BELOW: Yes, if the total tax spending is being raised, the spending, increases faster, but we don't set our tax rates and then apply it to whatever value we've got. We back into it by saying what do we need to raise, what is our value and then compute the tax rate from that, with the exception of the statewide property tax which isn't affected one way or by the other because we have equalization that takes the value of the whole community up to current value based on current market sales.

SENATOR GREEN: I agree with you.

SENATOR FOSTER: You...I am trying to I guess understand what you said. In the southern tier, clearly property values went up very quickly in the past five years. It may be stabilized a bit. Market values went up very quickly. But what I have seen happen, at least in my community, I guess I wanted to ask whether this happens in your community, when the city sets the tax rate, they usually have a story that says the average cost of an average home in the city of Nashua will experience a tax increase of \$200 or whatever the number might be, \$300. That is what I think the public sort of digest. If I go around the city and ask them whether the tax rate went up or down, they don't know. They just know that their tax bill went up.

SENATOR GREEN: Oh, they know that the tax rate went up.

SENATOR FOSTER: So, why would you want to go through this process of having to have the local governing body decide whether or not it is good public policy to reassess every year or not when there is probably going to be political pressure to do just the opposite and I might add, I think, maybe in a misinformed way because, whether or not the valuations are going up, I mean, I think with your colleague Senator Below before, doesn't drive what the ultimate tax rate is.

SENATOR GREEN: But it doesn't drive the tax rate because you can reduce the tax rate by increasing the assessments.

SENATOR FOSTER: Or the tax bill.

SENATOR GREEN: Or the tax bill. But the tax bill does get affected greatly if you...whether you increase the tax rate or not. If you substantially increase the assessments on property, that will drive the tax rate up. That in combination with spending. What happens is the spending gets camouflaged in the whole thing because they try to figure out what the spending impact is having on the tax rate and, until they figure out how that tax rate increase is being absorbed within the assessment, you really don't understand the relationship between those and the tax bill you get. That is the key. The bill. Everything else is hocus pocus as far as the taxpayer is concerned.

SENATOR FOSTER: I agree with you, which is why I guess I don't understand why we want to dictate how they go through the assessment process because the bill, at the end of the day, is what the voter/taxpayer sees.

SENATOR GREEN: We are not dictating anything. We are putting in the law, a procedure that if you are going to do an annual assessment every year on all properties, when you are not required to by the Constitution, the public ought to have a right to know, and they ought to have it on record with the elected officials.

SENATOR FOSTER: Thank you.

SENATOR KENNEY: Thank you, Mr. President. Senator Green, I have a question of you. I am from one of those communities that has elected tax assessors. I think that there are a couple of them, Wakefield, Washington. So, when the governing body asks for the annual appraisal, does that elected tax assessing board, do they act in an advisory capacity during these public hearings or is there any type of joint board that meets?

SENATOR GREEN: I am sure that if you were going to have a public hearing on assessments, that you would want your assessors there. Okay?

SENATOR KENNEY: Okay. Thank you.

Amendment adopted.

Senator Gatsas offered a floor amendment.

Sen. Gatsas, Dist. 16

May 6, 2004

2004-1541s

01/03

Floor Amendment to HB 426

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

AN ACT relative to the certification of property assessors and assessing officials, the updating of tax maps by municipalities, the form for abatement applications, the enforcement of discretionary preservation easements, the annual appraisal of real estate, and reports on the status of monthly tax refunds.

Amend the bill by replacing all after section 16 with the following:

17 New Subdivision; Reports on Status of Monthly Tax Refunds. Amend RSA 21-J by inserting after section 44 the following new subdivision:

Reports

21-J:45 Reports on Status of Monthly Tax Refunds.

I. The commissioner of the department of revenue administration shall report to the fiscal committee of the general court within 10 days

after the close of each month, the status of monthly refunds pending from the combined general fund and education trust fund for the following taxes:

- (a) Business profits tax.
- (b) Business enterprise tax.
- (c) Interest and dividends tax.

II. This report shall include, but not be limited to, the number of refunds claimed, dollar value of refunds carried over from the prior month, current claims, paid out refunds, and refunds outstanding at the end of the month. This report shall also include the total anticipated refund for the next 3 calendar months for each tax in subparagraphs I(a)– (c).

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

2004-1541s

AMENDED ANALYSIS

This bill:

I. Provides for the certification and decertification of assessors of taxable property by the commissioner of revenue administration and the assessing standards board.

II. Allows towns and cities to change the scale and updating of tax maps, and requires certain information on abatement application forms.

III. Changes a reference to enforcement procedures applicable to discretionary preservation easements.

IV. Establishes procedures by which a municipality may adopt annual appraisals of real estate.

V. Requires the commissioner of the department of revenue administration to make reports to the fiscal committee on the status of monthly tax refunds.

SENATOR GATSAS: Thank you, Mr. President. I would like to speak to Amendment 1541. This amendment, you would have found in House Bill 727 along with, I forgot what the other bill number was. What this does is basically reports on status of monthly tax refunds. It is something that we had talked about in Finance to make the Financing and Ways and Means get a clearer picture of the refunds that are available for business profits tax, business enterprise tax and interest and dividends tax so that they can do their forecasting in a much more concise manner. Thank you, Mr. President.

SENATOR GREEN: Thank you, Mr. President. I rise in support of this amendment. It has been on three bills today. We lost all of those three bills and we still have this as a good piece of legislation which we have unanimously reported in Financing and I would ask for your support. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise in support of the amendment. Those of us who follow the revenues in a timely fashion, every once in a while see a blip and we don't understand how that blip occurred. It is a negative and that negative usually indicates that there has either been a refund or a transfer someplace. But, if we got those in an orderly fashion, then we would be able to ascertain as we prepare when those blips are going to come and the magnitude of those blips. I think this is very important, particularly as it relates to the business profits and the enterprise tax where you get not only transfers to the educational trust, but you get refunds. So I think that it is very important. Thank you, Mr. President.

Floor amendment adopted.

Senator Cohen offered a floor amendment.

Sen. Cohen, Dist. 24

Sen. Gallus, Dist. 1

May 3, 2004

2004-1470s

05/09

Floor Amendment to HB 426

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

AN ACT relative to the certification of property assessors and assessing officials, the updating of tax maps by municipalities, the form for abatement applications, the enforcement of discretionary preservation easements, and the annual appraisal of real estate, and state contracts for telemarketing services and the identification of telemarketers.

Amend the bill by replacing all after section 16 with the following:

17 New Subdivision; State Contracts for Telemarketing Services. Amend RSA 21-I by inserting after section 22-d the following new subdivision:

State Contracts for Telemarketing Services

21-I:22-e State Contracts for Telemarketing Services.

I. Notwithstanding the provisions of RSA 21-I:18, every request for telemarketing services or telephone center services by the state or by a state agency as defined in RSA 21-I:11, I(b), including those agencies referenced in RSA 21-I:18, shall require that vendors may only employ the services of persons authorized to work in the United States under federal law to perform telemarketing or telephone center services on behalf of the state and such services shall be performed in the United States.

II. Each vendor submitting a bid or contract to provide services for the state under paragraph I shall certify that only its employees who are authorized to work in the United States shall perform services under the contract. Any person who knowingly submits a false certification shall be guilty of a class A felony.

III. A contract entered into or performed in violation of this section shall be void. A contract that is void under this section may continue in effect until an alternative contract can be entered into when immediate termination would result in harm to the public health or welfare and the continuation is approved by the governor and council. The governor and council shall approve the continuation of the contract for the minimum period necessary to protect the public health or welfare.

IV. Contracts for telemarketing services shall, to the extent feasible, be awarded to bidders agreeing to perform the work in economically disadvantaged areas of the state.

18 New Section; Right to Telemarketing Information. Amend RSA 359-E by inserting after section 8 the following new section:

359-E:8-a Right to Telemarketing Information.

I. Any person making a telemarketing sales call to a customer shall provide the following information upon request:

- (a) The city, state, and country where the person is located.
- (b) The person's name or registered alias.
- (c) The person's employer.

II. Any person making a telemarketing sales call to a customer, upon request, shall permit the customer to speak to an employee of the company or the government agency on whose behalf the telemarketing call is being made.

III. No telemarketer shall transfer a person's financial, credit, or identifying information to any foreign country without express written permission.

19 Effective Date.

I. Sections 17 and 18 of this act shall take effect 60 days after its passage.

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

2004-1470s

AMENDED ANALYSIS

This bill:

I. Provides for the certification and decertification of assessors of taxable property by the commissioner of revenue administration and the assessing standards board.

II. Allows towns and cities to change the scale and updating of tax maps, and requires certain information on abatement application forms.

III. Changes a reference to enforcement procedures applicable to discretionary preservation easements.

IV. Establishes procedures by which a municipality may adopt annual appraisals of real estate.

V. Establishes certain requirements for state contracts for telemarketing services.

VI. Requires telemarketers to provide certain information upon request of the people they call.

VII. Prohibits telemarketers from transferring certain information to foreign countries without written permission.

SENATOR COHEN: Thank you very much. I rise in offering an amendment 1470, which some of you may have also seen with regard to another bill. The purpose of this amendment, which some have called the New Hampshire First Initiative, is to stop contractors from outsourcing state jobs using public money to other countries. Currently I discovered that every call to customer service centers for New Hampshire's Food Stamp Programs, answered by a live person are routed to guess where? India. Many food stamp recipients, as we know, were down on their luck because they've had a hard time finding a quality job. The irony of this situation is that New Hampshire's taxpayer dollars are employing people abroad to answer questions from those who could desperately use jobs right here at home. This amendment, the New Hampshire First Initiative, will guarantee that all telephone call centers run by state contractors are employing people in the United States. In addition, the bill would give priorities to bidders who agree to perform the work in areas of New Hampshire that most need jobs, such as the North Country. I would argue that the taxpayers of this state deserve to know that their money will not go to companies who ship jobs overseas, and that the jobs their jobs pay for are located in places that need the most. This amendment also empowers the people of the state with information about the business practices of any telemarketers with whom they are dealing. All telemarketers must provide the city, state and country from which they are calling. I can tell you my experience. When I made calls to the Food Stamps electronic benefits customer service line to find out for myself what kind of information New Hampshire taxpayers could obtain, I was told by the person answering the phone they could not tell me where the call center was located. The taxpayers of this state deserve to know that their money is going to employ people in another country. The current law doesn't guarantee their right to that information. The amendment

also protects the privacy of citizens' financial information. Under this amendment, no telemarketer can transfer a person's financial information to any foreign country without that person's express written permission. I believe this amendment is a common sense solution to a problem that has wasted taxpayer dollars for too long. It is important, not only because we have responsibility to address the problem as it exists now, but we must make sure that the practice does not expand. There is a real threat that this practice may expand. The company which is currently using taxpayer dollars to outsource work to India did not always do so. Only in the last several years while none of us were paying attention, did they begin the practice. I just learned of it recently when a constituent sent me an email about a CNN story that she watched that mentioned New Hampshire's participation in this contract. It would be shameful enough if we ignore the outsourcing of American jobs to other countries, but spending the peoples money to encourage the practice, I hope you agree, is simply outrageous. This bill will right this wrong. Some of you may get the *Small Business Service Bureau Magazine* "Exporting America's jobs is bad business. Jobs sent overseas are hurting any chance of economic recovery." The article points out that the state of Indiana had ordered a \$15 million contract to Tata Consultancy Services of India. They chose to restructure the contract to reopen it to bids from U.S. companies. I will also point out I know of at least 22 states that are considering motions like this to make sure that we are not outsourcing jobs with our state tax dollars. I urge your support of this amendment. Thank you.

SENATOR BARNES: Senator Cohen. I actually have two questions. I am going to be careful how...which one I come out with first. Senator Cohen, does this mean that Mrs. Heinz Kerry is going to bring 75 percent of her pickle and ketchup business back to the United States of America so Americans can be making her pickles and ketchup?

SENATOR COHEN: If indeed they are using New Hampshire taxpayer dollars to do that, this might affect that.

SENATOR BARNES: Well you talked about the government and the United States doing this, well this fellow, her husband is running for President.

SENATOR COHEN: I have heard that rumor.

SENATOR BARNES: And his wife, who probably has a few dollars in the campaign, is making ketchup and her pickles, 75 percent of it is done outside of the United States. People that could have jobs down in Pennsylvania with pickles and ketchup, they can't do it because they are down in Mexico or some other place. I think that if you feel that strongly, you should write a letter to Senator Kerry and say "you're hurting the democratic party by having your wife outsource pickles and ketchup". Now my second question is of you, Mr. President. Is this a germane amendment? I would like a ruling on it please.

SENATOR COHEN: Could I respond to the two questions if I may?

SENATOR EATON (In the Chair): Yes, you may.

SENATOR COHEN: I would say that it is a germane amendment because it deals with revenue. It deals with taxpayer dollars. The other question is...listen we are talking, Senator Barnes, about taxpayer dollars here. This is a place to start. That is the problem at the national level that needs to be dealt with at the national level. We are talking

New Hampshire state taxpayer dollars here. The people I talked to were amazed that their taxpayer dollars are being used to outsource jobs overseas.

SENATOR BARNES: To answer your question, I think Americans are sick and tired of buying their pickles and ketchup from Indonesia or someplace else. I think that they might switch to Hunts.

SENATOR CLEGG: Thank you, Mr. President. I rise in opposition to the amendment. While I understand what we are trying to do, which is to keep jobs in the state of New Hampshire and in the United States, this bill doesn't really do that. All that this bill says is the state of New Hampshire can't do business with somebody who might have a telemarketing contract outside the country. Now everybody talks about overseas and over in India, but you know what? Some of our long distance carriers have phone set ups in New Brunswick. That is over that visible line after you go through Senator Gallus's neighborhood and you just keep going up through the woods, and then all of a sudden there you are. There is the bear! Okay, this says that we can't do business with Canada. It is not about India. It is about a country that we have acted as brother and sister for as long as **TAPE CHANGE** especially here in New Hampshire. We can't do business with them. I read this and say we can't do business with any tribal lands because that is not really the U.S.; that is a sovereign nation when you are on tribal lands. So we can't do business with anybody in Connecticut on the reservation. Last I knew, they were still North Americans. They were here first. We have heard that. I agree with them, they were. But under this, I can't do business with them in the state of New Hampshire. What is an economically disadvantaged area? Well I hear everybody say that is the North Country. Well you know what? Senator Gatsas, Senator Clegg, Senator O'Hearn, we all have people who would love telemarketing jobs, but I don't think we are in a disadvantaged area, but you know what? It says in here "contracting for telemarketing service to the extent feasibly be awarded to vendors or bidders agreeing to perform work in economically disadvantaged area of the state." So let's forget about the southern tier. Let's forget about doing business with Native Americans. Let's throw everything up to the North Country and let's cost the state of New Hampshire a whole lot of money. What happens if we find out that our long distance carrier only has a call center up in New Brunswick? We've got to stop doing business with them. We have to find somebody who will supply us with long distance service that only employs New Hampshire employees. That is number one. It doesn't matter how much it costs. It could cost us \$40 a minute, but if they are willing to set up shop here in the state of New Hampshire, we are going to take that \$40 a minute. We are not going to take the five cents a minute because there are no jobs in the economically disadvantaged area for it. It doesn't say anything about let's be reasonable, let's save the taxpayers' money. It doesn't say any of that. How about the part that says "any person making a telemarketing sales call upon request shall permit the customer to speak to an employee of the company or the government agency." So now what we are going to do is we are going to have to have a state employee stay at every telemarketing center all day long in case somebody says, I want to talk to somebody from the government agency. I don't see where that saves us any money. What if there are ten call centers because we have a few in Berlin, and a couple in...what are some of those other towns? Gorham. And we have one in Littleton, Canaan, Alexandria, Lancaster. Because we want to spread it around to all the

disadvantaged areas. And we are going to throw one government employee in every one of those locations in case somebody wants to talk to somebody from a government agency. I am here from the government, I am here to help you. Hold onto your wallet when you hear that one. Then there is a piece in here that says "no telemarketer shall transfer a person's financial credit or identifying information to any foreign country without express written permission." From who? Does he get to ask the government agency or his boss in his company if he can do it, or does he have to ask me? It doesn't say. It just says if I am working as a telemarketer, I can't transfer Senator Gatsas' personal financial credit without express written permission. Senator Eaton, would you give me a letter giving me permission to transfer his information overseas? I know what this is about. It is about Burt Cohen versus Judd Gregg. I don't think that now is the time to do this. There are a lot of ramifications. A lot of possible costs to the state of New Hampshire and to the taxpayers. It doesn't necessarily mean more jobs. It certainly looks like it means a lot more money out of the state coffers to do something for political purposes. Thank you, Mr. President.

SENATOR LARSEN: I only rise to say that the crux of this truly is that the discovery that our state hires out of the country workers to answer food stamp questions, is one which we should all take a good look at. It is a possible source of jobs for our own in-state residents, many of whom could use these jobs. We ought to be looking at that.

SENATOR GATSAS: Senator Larsen, can you tell me when those outsourcing jobs were started?

SENATOR LARSEN: I don't know the history of it. I suspect someone else in this room might. But again, I say, if we can create more jobs for people in New Hampshire using taxpayer dollars, we ought to be responsibly looking at that.

SENATOR GATSAS: Senator Clegg, can you possibly have the answer of when those outsourcing jobs in the state of New Hampshire were started?

SENATOR CLEGG: Yes, under Governor Shaheen.

SENATOR GATSAS: They were?

SENATOR CLEGG: Yes.

SENATOR GATSAS: Thank you.

SENATOR CLEGG: You're welcome.

SENATOR KENNEY: Thank you, Mr. President. Line 17...a question for Senator Clegg, "shall require that the vendors may only employ the services of persons authorized to work in the United States under federal law." Wouldn't federal law also be the NAFTA agreement? Wouldn't this bill be in direct contradiction?

SENATOR CLEGG: Senator, I know you brought that up when this was brought into committee and voted down once, and I agree with you that there is a possible conflict with the NAFTA law.

SENATOR KENNEY: Thank you.

Floor amendment failed.

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

Sen. Foster, Dist. 13

Sen. Below, Dist. 5

May 5, 2004
2004-1510s
10/09

Floor Amendment to HB 426

Amend the bill by deleting section 13 and renumbering the original sections 14 - 17 to read as 13 - 16, respectively.

SENATOR LARSEN: I rise to offer amendment 1510. In discussing this bill with the Attorney General's Office, the section 13 on page nine of our Calendar. That section of the amendment discusses that "the commissioner shall issue a copy of the report and its completion to the municipality and the assessing board and once it is issued it is a public document, but it cannot be used as a basis for appeal to the BTLA until after the municipality's five-year review is complete and provided that the Assessing Standards Board has adopted standards." That is a very clear violation of Part I, Article 14 of our Constitution, which guarantees legal remedies to be free, complete and prompt. Particularly, in particular the language which says "every subject of the state is entitled to a certain remedy; to obtain that right and justice freely without being obliged to purchase it completely and without any denial promptly, and without delay." If this five-year delay isn't unconstitutional, I would like to hear what is. It makes no sense to deny that right to appeal for five years. It violates as well the proportionality requirement of our property taxation because it fixes for five years taxation in a way that reduces the proportionality of taxes within a district because of variations in market value over time. So, I don't believe that we can do this. The Attorney General's Office, when we were discussing it, indicted to me that it was a violation and suggested that we might not want to pass this because it isn't going to survive. Thank you.

A roll call was requested by Senator Larsen.

PARLIAMENTARY QUESTION

SENATOR GREEN: I have a parliamentary inquiry please.

SENATOR EATON (In the Chair): Parliamentary inquiry.

SENATOR GREEN: I guess I am raising the question can you ask to have a roll call after you have spoken without having other people have an opportunity to speak?

SENATOR EATON (In the Chair): I asked for any other discussion.

SENATOR GREEN: Very quick though. Thank you, sir.

SENATOR LARSEN: Mr. President, as a courtesy, I would suspend the request for a roll call until after those who wish to speak to it.

Senator Larsen withdrew her request for a roll call.

SENATOR GREEN: Thank you, Mr. President. This came to the committee at the time we were doing a complete amendment on this bill. This particular language came as a recommendation from the Assessing and Standards Board. So, this was not something that we considered in a Constitutional context. I still believe that is not unconstitutional language. I believe that it is consistent with what has been currently in practice and I am kind of concerned about everything we try to do around here, we get an AG opinion that we can't do it. I just wonder who the heck is making the laws around here. I thought the policy was this body and over across the wall. If they have a problem with legal, they can give us their advice, and that is all that it is, is advice. It is not binding, and we move on. If they want to challenge us, that is fine. But, I have a hard

time with people using constantly, as an argument to defeat something, because the AG says it's unconstitutional. It is only an opinion. I just am concerned, because this language as it is currently here, was never ever questioned until just now, in terms of it having a problem. We never heard it in committee. We never heard it through study. We never heard it anywhere. All of a sudden it is unconstitutional. So I would ask my colleagues to vote against this amendment. Thank you.

SENATOR PETERSON: Senator Green, thank you. This is a bill that is quite extensive and covers matter that obviously all of us haven't been able to hear in committee. I frankly haven't heard in the exchange that just passed between you and Senator Larsen's comments, what exactly this would do. I wonder if you would outline that for the uninformed?

SENATOR GREEN: I think the language itself kind of speaks for itself. The new language is in the dark print. You are talking only about assessment report, section 13. I want you to understand where this language came from so you will know. It came from...through the House in terms of Betsy Patten and her committee. They worked on this and came over and worked with us on it. Most, if not all of this, came from the work of the Assessing Standards Board. Am I...do I have perfect knowledge of everything in here? No. I happen to know about that piece because we had a discussion about it. But this has been worked on with the Municipal Association, with the legislature with legislative committees, and this is what...and the assessors. Don't forget that there are assessors in this picture. The only place that the assessors had a problem with was the last amendment that we just talked about. They had no problem with the rest of this. So I don't claim to be an expert on this, but I do know what has transpired and how we got from where we were to where we are today.

SENATOR PETERSON: Thank you. I am certainly not an expert on this piece of legislation as I have said, but I have been gainfully employed, I would say hopefully, in the real estate business since 1979 and have been involved in a number of different cases where people are appealing their tax assessments in different ways. The question that I would have for you is, if there is a public document which is an assessment report which has been prepared by the commissioner, and I assume is about a municipality's assessment practices, and I have a problem with my assessment on my property, and I am bringing forward a case to the selectmen or to the Board of Land and Tax Appeals thereafter, I don't have a right to reference that report for five years or until a number of other requirements are fulfilled. Why does that make sense?

SENATOR GREEN: Well it says "may". It doesn't say "shall". Look at the language. It says "may". When you do an appeal, under the current law as I understand it, you have a right to an annual appeal of your tax assessment.

SENATOR PETERSON: I understand that you have a right to appeal. I think the effect of the paragraph, if I may continue? Thank you for yielding. Is that you may not use this report as part of your appeal. So it would go back to the question of why the five year wait to be able to use a report that a major factor.

SENATOR GREEN: The five years, I believe, is tied to the same issue as the five-year requirement for reval, and that's what is going on here. I would yield to Senator Boyce, as he may have some comments to make.

SENATOR PETERSON: Thank you.

SENATOR BOYCE: I just would like to ask Senator Green a question. Hopefully my question will answer his question. As I read this, the language that is being inserted in there about the five-year review, this is a report which I don't have the full RSA here, but my understanding is that this report must be done in relation to that five-year review. It is not that you have to wait five years for this review, it is that every five years there has to be a review. Is this report part of that five-year review? In other words, is this report part of it that can't be used until they have actually finished the review? And then it also provides that the Assessing Standards Board has adopted standards. So until they have those standards, this document may not be relevant to anything and, until the town has done their five-year review, it may also not be relevant to anything. It is a snapshot in time of something that may not be relevant until something else happens and this is just finding what else has to happen?

SENATOR GREEN: You are absolutely right, Senator.

SENATOR BOYCE: Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. Thank you, Senator Green. Senator Green, I guess my question is that, in reading the previous sentence it says, "the commissioner shall issue a copy of the report upon its completion to the municipality and to the Assessing Standards Board. When issued, the report shall be a public document." So you have a public document, but may not be used. You said it isn't "shall" not be used, "may" not be used. Who makes the decision as to when it may be used?

SENATOR GREEN: The municipality. It says right here. "After the municipality's five-year review." It is no a final...it is a snapshot as you go through. You are not required to do the complete report until the five-year period. So it is not something that is complete until the five-year cycle is completed and so that is why this language is here.

SENATOR D'ALLESANDRO: Thank you.

Floor amendment failed.

Senator Below offered a floor amendment.

Sen. Below, Dist. 5

May 6, 2004

2004-1521s

10/05

Floor Amendment to HB 426

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

AN ACT relative to the certification of property assessors and assessing officials, the updating of tax maps by municipalities, the form for abatement applications, and the enforcement of discretionary preservation easements.

Amend the bill by deleting section 15 and renumbering the original sections 16 and 17 to read as 15 and 16, respectively.

2004-1521s

AMENDED ANALYSIS

This bill:

I. Provides for the certification and decertification of assessors of taxable property by the commissioner of revenue administration and the assessing standards board.

II. Allows towns and cities to change the scale and updating of tax maps, and requires certain information on abatement application forms.

III. Changes a reference to enforcement procedures applicable to discretionary preservation easements.

SENATOR BELOW: I rise to move floor amendment 1521, and I will speak real briefly to it. This amendment would delete that section 15 of the bill that we already debated but we didn't really have a separate vote on it. So I won't belabor it. This is just a chance to vote on deleting that section 15 that creates the hurdles for annual updates to valuation.

SENATOR GREEN: I guess that I want to make sure I know what we are doing here. It looks to me like we are going back to page nine, the section which is...we already debated and voted on the amendment with it included. My question is, since we voted on this, is this...can we revoke this without reconsideration? The ruling is that we can still vote on it separately? We already passed it.

SENATOR EATON (In the Chair): It is a further amendment, Senator Green.

SENATOR GREEN: Alright thank you. I would speak in opposition to the amendment. I am not going to get into a large discussion about it. The day is getting late. I have made my issues and people know the issues. I ask that you defeat this amendment. Thank you.

Floor amendment failed.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. Public Affairs Committee. Ought to pass with amendment, Vote 3-2. Senator Morse for the committee.

Public Affairs

April 28, 2004

2004-1451s

05/10

Amendment to HB 1428-FN

Amend RSA 167:3-e as inserted by section 2 of the bill by inserting after paragraph II the following new paragraphs:

III. To be eligible for home care for children with severe disabilities, a child shall, at a minimum, have an impairment or combination of impairments that meets, medically equals, or functionally equals the criteria for an impairment as listed in 20 CFR, Part 404, Subpart P, App. 1.

IV. A child who has been determined to meet the requirements of institutional level of care shall receive services to the extent the estimated cost of care outside an institution is no higher than the estimated medicaid cost of appropriate institutional care.

Amend the bill by inserting after section 7 the following and renumbering the original section 8 to read as 10:

8 Public Assistance; Department of Health and Human Services Rulemaking; Age Limit for Medical Assistance Program Eligibility. Amend RSA 167:3-c, VI to read as follows:

VI. Establishing an optional state coverage group under RSA 167:6, VII to provide medical assistance for children under the age of [~~18~~] 19 years who are severely disabled.

9 Department of Health and Human Services; General Fund Appropriation Reduction. Notwithstanding the general fund appropriation reduction requirement in 2003, 318:9, II, and any action taken by the fiscal committee of the general court pursuant thereto, the department of health and human services shall not reduce the appropriation to the medical assistance program for home care for children with severe disabilities for the biennium ending June 30, 2005.

2004-1451s

AMENDED ANALYSIS

This bill:

I. Establishes a position in the department of health and human services to assist recipients of home care for children with severe disabilities in obtaining reimbursement or payment from private insurers whenever possible, and appropriates \$1 in each year of the biennium to fund the position.

II. Establishes program eligibility criteria for home care for children with severe disabilities and authorizes the department to loan specialized equipment to program participants.

III. Directs the department to adopt the expired rules regulating home care for children with severe disabilities as interim rules and provides that such rules shall remain in effect until July 1, 2005.

IV. Establishes a commission to study the medical assistance program.

V. Expands the definition of health carrier for purposes of disclosing insurance information to the department of health and human services for medicaid reimbursement.

VI. Permits the department to seek reimbursement or payment from a health carrier for a medical assistance recipient if the claim is made within 5 years of the service.

VII. Prohibits a reduction in the appropriation to the home care program for children with severe disabilities for the biennium ending June 30, 2005.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1428-FN ought to pass with amendment. This bill makes several changes to assist the Home Care for Children with Severe Disabilities, or Katie Beckett Program, and brings New Hampshire's laws in line with federal requirements. The bill establishes a new staff position within the Department of Health and Human Services to specifically assist recipients of the Katie Beckett Program in obtaining reimbursement or payment from private insurers. Families from across the state have voiced concern that this is an area where they could use additional services to help recover full benefits. House Bill 1428 establishes new program eligibility criteria based on federal SSI standards and clarifies that state services will be provided to children up to the age of 19. This bill authorizes DHHS to loan specialized home health care equipment to program participants. It expands the definition of health carrier for the purposes of disclosing insurance information to the Department for Medicaid reimbursement. It permits the Department to seek reimbursement or payment from the health carrier for a medical assistance recipient if the claim is made within five years of the service. The bill also requires the Department to adopt the expired rules regulating the Katie Beckett Program as interim rules until the proposed rules can be thoroughly reviewed. It establishes a study commis-

sion to review the current medical assistance program and effects of the proposed rules changes on families, public schools and public institutions. Finally, House Bill 1428 prohibits any reduction in appropriation to the home care program for the biennium ending June 30, 2005. Please join the Public Affairs Committee in supporting House Bill 1428. Thank you.

SENATOR D'ALLESANDRO: Senator Morse, in your iteration, you said the establishment of a new position. I looked in the amended analysis and it says that there is a dollar a year appropriated for that position. So in essence, is there any new position or is this just a statement of policy?

SENATOR MORSE: I believe it is a statement of policy at this time.

SENATOR D'ALLESANDRO: Thank you.

SENATOR BOYCE: Yes, I rise in opposition to the committee amendment and to the bill as it would be amended then. Commissioner Stephen, one of the first things that he talked to us about on this particular program was that it was ill-defined in statute as to what the intent of the legislature was in establishing this. And that he believed his prior, some of the prior commissioners had gone well beyond what their statutory authority may have been to expand this program in ways that it was never intended to be. I recall in some form, it may have been before one of the committees when we were discussing something related with this, that he asked us to please give him some guidelines on how to handle this. But I don't think that freezing the expired rules is the appropriate way to do this. I don't think we have given him any real concrete policy on who should and who shouldn't. I understand there was an audit and some of the information from that audit was incorporated into this. But, I have some real problems with this. I mean, we have an unfunded position. I don't understand the purpose of putting a \$50,000 a year cost position and funding it for \$1. This never came to Finance to talk about that to where that money would come from if it ever was to actually be there. I don't see how this does anything to either improve the program or to save the state money. On that basis, I am opposed to both the amendment and the bill. Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. I rise in strong support of this bill. In 1989, when New Hampshire chose to participate in the Katie Beckett Medicaid Program, we made a policy decision to encourage deinstitutionalization of children with severe disabilities. The state chose to focus on family care for this vulnerable minority. Since then, the incidence of autism in children and the number of children surviving with multiple health issues has increased, making the program even more necessary. Greater need, however, has meant greater cost. The proposed rules changes which this bill would delay, would have made significant changes to eligibility. Instead of severely disabled, a child would need to be in a life-threatening medical situation and need complex care. That is quite a change with quite an impact on families. I believe it is, therefore quite appropriate that we stop to consider the consequences. What will happen to families? And what will happen to taxpayers? Katie Beckett holds families together. One parent wrote, in trying to imagine the impact of loss of Katie Beckett services by writing "the financial hemorrhage that would certainly result as we would make efforts to personally pay for as many services as possible, while reducing our work hours to provide services ourselves is hard to imagine. We as parents, would not be able to obtain federal matching funds to help us cover these services. Not only the families, but the schools and the state and local communities would have costs shifted to them." Whether

changes to Katie Beckett eligibility should be made needs to be considered in the context of the recent audit and the overall upcoming look at Medicaid. The study committee can accomplish that task with the benefit of its members' expertise. Both as a policymaker and as a parent, who cannot imagine the life changing experience and challenge of caring for a severely disabled child at home, I can wait for the commission's work to be done before considering changes to the program. I urge you to pass House Bill 1428.

SENATOR GREEN: Thank you, Mr. President. I rise in strong support of the amendment and the bill as amended. This is a program that deals with multiple and severely handicapped children. My real involvement in this was very much at the time of the budget. We, as a Finance Committee at that time, felt very strongly and we did not in any way try to cut this program during the budget process. As part of that budget, however, we were in terms of balancing the budget, we identified the fact that we needed to make reductions in spending from certain departments. One of them, of course, was DHHS. That request or that requirement, I should say, in the budget, was to reduce the HHS budget by \$20 million. In order to do that, they had to come back through the Fiscal Committee and get our approval. So let's tell the whole story. They came back and the \$20 million that they were going to reduce their budget by was in fact \$20,600,000 and some change. So, in fact, and I don't begrudge them. He cut the budget \$600,000 more than he had to cut it. But the problem was that \$500,000 of that cut was the Katie Beckett Program. So, in order to meet the target of the HHS budget, this particular piece did not have to be reduced. So there is no conflict with the requirements of HHS to reduce their budget. I understand that Mr. Stephen is trying to do a good job and he is working hard. I don't question his motives. I don't question his intentions. But here is a program that I believe a major mistake was made. Remember now, that these children, if they are not at their home being taken care of at home, by loving parents and grandparents and caregivers, they are going to be in institutions. One of the requirements of the Katie Beckett Program, if you look at the audit, is that we have to show that it costs less to serve that youngster in their home as opposed to an institutional placement. I am telling you that it will cost you a lot more to serve these children in an institutional placement. No question in my mind. They are in a situation which is where they are getting loving care. We should not be messing with this program until we find out what the rules are going to be, how we are going to implement the recommendation of the audit, and what effect Medicaid is going to have on all programs under Medicaid. Now remember, this \$500,000 is not just \$500,000. It is \$1 million coming out of the program because it is matched 50/50 by federal dollars. I just think that we, as a Senate, should go on record that we support that program until we get a handle on it. We shouldn't be making adjustments in its financing. I also want to tell you so there will be no misunderstanding, that this was reduced with the approval of the Fiscal Committee. But we were given a whole lot of stuff that day. I had every opportunity to question the commissioner and I voted against it, but I was in the minority. I want that for the record so that no one misunderstands where I am coming from. But I don't think I am in the minority in this body. I don't think that this body will vote against the Katie Beckett Program and I think and ask that you really support this amendment and the full bill as amended. Thank you.

SENATOR CLEGG: Senator Morse, can you tell me? One of the biggest problems that we had when we got this bill was we had just had an audit done and the fear was that after the audit was that we were in potential to lose all of the federal money because we were out of federal compliance. Can you tell me if this amendment gets us into compliance enough that we are no longer in jeopardy of losing the money?

SENATOR MORSE: The answer to your question is yes, as I understand it. I would like to go further because I think that Commissioner Stephen is trying to address things that really make sense, and we did have the Department in here, in fairness to him, on his vacation. There were three things that we talked about. One is the Department has been working on a floor and a ceiling. Well, the federal government set the floor, that is SSI standards. Commissioner Stephen is looking for the ceiling. We believe that after talking to the Department that shouldn't be set until the study committee is done. The two other things that came up out of that study that we have to implement at this point are we have to say under age 19 and I forget the last one. Oh, we have to qualify the...it has to be less expensive to keep them at home than it is in an institution. We have done that with this bill.

SENATOR CLEGG: Thank you.

SENATOR MORSE: Thank you.

SENATOR GATSAS: Thank you, Mr. President. I rise in favor of this bill. I think this is probably the easiest bill to talk about because it is about two words - children and family. Thank you, Mr. President.

SENATOR BOYCE: I would like to divide out section nine of the amendment.

Senator Boyce moved to divide the question.

The Chair declared the question is nondivisible.

The question is on adoption of the committee amendment.

Amendment adopted.

Senator Gatsas offered a floor amendment.

Sen. Gallus, Dist. 1

Sen. Johnson, Dist. 2

Sen. Kenney, Dist. 3

Sen. Roberge, Dist. 9

Sen. Eaton, Dist. 10

Sen. Peterson, Dist. 11

Sen. Clegg, Dist. 14

Sen. Gatsas, Dist. 16

Sen. Barnes, Dist. 17

Sen. Martel, Dist. 18

Sen. Sapareto, Dist. 19

Sen. Morse, Dist. 22

Sen. Larsen, Dist. 15

Sen. Below, Dist. 5

Sen. Cohen, Dist. 24

Sen. Foster, Dist. 13

May 6, 2004
2004-1528s
05/03

Floor Amendment to HB 1428-FN

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

AN ACT relative to the administration of the medical assistance program for home care for children with severe disabilities; establishing a commission to review the medical assistance program for home care for children with severe disabilities; and relative to the use of standardized health statements and renewals of certain insurance policies.

Amend the bill by replacing all after section 9 with the following:

10 Medical Underwriting; Standardized Health Statements. Amend RSA 420-G:5, I to read as follows:

I. Health carriers providing health coverage for individuals or small employer groups may perform medical underwriting, including the use of health statements or screenings or the use of prior claims history, to the extent necessary to establish or modify premium rates as provided in RSA 420-G:4. [~~Such underwriting shall be limited to the use of a standardized health statement for use in adjustments to rating pursuant to RSA 420-G:4.~~] The commissioner [~~shall, by rule, require~~] **may allow group** carriers to use standardized health statements.

11 New Paragraph; Medical Underwriting; Standardized Health Statements. Amend RSA 420-G:5 by inserting after paragraph VI the following new paragraph:

VII. Health carriers and health insurance producers shall ensure that persons seeking coverage through a small employer group who are required to complete a health statement have an option to convey the required information directly to the carrier or the producer through a secure means and bypassing the employer.

12 Maximum Small Group Renewal Increases. Amend RSA 420-G:4, I(e)(7) to read as follows:

(7) Upon the renewal of a small employer policy, a carrier is prohibited from increasing the **total** premium rate by more than 25 percent of the rate that was charged in the preceding year **including trend or, if the policy has been in force for longer than one year, by more than 50 percent of the rate including trend that was charged by that carrier in the year prior to the year immediately preceding renewal.** [~~Such rate increase limitation shall not include any premium rate increase that is based on a carrier's annual cost and utilization trends or changes in the rating factor for attained age of covered persons.~~]

13 Repeal. RSA 420-G:4, I(e)(7), relative to premium rate, is repealed.

14 Effective Date.

I. Sections 6 and 7 of this act shall take effect January 1, 2005.

II. Section 13 of this act shall take effect January 1, 2006.

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

2004-1528s

AMENDED ANALYSIS

This bill:

I. Establishes a position in the department of health and human services to assist recipients of home care for children with severe disabilities in obtaining reimbursement or payment from private insurers whenever possible, and appropriates \$1 in each year of the biennium to fund the position.

II. Establishes program eligibility criteria for home care for children with severe disabilities and authorizes the department to loan specialized equipment to program participants.

III. Directs the department to adopt the expired rules regulating home care for children with severe disabilities as interim rules and provides that such rules shall remain in effect until July 1, 2005.

IV. Establishes a commission to study the medical assistance program.

V. Expands the definition of health carrier for purposes of disclosing insurance information to the department of health and human services for medicaid reimbursement.

VI. Permits the department to seek reimbursement or payment from a health carrier for a medical assistance recipient if the claim is made within 5 years of the service.

VII. Prohibits a reduction in the appropriation to the home care program for children with severe disabilities for the biennium ending June 30, 2005.

VIII. Clarifies when standardized health statements are to be used for medical underwriting and clarifies premium rates for renewals of small employer policies.

SENATOR GATSAS: Thank you, Mr. President. I would like to speak on amendment 1528. We haven't seen this one before. Do you want me to speak to it? Thank you, Mr. President. The Senate position two or three weeks ago, I believe, was making sure that small businesses could find affordable health insurance. What we did was, we put into a piece of legislation back at that time that there would be a two year cap of 25 percent per year. The House, in its wisdom, decided that they didn't like that. I think this morning the people that attended a breakfast heard that the biggest problem, one of the biggest problems that small businesses have is health insurance. They are studying it hard and they are working at it, but we need to give them some breathing room because rates are escalating. Sure, we will hear some people have had declines, but I think that Senator Gallus will probably tell us that people in the North Country have had excessive increases. I think that probably Senator Cohen will tell us the seacoast is also seeing excessive increases. So basically this puts a 25 percent cap. And when we see CEO's getting \$42 million bonuses, I think that maybe it is time that we should cap some of those profits. Thank you, Mr. President.

SENATOR ESTABROOK: Thank you, Mr. President. Senator Gatsas, as this amendment is written, I understand it would affect carriers presently in the state, so that policies that were in existence could not rise more than that. What about any new carriers coming into the state? Are they in any way constrained or can their premiums rise above the proportional share that this is allowed to rise?

SENATOR GATSAS: That is a great question, Senator. Let's assume that a carrier...a company goes and has a carrier increase their rate by 45 percent, and a new carrier comes to the state and says to them, we can give you insurance but it is 55 percent over what you had. I would think that that small business person would stay with the carrier they had at a 45 percent increase, because we are capping it at 25 so nobody is going to see greater than the 25 percent increase.

SENATOR ESTABROOK: Thank you, Mr. President. In other words, you are looking at just market factors to take care of that. You don't think anything needs to be stated about carriers that are coming in?

SENATOR GATSAS: Correct.

SENATOR ESTABROOK: Thank you.

SENATOR FLANDERS: Senator Gatsas, I just want to make sure this has got the same sunset that the original had, because we have to be very careful on renewals of new companies coming in, Senator.

SENATOR GATSAS: Senator, I can only tell you that I have asked the drafter to draft it the same as we had it in the last piece of legislation that left us.

SENATOR FLANDERS: And yours is sunseting when?

SENATOR GATSAS: January 1, 2006. Line 13 on the second page.

SENATOR FLANDERS: And it goes into effect January 1, 2005. So it is in effect for one year.

SENATOR GATSAS: No, it is six and seven.

SENATOR FLANDERS: I have a problem with that.

SENATOR GATSAS: Upon passage. No.

SENATOR FLANDERS: I have a problem with that because you're trying to control it for a period of time when the new companies are going to be coming in are going to be doing renewals. That is not going to allow 110 to work if we do that. We have to let 110 work at some time. I think two years is a too long a time.

SENATOR GREEN: I have supported this bill all the way through and every time we have tried to amend it, I have supported it. I am not on this list of sponsors for one basic reason, and I'm going to express that reason to you. This amendment is not germane to the bill that it is being put on. It will in fact, in my opinion, jeopardize the Katie Beckett bill. That bothers me. It is not that I don't agree with the language here, but I am telling you where this is going over to the House, and we could lose our Katie Beckett issue that we all feel, I think, strongly about, and I'm very concerned that we are really going to mess this up. I know that people think the House will accept Katie Beckett no matter what we put on it. But I am not that confident. I really feel so strongly about the Katie Beckett Program, that I don't want to see it jeopardized for the wrong reason. If there was another vehicle for this, that is fine. But I am just concerned about the vehicle we are putting it on. Thank you.

SENATOR BARNES: Thank you, Mr. President. Senator Green, don't you think that when this goes to the Committee of Conference that the three Senators that are sitting there will let this one go if that is going to be a problem and let Katie Beckett stand on its own?

SENATOR GREEN: Senator, if I really thought that, I would agree. But I have...

SENATOR BARNES: It is the Senate's position, and I have faith that the Senate position is going to win out.

SENATOR GREEN: But the Senate position would be this amendment.

SENATOR BARNES: That's true.

SENATOR GREEN: Sorry.

SENATOR BARNES: It is getting late. In twenty-five minutes the Red Sox will be on. Let's move this thing along.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I, too, rise against the amendment and for the following reasons. This is a very sig-

nificant piece of legislation. I was on the Fiscal Committee with Senator Green. I voted against taking away the \$500,000. As many of the Senators have said, this is about kids and it is about a very significant constituency. I think at this point in time, anything that jeopardizes this piece of legislation is something that we have to consider. We want this. I think there is unanimity in this body for Katie Beckett because we know through our history about deinstitutionalization and what that meant to all of us. We don't want children back in a restrictive environment, that least restrictive environment is most important to us, and institutionalization versus noninstitutionalization is a key issue. I think that anything that jeopardizes that is really something that we should consider. We all want stabilization of insurance rates, we have debated that issue time and time and time again. I am very concerned about what happens. I think anything that in any way that deters from the quality and direction of this piece of legislation endangers the Senate position. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. Senator Green, do you think that the Chairman of the Transportation Committee would allow us to put this on HJR 25?

SENATOR GREEN: I don't know, Senator, you'd have to ask the Chairman.

SENATOR BARNES: I can't because he hasn't spoken, so I am going through you.

SENATOR GREEN: Well I would ask the question of Senator Kenney, if you would want to ask it.

SENATOR BARNES: I've just been told that a resolution, we can't do that to.

SENATOR GREEN: There you go.

SENATOR BARNES: So it is going to have to be something that we take off the table.

SENATOR GREEN: I understand there is something coming off the table.

SENATOR BARNES: So we can do it with that one?

SENATOR GREEN: I would support that.

SENATOR BARNES: I think it is a good amendment.

SENATOR GREEN: I have no problem with the amendment.

SENATOR BARNES: I, too, don't want to mess up Katie Beckett.

SENATOR GREEN: I have said I don't have a problem with the amendment. I have a problem with where you are putting it.

SENATOR CLEGG: Thank you, Mr. President. I understand how everybody feels about the Katie Beckett Program and I think that we all feel the same way. The underlying bill is about children. This amendment is about their parents. You know, it is great to say that the state is going to help keep these kids at home, and this amendment is saying, and not only that, we are going to help the parents have health insurance. The House doesn't seem to care that some of our businesses right now are spending a lot of money. They have giant increases, we have debated the increases, are they justified, most of us don't think so. In fact, they are not justified to the point where one of the insurers when this bill was on the House side said, we are going to re-look at our rates and lower

them. Okay, so there is some admittance. Putting this on this bill says to the House that we are serious. And they are serious about the Katie Beckett bill as we are, so they are going to sit down and talk with us. No one wants to lose either part of the bill. But to take this amendment and stick it on something that the House couldn't care less, doesn't do us any good. If in fact what we are looking for is to assist businesses so that there is no more than a 50 percent increase over two years. I don't think we jeopardize anything. I think we have something that says to the House, we got to sit down and we've got to fix it. Thank you, Mr. President.

SENATOR FLANDERS: I have some words that maybe a few of you will understand. I think that if you put this bill on the Katie Beckett bill, you are doing a crapshoot. Some of you understand that because these people feel very strongly about this in the House. They are very much opposed to this. Not saying we are, this is not a House position. I do want to relay what the Insurance Commissioner thinks. I have talked to the Insurance Commissioner about it. He is talking to the brokers, he is talking to the people. He is telling me that 70 percent of the renewals are doing down. The others are going up. We still have to let 110 work on its own. Two years is too long on this. Two years is too long because the companies that are coming in, they don't want to be...they are not going to take a chance. **TAPE CHANGE**

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Gallus.

Seconded by Senator Prescott.

The following Senators voted Yes: Gallus, Johnson, Kenney, Odell, Roberge, Peterson, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Morse, Cohen.

The following Senators voted No: Boyce, Below, Green, Flanders, O'Hearn, D'Allesandro, Estabrook, Prescott.

Yeas: 14 - Nays: 8

Floor amendment adopted.

Senator Boyce moved to divide the question.

SENATOR BOYCE: I wish to divide the question. Divide out section four and section nine and vote on them separately.

The Chair declared it was nondivisible.

SENATOR EATON (In the Chair): It is the opinion of the Clerk that they do not stand alone.

Senator Boyce moved to appeal from the ruling of the Chair.

SENATOR BOYCE: I would like to point out these sections would simply go into session law; they do not go into the RSAs. Therefore, as session law, they would simply exist in session law and not have the constraints of the statute. If it was going into an RSA, there might be a challenge there, but I am of the belief that these sections can stand alone as session law if they passed and the rest of the bill failed, which I don't expect to happen.

SENATOR BARNES: Thank you, Mr. President. I realize that Senator Boyce has a right to his opinion, but my years up here, I have been here for three challenges of the Chair, and I always get up and speak against it. There were caucuses all during the day when this could have been

taken care of and that is no bad shot at my friend over here, Senator Boyce. I urge my comrades to vote unanimously to uphold what the Senate President, the gentleman that we elected to run this chamber, and let's go at that. He is the fellow up there that runs the show. It is his call and by gosh he has made it. So, for crying out loud, let's back him and get going.

Motion failed.

The question is on the adoption of the bill as amended.

A roll call was requested by Senator Gallus.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Below, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, D'Allesandro, Estabrook, Morse, Prescott.

The following Senators voted No: Boyce.

Yeas: 20 - Nays: 1

Adopted.

Ordered to third reading.

HJR 25, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation. Transportation Committee. Ought to pass, Vote 3-0. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move HJR 25 ought to pass. This resolution was requested by JLCAR to prohibit the Department of Transportation from implementing rule Tra 601.5 relative to allowing businesses with driveway access to a highway to place advertising signs within the state right-of-way. JLCAR is opposed to the rule on the grounds that it is contrary to legislative intent and it violates both state and federal regulations. In addition, the committee received word from the Federal Highway Administration that New Hampshire could lose between \$125-\$140 million in federal highway funds if this rule was implemented. To address these concerns, HJR 25 creates a study committee to review the use of advertising signs in the state's right-of-ways, statutory conflicts, and the potential loss of federal highway funds. The Transportation Committee recommends HJR 25 ought to pass and asks for your support. Thank you, Mr. President.

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 343, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways.

SENATE NONCONCURS WITH HOUSE AMENDMENT

SB 343, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways.

Senator Gallus moved to concur.

SENATOR BARNES: Thank you, Mr. President. I have a question. Is that the bill that had the amendment on it that has to do with Bear Brook or is this the one that we took up last week for Senator Odell? Is this the place for me to give my little talk about nonconcurring? I think it might be. I would like...It is a good thing that I went to bed an hour earlier last night. I knew this was coming. I would like to rise, Mr. President, and talk a little bit and I would like the Senate to nonconcur with no committee of conference on this. I would appreciate it, it has already happened, I see that the doorman has left the door open. I will tell you why I was going to ask you to have the door open. There is a gentleman hanging out there who was a mentor to me and he taught me a few things in my years up here earlier. That person is Senator Blaisdell. Senator Blaisdell, and some of you who were here with Senator Blaisdell, I don't know where Senator Cohen is, but the few of you that were here, remember you get sick of hearing like I did sometimes, about my town of Winchester. Well, Junie taught me that you really represent the whole state when you vote up here. However, you are not running for governor, so you vote for your district and for your towns. I am up here with the lesson Junie taught me. One of the lessons that he taught me, was to stick up for my towns and that is what I am doing here for the town of Allenstown. Number two, Junie taught me another very important lesson. The Senate's position is one heck of a lot more important than lobbyists, the Governor, or the people on the other side of this wall. Junie was a bigamist. You all know that? Does that surprise you? Junie Blaisdell was a bigamist! He was married to a lovely lady by the name of Peggy, but he was also married to the Senate. Sometimes I wondered which one was which way, in which direction. Senator Blaisdell bled Senate, and damn it all, the Senate position is important. And the Senate position on this bill came out of committee. That is another thing that Junie Blaisdell taught me. Sometimes I have been guilty of not listening, but Junie, I hope you forgive me for it. But committee...he would sit here and he would argue against the committee report because he would be on the other side. But you know something, when the vote came, he went with the committee because he told me, committees were very important up here. They did a lot of work and they had the respect. So out of that, sticking up for my town, sticking up for the Senate's position, and sticking up for the committee report, I ask you to nonconcur with no Committee of Conference. Now I do know there are some problems with this, but I will say this on the floor, next year if I am back, I will certainly work with whoever else, correct that mistake in January, start off fresh. I made that promise to Senator Below last year about this time of the year that I would help him and sponsor a bill with him, and I did. We didn't have any luck with it, but we tried. I am making that promise again. I am making that promise to you, Senator, down there in Senate seat one, because I know that you have a big interest in this and your people have a big interest in it. I think the people having been hooked and have been hosed. I have a problem. I was the Chairman of Finance when we raised their rates about \$20 some odd dollars. That is wrong. We shouldn't have done that. We did it for enforcement. We did it for more trails, and they still have nothing. We have to do something, but we have to do it the right way. The Transportation Committee passed that bill, we passed it, and it is our position, the committee's here and that is all that I got to say. And, Junie, thank you for the good lessons that you gave me, my friend, and I wish you were still around.

SENATOR FLANDERS: Thank you, Mr. President and members of the Senate. I wasn't here with Senator Blaisdell, but my father taught me common sense. I think that we are missing common sense. With all due respect to Senator Larsen this morning, we had a bill come before us that made a typographical error of \$13 million and within fifteen minutes it was fixed. Isn't that wonderful? A typographical error. That is all this is ladies and gentlemen. I was on that study committee for two years. We talked 400 feet every time we had a meeting, we talked 400 feet. It is a typographical error. I have it in my file. The person who made that error admits to it, apologized for it. And we are going to study it. Why didn't we study the \$13 million in Concord? If we have a bill come before us today that said that you could go 650 miles an hour on 95, what would we do? Would we study it? We would fix it. It should have been fixed. Talk to Paul Gray. Each one of you give Paul Gray a call. He is over there in charge of trails. We mandated to Paul Gray to make trails for ATVs, didn't we? We all voted it. Then we put up road blocks and say don't go here and don't go there because of a typographical error. I know this is going to pass but I want you to know what you are doing. It is wrong to tell our commissioners and our deputy commissioners to go and do something, you are right. We charged them \$20 more to give them trails and Senator Barnes said, we haven't got any. Do you know why? Because of a typographical error. That is why there are no trails. Because we put a typographical error into study. It is a mistake. It is not commonsense. I am sorry, we should be thinking about the whole state because when these things are running around, the roads and so forth, no enforcement, don't call me, I will let them call you. Thank you very much.

SENATOR BARNES: Make sure you have the number correct.

SENATOR FLANDERS: I will.

SENATOR GALLUS: Thank you, Mr. President. The Senate position, basically, I hate to say, is wrong, if that is the Senate position. I didn't know Junie Blaisdell, but my dad taught me when I was a young man, that when you are wrong, it takes a big guy to admit it and stand up and say you were wrong. As you know in this chamber, there have been many moments when I have been wrong. This is one of those moments where we passed some legislation that was not correct. As Senator Flanders mentioned this morning, we had the \$13 million error for the city of Concord in state grant aid. We changed that. We addressed the problem. That is all that the House is asking us to do here and that is why I wish to concur. I know the good Senator from Raymond is very passionate on this issue and he should be. But the changes that were sent to us by the House are basically the original law. We changed...there was a misprint from 400 feet to 4,000 feet. There can be no trails built in the state of New Hampshire if you have to be 4,000 from a well head or water. You are talking perhaps close to two miles. So figure that out. I am asking you to stand up and do the right thing here this afternoon. I know that we have been here a long time. And we admit, the Senate position was wrong. We made a mistake supporting this change of 4,000 feet. I ask you to concur with the House. I thank you, Mr. President.

SENATOR BARNES: I question that the Senate was wrong. It went through a committee on transportation and they did the right thing. They thought it should go to interim study. It went over to the House and the House played games with it, and stuck the bill on another bill of Senator Odell's that we took care of last week for him so that it didn't lose out. House Bill 1401. We are going against what the Trans-

portation Committee voted to do and if they go along with you Senator, no offense, and they also go against what this body voted for. This body voted for that bill to go to interim study. It didn't vote to go over there and get screwed around with, with the House. I am embarrassed that the House did that. They messed with one of our bills and they shouldn't be doing that.

SENATOR KENNEY: Thank you, Mr. President. This has been a bill that has had a lot of attention on this issue, I should say. When it came out of the Transportation Committee, it was a 3-2 vote as I recall, to send it to interim study. From my standpoint as chairman of that committee, I wanted to act as a voice of reason. I understood that there was a certain, there was a possibility that a typo could have occurred when it came to the 4,000 feet water protection, wellhead area versus the sanitation zone, which is 400 feet. I realize that something could have been done incorrectly when the drafting occurred. But I also understand from the public standpoint, that there was a certain group, how late in the process it may have been, who were brought along to believe that it was 4,000. In my opinion, and in my judgment as the chairman of that committee, I felt it was best to use my common sense to say that I am willing to change my opinion on it on another day, but to step back and provide some better input by all of the groups and to get some resolution. I do agree that the ATV group in this state are long overdue, have not gotten their trails. I also remember Senator Morse saying that this year there wouldn't be any trails built, even if we passed the original bill. So my thoughts are...is that we've got the ability to get it done right this fall, come back early in the session, fast track it and get it right. But I think we owe it to the public, when there are questions about MTBE, 15 percent of our waters are contaminated and that this question of why isn't the private landowners getting more involved in it and the use of ATVs, and what are we you know, using the park system to do all of the leg work on this issue. It is time to stop and think...and interim study it and get something and fast track it out at the beginning of next session. Thank you, Mr. President.

SENATOR FLANDERS: Thank you, Mr. President. I rise to speak very briefly. I wanted to say that it was a 3-2 vote that came out. I have to take exception to the chairman of Transportation. I don't believe that there was anybody that knew it was supposed to be 4,000 feet. They found something to hang their hat on and they hung their hat on it. I want a commitment from this...if I come back next year, that every time a bill that comes before us that has a typographical error, that we send it all to interim study. Let's find out...what are you going to study, if I may? Are you going to study is it an error...was it an error or wasn't it an error? That is what you are going to study. That is what we put to interim study. I think that it is absolutely ridiculous that we are doing such a thing as that. But next year, every mistake should go to interim study for a year to find out whether it really is a mistake or not.

SENATOR LARSEN: I just rise to applaud Senator Barnes, Senator Below, Senator Kenney, because of the high level of work that they have done on this and the energy they put into trying to protect what is a concern for the town of Pembroke, which I represent. Because, whether it was discussed during the hearings on ATV issues, there is still a genuine concern by the people of the town of Pembroke that their wellhead, being very near this trail, could be contaminated. I heard that Pembroke has difficulty because of some geographical issues that it doesn't have

great options for water sources. Certainly if there is the issue that contamination could occur to a public water source relied upon by one or two towns, three towns, it is one in which we ought to at least take a deep breath, stand back and look at. This committee's decision to interim study this gives that time. I think that we ought not to rush when there is the issue of possible water contamination.

SENATOR BELOW: Thank you, Mr. President. I rise in opposition to the motion which is to concur. I support Senator Barnes' proposal to defeat concur and vote nonconcur. Just to help clarify this. We had a bill, Senate Bill 349 that came through the Senate, went to the Transportation Committee. That is what was voted to interim study. It proposed to change not one, but two, of the fine filter criteria for citing ATV trails, and the House amended that onto this bill that we are discussing now, 343, which we have also passed the content, the part that the House and Senate agreed to on another bill last week. So we can simply nonconcur and preserve the good part of that bill. But, just to back up a little bit because I think there are strong emotions on this and I think both sides, and perhaps I have been a party to this, tend to paint this a little too black and white. There is actually a lot of gray area here. There wasn't a really a typo. The bill that came forward and was passed in 2002 had a series of criteria for evaluating whether state lands would be suitable for ATV trails. I think the promise was that, with the increase in fees, the money would be set aside for trail development, possibly for land acquisition, but also that the state would evaluate its state park, state forest to determine whether there were suitable state lands for ATVs and trail pipe development. There was no guarantee that I recall that trails would be developed, but rather they would be evaluated based on their criteria put into statute. The criteria in statute, as it turns out, have had a number of problems. In fact, just last year a couple of the criteria were changed that said trails had to comply with local zoning and local noise ordinance to say only that they had to be due consideration to those factors. Senate Bill 349 was sent to interim study proposed two changes. It proposed to change language that said that the proposed trail does not pass through a well head protection area as determined by the Department of Environmental Services to change that to say the proposed trail does not pass through the sanitary protective area of a community groundwater supply and so forth. Four thousand and four hundred or not in the statute, they are not anywhere in the statute. They are in rules. They are associated with well head protection area which actually is not defined as 4,000 feet in the rules, but rather it is an area where there is potential human influence for a well based on the hydrogeology and the water shed. There is a default provision that says if you haven't met that, you could use 4,000 feet as a radius, as a kind of placeholder. There is also a concept of a sanitary area, which is where you are concerned about bacteria immediately entering into a well. That again, is not necessarily 400 feet. But there is this sort of myth that has developed that a zero is added to 400...deliberate words, well head protection...now I will admit or grant that that may have been a mistake between DES and the Trails Bureau that was discussing this between them. But what came forward in public, once the bill was drafted and introduced and sponsored, it talked about the wellhead protection area. So people were concerned about these criteria, saw that they were able to look it up and understand what that was, the whole sort of watershed recharge area for a well, and say "that makes sense." So from the public's point of view that was just looking at the bill, that was a lot

of people understood the deal was. So now we have a change. Maybe it is appropriate and maybe it is not. The concern is that we have a problem with MTBE. We've got, in these counties, we have anywhere from 20 percent to one third of the wells already contaminated with MTBE. A recent DES U.S. Geological survey actually found more than 40 percent of the wells in Rockingham County detecting MTBE. The concern is Pembroke, Allenstown, etc., put wells in the state park because it was a protected watershed where there was not a risk of contamination. And the concern is putting trails in there within the area where the wells are recharged, knowing that ATVs spew unconsumed gasoline that has MTBE, knowing that people refuel them and spill gasoline on the ground. Is that a potential risk? We didn't get answers to that in committee. We didn't get answers as to really what the right solution is. We felt this warranted more time. The fact that when a well gets contaminated with MTBE, we are spending millions of dollars in this state, millions of dollars collected from taxpayers through the oil charges on remediation of contaminated wells. We said that we should err on the side of caution and take our time to look at that. But, aside from that there is whole 'nother criteria that gets changed which is the setback from streams. There was a concern about that that was never answered in committee. I am not going to go on because it just points to the fact that there is a need to discuss this in committee in more detail. I just want to conclude with one point. In December of 2003, the Trails Bureau had a plan that was completed. It was given to them. A plan for developing New Hampshire's statewide trail system for ATVs and trail bikes, that looks at a lot of these criteria and points to a lot of potential problems. A lot of issues are raised in here. Unfortunately, as a committee, we were never told that this had been done and that it was available. We were never offered a copy from the department. We actually discussed this at about four executive sessions. We kind of kept coming back doing it. At the end, this appeared to us not from the department but from some of the people who were concerned about it. We started reading it and said there are issues here that we need to take our time and get it right. It is not risk doing something wrong here in this short run. So my commitment is to work on this, to really study this, if people are willing to sit down and work on it, because I think that we need to be fair to both sides. So I would urge us to uphold the Senate position, which is to say we should take our time and get this right and defeat the motion to concur.

SENATOR ODELL: Thank you, Mr. President. Woe unto me the day that Tim Acerno came over from the Fish and Game Department and had a simple piece of legislation to introduce dealing with ATVs. He did come over because of the fact that, like Senator Flanders, I served on the ATV Committee for a couple of years. In fact, I was the vice chairman, while John Alger was the chairman. We spent a lot of time on the fine and course filter and on our commitment to trail development, but also enforcement. That is part of why the fees were raised, and the possibility of acquisition of lands and so forth. My feeling is somewhat a compromise amongst some of the things that I have already heard today, this afternoon. My feeling is, and I am sensitive to what Senator Barnes has said and Senator Below. Senator Below spend some time with me on some of the issues involved here. But I do feel as if we had, in my mind, in writing, in front of us, the fine and course filter plan. We basically agreed upon that over the objections to the ATV community because they felt it was too stringent. My feeling is that, if a mistake was made, an error was made, that we make that correction. But on the other hand,

as Senator Kenney has said, I would be with the others that have spoken on this, eager, available and ready if I am here next year, to get to work on this, but I do think as a matter of principle, if we have made an error, let's correct it quickly. There are no trails that are going to be built between now and January and let's get to work in January and do something the first 90 days of the year and be proud of the work that we do, and let's do it right. We have time to get ready for that.

SENATOR PETERSON: Thank you, Mr. President. Just a question of Senator Odell. Thank you for all of your work on this. Is it your recommendation to us that we would nonconcur on this and then work it out next year? Is that what the sum and substance of what you just said was or was it the other way?

SENATOR ODELL: My feeling is to concur. I was cosponsor of the amendment that would change this to 400. My feeling is to concur because an error was made in my mind, and then be prepared to get to work immediately when the session begins again.

SENATOR PETERSON: Just a follow up question if I may. So it is your view, and I understand from others, that there are no trails that are going to be built one way or the other. So if we were to change the standard back to what was at least by the committee understood to be the standard when you looked at the different materials, then we could always, next year, take in to some of these things into account and alter it at that point. Is that your view?

SENATOR ODELL: Excuse me, I couldn't hear the last part?

SENATOR PETERSON: We could always, next year, go to work and alter it if there were issues that came out of these other studies that needed to have some attention before these trails are built.

SENATOR ODELL: Yes, to use almost the same words that Senator Kenney used. We would get back here and get to work and do whatever we needed to do to make sure that we have a firm and solid policy we can have some consensus around.

SENATOR PETERSON: Thank you.

SENATOR FLANDERS: I just want to remind you all that this has been studied for over two years of which you were on there for two years. This has been studied for two years. I mean, how long are you going to study it? I am not sure that everybody is correct and no trails are going to be built this summer. That is what you do in the summer, you build this type of trail. This not only affects just Allenstown; this affects the whole state. This is not a bill for Bear Brook State Park. Anywhere they want to build a trail during this year, this foolishness affects it, so they are not going to build any trails. The reason they are not going to build any trails is because of this mistake.

SENATOR KENNEY: Yes, Mr. President. I just want to go back on the record as supporting the interim study that the Senate voted on earlier in the session. I am committed to that. I understand what Senator Odell has stated, but I think we can accomplish what he stated by simply reviewing the ATV trails and the issues in interim study and that, whether we correct the mistake or not, which I still don't have a clear understanding from my judgment, that we should go forward with the Senate position of interim study.

SENATOR BELOW: I've just got to touch the other issue, because there is something in this that there is no question about whether there was

some mistake or not, which is that there is part of this bill that also changes a required setback from streams. It said, you know, new trails wouldn't be developed within a certain distance from streams, because one of the problems with ATVS, the rogue ones, some are responsible and some are not so responsible, they want to run off into the stream. Well this bill or this amendment that was put on, says that any existing trails are exempt from the setback. Well, maybe some existing trails don't need to have the setback, but what if the existing trail is an illegally developed ATV trail? Does that mean if you illegally develop an ATV trail, does that exempt you from the stream setback? That was an area that we didn't get clarification on. I think it is a mistake to go ahead and not do our study first.

Motion failed.

Senator Barnes moved to nonconcur.

Adopted.

Recess.

Out of recess.

MOTION TO TAKE OFF THE TABLE

Senator Roberge moved to have **HB 651-FN** taken of the table.

Adopted.

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

The question is on the adoption of the committee amendment (1157).

SENATOR ROBERGE: Mr. President, when last I spoke relative to the purchase of prior service credit in the retirement system and repealing certain provisions permitting additional contributions. When last I spoke, we were voting it and Senator Peterson asked for it to be put on the table to do something with a constituent of his and it didn't seem to work out. So now I am taking it off of the table and I would hope that the body would pass 651 as amended by the committee.

SENATOR PETERSON: Thank you, Mr. President for recognizing me. I wanted to thank Senator Roberge particularly for her courtesy in allowing this bill to go on the table on our session...during our session last week. I wanted to support her at this time in the passage of the committee amendment and the passage of the bill. Thank her for her courtesy last week. I understand that some of the issues, which involve constituents of mine may be looked into during the Committee of Conference, but that best can be done at that time. I appreciate the Senator's courtesy to me and ask the Senate's concurrence with her wishes on this bill.

SENATOR ESTABROOK: Senator Roberge, I appreciate having the bill, but the pending motion is on the committee amendment. Can you refresh our memory what the committee amendment did?

SENATOR ROBERGE: We took off section two and three and changed a line on page one to December 2004, and changed the effective date...no we didn't change the effective date, but we did change December 31, 2004 in line 18 of page one.

SENATOR ESTABROOK: The critical piece to me was section two and section three are gone in the committee amendment?

SENATOR ROBERGE: They are.

SENATOR ESTABROOK: Thank you.

Amendment adopted.

Senator Roberge offered a floor amendment.

Sen. Roberge, Dist. 9

May 6, 2004

2004-1534s

10/03

Floor Amendment to HB 651-FN

Amend RSA 100-A:28 as inserted by section 1 of the bill by replacing it with the following:

100-A:28 Limitation on Membership. This retirement system and the provisions hereof shall not apply to any person benefited by or entitled to participate under any other provisions of law which provides wholly or in part at the expense of the state or any other employer, for retirement benefits for employees, teachers, permanent policemen, and permanent firemen employed by the state or such other employer, their widows or other dependents, with respect to the same period of service for which they are eligible for benefits under the terms of this chapter. The provisions of this section shall not apply to any person participating in, or receiving or eligible to receive benefits under the old-age and survivors insurance provisions of Title II of the federal Social Security Act, as amended or under a retirement arrangement federally tax-qualified under sections 403(b) or 457 of the United States Internal Revenue Code of 1986, as amended. The provisions of this section shall not apply with respect to the purchase of prior service credit under RSA 100-A:3, VI by any person who had participated in or deemed eligible to receive benefits under a retirement arrangement funded, wholly or in part, by contributions from a political subdivision of the state, or an agency or instrumentality of a political subdivision of the state; provided, that such arrangement shall first be terminated in full, but in no event later than December 31, 2005; and, further provided, that the benefits thereunder shall be distributed in their entirety to eligible participants and beneficiaries in accordance with the terms and conditions of such terminated retirement arrangement.

SENATOR ROBERGE: It is 1534s. Actually, I have spoken to it. What it is, is the bill, minus sections two and three. It changes the date on page one, line 18. It looks like this.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO TAKE OFF THE TABLE

Senator Below moved to have **HB 1148** taken off the table.

Adopted.

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

The question is on the adoption of the committee amendment (1096).

SENATOR BELOW: I move House Bill 1148 ought to pass as amended as was recommended by the Committee on Environment. The committee amendment, you can vote it up or down, I don't really care because the three members of the committee who heard the bill, along with Senator Flanders, have a floor amendment that would substitute for the entire content of the bill. I will explain it at the point after we either vote the committee amendment up or down.

Amendment failed.

Senator Below offered a floor amendment.

Sen. Below, Dist. 5

Sen. Johnson, Dist. 2

Sen. Barnes, Dist. 17

Sen. Flanders, Dist. 7

May 6, 2004

2004-1536s

10/03

Floor Amendment to HB 1148

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

AN ACT defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to Smith Pond in Enfield, and relative to site plan review of certain trails.

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

1 New Paragraph; Definitions; Wetlands. Amend RSA 482-A:2 by inserting after paragraph IX the following new paragraph:

X. "Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

2 New Subdivision; Wetlands. Amend RSA 674 by inserting after section 54 the following new subdivision:

Wetlands

674:55 Wetlands. Wherever the term "wetlands," whether singular or plural, is used in regulations and ordinances adopted pursuant to this chapter, such term shall be given the meaning in RSA 482-A:2, X and the delineation of wetlands for purposes of such regulations and ordinances shall be as prescribed in rules adopted under RSA 482-A. Nothing in this subdivision shall be construed to limit the powers otherwise granted under this chapter for municipalities to plan land use and enact regulations based on consideration of environmental characteristics, vegetation, wildlife habit, open space, drainage, potential for flooding, and protection of natural resources, including critical or sensitive areas or resources and groundwater. In the context of such authority, municipalities may define and delineate resources or environmental characteristics, such as wet soils or areas, and shoreline or buffer areas, in a manner different from the common meaning and delineation of wetlands required herein.

3 Appeals; Receipt by Wetlands Council. Amend RSA 482-A:10, IV to read as follows:

IV. An appeal from a decision of the department after reconsideration shall be filed with the wetlands council within 30 days of the department's

decision. *An appeal shall be considered timely filed and received by the wetlands council if postmarked or hand delivered to the wetlands council on or before the thirtieth day from the date of the department's decision.* Filing of the appeal shall be made by certified mail *or hand delivery* to the [chairperson of the] *wetlands* council, with a copy sent to the department. An appeal to the council shall contain a detailed description of the land involved in the department's decision and shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable.

4 Smith Pond Repairs. Without prejudice or effect as to determinations of ownership or liability for the dam and dikes impounding Smith Pond in Enfield, a portion of which is located within the boundaries of the Enfield Wildlife Management Area, the department of environmental services is authorized to undertake repairs to such dam and dikes; provided, that the owners of the land adjacent to such dam and dikes grant permission for access to the work, to the extent that funding for such repair work is available from sources other than the department. The department is authorized to solicit and accept contributions and grants for such purpose. The department may undertake emergency repairs to or breaching of the dam or dikes impounding Smith Pond if it determines that such work is reasonably needed to protect public safety from possible accidental dam or dike failure. To the extent that funds for such emergency costs are not available from sources outside the department, the department may seek to recover such costs from the party or parties that own such dam or dikes.

5 New Paragraph; OHRVs; Regulation by Political Subdivisions; Site Plans; Review of Trails for Snow Travelling Vehicles Exempted. Amend RSA 215-A:15 by inserting after paragraph V the following new paragraph:

VI. The local legislative body of a municipality shall not by ordinance or resolution authorize the planning board to review and approve or disapprove site plans for the development, siting, maintenance, or use of trails on private property for snow travelling vehicles, as defined in RSA 215-A:1, XIII.

6 Repeal. Section 4 of this act, relative to Smith Pond repairs, is repealed.

7 Effective Date.

I. Section 5 of this act shall take effect upon its passage.

II. Section 2 of this act shall take effect July 1, 2005.

III. Section 6 of this act shall take effect December 31, 2007.

IV. The remainder of this act shall take effect July 1, 2004.

2004-1536s

AMENDED ANALYSIS

This bill:

I. Defines "wetlands" for purposes of RSA 482-A, fill and dredge in wetlands, and for local land use planning and regulation.

II. Establishes a criterion for timely filing of an appeal to the wetlands council.

III. Authorizes the department of environmental services to undertake repairs to the dam and dikes impounding Smith Pond in Enfield to the extent that funding for such work is available from outside the department and to undertake emergency repairs or breaching of such dam or dikes to protect public safety and to seek to recover such costs from liable parties.

IV. Exempts trails for snow travelling vehicles from site plan review by a planning board.

SENATOR BELOW: I would like to move floor amendment #1536. I will speak to that floor amendment. This bill concerns...came over to us from the House to define wetlands for the purpose of fill and dredge and wetlands and for local land use planning. Although we have a chapter that concerns wetlands, there is no definition of wetland in the statute. There is a wetland definition in rules. This would put in statute, the definition of wetland that the core of the definition that is in the rules that is also the same as the U.S. Army Corps of Engineer definition of wetlands. We did have support for that from a number of people including wetland scientists who have to work in this field who would like to have that clarified. The second part of the bill also reflects what the House sent over to us, although with some work to resolve some problems. The definition of wetland would become effective July 1 of this year. The second section of the bill says that wherever the term wetlands, whether singular or plural is used in regulations and ordinances under this chapter, which is the local land use planning chapter of our RSAs, is to be given the meaning prescribed in the RSAs and the delineation of wetlands for purposes of such regulations and ordinances shall be as prescribed in rules adopted pursuant to the wetlands RSA. The purpose of this...the concern that came over from the House was that they...people would like to have a consistent definition of wetlands when it is used in local planning ordinances or zoning ordinances. This would provide that common definition, common delineation. However, the concern was that there be time for communities to adopt that, so this section is effective July 1, 2005, in a year, so that they have an opportunity to amend their **TAPE CHANGE** if they want to. It also goes on to make clear that the law would not be construed to limit the ability of municipalities to plan for land use and enact regulations based on all the criteria that they have in that chapter in that they could define and delineate resources or environmental characteristics such as wet soils or wet areas, or shorelines or buffer areas, in a manner that is different than the common definition and delineation of wetlands. This was reviewed with the sponsor and the committee chair over in the House and they were comfortable with this. The third part of the bill simply provides a clarification that appeals to the wetlands council could be made by hand delivery and not just by U.S. mail within the timeframe for appeals. Hand delivery to the Wetlands Council at the Department of Environmental Services. The fourth section of the bill was also reflected in a bill earlier passed by the Senate Environment Committee in this body. It concerns allowing them to deal with the situation at Smith Pond in Enfield, which, to make a long story short, is an orphan dam, which is to say that nobody owns it. There is no clear ownership of it. It was built by the Shakers in the early 1800s and ended up being owned by a development company that abandoned their rights. They have dissolved most of their assets and were acquired by the state, including the Enfield Wildlife Management Area where there are three of the five dikes for the impoundment of Smith Pond and some of the dikes are leaking. The long and short of this is that the House sent the bill concerning Smith Pond to interim study, but working with the Department of Environmental Services, they're concerned about the need to either take action, which is going to cost the state money. What this section of the bill does is allow them to accept contributions and allows them to undertake repairs to the extent that they have money donated for that purpose until the issue of ownership is resolved or it allows them to recover costs if they have to

undertake emergency repairs or breaching without donations, would allow them to recover it from the owner if the owner is ever determined to exist. The fifth section of the bill, which is why I believe Senator Flanders' name is on the floor amendment, concerns a recent decision called the Lyndeborough decision that also dealt with ATVs but, in the process of making that decision, they sort of swept in snowmobile trails. The intent of this is to recognize the importance of the snowmobile trail system to the state. Over 6,800 miles of snowmobile trails have been developed and virtually all of it or perhaps all of it has been developed without local land use site planning review. This would provide that "The local legislative body of a municipality shall not by ordinance or resolution authorize the planning board to review and approve or disapprove site plans for the development, citing, maintenance, or use of trails on private property for snow traveling vehicles." It doesn't deal with the ATV issue. It is just limited to snowmobile trails on private lands to preserve what has been the tradition, which is in recognition of the fact that they travel when the ground is frozen and on top of snow so that their impact isn't something that really needs site plan review. This wouldn't preclude communities from doing site plan reviews for ancillary activities such as siting a parking lot or other facilities related to those trails. So that is the long/short of it. I would be happy to answer any questions. I urge your support for the floor amendment. Thank you.

SENATOR KENNEY: I have a question of my fellow committee member, Senator Below, in regard to snow traveling vehicles is there...and my memory escapes me on this. But, is it required for snowmobiles to have prior approval of the private landowner when they travel on that property?

SENATOR BELOW: Yes.

SENATOR KENNEY: Thank you.

SENATOR PETERSON: Senator Below, thank you for addressing the area of the amendment relative to the snowmobile exemption. Just so that the record is crystal clear, in one of the towns that I represent, Mont Vernon, was interested in a lawsuit that just went through the Supreme Court relative to the ability of local zoning ordinance to have some site plan review capability over the institution of ATV parks, when a large one, which is proposed in Lyndeborough. Could you set my mind at ease and that of the Chairman of the Board of Selectmen of Lyndeborough who called me yesterday and this morning, that this bill will not affect the results of that decision relative to the ATV park?

SENATOR BELOW: That is correct. It does not affect that decision relative to siting or development of ATV trails on private property. That decision did sweep in, sort of, I don't know how intentional it was, but it did have its affect of sweeping in snowmobile trails to actually say the law would say that there could be site plan review for snowmobile trails where there is no tradition of that and there is no particular concern. This is language the Municipal Association has seen and they're okay with it. I mean they would probably rather us not do anything at this point, but they don't have a real problem with this. They did ask that this be limited to snowmobile trails. That is what it is limited to. It does not overturn that Lyndeborough decision relative to ATV trails. I might add that the House actually has a couple of bills that were introduced on this issue which they sent to interim study, which is one good reason why we should let the process go forward and deliberate that in more of the full legislative process of public hearings and such.

SENATOR PETERSON: Thank you, Senator Below, for carving out the snowmobiles. I think it is wise and support and also for clarifying that it does not affect the town's ability to have site plan review over its ATV park which is proposed. Thank you.

Floor amendment adopted.

Senator Gallus offered a floor amendment.

Sen. Sapareto, Dist. 19

May 6, 2004

2004-1517s

06/10

Floor Amendment to HB 1148

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

AN ACT defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to site plan review of certain trails, and relative to registration fees for certain OHRVs.

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 10:

7 Registration Fees; Individual Resident Registration Fee Reduced; Trail Bikes and OHRVs. Amend RSA 215-A:23, I to read as follows:

I. Individual resident registration- [~~\$42~~] **\$18** for each 2-wheeled trail bike registration, \$75 for each snow traveling vehicle registration, or [~~\$51~~] **\$18** for each other OHRV registration upon presentation of a valid driver's license issued to a New Hampshire resident 18 years of age or older. An individual resident registering a snow traveling vehicle who provides proof, at the time of registration, that the individual is a member of an organized New Hampshire nonprofit snowmobile club which is a member of the New Hampshire Snowmobile Association shall pay \$45 for each snow traveling vehicle.

(a) The first [~~\$7~~] **17 percent** of each 2-wheeled trail bike registration, \$55 for each snow traveling vehicle registration registered by an individual who does not, at the time of registration, provide proof of membership in an organized New Hampshire nonprofit snowmobile club, \$25 of each snow traveling vehicle registration registered by an individual who provides proof of membership in a snowmobile club as provided for in paragraph I of this section, or [~~\$16~~] **17 percent** of each other OHRV registration shall be appropriated to the department of resources and economic development for the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$10.30 from each snow traveling vehicle registration or [~~\$15.30~~] **36 percent** from each 2-wheeled trail bike or other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$9.70 from each snow traveling vehicle registration or [~~\$19.70~~] **47 percent** from each 2-wheeled trail bike or other OHRV registration shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

8 Registration Fees; Individual Nonresident Registration Fee Reduced; Trail Bikes and OHRVs. Amend RSA 215-A:23, III to read as follows:

III. Individual nonresident registration- [~~\$61~~] **\$19** for each 2-wheeled trail bike registration, \$90 for each snow traveling vehicle registration, or [~~\$70~~] **\$19** for each other OHRV registration. An individual nonresident registering a snow traveling vehicle who provides proof, at the time of

registration, that the individual is a member of an organized New Hampshire nonprofit snowmobile club which is a member of the New Hampshire Snowmobile Association, shall pay \$60 for each snow traveling vehicle.

(a) The first [~~\$13~~] **21 percent** of each 2-wheeled trail bike registration, \$66 of each snow traveling vehicle registration registered by an individual who does not, at the time of registration, provide proof of membership in an organized New Hampshire nonprofit snowmobile club, \$36 of each snow traveling vehicle registration registered by an individual who provides proof, at the time of registration, of membership as provided for in paragraph III of this section, or [~~\$22~~] **21 percent** of each other OHRV registration shall be appropriated to the department of resources and economic development for the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$12.10 from each snow traveling vehicle registration or [~~\$17.10~~] **28 percent** from each 2-wheeled trail bike or other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$11.90 from each snow traveling vehicle registration or [~~\$30.90~~] **51 percent** from each 2-wheeled trail bike or other OHRV registration shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

9 Off Highway Vehicles and Trails; Fish and Game Department Contracting Amounts Changed. Amend RSA 215-A:23, VIII (f) to read as follows:

(f) Contracting with state, county, and local law enforcement agencies to enforce the provisions of this chapter relative to ATV use. [~~Ten dollars~~] **The amount** of each resident trail bike and other OHRV registration fee appropriated to the department of fish and game under RSA 215-A:23, I(b), and [~~\$19~~] of each nonresident trail bike and other OHRV registration fee appropriated to the department of fish and game under RSA 215-A:23, III(b) shall be used exclusively for such contracting and shall not be transferred or diverted to any other purpose.

2004-1517s

AMENDED ANALYSIS

This bill:

I. Defines "wetlands" for purposes of RSA 482-A, fill and dredge in wetlands, and for local land use planning and regulation.

II. Establishes a criterion for timely filing of an appeal to the wetlands council.

III. Authorizes the department of environmental services to undertake repairs to the dam and dikes impounding Smith Pond in Enfield to the extent that funding for such work is available from outside the department and to undertake emergency repairs or breaching of such dam or dikes to protect public safety and to seek to recover such costs from liable parties.

IV. Exempts trails for snow travelling vehicles from site plan review by a planning board.

V. Reduces the registration fee for resident and nonresident OHRV and trail bike registrations and apportions a percentage of the fee to the department of resources and economic development and to the fish and game department.

SENATOR GALLUS: I would like to offer floor amendment 1517 on behalf of Senator Sapareto who is at a town hall meeting tonight or town meeting. Basically what this floor amendment does is we have just shot

down basically, a trail system for OHRVs for us. We felt, both Senator Sapareto and myself, that we increased the fees of these OHRVs last year substantially to allow money for trails to be built, and yet there is no possibility of any trails built. In fairness to the OHRV riders, we have some 600 miles of OHRV trails in the state versus as you heard a moment ago from Senator Below, some 6,000 miles of trails for snow machines. So, in fairness, it is a fairness issue that we roll back those fees that we are charging to the OHRV community when, in reality, we are not providing any trails. So what this bill does is just roll the fees back to what they were last year.

SENATOR FLANDERS: Thank you, Mr. President. I didn't know about this. There is no reason why I should. But we do have trails in place. What is this going to do to Ted Burns as far as getting money for his trails up there? He's got how many, 50, 70? I think this is a mistake to do this because there are trails. There may not be any new trails but there are trails out there that need to be worked on.

SENATOR GALLUS: Ted's trails he built himself.

SENATOR FLANDERS: I know, but he gets state money.

SENATOR GALLUS: No, they did those trails on their own, with really limited funds. They have 2000 members in that club and they have been waiting for us to come forward as a state and take that OHRV industry to the next level, which we have really never done.

SENATOR FLANDERS: This is not going to do it.

SENATOR PRESCOTT: Senator Gallus, I have had a few phone conversations with members of the ATV Club and they all say that we don't mind spending the extra as long as it ends up being spent on the trails coming up. Have you spoken to them and they are in support of this, which is contrast to my last phone conversation, even as early as last night?

SENATOR GALLUS: My conversation with the ATV people was that...I mean with Senator Sapareto was that the ATV people asked him to put this in.

SENATOR PRESCOTT: Would you believe that that is not the information that I have received over the phone calls that I have had over this issue? Would you believe that?

SENATOR GALLUS: I wouldn't dispute it.

SENATOR PRESCOTT: Thank you very much, Senator.

SENATOR ODELL: Thank you, Mr. President. I would just like to make an observation on this idea of cutting the fees. You have heard that the money from the increased fees was to go to trail development, but remember that another key element in this whole study committee process and the legislation that emanated from it, was that of enforcement of the rules that are on the books. The state of New Hampshire has many more people that don't own ATVs than to own them. What we heard from the non ATV community, timber land owners, farmers, on down the road was that we had to do something about enforcement. So monies that come from these fees goes to a program that local communities can participate in and get grants for equipment and for services to enforce the rules at the local level. So, if we are putting that part of the program in jeopardy by reducing these fees, it would be very hard for me to support a fee decrease. Thank you, Mr. President.

SENATOR GALLUS: One of the real neat things up north is that any enforcement that is done on that property that Ted Burns is managing and most of it is in private ownership. Those are private owners that let that club go across their land. The enforcement is all done by the local club. They have had a couple of bad instances of you know, some vandalism. They have fought, they have caught the people involved, the club themselves. So the enforcement was really done again, I hate to say it, on the local level, by club members, not with any use of any state funds at this point.

SENATOR FLANDERS: Just very briefly, Mr. President. We've been told that there is going to be a study committee, it is going to be a quick one, it is going to come back the first of next year, and to drop the fees. Let the money go in there and be in place so that when the problem is solved they have got some money to do trails. You are gonna have to come back and raise it again next year because there won't be any money for trails. I don't see the sense of doing this, only other than to say well I am angry you didn't give me a trail so I want to get even. That is all that I see here.

SENATOR CLEGG: Senator Gallus, I have two questions. One, do you believe that by doing this more people will show up for the study committee?

SENATOR GALLUS: You think they will?

SENATOR CLEGG: I think so. My second question is, when the study committee is done, and they take care of the typographical error, would you be putting the fees back onto the same exact bill?

SENATOR GALLUS: Absolutely.

SENATOR CLEGG: Thank you.

Floor amendment failed.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO TAKE OFF THE TABLE

Senator Flanders moved to have **HB 1335-L** taken off the table.

Adopted.

Senator Barnes is in opposition to the motion of taking HB 1335-L off the table.

HB 1335-L, establishing a commission to examine the workers' compensation system in New Hampshire.

The question is on the adoption of the committee amendment (1277).

SENATOR FLANDERS: I need some help here. It has been a while. I had not seen the floor amendment. I'm sorry, Mr. President. We can kill the amendment. I have a new floor amendment. I don't care whether we pass the amendment or we do not pass it. It doesn't make any difference. I have a complete floor amendment to replace the entire bill. Let's kill one for the fun of it.

Amendment failed.

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

May 4, 2004

2004-1499s

05/10

Floor Amendment to HB 1335-LOCAL

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

AN ACT establishing a committee to examine the workers' compensation system in New Hampshire and relative to third person liability under workers' compensation laws.

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

1 Committee Established. There is established a committee to study the workers' compensation system in New Hampshire.

2 Membership and Compensation.

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

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

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

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

3 Duties. The committee shall examine worker's compensation laws and procedures in the state of New Hampshire. The committee may solicit such additional information as may assist the committee in its study.

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 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, 2005.

6 Workers' Compensation; Liability of Third Person. Amend RSA 281-A:13, I(b) to read as follows:

(b) The employer, or the employer's insurance carrier, shall have a lien on the amount of damages or benefits recovered by the employee, less the expenses and costs of action, to the extent of the compensation, medical, hospital, **vocational rehabilitation**, or other remedial care already paid or agreed or awarded to be paid by the employer, or the employer's insurance carrier, under this chapter, less the employer's or the employer's insurance carrier's pro rata share of expenses and costs of action as determined in paragraph IV.

7 Workers' Compensation; Recovery Against Third Person. Amend RSA 281-A:13, IV to read as follows:

IV. Whenever there is a recovery against a third person under paragraph I, II, or III, the commissioner, the arbitrator, or the superior court, as the case may be, shall order ~~such~~ **a pro rata** division of expenses and costs of action, including attorneys' fees, between the employer or the employer's insurance carrier and the employee ~~[as justice may require]~~ **in proportion to the amount each recovers from the third person.**

Whenever such recovery exceeds the amount of the employer's or employer's insurance carrier's lien at the time of such recovery, the employer or the employer's insurance carrier shall be entitled to claim credit to the extent of such excess against benefits under this chapter which may become payable to the employee in the future on account of the same injury. The employer's or employer's insurance carrier's share of expenses, costs, and attorneys' fees shall become payable when the credit is actually taken against future benefits.

8 Applicability. Section 7 of this act applies to any recovery against a third person after the effective date of this act.

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

2004-1499s

AMENDED ANALYSIS

This bill establishes a committee to study the workers' compensation system. The bill also clarifies when the employer's or employer's insurance carrier's share of expenses and costs become payable to the employee when the employee is awarded a recovery against a third party.

SENATOR FLANDERS: I rise to offer a floor amendment. I would speak to it, but I haven't seen it. I will try to be very brief. This is a little bit different. This is the original bill, a study of workers' compensation and it was a commission to study it. A few of us got together and we decided that really, with the sort time that we had, a commission was really not going to work because to get all of the people together, the Governor's people and whatever, so we have changed it to a study committee of three members of the House and three members of the Senate. It will be to study workers' compensation. The second part of it is an interesting piece of legislation that passed this Senate. It was Senate Bill 390, which took me a long time to explain it at the time and I am not going to do it again. All of you remember me getting up here and talking about a holiday and the insurance company paying for the holiday and the essence of that bill was, and the reason that we wanted it was, that an insurance settlement was made at \$1.2 million. When the court got done giving all of the legal fees, all the court costs, to everybody, the insurance company brought home \$84,000. You all remember this? Now, let me just say that we are talking about health insurance premiums. Let me, if I may, just remind you all that this isn't going to happen too many times to insurance companies, where they send out \$1.2 million on a case that there is no liability for them, and they receive \$84,000 back. You are going to be faced with some premium increases. What happened was the person who was supposed to watch this bill in the House blinked, and I believe it fell through the cracks. I have been asked by the House to please submit this onto this and send it back to them for the Committee of Conference. Just briefly, \$1.2 million paid by workers' compensation carrier and they had a liability claim. They went out and collected from the liability company and the court made the insurance company pay for all...100 percent of the court cost and also made them pay for the future payments to this person called a "holiday" and it is not the usual way that we have done it. It is not a good change. I ask you to support this amendment please.

SENATOR BARNES: Thank you, Mr. President. Senator Flanders, does this deal with those loggers that had the problem?

SENATOR FLANDERS: Yes. One of the reasons why we are doing the study part is...

SENATOR BARNES: There were two of them right?

SENATOR FLANDERS: Loggers and roofers.

SENATOR BARNES: Okay, there are two cases right now out there, up north?

SENATOR FLANDERS: Oh no, this was not a logger. This was the Tennessee Gas Pipe Line. It was up north, but it was not a logger. This is the Tennessee Gas Pipe Line.

SENATOR BARNES: Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. I guess I would just like someone to explain to me what section four...section seven, Roman IV, in some plain language, what does it say? It is too late to figure it out.

SENATOR FLANDERS: This is the hard part. What usually happens...let me think for a minute.....

SENATOR CLEGG: I will explain it.

SENATOR FLANDERS: Okay.

SENATOR CLEGG: Basically what this says is when a third party is found to be at fault, and I will give you an example. If somebody gets hurt by a machine and he works for my company, and the machine was faulty, it still goes onto my workers' comp company. We sue the third party, which was the machine manufacturer. When that person is found to be at fault and gives us back the money, what we are saying is that this shall be a prorated division of expenses and costs. So now the first workers' comp company, my company, pays for part of going after the third party. But the third party pays legal fees back. He should reimburse my workers' comp carrier for at least the prorated share so that he is made whole for something that he was paying for that was a third party fault. Is that English enough?

SENATOR ESTABROOK: Without this language, that all goes to the employee or what?

SENATOR CLEGG: No. Currently, what it is they are just hitting the first insurer and saying, well you were responsible even though the third party was actually found at fault. If you hadn't gone after the third party, you would have had to pay it all, so we are not giving you anything.

SENATOR ESTABROOK: Thanks.

SENATOR D'ALLESANDRO: Thank you, Mr. President. Senator Clegg, so you will get your share back, you'll get your prorata share back?

SENATOR CLEGG: Correct.

SENATOR D'ALLESANDRO: Okay. So the subrogation will take place?

SENATOR CLEGG: Yes.

SENATOR D'ALLESANDRO: You'll get your prorata share?

SENATOR CLEGG: Correct.

SENATOR D'ALLESANDRO: And not more?

SENATOR CLEGG: And not any more.

SENATOR D'ALLESANDRO: Okay. Thank you.

SENATOR FLANDERS: To set some people's mind at ease...remember we had a big discussion about rehabilitation cost and that has been taken out. That should satisfy several people. There was no recovery on rehab costs under this amendment.

SENATOR JOHNSON: Thank you, Mr. President. I want to thank Senator Flanders for bringing this forward, particularly from my district, the workers' comp part, because it is a very important issue. I think that if you looked at the *Union Leader* within the last week, there was a whole page article about how serious the workers' comp issue is to the timber industry. I think it certainly is something that should go to further study and I would appreciate your support.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO TAKE OFF THE TABLE

Senator Prescott moved to have **HB 369** taken off the table.

Adopted.

HB 369, relative to the Henniker and Hillsborough district courts.

The question is on the adoption of the committee amendment (1416).

SENATOR PRESCOTT: Thank you, Mr. President. Thank you, Senators. This bill, relative to the Henniker and Hillsborough district courts and to the Hampton and Exeter district courts is amended by the committee out of Finance, and I wish that the committee amendment be voted down so that I can present the floor amendment 1539s. The purpose is the district that I live in, Exeter and Hampton, is part of the district court system. We have a plan that brings the district court into one large district court for both Exeter and Hampton. The constituency around those two district courts wish to have a brief respite before that takes place. They want to postpone that until 2005 before that combination takes place. The bill also addresses Senator Flanders' district concerning Henniker and Hillsborough court, and I would leave that up to Senator Flanders to speak to that and I would also yield to the conversations of Senator Green, who is the Chairman of Finance, because this is going against his committee. That is my spiel. Thank you very much, Mr. President.

SENATOR CLEGG: Senator Prescott, you've asked us to vote down the committee amendment, but the committee amendment addressed courts in Henniker and Hillsborough. My understanding is your amendment only concerns Hampton and Exeter.

SENATOR PRESCOTT: It concerns both.

SENATOR CLEGG: I am sorry?

SENATOR PRESCOTT: It will concern Henniker as well as Exeter.

SENATOR CLEGG: And you gave us a brief description of changing Exeter, but have you done something different to Henniker and Hillsborough?

SENATOR PRESCOTT: I guess I would have Senator Flanders speak to that.

SENATOR FLANDERS: I am trying to find that.

SENATOR ESTABROOK: Thank you, Mr. President. Senator Prescott, I thought the intention was to vote down the committee amendment but return to the bill as it came out of the policy committee because that version which we have in front of us deals with both situations.

SENATOR PRESCOTT: Senator Flanders, after he finds the amendment, will agree with the Exeter and Hampton portion. Have they passed out the amendment yet, 1539s? We first need to vote down the committee amendment. The floor amendment will deal with the Henniker, Hillsborough court system in a way that is congruent with how Senator Flanders' constituents desire it.

SENATOR ESTABROOK: So, if we vote down the committee amendment in the calendar, we can then find out whether we want to support the bill as it came out of the policy committee or your floor amendment by asking further questions?

SENATOR PRESCOTT: Correct.

SENATOR ESTABROOK: Thanks.

SENATOR BOYCE: I would like to speak in favor of the committee amendment again. The committee found that the situation in Exeter and Hampton was that there is ongoing a consolidation of that court system there, with those two courts, and that it is in the capital budget plan. Money has been expended on planning that court, and the committee saw no reason to interrupt that process. We decided, the legislature decided about ten years ago that we had too many of these small, basically town courts, and we needed to consolidate them to make them more efficient. For instance, Henniker and Hillsborough, we found there are two courts being maintained with buildings in both places. One of them is being used for one day a week, and the other is being used for two and a half days a week. That is obviously not terribly efficient, especially when these courts are not a very long distance apart. I am not sure how far apart the ones in Hampton and Exeter are, but the situations that we have, an inefficient system where we have small courts that were originally intended to operate in one town, when it was a long distance between towns because you were riding a horse. We don't ride horses anymore. Most of the places in this state are within a half hour or an hour drive from just about anywhere else except for a few places up north. So, the idea that we need to have a court in each town is something from two centuries ago. It is not even really a nineteen hundreds situation. We need to bring this situation to something reasonable. We do not need to have courts that operate one day a week and keep that court open. We don't need courts that are open two and a half days a week and keep that open, when there is another one down the road. We should put both of them together in one facility. The situation in Hillsborough and Henniker is that the Henniker court is only used one day a week, and the lease is expiring this year. We should simply stop using it and use the other one. If there is a need to modernize the court building, if it needs to be bigger, if all that, they have had ten years to work on this and they haven't done it yet. So, if that is a need, then it should come before the Capital Budget to build a new court in one of those two towns. But the efficiency needs to be addressed because that costs the taxpayers money to keep these two courts open when they serve one day a week, two and a half days a week. We are saying three and a half days a week seems efficient to us. Hampton and

Exeter they are already in the process of getting a new court. We should let that process go forward. So I would recommend against voting down this amendment and pass the committee amendment. Thank you.

SENATOR GREEN: Thank you, Mr. President. I would just like to remind everybody here that in Finance, we basically dealt with the financial issue. We did not get into the policy decisions about which court should do what. That was not our charge. If you look at the fiscal note on the Senate version as amended, you will see the numbers that we were looking at. We had the gentlemen from the Courts Administration there letting us know what the process was and what the cost was. On the current issue with Hampton and Exeter, if you keep both of those facilities open, it takes about \$80,000 annually for a court. So it became a money issue for us. The recommendation basically was that, from the point of view of the consolidation and the cost, that it made sense to do what we did in Finance. So I mean, I am not speaking against what Senator Prescott wants, but I am just telling you where we were coming from. As the Finance Committee, that was our position. We also got into the issue with the Hillsborough and Henniker buildings. In that case, if you look here it says that the Department of Administrative Services states a cost of constructing a new facility to house a consolidated Henniker, Hillsborough court, is estimated at \$1.8 million which funded by 20 percent tells you that. The other thing is the operating costs to renew the facility would be about \$80,000 a year and a full court maintenance position would be necessary to fund it. The problem we had was that you had, I think, a two and a half hour court and a one hour court. My understanding is that neither one of them meets of having a good...I don't know, I have never been to either one of those courts, but based on the testimony, it didn't make sense to try and keep both of them open. Now we did not want to get into the middle of a parochial issue between these towns. I wish that we would have never got the bill on that basis. But, purely looking at the numbers, it didn't make sense for us to continue to keep all of those courts open. We were trying to look at the consolidation proposal and the plan that the state had, and that is why we recommended it based on strictly financial matters, not on anything about the merits or demerits of the policy. Okay?

SENATOR BARNES: Thank you. Senator Green, what Senator has those in his district or her district?

SENATOR GREEN: Well I believe...I know that Senator Flanders and Senator Prescott.

SENATOR BARNES: Senator Prescott has the Exeter, Hampton.

SENATOR GREEN: He has the Hampton, Exeter.

SENATOR BARNES: But the other two belong to Senator Flanders?

SENATOR GREEN: That is my understanding.

SENATOR BARNES: Do you think that Senator Flanders will get up and say a couple of words about that?

SENATOR FLANDERS: When he recognizes me I will, yes.

SENATOR BARNES: Thanks a lot.

SENATOR GREEN: Was that your question?

SENATOR BARNES: That was my question, to see if Senator Flanders would get up and say something.

SENATOR GREEN: Thank you.

SENATOR FLANDERS: What I have been asked to do. A bill was put in by the Representative, the one who lives in Antrim who represents Hillsborough, Representative Currier who lives in Henniker. I was asked by them to try to revert it back to the original bill that they submitted in the House and that is what I am asking you to do. Basically, the situation in Hillsborough and Henniker are two buildings that are not adequate. A lot of feuding between the selectmen. I think it was a three, if my memory serves me right, the bill said a three-year waiting period to see if we could come up with an agreement between Henniker and Hillsborough. I will say this. I have asked the Department of Transportation to save a piece of land because of the bypass, and do not sell it, because there was a piece of land there that is free and clear where a courthouse could be built, but there is a little...what needs to be done is there have been some changes in boards of selectmen of two towns. I think basically the first bill just said, give us a three-year cooling off period. That is what Representative Currier has asked me to do.

SENATOR BARNES: Thank you. Senator Flanders, what do you want us to do with this bill?

SENATOR FLANDERS: I am asking you to go back to what, as far as Henniker and Hillsborough are concerned. Sorry, Mr. President. I am asking you to go back to what the original bill said.

SENATOR BARNES: Does that include Hampton and Exeter?

SENATOR FLANDERS: The floor amendment will say that, yes.

SENATOR BARNES. Okay. Thank you.

SENATOR ESTABROOK: Thank you. Senator Flanders, does the floor amendment that we understand that you have worked on, how does that differ from the bill as it was amended in the policy committee?

SENATOR FLANDERS: I wish that we could pass it out, because it is a rather long amendment.

SENATOR ESTABROOK: Right, which is why I am not sure that we are going to be able to figure that out, and wondered if you could tell us.

SENATOR FLANDERS: Well, my problem...let me just say that my problem is that I didn't get involved in this bill until today. Representative Currier came over and said, take it back like it was. We have written an amendment, which the floor amendment, which will be passed out, takes it back like it was originally, which I believe is a three-year moratorium...one and a half year moratorium for the selectmen in Hillsborough and Henniker to get together and come to an agreement to see what they would like to do. That is all it basically does.

SENATOR ESTABROOK: Well, maybe Senator Peterson as chair of Judiciary, can tell us how that differs from the bill as it was passed out of Judiciary.

SENATOR PETERSON: I was trying to actually remember, Senator, if the bill came through Judiciary or ED&A, but it did come through our committee. Thank you. I certainly remember the hearings on the bill. In my view, the fiscal issue is reasonably put forward by Senator Green. We tried to be sensitive to the local issue and the concerns there which were brought forward about Hillsborough and Henniker. As has been stated, these courts are not in great shape and don't hold hours for very long each week, and are really sort of prime candidates for consolida-

tion in order to pursue the aim of governmental efficiency. But we had local representatives come forward to us and say, give us a chance to work this out in our own way. We agreed that they should have a chance to do that, subject to the review of the Finance Committee, which we have had. I've got to say that the amendment that was brought by Senator Prescott for Exeter and Hampton, in my view at least, was a stronger case for the same process than you had in the communities that are nearer to my home. I believe that I mentioned that when the bill came to the floor the first time. The reason for that is because Exeter and Hampton have experienced a great deal of growth and, for better or worse, this court at this point, consolidated, would be very large. It really would be as big as some of our largest city courts. The question is, does that really make any sense? So for the communities to have a chance to take a look at this, in Exeter and Hampton, I think frankly, again it was a stronger case than for Hillsborough and Henniker. I don't think that the savings are so great that we can't give these towns a chance to do their business. I would support Senator Prescott's amendment. However, I think that after the 18 month period, there does become a point where you are actually giving a less than a level playing field to these communities versus what the other towns and cities in the state have had to do in terms of consolidating their courts and cooperating with what is appropriate in that area in which the court systems have been aggressive in trying to bring forward. So I would say that this would be a chance that we could give them, but after this, time's up. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I want to sort of set the record straight because Senator Green was right on target. We were asked to look at the financial situation of these courts. We had two municipal courts. Let me talk about Henniker and Hillsborough because those are the two that I know the most about. They were municipal courts. They were governed by two brothers - the Spurling brothers. They were municipal court judges. The law was, when those judges left, those courts were to disappear. That decision was made in 1992. Not yesterday, but in 1992. What we have been doing since 1992 is saying, two more years, two more years, two more years and two more years. It is now 2004 and we want to do another year and a half. Well, what are we going to solve in a year and a half? I hope that we can solve the problem. We pay \$17,000 a year to rent in Henniker and we spend about \$17,000 a year to rent in Hillsborough. We operate one day in Henniker and we operate two and a half in Hillsborough. So, for \$34,000 worth of rent, we get three and a half days worth of service. Rather expensive, I would think, when we say neither court is accessible and neither court is functional. But, we did know that in 1992. We are slow learners, but we are picking up quick now, baby. Because, in another year and a half, we are going to solve this problem. Okay. I think fine. If indeed it can be solved in a year and a half, I am an optimist, just like everybody else. Let's solve it in a year and a half. But I will tell you, when you come to us and when you send a policy to the Fiscal Committee, and you ask the Fiscal Committee to make a judgment based on the financial situation, whether this makes sense financially or not, that decision is made on that basis. I mean, that is good, I think, good commonsense to quote my dear friend Senator Flanders. "Good commonsense." And we try to exercise good commonsense. So that's the issue with regard to Henniker and Hillsborough. We also heard about Exeter and Hampton, that we had put a couple of hundred thousand dollars in the capital budget, and

that there were plans being put together as we spoke for the consolidation of that court. That was a number one priority if I understand it. Henniker and Hillsborough were five years down the road as a priority in terms of getting it done. One of the key ingredients when you put court consolidation together is who is going to give the land, based on free land? That is one of the criteria for building the court as we were told by the court administration. Long story, I am very sorry, but I think what we ought to know is why a judgment was made and what the fiscal situation was. Thank you, Mr. President.

SENATOR FLANDERS: Thank you, Mr. President. There is something that you forgot, Senator D'Allesandro. That there were two judges, the Spurling brothers. The assistant judge was an undertaker named Woodbury.

SENATOR D'ALLESANDRO: I am sorry that I missed that. You have to take care of the undertaker. I will tell you that.

SENATOR FLANDERS: My understanding of this and I am sure that someone can correct me if I am wrong, that the Henniker, Hillsborough court is on the list way down the road. There is nothing that is going to happen tomorrow. If I read this correctly, the two representatives thought it was time to say to Henniker and Hillsborough, basically, if the Department of Administrative Services in the towns of Henniker and Hillsborough cannot reach an agreement on a sensible courthouse facility and funding for courthouse facilities, in a district court June 30, 2006, section three and four of this act shall take effect and it goes right back to what it was. I am not sure what it accomplishes, but this is what they want. I don't think that it postpones anything. It just has another study committee happening within the two towns.

SENATOR D'ALLESANDRO: And we keep paying.

SENATOR PRESCOTT: Thank you, Mr. President. The idea of getting a large courthouse to take care of Exeter and Hampton and free land. Free land has been offered or just put on the table by Seabrook. Seabrook is approximately thirty minutes away from Newmarket and Newmarket would be part of the Exeter, Hampton conglomerated court district in Seabrook. So everyone from Newmarket would have to drive to Seabrook. Now, we are talking about saving the towns money, and I don't believe this is the reason why...I believe this is the reason why we need to vote down the committee amendment to save the towns money in the sea-coast and to vote up the floor amendment that I would like to bring forward and we could discuss it so that we can keep those courts from being combined in a location that will not serve the communities. I appreciate that. Thank you very much, Mr. President.

SENATOR GATSAS: Thank you, Mr. President. I rise just to say that, after all this time, I feel like I know the two judges in those courts listening...like brothers. I mean, I think the reason why we, in Finance, looked at this, is that somebody from Administrative Services sat in front of us and told us that the lease in Henniker was expiring June 30th. That is why we picked Henniker. Told us that they had already invested \$200,000 in the Hampton deal. So, I guess we made a...and I understand that we just made a decision based on what the savings would be if we combined Henniker and Hillsborough because I think that Senator Clegg...the number was up like to \$250,000 when you moved everything around, and that was just a financial decision and nothing else other than the lease was expiring on the 30th of June. Thank you.

SENATOR FLANDERS: I have a note from Representative Currier that came in this afternoon. Last week Henniker signed another one-year lease with the court running through 6/30/05. I wasn't going to bring that up, but you kept going back to the lease.

SENATOR CLEGG: Mr. President, I am going to tell you that, if they sign that lease after listening to us in Finance and having us say do not sign that lease, okay, that is a direct violation of legislative intent. He sat in front of us. He said he had not done it yet, and he told us that he wouldn't do it until this bill came through. I would ask this body to go to the Governor and ask for an investigation of that gentleman who works for Administrative Services, who went out on his own to ensure that he could usurp the authority of the legislative body that we sit in. Thank you, Mr. President.

PARLIAMENTARY INQUIRY

SENATOR GATSAS: Parliamentary question.

SENATOR EATON (In the Chair): Parliamentary question.

SENATOR GATSAS: Thank you, Mr. President. If we believe that what we did in Finance by giving a directive to somebody that that amendment would be closing that Henniker court because the lease was expiring, would I not vote at this time for the committee amendment as it is?

SENATOR EATON (In the Chair): If you believe in it, you vote for the committee amendment. If you don't, you wouldn't.

SENATOR GATSAS: Thank you.

Amendment adopted.

Senator Prescott offered a floor amendment.

Sen. Prescott, Dist. 23

Sen. Flanders, Dist. 7

May 6, 2004

2004-1539s

09/01

Floor Amendment to HB 369

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

AN ACT relative to the Henniker and Hillsborough district courts and to the Hampton and Exeter district courts.

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

1 Henniker District Court. Amend RSA 502-A:1, XV to read as follows:
 XV. [~~HENNIKER-HILLSBOROUGH~~] **HENNIKER** DISTRICT. The [~~Henniker-Hillsborough~~] **Henniker** district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county [~~and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county~~]. The *district* court *for the district* shall be located in [~~a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c.~~]. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. Special sessions of said court for cases arising from the town of Henniker shall

be held at the principal court location as the caseload and justice requires. ~~The court shall bear the name of the city or town in which it is located.]~~ ***Henniker, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Henniker District Court.***

2 Hillsborough District Court. Amend RSA 502-A:1, XXIII to read as follows:

XXIII. ~~[HENNIKER-HILLSBOROUGH]~~ ***HILLSBOROUGH DISTRICT.*** The ~~[Henniker-Hillsborough]~~ ***Hillsborough*** district shall consist of the towns of ~~[Henniker, Warner, and Bradford in Merrimack county and the towns of]~~ Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The ***district*** court ***for the district*** shall be located in ~~[a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.]~~ ***Hillsborough, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Hillsborough District Court.***

3 Henniker-Hillsborough District Court. RSA 502-A:1, XV is repealed and reenacted to read as follows:

XV. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. Special sessions of said court for cases arising from the town of Henniker shall be held at the principal court location as the caseload and justice requires. The court shall bear the name of the city or town in which it is located.

4 Henniker-Hillsborough District Court RSA 502-A:1, XXIII is repealed and reenacted to read as follows:

XXIII. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

5 Contingency. If the department of administrative services and the towns in the Henniker and Hillsborough districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 3 and 4 of this act shall take effect July 1, 2006. If the department of administrative

services and the towns in the Henniker and Hillsborough districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 3 and 4 of this act shall not take effect.

6 Hampton District Court. Amend RSA 502-A:1, II to read as follows:

II. ~~[HAMPTON-EXETER]~~ **Hampton** DISTRICT. The ~~[Hampton-Exeter]~~ **Hampton** district shall consist of the towns of Hampton, Hampton Falls, North Hampton, South Hampton, **and** Seabrook~~], Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping, and Brentwood]~~. The **district** court **for the district** shall be located in ~~[a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located]~~ **Hampton, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Hampton District Court.**

7 New Paragraph; Exeter District Court. Amend RSA 502-A:1 by inserting after paragraph II the following new paragraph:

II-a. EXETER DISTRICT. The Exeter district shall consist of the towns of Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping and Brentwood. The district court for the district shall be located in Exeter, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Exeter District Court.

8 HAMPTON-EXETER DISTRICT. RSA 502-A:1, II is repealed and reenacted to read as follows:

II. HAMPTON-EXETER DISTRICT. The Hampton-Exeter district shall consist of the towns of Hampton, Hampton Falls, North Hampton, South Hampton, Seabrook, Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping, and Brentwood. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

9 Repeal. RSA 502-A:1, II-a, relative to the Exeter District court, is repealed.

10 Contingency. If the department of administrative services and the towns in the Hampton and Exeter districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006 sections 8 and 9 of this act shall take effect July 1, 2006. If the department of administrative services and the towns in the Hampton and Exeter districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 8 and 9 of this act shall not take effect.

11 Effective Date.

I. Sections 3 and 4 of this act shall take effect as provided in section 5 of this act.

II. Sections 8 and 9 of this act shall take effect as provided in section 10 of this act.

III. The remainder of this act shall take effect July 1, 2004.

2004-1539s

AMENDED ANALYSIS

This bill prevents the consolidation of the Henniker district court and Hillsborough district court, if certain conditions are met regarding court facilities.

This bill also prevents the consolidation of the Hampton District court and the Exeter District court under 1992, 253, if certain conditions are met regarding court facilities.

SENATOR PRESCOTT: May I present amendment 1539s, which will replace the whole bill, whether it passed or not? I would like to speak to that. I don't think I need to speak to that. Thank you very much, Mr. President.

PARLIAMENTARY INQUIRY

SENATOR PRESCOTT: Parliamentary inquiry?

SENATOR EATON (In the Chair): Go ahead.

SENATOR PRESCOTT: If I want to support my local constituents, would I vote yes on amendment 1539s? Thank you very much, Mr. President.

SENATOR EATON (In the Chair): If you do, you vote yes. If you don't, you vote no.

Senator Foster moved to divide the question.

SENATOR FOSTER: Is this a divisible amendment in the sense that part of it deals with one court system and part with the other? Maybe to be specific, I guess section...paragraph seven I think. Section six deals with the Hampton Exeter situation and perhaps the earlier part of the bill deals with the Henniker Hillsborough situation.

SENATOR EATON (In the Chair): Which ones did you want divided?

SENATOR FOSTER: Six through ten separate from the rest of the bill, and the effective date, however that should be dealt with, I guess.

The Chair moved that the question is divisible.

SENATOR EATON (In the Chair): It is divisible. One, five and eleven, which is the effective date, and six, ten and eleven. How do you wish?

SENATOR FOSTER: I ask that the question be divided in that manner then.

SENATOR EATON (In the Chair): Without objection, the question was asked to be divided. The question now is on the adoption of sections one through five and eleven.

PARLIAMENTARY INQUIRY

SENATOR PRESCOTT: Parliamentary inquiry?

SENATOR EATON (In the Chair): Parliamentary inquiry.

SENATOR PRESCOTT: If we only pass one of these, then how will it effect the underlying bill if we do not replace the whole underlying bill?

STEVE WINTER (Clerk of the Senate): You are replacing the whole underlying bill.

SENATOR PRESCOTT: With one part of the division?

STEVE WINTER (Clerk of the Senate): With either or both.

SENATOR PRESCOTT: Alright. Thank you very much.

SENATOR EATON (In the Chair): With an effective date.

SENATOR PRESCOTT: Thank you.

Senator Foster withdrew his request.

The question is on the adoption of the floor amendment.

Recess.

Out of recess.

MOTION TO TABLE

Senator Gatsas moved to have **HB 369** laid on the table.

Motion failed.

The question is on the adoption of the floor amendment.

A division vote was requested.

Yeas: 9 - Nays: 12

Floor amendment failed.

MOTION TO TABLE

Senator Clegg moved to have **HB 369** laid on the table.

Adopted.

LAI D ON THE TABLE

HB 369, relative to the Henniker and Hillsborough district courts.

MOTION TO TAKE OFF THE TABLE

Senator Larsen moved to have **HB 1376** taken of the table.

Recess.

Out of recess.

HB 1376, relative to agency fees assessed pursuant to public employer collective bargaining agreements.

The question is on the motion to take off the table.

A division voted was requested.

Yeas: 5 - Nays: 16

Motion failed.

Senator Larsen offered a resolution.

2004 SESSION

04-3267
05/09

SENATE RESOLUTION 6

A RESOLUTION urging the Department of Housing and Urban Development to rescind the limitation on rental assistance under the Section 8 Housing Choice Voucher Program.

SPONSORS: Sen. Larsen, Dist 15; Sen. Green, Dist 6; Sen. Clegg, Dist 14; Sen. Eaton, Dist 10; Sen. Gallus, Dist 1; Sen. Johnson, Dist 2; Sen. Kenney, Dist 3; Sen. Below, Dist 5; Sen. Flanders, Dist 7; Sen. Odell, Dist 8; Sen. Roberge, Dist 9; Sen. Peterson, Dist 11; Sen. O'Hearn, Dist 12; Sen. Foster, Dist 13; Sen. Gatsas, Dist 16; Sen. Barnes, Dist 17; Sen. Martel, Dist 18; Sen. Sapareto, Dist 19; Sen. D'Allesandro, Dist 20; Sen. Estabrook, Dist 21; Sen. Morse, Dist 22; Sen. Prescott, Dist 23; Sen. Cohen, Dist 24

COMMITTEE:

ANALYSIS

This senate resolution urges the Department of Housing and Urban Development to rescind the limitation on rental assistance under the Section 8 Housing Choice Voucher Program.

04-3267
05/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Four

A RESOLUTION urging the Department of Housing and Urban Development to rescind the limitation on rental assistance under the Section 8 Housing Choice Voucher Program.

Whereas, the United States Congress passed an appropriation for the Section 8 Housing Choice Voucher Program intended to fully fund all existing vouchers; and

Whereas, in late April, with only 60 days remaining in the fiscal year of many housing finance authorities, including the New Hampshire housing finance authority, the Department of Housing and Urban Development notified the agencies of a change in the rules for federal reimbursement of voucher expenditures; and

Whereas, the New Hampshire housing finance authority anticipates an estimated \$1,700,000 shortfall with few options for making up that shortfall; and

Whereas, the New Hampshire housing finance authority faces the potential of denying payment for one month's rent to 2,900 households, of which 1/3 are elderly, 1/3 are disabled, and 1/3 are low-income working households; and

Whereas, the reduction in rental assistance will have long term repercussions on the financial soundness of the Housing Choice Voucher Program in New Hampshire, and a devastating impact on landlords, the viability of certain low income housing developments, local community assistance budgets, and consequently on local property taxpayers; now, therefore, be it

Resolved by the Senate:

That the New Hampshire senate hereby calls upon the New Hampshire Congressional delegation to take all necessary steps to require the Department of Housing and Urban Development to rescind the limitation on rental assistance under the Section 8 Housing Choice Voucher Program and to prevent the budget reduction that threatens the financial stability of nearly 3,000 households in New Hampshire; and

That copies of this resolution be sent by the senate clerk to the President of the United States, the Speaker of the United States House of

Representatives, the Majority and Minority Leaders of the United States Senate, the Commissioner of the Department of Housing and Urban Development, and to each member of the New Hampshire Congressional delegation.

SENATOR LARSEN: Yes. I have a motion to introduce and pass a Senate Resolution. I move that Senate Resolution 6 be introduced and passed at this time. Senate Resolution 6 is the resolution which all of you reviewed this morning. It addresses the section 8 voucher cutbacks that have been proposed from Washington from HUD to New Hampshire, totaling as much as \$1.7 million in cutbacks. There about 9,000 of the state's poorest, sickest and oldest residents that need federal subsidies to pay their rent each month. This will cut off rent subsidies on an average that each family will have to come up with an additional \$580 by next month. It is short notice that there are these cutbacks at the end of a fiscal year and it causes huge problems for the 3,200 families that need section 8 to make their rent payments. There are housing authorities across the state and there are low income housing units, but primarily these are assistance to apartments that are privately owned. About one-third of them, the use of these are elderly people and another third are disabled and one-third are low income working households. This resolution would be sent to Washington to encourage our own congressional delegation to do what they are already doing, which is arguing against these cutbacks. I would urge passage of Senate Resolution 6 with its 23 Senate supporters.

SENATOR JOHNSON: Just quickly, Mr. President. I just want to say that I think the concerns are valid, but I think the timing is very poor.

Adopted.

SENATOR LARSEN (RULE #44): There has been, as many of you know, discussions about the Healthy Kids Corporation and discussions about how we can best help keep our children insured in our state. One way that we came to a conclusion on just recently was to have a joint...meeting with the Senators who are interested to have a sit down, to go through all of the provisions of the Healthy Kids and go through any details and ask any questions, have any questions answered, relating to the Healthy Kids Finances, its operations and so that meeting will take place I am told at 8 a.m. this Thursday...I am sorry, next Thursday, May 16th in room 105. That will be in the calendar. I encourage anyone who has questions about Healthy Kids or concerns about Healthy Kids to come to that meeting and have all of those issues discussed at that time. Thank you.

SENATOR GREEN: Mr. President, I want to check the date. May 16th is a Sunday.

SENATOR LARSEN: It is next Thursday, the 13th.

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 99, relative to high cost mortgage loans.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 99, relative to high cost mortgage loans.

Senator Flanders 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 207, relative to transactions exempt from the consumer protection act.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 207, relative to transactions exempt from the consumer protection act.

Senator Flanders 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 301-FN, relative to liquor licenses.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 301-FN, relative to liquor licenses.

Senator Peterson 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 303-FN, eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 303-FN, eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration.

Senator Green moved to concur.

Adopted.

Senator Foster rule #42 on SB 303-FN.

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 314, relative to access to medical records.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 314, relative to access to medical records.

Senator Flanders 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 316, relative to the payment of salaried employees.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 316, relative to the payment of salaried employees.

Senator Flanders 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 324-FN-A-L, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 324-FN-A-L, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality.

Senator D'Allesandro 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 329-FN, relative to the recovery by the retirement system of the overpayment of benefit amounts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 329-FN, relative to the recovery by the retirement system of the overpayment of benefit amounts.

Senator Flanders 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 333-FN, establishing a unique pupil identification system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 333-FN, establishing a unique pupil identification system.

Senator O'Hearn 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 342-FN, relative to payment of utility assessments and relative to regulation of electric generation companies.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 342-FN, relative to payment of utility assessments and relative to regulation of electric generation companies.

Senator Odell 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 348, relative to the sale of manufactured housing and the management of manufactured housing parks.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 348, relative to the sale of manufactured housing and the management of manufactured housing parks.

Senator Flanders 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 357, authorizing municipalities to adopt quarterly billing of taxes.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 357, authorizing municipalities to adopt quarterly billing of taxes.

Senator D'Allesandro 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 359, relative to construction of buildings on certain pre-existing streets.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 359, relative to construction of buildings on certain pre-existing streets.

Senator Roberge 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 366-FN, relative to the Interstate Insurance Product Compact.

SENATE CONCURS WITH HOUSE AMENDMENT**SB 366-FN**, relative to the Interstate Insurance Product Compact.

Senator Flanders 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 367, relative to the New Hampshire Insurance Guaranty Association Act of 2004.**SENATE CONCURS WITH HOUSE AMENDMENT****SB 367**, relative to the New Hampshire Insurance Guaranty Association Act of 2004.

Senator Flanders 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 368, relative to reinsurance.**SENATE CONCURS WITH HOUSE AMENDMENT****SB 368**, relative to reinsurance.

Senator Flanders 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 370, relative to the insurance rating law.**SENATE CONCURS WITH HOUSE AMENDMENT****SB 370**, relative to the insurance rating law.

Senator Flanders 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 371, relative to certain technical changes in the insurance laws.**SENATE CONCURS WITH HOUSE AMENDMENT****SB 371**, relative to certain technical changes in the insurance laws.

Senator Flanders 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 375, relative to the regulation of physician assistants.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 375, relative to the regulation of physician assistants.

Senator Martel 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 383-FN, relative to pharmacy benefit management.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 383-FN, relative to pharmacy benefit management.

Senator Martel moved to concur.

SENATOR O'HEARN: Mr. President, is it appropriate at this time to ask probably the sponsor of the bill some questions on this bill?

SENATOR EATON (In the Chair): Yes. Questions of Senator Clegg.

SENATOR O'HEARN: Thank you, Mr. President. Thank you, Senator Clegg. As we went through this bill in the Senate, we had some major concerns and I spent some time talking to psychiatrists, psychologists and a psychiatric nurse. All of them felt that 383 was tying the hands of the providers with paperwork and with rules. We are taking some of our most medically fragile people that are on Medicaid and subjecting them to some bureaucracy that I am not sure is in the best medical interest of these people. Indications from this medical profession is that a lot of times they don't respond to previous medications and psychiatrists need to react quickly, in if they don't they end up in an emergency rooms. Medications are not working, therefore, they end up not working in the work field. They require hospitalization or they end up in jail. This bill looks like it is for the purpose of controlling costs and limiting medications, which is concerning. This is only going to lead to higher levels of care and to hospitalization and to members of the society that are dysfunctional that were once functional. I am going to refer to what the House stated. So, if we can certainly get through on the pro side of it. They talked about the psychotropic medication requiring prior authorization and a series of criteria to be utilized in making these decisions. How much red tape, how much paperwork are these psychiatrists going to have to go through in order to provide the appropriate medication for these people?

SENATOR CLEGG: Is that the question?

SENATOR O'HEARN: That is the first question.

SENATOR CLEGG: Whew. I was getting tired just standing up here.

SENATOR O'HEARN: Are you still with me?

SENATOR CLEGG: I am still with you because the first half of your question was the same argument you had, and basically what this bill is, is pretty much the Senate's position. The paperwork that doctors have to go through on the Medicaid system hasn't changed. As far as the drugs that he prescribes, the bill, as it left the Senate, had an amendment on it that talked about medical necessity, giving the doctors the ability to prescribe based on medical necessity. The House version has expanded the definition or has created the definition of medical necessity. The one that comes to mind the quickest is H, which says if a doctor says that is the medicine, that's the medicine. So there is no more paperwork than would normally have to be filed with a Medicaid patient.

SENATOR O'HEARN: Further question. On H though...the House expanded that selection by the physician of the criteria under this subparagraph. That is why I am asking that specific question.

SENATOR CLEGG: Right. And it said that one of the things is...I don't know what version you have.

SENATOR O'HEARN: That is the version passed by the House.

SENATOR CLEGG: Okay. The House as they passed it, allows the physician to...first off, we have to understand that there is going to be a preferred drug list made by the mental health industry. So it is going to take us a lot of time anyway to get that far. But, the House said that the enrollee's physician shall base his determination on either an old patient or a newly diagnosed patient may be treated with a non-preferred drug for any one of the following criteria. Allergies to medications, contradiction to drug to drug, and again, H has clinically unacceptable risk with a change in therapy to preferred drugs. Selection by the physician under this paragraph shall require an automatic approval by the pharmacy benefit program. That was put in by Representative Fran Wendleboe who wanted to make sure that if a doctor said this is the medicine that my patient needs, that he didn't have to call up the pharmacy benefit program and say here's what he needs. It says that it shall require an automatic approval by the pharmacy benefit, so he can write his prescription and send it out. I think that Commissioner Stephen agree with that definition that nobody gets changed on their drugs unless their physician writes the prescription to change it, and nobody else can change a drug that he has put his patient on.

SENATOR O'HEARN: Follow up question? Okay. In the...speaking with the doctor at home that deals with the mental health clinic, he said most patients have no voice or advocates to get through the bureaucracy, which then leads them to hospitalization which we know is more expensive. In the pro side of this, many...it is recognized that seriously mentally ill individuals often need help in dealing with the bureaucratic system. Therefore, it is required that the Department of Health and Human Services provide pharmacists with the telephone number of a departmental ombudsman who will provide assistance to assure the proper medication is dispensed. Is that what we are calling a way to get through the bureaucratic system or an advocate for these people?

SENATOR CLEGG: I think an ombudsman is usually an advocate for the people that would need the services. Typically, as I have seen in government, that yes, every patient should have a phone number that they can call the department so that somebody can advocate and at least point them in the right direction.

SENATOR O'HEARN: Follow up question? Under the con side of this, those people that voted against the bill, a physician would still be subject to having to defend his decision that a severely mentally ill patient needs particular drug treatment. While many of us with private insurance are subject to PDL's, there is a major difference. Private plans do not refuse you a drug your physician feels is the appropriate treatment. They may require you to pay a larger co pay. Are we doing this, refusing drugs to these people?

SENATOR CLEGG: Absolutely not. First, I will say that an insurance company that does refuse you the preferred...anything other than the preferred drug unless you are willing to take money out of your pocket. I think that I said in the House when they had the meeting, that not everybody has \$35 or \$40 to take out of their pocket. To a lot of people that is all the money that they have for the week. So I don't equate that to being correct. I don't think anywhere in the bill do we prohibit doctors from prescribing what they really believe is necessary. So I don't think that we hold back. Again, I point to the fact that the bill requires that the mental health community get together and come up with what drugs they think are appropriate to start with. To start the list. And of course, then it goes to the pharmacy benefit committee and then...I don't see that if we start now, I think it takes us to the end of the year to actually come up with a list.

SENATOR O'HEARN: Thank you. I think that we have gotten through most of the questions.

SENATOR CLEGG: Thank you, Senator.

SENATOR ESTABROOK: Thank you, Mr. President. I just want to rise and share Senator O'Hearn's deep concerns over this bill. I understand that the patient protections have been improved somewhat, but I still don't see where it is to the benefit of either the individual or the state to require a mentally ill patient to take a particular antipsychotic drug before figuring out what can work for them. I would urge us not to concur and to go to Committee of Conference to further discuss this issue. There are a lot of excellent points raised by the minority report in the House. This was a 13-8 vote out of the House Committee. There is certainly not wide agreement on it. I think that it deserves further discussion. If it is appropriate, I would like to roll call the concurrence.

SENATOR PETERSON: Thank you, Mr. President. Senator Clegg, would you just clarify it for me and for the record, please? As I understand it, under this bill, the doctor would have to, the consulting physician, would have to write the prescription in order to alter the existing medication and go onto the generic. If they did not do so, then the patient would remain on the same medication that they had been on heretofore. Is that your understanding?

SENATOR CLEGG: Yes. I thank you for the question. That is exactly my understanding, and I will go further that, in the case of perhaps a doctor has already prescribed a brand named drug and when the mental health providers come up with their preferred drug list, that brand name drug is not on that list, that patient would still be on that drug until his physician felt that he could be on another one, which may or may not ever be.

SENATOR PETERSON: Thank you for the clarification, Senator.

SENATOR CLEGG: Thank you.

SENATOR KENNEY: Thank you, Mr. President. When the House amended Senate Bill 383 and they placed a statutory provision that ensured that doctors make the final decisions on what medications that their patients receive, I think that truly did strengthen the bill. My concern early on was on the fact that the cost savings, I did not believe were going to come to realization and therefore, when the bill originally went over to the House, I requested a sunset period, but also reporting requirement in November of 2005 to see what indeed those cost savings were. But, in long discussions with the commissioner and wrangling, and trying to get him to say that we might not be saving as much as the Governor had suggested two weeks ago on a local radio station of \$10 million. But, he did mention and refer to that the budget does call for the Pharmacy Benefit Management Oversight Committee composed of House and Senate members, to continue to receive and review quarterly reports on the performance of Senate Bill 383. And, it is my belief that he will show these performances, good, bad or indifferent, on a quarterly basis. So that gives me enough of his assurance that I can support the bill. But, it very well might mean that we will be back here in a short period of time if those cost savings are not there and we find that there has been some bad instances of the drug prescriptions, that we find ourselves repairing this once again. I am willing to go forward with Senate Bill 383 in its present form.

SENATOR GATSAS: Senator Clegg, I don't know if you have had the opportunity yet to maybe put Senator Kenney's mind at ease, but you and I sit on that Prescription Drug Committee and Commissioner Stephen, I believe, last week, I don't know if you or I were in attendance, I think we were at some other...maybe...I will defer to either one that can answer the question because the report that I remember reading from the commissioner talked about savings, talked about the reporting, talked about the things that Senator Kenney was just questioning. I can't remember what the savings was, was it in excess of \$4 or \$5 million already in the first quarter, Senator Larsen? I just want somebody to verify because I may be a little cloudy on that. I think that the program is going forward, and to address Senator O'Hearn's concerns that in that position paper that the commissioner gave us, it talked about having patients have their choice or their doctors have their choice. There were some instances when that was taken into account. But it was in the format that I believe Senator Clegg had asked for the last time that we were in that committee, to make sure that his reporting was a little sooner than what we anticipated it was going to be. Don't you agree, Senator Clegg?

SENATOR CLEGG: I absolutely agree, Senator Gatsas.

SENATOR GATSAS: Thank you, Senator Clegg.

SENATOR ESTABROOK: Thank you, Mr. President. I just want to clarify in relation of what Senator Peterson's question earlier. This bill has nothing to do with generics. The word generic is not in it anywhere. We are not talking about taking a generic equivalent of a class of drugs and making that the first choice. We are talking about a group of drugs, antipsychotics for instance, each of which is very different from the other, and we are going to pick one of them and make that the preferred drug. That is not a generic substitution, that is a choice of a particular treatment above the other alternatives that are available. No matter how many patient protections are in here, they are not at a level where the physician can prescribe what is right for the patient. I believe that this will lead not only to bad results for individuals, but for the future costs. There will be no cost savings, there will be extra costs incurred in the long run. Again, I would call for a roll call when it is appropriate.

SENATOR PETERSON: Thank you, Mr. President. I appreciate Senator Estabrook pointing out the error in my diction. It's obviously getting late early for me. The point that I was trying to nail down, and I think is important to nail down, is that if the prescription is going to be changed, it has to be the doctor who does it by writing a new prescription. And if the doctor does not do so, the prescription is not changed. I believe that is the answer that I received, irrespective of the passage of this preferred drug list legislation before us. I think it is a very important answer for the record. Thank you, Mr. President.

The question is on the motion to concur.

A roll call was requested by Senator Estabrook.

Seconded by Senator O'Hearn.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, Clegg, Gatsas, Barnes, Martel, D'Allesandro, Morse, Prescott.

The following Senators voted No: Below, O'Hearn, Foster, Larsen, Estabrook.

Yeas: 16 - Nays: 5

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 386, relative to the guardian ad litem board and providing for certification of guardians ad litem.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 386, relative to the guardian ad litem board and providing for certification of guardians ad litem.

Senator Peterson 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 392, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 392, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older.

Senator Peterson 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 397, requiring the department of environmental services to adopt certain rules and to opt out of the reformulated gasoline program.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 397, requiring the department of environmental services to adopt certain rules and to opt out of the reformulated gasoline program.

Senator Johnson 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 402, relative to an optional retirement annuity benefit for members of the Manchester retirement system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 402, relative to an optional retirement annuity benefit for members of the Manchester retirement system.

Senator Flanders 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 406, relative to adoption procedures.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 406, relative to adoption procedures.

Senator Peterson 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 409-FN, revising the vocational school licensing statutes.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 409-FN, revising the vocational school licensing statutes.

Senator Prescott 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 414-FN, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 414-FN, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations.

Senator Roberge 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 418, relative to voting procedures in the Hanover school district.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 418, relative to voting procedures in the Hanover school district.

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 427, relative to the definition of marriage.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 427, relative to the definition of marriage.

Senator Martel 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 430-FN, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 430-FN, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers.

Senator Flanders 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 436-FN-L, relative to the Claremont and Newport district courts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 436-FN-L, relative to the Claremont and Newport district courts.

Senator Odell 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 439, relative to probationary drivers' licenses.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 439, relative to probationary drivers' licenses.

Senator Kenney 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 441, relative to the operation of dental clinics by health care charitable trusts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 441, relative to the operation of dental clinics by health care charitable trusts.

Senator Martel 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 442, relative to manufactured housing installation standards.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 442, relative to manufactured housing installation standards.

Senator Roberge 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 443, relative to rural electric cooperatives.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 443, relative to rural electric cooperatives.

Senator Odell 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 445, relative to the regulation of dietitians by the board of licensed dietitians.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 445, relative to the regulation of dietitians by the board of licensed dietitians.

Senator Prescott 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 448-FN, relative to consumer guaranty contracts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 448-FN, relative to consumer guaranty contracts.

Senator Flanders 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 470-FN, relative to funding for the physician effectiveness program.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 470-FN, relative to funding for the physician effectiveness program.

Senator Martel 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 487, relative to lead sinkers.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 487, relative to lead sinkers.

Senator Johnson 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 494, relative to the prohibition on taking conch and winkles and relative to licensing requirements for taking lobsters and crabs.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 494, relative to the prohibition on taking conch and winkles and relative to licensing requirements for taking lobsters and crabs.

Senator Johnson 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 495-FN, relative to original and youth operators' licenses.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 495-FN, relative to original and youth operators' licenses.

SENATOR FLANDERS: Mr. President, I would like to explain something on that. We had a long discussion on that and when it came back from the House, you will remember that the original bill said that it would be 20 days and 40 days and we amended it to go back to "up to". They took the "up to" out and put it back to the fixed days. I want you to know that. I did concur, but that is the change.

Senator Flanders 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 496, relative to the definition of snow traveling vehicle.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 496, relative to the definition of snow traveling vehicle.

Senator Kenney 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 498-FN, relative to the regulation of debt adjustment services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 498-FN, relative to the regulation of debt adjustment services.

Senator Flanders 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 503-FN-L, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 503-FN-L, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities.

Senator Odell 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 509-FN, relative to civil recoveries for false claims paid or approved by the department of health and human services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 509-FN, relative to civil recoveries for false claims paid or approved by the department of health and human services.

Senator Peterson 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 511-FN, relative to the penalties for rioting.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 511-FN, relative to the penalties for rioting.

Senator Peterson 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 520, relative to modification of child support obligation.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 520, relative to modification of child support obligation.

Senator Peterson 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 530, relative to the duties of public safety responders and the expeditious clearance of a roadway.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 530, relative to the duties of public safety responders and the expeditious clearance of a roadway.

Senator Kenney 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 531, permitting the state veterans' advisory committee to adopt by-laws and relative to eligibility for the veteran's property tax credit.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 531, permitting the state veterans' advisory committee to adopt by-laws and relative to eligibility for the veteran's property tax credit.

Senator Roberge 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 317, relative to registration of pesticide applicators and rules of the pesticide control board.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 317, relative to registration of pesticide applicators and rules of the pesticide control board.

Senator Johnson moved to nonconcur and requests a Committee of Conference.

Recess.

Out of recess.

Adopted.

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

SENATORS: JOHNSON, ODELL & BELOW.

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 500-FN, relative to certain procedures of financial institutions.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 500-FN, relative to certain procedures of financial institutions.

Senator Flanders moved to nonconcur 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: Flanders, Odell & Foster.

SENATOR BOYCE: I know that there were a couple that I signed off on as nonconcurrent, Committee of Conference, that did not come up in that list. I did them Tuesday, I think.

SENATOR BELOW: SB 199. What happens to that?

HOUSE MESSAGE

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

HB 643-FN, relative to the family division of the courts.

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: Mock, Dudley, Robert Wheeler & Wall.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 643-FN, relative to the family division of the courts.

and requests a Committee of Conference.

Senator Peterson 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: Peterson, Roberge & Foster.

HOUSE MESSAGE

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

HB 1165, relative to extending domestic violence protection orders.

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: Knowles, Robertson, Nedeau & Bicknell.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1165, relative to extending domestic violence protection orders.

Senator Peterson 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: Peterson, Boyce & Estabrook.

HOUSE MESSAGE

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

HB 1227, relative to land assessed for current use which is taken by eminent domain.

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: Babson, Ahern, Philbrick & Peter Allen.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1227, relative to land assessed for current use which is taken by eminent domain.

Senator D'Allesandro 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: Clegg, Morse & D'allesandro.

HOUSE MESSAGE

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

HB 1276-FN, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.
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: Packard, Letourneau, John Flanders & Ferland.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1276-FN, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

Senator Kenney 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: Kenney, Morse & Cohen.

HOUSE MESSAGE

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

HB 1293, relative to emission control equipment for certain vehicles.
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: Thomas, Hunt, Artz & Kaen.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1293, relative to emission control equipment for certain vehicles.

Senator Kenney 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: Clegg, Kenney & Below.

HOUSE MESSAGE

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

HB 1380-FN, relative to unauthorized video surveillance.

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: Tholl, Knowles, Bicknell & Nedeau.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1380-FN, relative to unauthorized video surveillance.

Senator Roberge 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: Barnes, Gatsas & Larsen.

MOTION TO TAKE FROM THE TABLE

Senator Prescott moved to have **HB 369** taken off the table.

Adopted.

HB 369, relative to the Henniker and Hillsborough district courts.

Senator Prescott offered a floor amendment.

Sen. Prescott, Dist. 23

May 6, 2004

2004-1544s

08/10

Floor Amendment to HB 369

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

AN ACT relative to the Henniker and Hillsborough district courts.

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

1 Henniker District Court. Notwithstanding the provisions of RSA 502-A:1, XV and XXIII, all court business, proceedings, and activities scheduled for the Henniker district court on or after July 1, 2004 shall be transferred to the Hillsborough district court. The Henniker district court shall cease operations on or before June 30, 2004.

2 Hampton District Court. Amend RSA 502-A:1, II to read as follows:

II. ~~[HAMPTON-EXETER]~~ **Hampton** DISTRICT. The ~~[Hampton-Exeter]~~ **Hampton** district shall consist of the towns of Hampton, Hampton Falls, North Hampton, South Hampton, **and** Seabrook~~[-Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping, and Brentwood]~~. The **district** court **for the district** shall be located in ~~[a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located]~~ **Hampton, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Hampton District Court.**

3 New Paragraph; Exeter District Court. Amend RSA 502-A:1 by inserting after paragraph II the following new paragraph:

II-a. EXETER DISTRICT. The Exeter district shall consist of the towns of Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping and Brentwood. The district court for the district shall be located in Exeter, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Exeter District Court.

4 HAMPTON-EXETER DISTRICT. RSA 502-A:1, II is repealed and reenacted to read as follows:

II. HAMPTON-EXETER DISTRICT. The Hampton-Exeter district shall consist of the towns of Hampton, Hampton Falls, North Hampton, South Hampton, Seabrook, Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping, and Brentwood. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

5 Repeal. RSA 502-A:1, II-a, relative to the Exeter District court, is repealed.

6 Contingency. If the department of administrative services and the towns in the Hampton and Exeter districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006 sections 4 and 5 of this act shall take effect July 1, 2006. If the department of administrative services and the towns in the Hampton and Exeter districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 4 and 5 of this act shall not take effect.

7 Effective Date.

I. Sections 4 and 5 of this act shall take effect as provided in section 6 of this act.

II. The remainder of this act shall take effect June 30, 2004.

2004-1544s

AMENDED ANALYSIS

This bill transfers Henniker district court business, proceedings, and activities to the Hillsborough district court.

This bill also prevents the consolidation of the Hampton District court and the Exeter District court under 1992, 253, if certain conditions are met regarding court facilities.

SENATOR PRESCOTT: I would like to present floor amendment 1544, if I may, Mr. President. What this does is make corrections to the Hampton/Exeter District Court as discussed prior. I hope it is very clear.

SENATOR EATON (In the Chair): Senator Prescott has spoken very eloquently, five times, about this floor amendment, in different numbers.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HOUSE MESSAGE

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

HB 730-FN-L, establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.

HB 1298, establishing a committee to study local dispute resolution for public employee labor relations.

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

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(s):

SB 484, establishing the Collaborative Practice for Emergency Contraception Act.

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(s):

HB 422, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases.

HB 493, relative to the municipal budget act.

HB 520-FN, relative to maintaining records of greyhounds used in pari-mutuel racing.

HB 532, relative to notice and filing of divorce petitions.

HB 1131, establishing a committee to study exotic aquatic weeds and species.

HB 1136, relative to homeowner exemptions from certain environmental permitting, relative to certification as a wetland scientist, and making certain technical corrections.

HB 1202, relative to third-party payment of covered services ordered by the juvenile court.

HB 1257-FN, relative to penalties for driving under the influence with a minor in the vehicle.

HB 1266, relative to the long-term care ombudsman.

HB 1316-FN-A, relative to the computation of tax on certain telecommunications services under the communications services tax, and establishing a committee to study the feasibility of unbundling communications services charges.

CACR 5, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule.

SB 19-FN, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services.

SB 128-FN, relative to the advisory committee assisting the secretary of state in administering the vital records improvement fund.

SB 176, relative to standards for plats recorded in the registry of deeds.

SB 356, relative to the powers and duties of the community development finance authority.

SB 361-FN-A, relative to fees of the postsecondary education commission for preserving certain academic records.

SB 377, relative to damage to land by certain recreational uses.

SB 380, establishing a statewide incident command system.

SB 399-FN, relative to the sale of animals.

SB 403, relative to the board of medicine.

SB 452, relative to testimony of expert witnesses.

SB 455, removing the requirement that district courts be open on Saturdays for arraignments.

SB 469, relative to licensing of boiler inspectors.

SB 488, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams.

Senator D'Allesandro moved adoption.

Adopted.

RESOLUTION

Senator Clegg 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 all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION**Third Reading and Final Passage**

HB 264, establishing state representative districts.

HB 369, relative to the Henniker and Hillsborough district courts.

HB 426, relative to the monitoring and approval of appraisers by the commissioner of revenue administration.

HB 618-FN-A, making technical corrections to certain local property tax laws.

HB 640-FN, relative to post-conviction DNA testing.

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

HB 697-FN, relative to the sale of motor fuel.

HB 698-FN, relative to electronic toll collections.

HB 727-FN-L, establishing a legislative oversight committee for the school administrative unit system.

HB 803-FN-A-L, relative to the establishment of municipal economic development and revitalization districts by municipalities.

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

HB 1207-FN-A, relative to a Global War on Terrorism operations service bonus payment.

HB 1228, relative to changes to the uniform fine schedule.

HB 1281, permitting the adoption of an alternative cost apportionment method in a cooperative school district.

HB 1335-L, establishing a commission to examine the workers' compensation system in New Hampshire.

HB 1378-FN-A, relative to New Hampshire service medals for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor.

HB 1399-FN-A, establishing the telecommunications planning and development fund.

HB 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

HJR 25, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation.

HJR 26, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3).

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the purpose of receiving Messages, processing Enrolled Bill Reports and Amendments, and forming Committees of Conference.

Adopted.

In recess to the Call of the Chair.

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 61, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 61, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

Senator O'Hearn moved to nonconcur 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: O'Hearn, Johnson & Gatsas.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 61, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

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

REPRESENTATIVES: Stephen L'Heureux, Alger, Carson & Timothy Dunn.

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 109, adopting the model Drug Dealer Liability Act.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 109, adopting the model Drug Dealer Liability Act.

Senator Peterson moved to nonconcur 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: Prescott, Clegg & Martel.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 109, adopting the model Drug Dealer Liability Act.

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

REPRESENTATIVES: Soltani, Haytayan, Craig & Knowles.

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 153, adopting the nurse licensure compact.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 153, adopting the nurse licensure compact.

Senator Martel moved to nonconcur 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: Martel, Peterson & D'Allesandro.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 153, adopting the nurse licensure compact.

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

REPRESENTATIVES: Paul LaFlamme, Dexter, Nelson Allan & Pilotte.

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, revising the nurse practice act.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 199, revising the nurse practice act.

Senator Prescott moved to nonconcur 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: Peterson, O'Hearn & Below.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 199, revising the nurse practice act.

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

REPRESENTATIVES: Paul LaFlamme, O'Neil, Dexter & Schulze.

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 302-FN-L, making technical corrections to the education funding formula.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 302-FN-L, making technical corrections to the education funding formula.

Senator Green moved to nonconcur 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: Clegg, Morse & D'Allesandro.

CONFERE CHANGE: Senator Foster Replaced Senator D'allesandro.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 302-FN-L, making technical corrections to the education funding formula.

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

REPRESENTATIVES: Whalley, Kurk, King & Marjorie Smith.

ALTERNATES: Chandler & Major.

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 312-FN, establishing a state code of ethics.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 312-FN, establishing a state code of ethics.

Senator Roberge moved to nonconcur 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: Barnes, Sapareto & Larsen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 312-FN, establishing a state code of ethics.

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

REPRESENTATIVES: O'Neil, Hamel, Drisko & Francis Sullivan.

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 338-FN, relative to the purchase of prior service credit by certain political subdivision employee members.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 338-FN, relative to the purchase of prior service credit by certain political subdivision employee members.

Senator Roberge moved to nonconcur 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: Green, Roberge & D'Allesandro.

CONFEEE CHANGE: Senator Peterson Replaced
Senator D'allesandro.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 338-FN, relative to the purchase of prior service credit by certain political subdivision employee members.

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

REPRESENTATIVES: O'Neil, Hall, Irwin & Robert Wheeler.

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 376-FN-A, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 376-FN-A, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

Senator Green moved to nonconcur 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: Boyce, Gallus & D'Allesandro.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 376-FN-A, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

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

REPRESENTATIVES: Kurk, Emerton, Rogers Johnson & Wallner.

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 381, relative to the transfer of certain capital appropriations within the department of safety.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 381, relative to the transfer of certain capital appropriations within the department of safety.

Senator Clegg moved to nonconcur 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: Clegg, Morse & D'Allesandro.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 381, relative to the transfer of certain capital appropriations within the department of safety.

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

REPRESENTATIVES: Rausch, Waterhouse, Candace Bouchard & Edwin Smith.

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 382-FN-L, relative to medical service rates for state prisoners.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 382-FN-L, relative to medical service rates for state prisoners.

Senator Martel moved to nonconcur 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: Flanders, Boyce & Cohen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 382-FN-L, relative to medical service rates for state prisoners.

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

REPRESENTATIVES: Elliott, Emerton, Rodeschin & Tholl.

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 391, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 391, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections.

Senator Boyce moved to nonconcur 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: Clegg, Odell & Eaton.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 391, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections.

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

REPRESENTATIVES: Patten, Stohl, Gillick & Theberge.

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 407-FN-L, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 407-FN-L, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

Senator Roberge moved to nonconcur 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: Roberge, Boyce & Larsen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 407-FN-L, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

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

REPRESENTATIVES: Patten, Brundige, Boyce & Nancy Johnson.

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 413-FN, relative to financing federally aided highway projects.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 413-FN, relative to financing federally aided highway projects.

Senator Kenney moved to nonconcur 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: Clegg, Morse & D'Allesandro.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 413-FN, relative to financing federally aided highway projects.

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

REPRESENTATIVES: Graham, McConkey, Cloutier & Waterhouse.

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 415-FN, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 415-FN, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

Senator Peterson moved to nonconcur 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: Roberge, Gallus & Foster.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 415-FN, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

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

REPRESENTATIVES: Moran, Gile, Gargasz & Itse.

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 421, relative to charter schools.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 421, relative to charter schools.

Senator O'Hearn moved to nonconcur 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: O'Hearn, Green & Estabrook.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 421, relative to charter schools.

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

REPRESENTATIVES: Mark Carter, Naro, Alger & Timothy Dunn.

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 423, relative to confidentiality and workers' compensation.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 423, relative to confidentiality and workers' compensation.

Senator Flanders moved to nonconcur 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: Flanders, Clegg & Foster.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 423, relative to confidentiality and workers' compensation.

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

REPRESENTATIVES: Woods, Lasky, Haytayan & Rowe.

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 434, relative to importing prescription drugs from Canada.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 434, relative to importing prescription drugs from Canada.

Senator Martel moved to nonconcur 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: Martel, Gallus & Gatsas.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 434, relative to importing prescription drugs from Canada.

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

REPRESENTATIVES: Bergin, Hamel, Paul LaFlamme & Irwin.

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 449, relative to fluoridation of municipally-owned public water systems.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 449, relative to fluoridation of municipally-owned public water systems.

Senator Johnson moved to nonconcur 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: Prescott, Johnson & D'Allesandro.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 449, relative to fluoridation of municipally-owned public water systems.

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

REPRESENTATIVES: Brundige, Gillick, Dowd & Osborne.

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 453, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 453, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

Senator Gatsas moved to nonconcur 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: Johnson, Gatsas & Estabrook.

CONFEREE CHANGE: Senator Flanders Replaced Senator Gatsas.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 453, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

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

REPRESENTATIVES: Jasper, Gibson, Roessner & Christine Hamm.

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 459, making certain changes to the real estate practice act.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 459, making certain changes to the real estate practice act.

Senator Roberge moved to nonconcur 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: Gallus, Roberge & Peterson.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 459, making certain changes to the real estate practice act.

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

REPRESENTATIVES: Paul LaFlamme, Fitzgerald, Carl Robertson & Francis Sullivan.

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 461, relative to the regulation of gift certificates under the consumer protection act.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 461, relative to the regulation of gift certificates under the consumer protection act.

Senator Roberge moved to nonconcur 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: Roberge, Morse & Larsen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 461, relative to the regulation of gift certificates under the consumer protection act.

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

REPRESENTATIVES: Hunt, Stepanek, Spiess & Kopka.

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 478-FN, relative to penalties for DWI offenses.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 478-FN, relative to penalties for DWI offenses.

Senator Peterson moved to nonconcur 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: Barnes, Clegg & Eaton.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 478-FN, relative to penalties for DWI offenses.

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

REPRESENTATIVES: Tholl, Welch, Nedeau & Pantelakos.

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 481-FN-L, establishing a sewer and other water-related purposes district for Great Bay.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 481-FN-L, establishing a sewer and other water-related purposes district for Great Bay.

Senator Johnson moved to nonconcur 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: Prescott, Green & Cohen.

CONFEEE CHANGE: Senator Below Replaced Senator Cohen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 481-FN-L, establishing a sewer and other water-related purposes district for Great Bay.

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

REPRESENTATIVES: Ahern, Philbrick, Williams & Rous.

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 490-FN, relative to the Help America Vote Act.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 490-FN, relative to the Help America Vote Act.

Senator Boyce moved to nonconcur 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: Boyce, Martel & Larsen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 490-FN, relative to the Help America Vote Act.

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

REPRESENTATIVES: Drisko, Vaillancourt, Dorsett & Buckley.

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 508-FN, relative to grant-funded programs.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 508-FN, relative to grant-funded programs.

Senator Boyce moved to nonconcur 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: Flanders, Boyce & Cohen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 508-FN, relative to grant-funded programs.

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

REPRESENTATIVES: Stohl, Lockwood, Boyce & Nancy Johnson.

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 521-FN, increasing the penalty for identity fraud.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 521-FN, increasing the penalty for identity fraud.

Senator Peterson moved to nonconcur 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: Peterson, Green & Larsen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 521-FN, increasing the penalty for identity fraud.

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

REPRESENTATIVES: Stevens, Fish, Karl Gilbert & Movsesian.

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 526, relative to sexual harassment complaint procedures for public employees.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 526, relative to sexual harassment complaint procedures for public employees.

Senator Boyce moved to nonconcur 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: Boyce, Odell & Larsen.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 526, relative to sexual harassment complaint procedures for public employees.

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

REPRESENTATIVES: MacKay, Stohl, Nelson Allan & Tilton.

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 533, relative to licensing requirements for certain recreation and child care programs.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 533, relative to licensing requirements for certain recreation and child care programs.

Senator Roberge moved to nonconcur 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: Johnson, Martel & Estabrook.

CONFEREE CHANGE: Senator Larsen Replaced Senator Estabrook.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 533, relative to licensing requirements for certain recreation and child care programs.

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

REPRESENTATIVES: Brundige, Twombly, Dowd & Schmidt.

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 534-FN-A, relative to the reorganization of certain functions and duties of state agencies.

**SENATE NONCONCURS AND REQUESTS
A COMMITTEE OF CONFERENCE**

SB 534-FN-A, relative to the reorganization of certain functions and duties of state agencies.

Senator Prescott moved to nonconcur 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: Clegg, Prescott & D'Allesandro.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 534-FN-A, relative to the reorganization of certain functions and duties of state agencies.

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

REPRESENTATIVES: O'Neil, Stone, Robert Wheeler & Francis Sullivan.

ALTERNATE: Hamel.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 317, relative to registration of pesticide applicators and rules of the pesticide control board.

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

REPRESENTATIVES: Ahern, Williams, Owen & Cernota.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 500-FN, relative to certain procedures of financial institutions.

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

REPRESENTATIVES: Hunt, Spiess, Meader & Stepanek.

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 264, relative to state senate districts.

HB 697-FN, relative to the sale of motor fuel.

HB 803-FN-A-L, relative to the establishment of municipal economic development and revitalization districts by municipalities.

HB 1207-FN-A, relative to a Global War on Terrorism operations service bonus payment.

HB 1228, relative to changes to the uniform fine schedule.

HB 1378-FN-A, relative to New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor; and relative to tuition waivers and room and board scholarships at state educational institutions for children of certain firefighters and police officers who died while in performance of their duties.

HB 1399-FN-A, establishing the telecommunications planning and development fund.

HOUSE MESSAGE

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

HB 85-FN-L, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

HB 1188, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan.

HOUSE MESSAGE

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

HB 176, relative to listing candidates on ballots.

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: Drisko, Whalley, Reeves & Dorsett.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 176, relative to listing candidates on ballots.

Senator Boyce 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: Boyce, Flanders & Kenney.

HOUSE MESSAGE

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

HB 243, relative to motor vehicle exhaust noise standards.

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: Packard, Letourneau, Artz & Ferland.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 243, relative to motor vehicle exhaust noise standards.

Senator Kenney 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: Morse, Flanders & Martel.

HOUSE MESSAGE

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

HB 369, relative to the Henniker and Hillsborough district courts.

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: Mock, Rowe, Stone & Wall.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 369, relative to the Henniker and Hillsborough district courts.

Senator Peterson 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: Prescott, Flanders & Foster.

HOUSE MESSAGE

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

HB 384, relative to financial affidavits in domestic relations cases. 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: Hunt, Holden, Stepanek & DeStefano.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 384, relative to financial affidavits in domestic relations cases.

Senator Peterson 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: Peterson, Sapareto & Roberge.

HOUSE MESSAGE

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

HB 426, relative to the monitoring and approval of appraisers by the commissioner of revenue administration.

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: Stohl, Gillick, Patten & Theberge.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 426, relative to the monitoring and approval of appraisers by the commissioner of revenue administration.

Senator Roberge 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: Green, Barnes & Larsen.

HOUSE MESSAGE

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

HB 551, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

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: Itse, Arnold, McRae & Gile.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 551, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

Senator Martel 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: Martel, Boyce & Estabrook.

HOUSE MESSAGE

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

HB 618-FN-A, making technical corrections to certain local property tax laws.

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: Patten, Lockwood, Letourneau & Theberge.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 618-FN-A, making technical corrections to certain local property tax laws.

Senator D'Allesandro 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: Johnson, Gallus & D'Allesandro.

HOUSE MESSAGE

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

HB 640-FN, relative to post-conviction DNA testing.

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: Knowles, Stevens, Lasky & Holbrook.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE****HB 640-FN**, relative to post-conviction DNA testing.

Senator Peterson 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: Peterson, Sapareto & Foster.

HOUSE MESSAGE

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

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

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: O'Neil, Hall, Irwin & Robert Wheeler.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

Senator Flanders 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: Green, Roberge & D'Allesandro.

CONFEREE CHANGE: Senator Peterson Replaced
Senator D'allesandro.

HOUSE MESSAGE

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

HB 698-FN, relative to electronic toll collection.

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: Graham, McConkey, Malloy & Weyler.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 698-FN, relative to electronic toll collection.

Senator Kenney 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: Kenney, Morse & Below.

HOUSE MESSAGE

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

HB 713-FN, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning re-hearings.

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: Brundige, Gillick, Gould & Mary Cooney.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 713-FN, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning re-hearings.

Senator Roberge 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: Roberge, Morse & Larsen.

HOUSE MESSAGE

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

HB 727-FN-L, establishing a legislative oversight committee for the school administrative unit system.

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: Alger, Scott, Weyler & Snyder.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 727-FN-L, establishing a legislative oversight committee for the school administrative unit system.

Senator O'Hearn 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: Green, Flanders & O'Hearn.

HOUSE MESSAGE

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

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

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: Lawton, Royce, Russell & Brueggemann.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

Senator Johnson 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: Johnson, Prescott & Below.

HOUSE MESSAGE

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

HB 1162, relative to school district policies on bullying.

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: Mark Carter, Naro, Carson & Jean.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1162, relative to school district policies on bullying.

Senator O'Hearn 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: Barnes, O'Hearn & Foster.

HOUSE MESSAGE

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

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts.

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: Olimpio, Rous, Patten & Stohl.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts.

Senator Johnson 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: Green, Johnson & Below.

HOUSE MESSAGE

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

HB 1281, permitting the adoption of an alternative cost apportionment method in a cooperative school district.

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: Major, Vivian Clark, Jasper & Almy.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1281, permitting the adoption of an alternative cost apportionment method in a cooperative school district.

Senator O'Hearn 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: Eaton, Kenney & Below.

HOUSE MESSAGE

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

HB 1282, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

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: Hunt, Fraser, Speiss & DeStefano.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1282, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

Senator Flanders 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: Flanders, Prescott & Cohen.

HOUSE MESSAGE

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

HB 1295, relative to certain court records.

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: Haytayan, Mock, Rowe & Craig.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1295, relative to certain court records.

Senator Peterson 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: Roberge, Odell & Clegg.

HOUSE MESSAGE

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

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

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: Olimpio, Cernota, Paul LaFlamme & Diamond.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

Senator Prescott 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: Prescott, Green & Estabrook.

CONFEREES CHANGE: Senator D'allesandro Replaced
Senator Estabrook.

HOUSE MESSAGE

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

HB 1326, establishing a study committee to examine the classification of consumer and display 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: Welch, Knowles, Bemis & Bicknell.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks.

Senator Peterson 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: Peterson, Clegg & Larsen.

HOUSE MESSAGE

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

HB 1335-L, establishing a commission to examine the workers' compensation system in New Hampshire.

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: Giuda, Hunt, Mears & Slocum.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1335-L, establishing a commission to examine the workers' compensation system in New Hampshire.

Senator Flanders 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: Flanders, Gatsas & Gallus.

HOUSE MESSAGE

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

HB 1348-FN, relative to registration of business organizations. 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: Hunt, Stepanek, Brady & Kopka.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1348-FN, relative to registration of business organizations.

Senator Prescott 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: Clegg, Peterson & Foster.

HOUSE MESSAGE

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

HB 1367, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

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: Knowles, Welch, Bemis & Bicknell.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1367, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

Senator Peterson 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: Peterson, Roberge & Foster.

HOUSE MESSAGE

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

HB 1401-FN, limiting the use of traffic signal preemption devices. 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: Packard, Royce, Letourneau & Ferland.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1401-FN, limiting the use of traffic signal preemption devices.

Senator Kenney 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: Flanders, Barnes & Below.

HOUSE MESSAGE

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

HB 1408-FN, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts. 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: Hunt, Speiss, Stepanek & Meader.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1408-FN, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

Senator Flanders 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: Flanders, Barnes & Below.

HOUSE MESSAGE

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

HB 1411-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

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, Candace Bouchard, Waterhouse & Robert Wheeler.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1411-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

Senator D'Allesandro 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: Prescott, O'Hearn, D'Allesandro.

HOUSE MESSAGE

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

HB 1413, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

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: Mock, Haytayan, Francoeur & Rowe.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1413, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

Senator Peterson 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: Gallus, Barnes & Estabrook.

HOUSE MESSAGE

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

HB 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

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: Rogers Johnson, Hunt, Rodeschin & Wallner.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

Senator Roberge 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: Barnes, Roberge & Foster.

HOUSE MESSAGE

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

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

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, Rausch, Cloutier & Holland.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

Senator Kenney 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: Clegg, Morse & D'Allesandro.

May 11, 2004
2004-1550-EBA
03/01

Enrolled Bill Amendment to HB 230

The Committee on Enrolled Bills to which was referred HB 230

AN ACT establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure 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 HB 230

This enrolled bill amendment makes grammatical corrections.

Enrolled Bill Amendment to HB 230

Amend paragraph I of section 2 of the bill by replacing line 5 with the following:
committee, and one member of the joint legislative committee on administrative rules.

Amend paragraph V of section 3 of the bill by replacing line 1 with the following:

V. Developing an RSA 541-A training program for members newly appointed to the joint

Senator Eaton moved adoption.

Adopted.

May 4, 2004
2004-1477-EBA
03/01

Enrolled Bill Amendment to HB 326

The Committee on Enrolled Bills to which was referred HB 326
AN ACT relative to establishing a 6-year capital budget.

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 326

This enrolled bill amendment makes a typographical correction.

Enrolled Bill Amendment to HB 326

Amend section 2 of the bill by replacing line 2 with the following:
the following new section:

Senator Eaton moved adoption.

Adopted.

May 5, 2004
2004-1502-EBA
06/09

Enrolled Bill Amendment to SB 344

The Committee on Enrolled Bills to which was referred SB 344

AN ACT relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees.

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 344

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to SB 344

Amend RSA 206:33-a, II as inserted by section 1 of the bill by replacing line 5 with the following:
an established dedicated account in title XVIII which shall be deposited into the appropriate

Senator Eaton moved adoption.

Adopted.

May 5, 2004
2004-1498-EBA
08/01

Enrolled Bill Amendment to SB 351-FN

The Committee on Enrolled Bills to which was referred SB 351-FN
AN ACT relative to concurrent enrollment at regional vocational education centers.

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 351-FN

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to SB 351-FN

Amend RSA 188-E:6, II(a) as inserted by section 1 of the bill by replacing line 2 with the following:

regional vocational education center on a full-time basis;

Senator Eaton moved adoption.

Adopted.

May 5, 2004
2004-1507-EBA
03/10

Enrolled Bill Amendment to SB 355

The Committee on Enrolled Bills to which was referred SB 355
AN ACT relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems.

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 355

This enrolled bill amendment corrects certain references in the bill.

Enrolled Bill Amendment to SB 355.

Amend RSA 153:5-b as inserted by section 1 of the bill by replacing line 2 with the following:

Systems, Fire Sprinkler Systems, and Fire Alarm and Detection Systems. The commissioner of safety shall

Amend RSA 153:5-b as inserted by section 1 of the bill by replacing lines 7-8 with the following:

shall appoint the members of the advisory committee, with the state fire marshal serving as an ex officio member, as follows:

Amend RSA 153:5-b, II as inserted by section 1 of the bill by replacing line 1 with the following:

II. One representative of the New Hampshire Plumbing and Mechanical Contractors

Amend RSA 153:5-b, IV as inserted by section 1 of the bill by replacing it with the following:

IV. One person experienced in the design of fixed fire extinguishing systems.

Amend RSA 153:5-b, X as inserted by section 1 of the bill by replacing it with the following:

X. One member of the state electricians' board.

Senator Eaton moved adoption.

Adopted.

May 17, 2004
2004-1584-EBA
08/09

Enrolled Bill Amendment to SB 366-FN

The Committee on Enrolled Bills to which was referred SB 366-FN AN ACT relative to the Interstate Insurance Product Compact.

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 366-FN

This enrolled bill amendment makes technical corrections.

Enrolled Bill Amendment to SB 366-FN

Amend RSA 408-C:4, II as inserted by section 2 of the bill by replacing line 9 with the following:

Commissioner's (NAIC) Long-Term Care Insurance Model Act, and Long-Term Care Insurance Model

Amend RSA 408-C:7, IV(a)(2) as inserted by section 2 of the bill by replacing line 1 with the following:

(2) Find that the uniform standard does not provide reasonable protections to the

Amend RSA 408-C:7, V(b) as inserted by section 2 of the bill by replacing line 2 with the following:

provided under the laws of that state, the uniform standard shall have no further force and effect in

Senator Eaton moved adoption.

Adopted.

May 14, 2004
2004-1575-EBA
06/10

Enrolled Bill Amendment to SB 367

The Committee on Enrolled Bills to which was referred SB 367

AN ACT relative to the New Hampshire Insurance Guaranty Association Act of 2004.

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 367

This enrolled bill amendment makes technical corrections to the bill.

Enrolled Bill Amendment to SB 367

Amend RSA 404-H:8, I as inserted by section 1 of the bill by replacing it with the following:

I. The association shall:

(a) (1) Be obligated to pay covered claims existing prior to the order of liquidation and arising within 30 days after the order of liquidation, or before the policy expiration date if less than 30 days after the order of liquidation, or before the insured replaces the policy or causes its cancellation, if he or she does so within 30 days of the order of liquidation. Such obligation shall be satisfied by paying to the claimant an amount as follows:

(A) The full amount of a covered claim for benefits under workers' compensation insurance coverage.

(B) An amount not exceeding \$300,000 for other covered claims. Payment by the association of an amount satisfying the obligations of the association to a person instituting a liability claim shall satisfy the association's obligations to pay the insured.

(2) In no event shall the association be obligated to pay an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises.

(3) Any obligation of the association to defend an insured on a covered claim shall cease upon the association's:

(A) Payment, by settlement releasing the insured or on a judgment, of an amount equal to the lesser of the association's covered claim obligation limit or the applicable policy limit; or

(B) Tender of such amount.

(4) Notwithstanding any other provisions of this chapter, except in the case of a claim for benefits under workers' compensation coverage, a covered claim shall not include a claim filed with the association after the earlier of:

(A) Thirty six months after the date of the order of liquidation; or

(B) The final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer and shall not include any claim filed with the association or a liquidator for protection afforded under the insured's policy for incurred-but-not-reported losses.

(5) If the association determines that there may be more than one claimant having a covered claim against the association under the policy or policies of any one insolvent insurer, the association may establish a plan to allocate amounts payable by the association in such manner as the association in its discretion deems equitable.

(b) Be deemed the insurer only to the extent of the association's obligation on the covered claims and to such extent, subject to the limitations provided in this chapter, shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent, including but not limited to the right to pursue and retain salvage and subrogation recoverables on paid covered claims obligations. The association shall not be deemed the insolvent insurer for any purpose relating to the issue of whether the association is amenable to the personal jurisdiction of the courts of any jurisdiction.

(c) Allocate claims paid and expenses incurred among the 3 accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the association under subparagraph I(a) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and other expenses authorized by this chapter. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment on the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any one year on any account an amount greater than 2 percent of that member insurer's net direct written premiums for the calendar year preceding the assessment on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order that it deems reasonable, including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided however that, during the period of deferment, no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments.

(d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims.

(e) Not be bound by any settlement, release, compromise, waiver or judgment executed or entered within 12 months prior to an order of liquidation and shall have the right to assert all defenses available to the association including, but not limited to, defenses applicable to determining and enforcing its statutory rights and obligations to any such claim. The association shall be bound by any settlement, release, compromise, waiver or judgment executed or entered into more than one year prior to an order of liquidation; provided, however, such claim is a covered claim and such settlement or judgment was not a result of fraud, collusion, default or failure to defend. Further, as to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend, the association either on its own behalf or on behalf of an insured may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend such claim on the merits.

(f) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this chapter.

(h) Notwithstanding any of the powers of the commissioner as liquidator as provided for

Amend RSA 404-H:8, IV as inserted by section 1 of the bill by replacing line 2 with the following:

excess of its capacity to pay from assessments collected under RSA 404-H:8, I(c), the association may

Amend RSA 404-H:10, II(a) as inserted by section 1 of the bill by replacing line 3 with the following:

comply with the plan of operation. As an alternative, the commissioner may levy a fine on any

Amend RSA 404-H:1, I as inserted by section 1 of the bill by replacing line 3 with the following:

liquidator of the insolvent insurer any amount of his or her claim under the coverage of the policy not paid

Senator Eaton moved adoption.

Adopted.

May 14, 2004
2004-1565-EBA
05/09

Enrolled Bill Amendment to SB 368

The Committee on Enrolled Bills to which was referred SB 368

AN ACT relative to reinsurance.

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 368

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to SB 368

Amend RSA 405:53 as inserted by section 1 of the bill by replacing line 1 with the following:

405:52-a Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, relative to

Senator Eaton moved adoption.

Adopted.

April 29, 2004
2004-1462-EBA
06/09

Enrolled Bill Amendment to SB 369

The Committee on Enrolled Bills to which was referred SB 369

AN ACT relative to examinations of insurance companies by the insurance department.

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 369

This enrolled bill amendment makes a technical correction to the bill.

Enrolled Bill Amendment to SB 369

Amend RSA 400-A:37, IV-a(a) as inserted by section 2 of the bill by replacing line 1 with the following:

(a) Except as provided in subparagraph IV(c)(2) and in this subparagraph, documents,

Senator Eaton moved adoption.

Adopted.

May 13, 2004
2004-1557-EBA
08/10

Enrolled Bill Amendment to SB 371

The Committee on Enrolled Bills to which was referred SB 371

AN ACT relative to certain technical changes in the 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 371

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to SB 371

Amend the bill by replacing section 9 with the following:

9 Salary; Insurance Department; Director of Operations.

I. Amend RSA 94:1-a, I(b) by deleting in grade EE the following:

EE Insurance department assistant commissioner

II. Amend RSA 94:1-a, I(b) by inserting in grade EE the following:

EE Insurance department director of operations

Senator Eaton moved adoption.

Adopted.

May 11, 2004
2004-1548-EBA
04/01

Enrolled Bill Amendment to SB 375

The Committee on Enrolled Bills to which was referred SB 375

AN ACT relative to the regulation of physician assistants.

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 375

This enrolled bill amendment corrects a section heading reference and makes a grammatical correction to the bill.

Enrolled Bill Amendment to SB 375

Amend section 1 of the bill by replacing line 1 with the following:

1 New Subparagraph; Conditions for Licensure. Amend RSA 328-D:3, I by inserting after

Amend RSA 328-D:5-a, I as inserted by section 4 of the bill by replacing line 4 with the following:

period after expiration, shall have his or her license lapse. A lapsed license shall be reinstated only upon

Senator Eaton moved adoption.

Adopted.

May 13, 2004

2004-1563-EBA

04/09

Enrolled Bill Amendment to SB 383-FN

The Committee on Enrolled Bills to which was referred SB 383-FN AN ACT relative to pharmacy benefit management.

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 383-FN

This enrolled bill amendment makes technical corrections.

Enrolled Bill Amendment to SB 383-FN

Amend 2002, 281:9, IV-a(h) as inserted by section 1 of the bill by replacing line 1 with the following:

(h) Clinically unacceptable risk with a change in therapy to a preferred drug

Amend 2002, 281:9, X as inserted by section 1 of the bill by replacing lines 1-2 with the following:

X. The commissioner shall develop:

(a) Mechanisms to educate and assist primary care physicians in

Senator Eaton moved adoption.

Adopted.

May 13, 2004

2004-1556-EBA

05/10

Enrolled Bill Amendment to SB 386

The Committee on Enrolled Bills to which was referred SB 386

AN ACT relative to the guardian ad litem board and providing for certification of guardians ad litem.

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 386

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to SB 386

Amend RSA 490-C:5-a, I as inserted by section 3 of the bill by replacing line 4 with the following:

established by the board.

Senator Eaton moved adoption.

Adopted.

April 29, 2004
2004-1466-EBA
05/10

Enrolled Bill Amendment to SB 388-FN

The Committee on Enrolled Bills to which was referred SB 388-FN AN ACT relative to proof of successful completion of an impaired driver intervention 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 SB 388-FN

This enrolled bill amendment makes grammatical and technical corrections.

Enrolled Bill Amendment to SB 388-FN

Amend RSA 263:65-a, V(a) as inserted by section 1 of the bill by replacing line 6 with the following:

opportunity to be heard by the person, where the department *and/or the I.D.I.P., the M.O.P., or*

Amend RSA 263:65-a, V(b) as inserted by section 1 of the bill by replacing line 4 with the following:

department of safety shall notify the licensee of his or her ability to request a hearing to dispute

Amend RSA 265:82-b, IV(d) as inserted by section 2 of the bill by replacing line 6 with the following:

opportunity to be heard by the person, where the department *and/or the I.D.I.P., the M.O.P., or*

Amend RSA 265:82-b, IV(e) as inserted by section 2 of the bill by replacing line 4 with the following:

department of safety shall notify the licensee of his or her ability to request a hearing to dispute

Senator Eaton moved adoption.

Adopted.

May 14, 2004
2004-1570-EBA
06/09

Enrolled Bill Amendment to SB 409-FN

The Committee on Enrolled Bills to which was referred SB 409-FN

AN ACT revising the vocational school licensing statutes.

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 409-FN

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to SB 409-FN

Amend RSA 188-D:28, I as inserted by section 4 of the bill by replacing line 1 with the following:

I. Whoever violates any [~~provisions~~] *provision* of this subdivision shall be guilty of a misdemeanor if a

Senator Eaton moved adoption.

Adopted.

May 11, 2004
2004-1552-EBA
08/10

Enrolled Bill Amendment to SB 414-FN

The Committee on Enrolled Bills to which was referred SB 414-FN

AN ACT clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations.

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 414-FN

This enrolled bill amendment renumbers an RSA subparagraph to avoid a conflict with HB 761.

Enrolled Bill Amendment to SB 414-FN

Amend section 4 of the bill by replacing lines 1 – 3 with the following:

4 New Subparagraph; Subdivision Regulations: Waiver Provision.
 Amend RSA 674:36, II by inserting after subparagraph (m) the following new subparagraph:

(n) Include provision for waiver of any portion of the regulations in such cases where, in

Senator Eaton moved adoption.

Adopted.

May 6, 2004
2004-1543-EBA
08/09

Enrolled Bill Amendment to SB 432-FN

The Committee on Enrolled Bills to which was referred SB 432-FN

AN ACT establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in 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 SB 432-FN

This enrolled bill amendment makes technical corrections and inserts current text of RSA 21-P:12-d which was inadvertently omitted.

Enrolled Bill Amendment to SB 432-FN

Amend RSA 21-P:36-a as inserted by section 11 of the bill by replacing line 3 with the following:

~~emergency management]~~ **assistant director of the division of emergency services,**

Amend section 14 of the bill by replacing line 1 with the following:

14 Enhanced 911 Commission; Reference Change. Amend RSA 106-H:5, I(b) to read as follows:

Amend RSA 21-P:12-a, II(e) as inserted by section 26 of the bill by replacing line 2 with the following:

emergency medical services, rescue operations, **injury prevention,** fire prevention, and fire **and**

Amend section 28 of the bill by replacing line 4 with the following: medical services": RSA 21-P:15; 21-P:25; 21-P:26; 21-P:28; 21-P:33; 21-P:48; and 94:1-a, I(b)GG.

Amend section 30 of the bill by replacing line 1 with the following:

30 Enhanced 911 Commission; Reference Change. Amend the introductory paragraph of RSA 106-H:3, I(a) to read as follows:

Amend RSA 21-P:12-d as inserted by section 27 of the bill by replacing line 14 with the following:

the fire standards and training and emergency medical services funds to the department of safety for such purposes.

Senator Eaton moved adoption.

Adopted.

May 14, 2004

2004-1569-EBA

03/01

Enrolled Bill Amendment to SB 442

The Committee on Enrolled Bills to which was referred SB 442

AN ACT relative to manufactured housing installation standards.

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 442

This enrolled bill amendment corrects certain references in the bill and makes a grammatical correction.

Enrolled Bill Amendment to SB 442

Amend RSA 205-D:2, I(c) as inserted by section 1 of the bill by replacing line 2 with the following:

nominated by the board of professional engineers established under RSA 310-A:3.

Amend RSA 205-D:2, I(j) as inserted by section 1 of the bill by replacing line 2 with the following:

board of professional engineers established under RSA 310-A:3.

Amend RSA 205-D:2, III as inserted by section 1 of the bill by replacing it with the following:

III. At the initial organizational meeting of the board, the commissioner shall appoint a chairperson from among the members.

Amend RSA 205-D:5, I(a) as inserted by section 1 of the bill by replacing line 2 with the following:
 installation practices consistent with the provisions of this chapter and rules promulgated hereunder.

Amend RSA 205-D:20, XI as inserted by section 1 of the bill by replacing line 3 with the following:
 issuance of appropriate orders, and for the correction or repair of defects in manufactured houses that

Senator Eaton moved adoption.

Adopted.

May 13, 2004
2004-1564-EBA
06/10

Enrolled Bill Amendment to SB 503-FN-LOCAL

The Committee on Enrolled Bills to which was referred 503-FN-LOCAL AN ACT establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities.

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 503-FN-LOCAL

This enrolled bill amendment makes grammatical corrections to the bill.

Enrolled Bill Amendment to SB 503-FN-LOCAL

Amend section 3 of the bill by replacing lines 2-5 with the following:
 development, deployment, and operation of municipally funded broadband infrastructure. The commission shall focus on the demands from the local residents and businesses, the options for alternative providers, the competitive environment within the municipalities and shall report on the municipal provision of broadband infrastructure and its effect on the municipality. The specific

Senator Eaton moved adoption.

Adopted.

May 14, 2004
2004-1567-EBA
03/01

Enrolled Bill Amendment to SB 530

The Committee on Enrolled Bills to which was referred SB 530 AN ACT relative to the duties of public safety responders and the expeditious clearance of a roadway.

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 530

This enrolled bill amendment makes grammatical corrections.

Enrolled Bill Amendment to SB 530

Amend RSA 154:7-b, III as inserted by section 2 of the bill by replacing line 11 with the following:

facilities restoration, and removal of vehicles and cargo, provided such actions are taken without willful

Amend RSA 265:37-b, I as inserted by section 3 of the bill by replacing line 2 with the following:

the use of the roadway by others except to avoid a collision, at the direction of an authorized

Senator Eaton moved adoption.

Adopted.

May 18, 2004

2004-1615-EBA

05/10

Enrolled Bill Amendment to HB 697-FN

The Committee on Enrolled Bills to which was referred HB 697-FN AN ACT relative to the sale of motor fuel.

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 697-FN

This enrolled bill amendment makes a grammatical correction and corrects a paragraph reference.

Enrolled Bill Amendment to HB 697-FN

Amend RSA 260:52-d, II as inserted by section 9 of the bill by replacing line 5 with the following:

fuel will be consumed in a highway use.

Amend RSA 260:42, VII as inserted by section 13 of the bill by replacing line 1 with the following:

VII. The commissioner is authorized to waive any *civil* penalty and interest when it is

Senator Eaton moved adoption.

Adopted.

May 6, 2004

2004-1542-EBA

06/09

Enrolled Bill Amendment to HB 729-FN

The Committee on Enrolled Bills to which was referred HB 729-FN AN ACT relative to the regulation of tanning facilities.

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 729-FN

This enrolled bill amendment makes technical corrections.

Enrolled Bill Amendment to HB 729-FN

Amend section 2 of the bill by replacing line 2 with the following: 313-A:1 by inserting after paragraph XI the following new paragraphs:

Amend section 3 of the bill by replacing line 1 with the following:

3 New Paragraphs; Barbering, Cosmetology and Estheticians; Definitions Added. Amend

Amend RSA 313-A:2, I as inserted by section 4 of the bill by replacing line 5 with the following:

owner of a registered tanning facility and [2] *one* public [~~members~~] *member*; each to be appointed

Amend RSA 313-A:26, II as inserted by section 13 of the bill by replacing line 2 with the following:
implementation of this subdivision.

Amend RSA 313-A:26, III as inserted by section 13 of the bill by replacing line 2 with the following:

and methods to monitor compliance with state and federal regulations.

Amend RSA 313-A:27, I as inserted by section 13 of the bill by replacing line 3 with the following:

the United States Food and Drug Administration.

Amend RSA 313-A:28, II as inserted by section 13 of the bill by replacing line 2 with the following:

to open or operate a tanning facility within this state shall file a registration statement annually with

Amend RSA 313-A:31, I as inserted by section 13 of the bill by replacing lines 3-6 with the following:

present. Proof of age shall be satisfied with a driver's license or other government issued identification containing date of birth and a photograph of the individual. This consent requirement shall be satisfied only if the parent or legal guardian is physically present at the time of the initial use of the tanning device, and the responsible adult signs a document declaring that he or she is the parent

Amend section 14 of the bill by replacing it with the following:

14 Repeal. RSA 313-A:8, VII, relative to rulemaking authority for matters of administration, is repealed.

Senator Eaton moved adoption.

Adopted.

May 11, 2004
2004-1547-EBA
05/10

Enrolled Bill Amendment to HB 1183

The Committee on Enrolled Bills to which was referred HB 1183

AN ACT relative to transporting manufactured housing or modular 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 1183

This enrolled bill amendment inserts an RSA section heading.

Enrolled Bill Amendment to HB 1183

Amend RSA 266:24-c as inserted by section 5 of the bill by replacing line 1 with the following:

266:24-c Manufactured Housing and Modular Buildings; State Liability Limited. The state shall not be liable for damage caused by negligent conduct of the person

Senator Eaton moved adoption.

Adopted.

May 6, 2004
2004-1530-EBA
06/01

Enrolled Bill Amendment to HB 1230-FN

The Committee on Enrolled Bills to which was referred HB 1230-FN AN ACT relative to abandoned deposits held by telephone utilities and relative to public interest payphones.

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 1230-FN

This enrolled bill amendment makes 3 technical corrections to the bill.

Enrolled Bill Amendment to HB 1230-FN

Amend RSA 374:22-q, I as inserted by section 2 of the bill by replacing lines 2-6 with the following:

deposited moneys received pursuant to RSA 471-C:8, IV and this paragraph. The state treasurer may invest moneys in the fund as provided by law, with interest received on such investment credited to the fund. Moneys in the fund shall be nonlapsing and continually appropriated to the commission to be used only to fund the maintenance of public interest payphones. At the end of each biennium, any moneys in excess of \$30,000 shall be transferred to the general fund.

Senator Eaton moved adoption.

Adopted.

May 11, 2004
2004-1546-EBA
06/09

Enrolled Bill Amendment to HB 1299

The Committee on Enrolled Bills to which was referred HB 1299

AN ACT relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

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 1299

This enrolled bill amendment makes technical corrections.

Enrolled Bill Amendment to HB 1299

Amend section 3 of the bill by replacing lines 1-3 with the following:

3 New Section; Candidate Notification to Selectmen. Amend RSA 669 by inserting after section 17-b the following new section:

669:17-c Candidate Notification to Selectmen. Any person who has been removed from any

Senator Eaton moved adoption.

Adopted.

May 3, 2004
2004-1474-EBA
03/09

Enrolled Bill Amendment to HB 1312

The Committee on Enrolled Bills to which was referred HB 1312

AN ACT relative to the court's discretion to extend child support obligations.

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 1312

This enrolled bill amendment inserts language into RSA 458:35-c previously added by 2004, 1 (HB 299) and makes a typographical correction.

Enrolled Bill Amendment to HB 1312

Amend RSA 458:35-c as inserted by section 2 of the bill by replacing line 6 with the following:

time the child support obligation, including all educational support obligations, terminates without further legal action. This amount shall remain

Amend RSA 458:16-a, III as inserted by section 3 of the bill by replacing line 3 with the following:

under 26 U.S.C. Section 529, the court may, in its discretion, preserve the account for its

Senator Eaton moved adoption.

Adopted.

May 4, 2004
2004-1488h
03/10

Enrolled Bill Amendment to HB 1320

The Committee on Enrolled Bills to which was referred HB 1320

AN ACT making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans.

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 1320

This enrolled bill amendment makes grammatical and technical corrections, and corrects certain references in the bill.

Enrolled Bill Amendment to HB 1320

Amend RSA 361-A:2, I as inserted by section 3 of the bill by replacing line 3 with the following:

be responsible for the supervision of their employees, agents, and branch offices. No

Amend RSA 361-A:2-b, I(b) as inserted by section 6 of the bill by replacing line 2 with the following:

report as required in subparagraph (a), notwithstanding the fact that he or she is not licensed on the

Amend RSA 361-A:2-b, III as inserted by section 7 of the bill by replacing line 5 with the following:

revocation of its license.

Amend section 8 of the bill by replacing line 1 with the following:

8 Suspension or Revocation of Licenses; Procedure. Amend the introductory paragraph of RSA 361-A:3, I to read as follows:

Amend the introductory paragraph of RSA 361-A:3, I-a as inserted by section 8 of the bill by replacing line 3 with the following:

partner, officer, or director, any person occupying a similar status or performing similar functions, or

Amend RSA 397-A:10-a, I(a) as inserted by section 14 of the bill by replacing line 3 with the following:

bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by

Amend the introductory paragraph of RSA 397-A:17, I as inserted by section 19 of the bill by replacing lines 10-11 with the following:

registered mail at the principal office of the licensee. Delivery of such order to an officer, director, 5 percent or more owner, member, partner, or legal representative of the licensee shall be deemed a

Amend the introductory paragraph of RSA 397-A:17, I as inserted by section 19 of the bill by replacing line 24 with the following:

assess penalties or deny, suspend, or revoke a license if it is in the public interest and the applicant or

Amend RSA 397-B:6, V as inserted by section 24 of the bill by replacing line 2 with the following:

partner, principal executive officer, or director of such person, every person occupying a similar

Amend RSA 397-B:8, I(b) as inserted by section 25 of the bill by replacing line 9 with the following:

nevertheless institute a revocation or suspension proceeding under RSA 397-B:3, VIII within

Amend RSA 397-B:8, II as inserted by section 25 of the bill by replacing line 3 with the following:

RSA 397-B:6.

Amend RSA 398-A:1-e, II as inserted by section 33 of the bill by replacing line 2 with the following:

report as required in paragraph I, notwithstanding the fact that it is not licensed on the date

Amend section 34 of the bill by replacing lines 1-4 with the following:

34 License Surrender. Amend RSA 398-A:1-f to read as follows:

398-A:1-f License Surrender.

I.(a) A licensee who ceases to engage in the business of making second mortgage home loans at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or

Amend RSA 398-A:1-f, II as inserted by section 34 of the bill by replacing line 3 with the following:

RSA 398-A:7-a.

Amend RSA 399-A:3, I as inserted by section 38 of the bill by replacing line 12 with the following:

supervision of their employees, agents, and branch offices. Each initial and renewal license

Amend RSA 399-A:6, I(b) as inserted by section 42 of the bill by replacing lines 1-2 with the following:

(b) A person who surrenders, withdraws, or does not renew a license shall file the annual report as required in subparagraph (a), notwithstanding the fact that it is not licensed on the date

Amend RSA 399-A:21, I as inserted by section 45 of the bill by replacing line 1 with the following:

I. Each licensee shall keep and use in its business such books and accounting records as are

Senator Eaton moved adoption.

Adopted.

May 11, 2004

2004-1551-EBA

03/01

Enrolled Bill Amendment to HJR 25

The Committee on Enrolled Bills to which was referred HJR 25

AN ACT requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation.

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 25

This enrolled bill amendment corrects a reference to federal law.

Enrolled Bill Amendment to HJR 25

Amend the second paragraph after the title by replacing line 2 with the following:

committee that Tra 601.15 conflicts with federal statutes, 23 U.S.C. Sections 109(d) and 402(a), and

Senator Eaton 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(s):

HB 1226-L, establishing a debt retirement fund in the Governor Wentworth regional school district.

HB 1230-FN, relative to abandoned deposits held by telephone utilities and relative to public interest payphones.

HB 1302, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces.

HB 1312, relative to the court's discretion to extend child support obligations.

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(s):

SB 427, relative to legal recognition of out-of-state marriages and establishing a commission to examine all aspects of same sex civil marriage and its legal equivalents.

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(s):

HB 730-FN, establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.

HB 1221, relative to the universal service fund.

HB 1224, establishing the Uniform Trust Code in New Hampshire.

HB 1243, prohibiting the collection of biometric data.

HB 1298, establishing a committee to study local dispute resolution for public employee labor relations.

HB 1422, relative to qualifications for persons who negotiate on behalf of the state.

HJR 26, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3).

SB 352-FN-L, relative to computing school building aid grant amounts.

SB 465, relative to testimony of witnesses about confidential settlements.

SB 504-FN, relative to disbursements from the alcohol abuse prevention and treatment fund.

SJR 2, designating a Purple Heart Trail in New Hampshire.

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(s):

HB 326, relative to establishing a 6-year capital budget.

HB 729-FN, relative to the regulation of tanning facilities.

HB 1320, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans.

SB 99, relative to compliance with federal law in the making of first and second mortgage loans.

SB 207, relative to exemptions from the consumer protection act and the regulation of retail installment sales of motor vehicles.

SB 301-FN, relative to liquor licenses and relative to sales of alcoholic beverages.

SB 303-FN, relative to the strengthening the requirements for qualified investment company status and the resulting exemption from business taxes, and eliminating the tax-exempt status of qualified investment capital companies.

SB 314, relative to access to medical records.

SB 316, relative to the payment of salaried employees.

SB 324-FN-A-L, relative to the real estate transfer tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality.

SB 329-FN, relative to the recovery by the retirement system of the overpayment of benefit amounts, relative to payment of medical benefits costs for disabled group II members of the retirement system, and making technical changes to the judicial retirement plan.

SB 333-FN, establishing a unique pupil identification system.

SB 342-FN, relative to payment of utility assessments, relative to regulation of electric generation companies, and relative to violations of gas pipeline and liquefied petroleum gas system regulation.

SB 344, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees.

SB 348, relative to the sale of manufactured housing and the management of manufactured housing parks.

SB 351-FN, relative to concurrent enrollment at regional vocational education centers.

SB 355, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems.

SB 357, authorizing municipalities to adopt quarterly billing of taxes.

SB 359, relative to construction of buildings on certain pre-existing streets.

SB 369, relative to examinations of insurance companies by the insurance department.

SB 370, relative to the insurance rating law.

SB 388-FN, relative to proof of successful completion of an impaired driver intervention program.

SB 392, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older.

SB 397, requiring the department of environmental services to adopt certain rules and to eliminate certain substances from gasoline supplies.

SB 402, relative to an optional retirement annuity benefit for members of the Manchester retirement system.

SB 418, relative to voting procedures in the Hanover school district.

SB 430-FN, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers.

SB 432-FN, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in the department of safety.

SB 436-FN-L, relative to the Claremont and Newport district courts.

SB 439, relative to probationary drivers' licenses and amending the effective date for establishing a criminal penalty for facilitating a drug or underage alcohol house party.

SB 441, relative to the operation of dental clinics by health care charitable trusts.

SB 443, relative to rural electric cooperatives and establishing an energy planning advisory board.

SB 445, relative to the regulation of dietitians by the board of licensed dietitians.

SB 470-FN, relative to funding for the physician effectiveness program, and establishing a dedicated fund.

SB 487, relative to lead sinkers.

SB 494, relative to the prohibition on taking conch and winkles; licensing requirements for taking lobsters and crabs; and changing the name of the advisory committee on shore fisheries to the advisory committee on marine fisheries.

SB 495-FN, relative to original and youth operators' licenses.

SB 496, relative to the definition of snow traveling vehicle.

SB 509-FN, relative to civil recoveries for false claims paid or approved by the department of health and human services.

SB 511-FN, relative to the penalties for rioting.

SB 520, relative to child support modification and service of divorce petitions.

SB 531, permitting the state veterans advisory committee to adopt by-laws and relative to eligibility for the veteran's property tax credit, and relative to other optional tax credits.

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(s):

HB 230, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act.

HB 264, relative to state senate districts.

HB 803-FN-A-L, relative to the establishment of municipal economic development and revitalization districts by municipalities.

HB 1183, relative to transporting manufactured housing or modular buildings.

HB 1228, relative to changes to the uniform fine schedule.

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

HB 1399-FN-A, establishing the telecommunications planning and development fund.

HJR 25, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation.

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(s):

SB 368, relative to reinsurance.

SB 371, relative to certain technical changes in the insurance laws.

SB 383-FN, relative to pharmacy benefit management.

SB 386, relative to the guardian ad litem board and providing for certification of guardians ad litem.

SB 409-FN, revising the vocational school licensing statutes.

SB 442, relative to manufactured housing installation standards.

SB 503-FN-L, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities.

SB 530, relative to the duties of public safety responders and the expeditious clearance of a roadway.

Senator D'Allesandro moved adoption.

Adopted.

In recess to the Call of the Chair.

Out of Recess.

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

May 25, 2004

The Senate met at 10:00 a.m.

A quorum was present.

Senate Guest Chaplain, Rabbi Richard L. Klein, from the Temple Beth Jacob in Concord, New Hampshire led the Senate in prayer.

This evening at sunset, the Jewish community begins celebration of Shavuot - The Feast of Weeks. Often referred to as Pentacost, it shares with Christian tradition celebration of a central moment of revelation. For those in the Jewish community, it marks the anniversary of the Revelation at Sinai and the Giving of the Ten Commandments. In recent times, it has become our opportunity to honor, with a ceremony of Confirmation, our

High School students who have completed ten years in our religious education program. For us, this connection between celebrating our sacred literature and honoring our students is a natural one. The obligation to study, to explore, to enhance the words of the past goes back more than two millennia. It explains the insistence of the Jewish tradition that all children be educated so that they are prepared for life-long study as adults. The Israelite People at Sinai said, "na'aseh v'nishmah" - we will do as we have been instructed and we will listen to the voices of the past as they challenge us in the presence.

Amen

Senator Barnes led the Pledge of Allegiance.

INTRODUCTION OF GUESTS COMMITTEE OF CONFERENCE REPORTS

May 18, 2004
2004-1616-CofC
03/05

Committee of Conference Report on HB 176, an act relative to listing candidates on ballots.

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 176, an act relative to listing candidates on ballots.

*Conferees on the Part
of the Senate*

Sen. Boyce, Dist. 4
Sen. Flanders, Dist. 7
Sen. Kenney, Dist. 3

*Conferees on the Part
of the House*

Rep. Drisko, Hills. 46
Rep. Whalley, Belk. 31
Rep. Reeves, Hills. 49
Rep. Dorsett, Graf. 16

Adopted.

May 18, 2004
2004-1623-CofC
03/01

Committee of Conference Report on HB 243, an act relative to motor vehicle exhaust noise standards.

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 243, an act relative to motor vehicle exhaust noise standards.

*Conferees on the Part
of the Senate*

Sen. Morse, Dist. 22
Sen. Flanders, Dist. 7
Sen. Martel, Dist. 18

*Conferees on the Part
of the House*

Rep. Packard, Rock. 75
Rep. Letourneau, Rock. 77
Rep. Artz, Hills. 64
Rep. Ferland, Sull. 23

The question is on the adoption of the Committee of Conference Report.

SENATOR BELOW: I rise in opposition to the Committee of Conference Report. From what I understand, the conferees simply conceded the Senate position and adopted the House position. The House position repeals a section in the law that says "no person shall modify the exhaust system of a motor vehicle in any manner which will amplify or increase the noise emitted above that emitted by the original muffler installed in the vehicle". What this means is that, as a practical matter, there is no limit as to what people can do to modify their muffler system or exhaust system, I should say, to amplify and increase noise emitted by the vehicle. They are still required to have a muffler and the muffler is required to reduce noise, but it doesn't mean that they can't add devices that turn around and amplify the noise and make it very loud with no decibel limit whatsoever in state law or no standard which this applies to, which is not louder than the original system. We heard testimony in opposition to this bill from the Assistant Commissioner of Safety, Earl Sweeney, the Chiefs of Police Association and a Special Association of Coalition of Chiefs on the seacoast. Part of their testimony was that perhaps the leading complaint that police get in the summer months in this state is excessive noise from vehicles. A lot of people in this state still do not have air conditioning. They sleep with their windows open at night. This bill, if it becomes law, I think, is going to prove to be the sleeper political issue of the year, in that if it becomes law, I venture to say that everybody in this room is going to start getting complaints from constituents and local police saying that they do not have the means to adequately enforce excessively noisy or equipment that is added to an exhaust system to amplify and make noise loud. I don't know about you, but I think that one of the things that we sell New Hampshire on is the virtue of the peace and quiet people can get by coming here in the summer time. This, I am afraid, is going to turn it around. I would urge the body to reject the Committee of Conference Report and vote this down and avoid the sleepless nights that are likely to occur for many people as a result of the reduced ability of the police to enforce standards for modifying exhaust systems. We did offer language in the Senate version that would make clear that people could modify their exhaust system. They could add double pipes. They could reroute the pipes. They could do all sorts of things as long as it didn't...it wasn't designed to amplify or increase the noise compared to that emitted by the original muffler system. So I would urge your defeat of this and I would request a roll call. Thank you, Mr. President.

SENATOR SAPARETO: Thank you, Mr. President. Senator Below, I noticed that for the past, at least two decades, I can remember that local...towns have put local ordinances regarding restrictions. Why can't they simply do that?

SENATOR BELOW: I think that local ordinances are primarily geared towards people blasting radios out of their car or other sounds. I think you are going to have a very difficult time trying to enforce a local ordinance. First of all, where many communities don't have them because they have trusted that state laws cover this issue. Second of all, if the insertion is well, were allowed under state law, to do things to modify, to amplify or increase the noise, then I think there is going to be a real difficulty trying to enforce those noise ordinances with regard to the equipment on the car versus blasting a radio excessively loud.

SENATOR SAPARETO: What if I have a vehicle that I can't get OAM parts for that go beyond that? Does that mean that now I can't drive

those vehicles when they need to be replaced or the muffler needs to be replaced from, say a 67 Classic Camaro or something that you can't necessarily get those parts?

SENATOR BELOW: No. I think that in the discussion of this in the hearing, it became clear that the Assistant Commissioner of Safety recognized that they have perhaps, through rules, been overly aggressive in interpreting the statute. He said that if this bill did not become law, and I can read you some of his testimony, he assured us that he would work to make clear through their rules that people can in fact modify their exhaust system, they don't have to replace it with original equipment. They could modify their exhaust system as long as it didn't have the purpose or wasn't... have the effect of increasing the noise or amplifying the noise compared to the original system.

SENATOR SAPARETO: Thank you.

SENATOR CLEGG: Thank you, Mr. President. I rise in support of the Committee of Conference Report. I disagree that this takes away all of law enforcement's ability to do away with loud mufflers. It says in section one, which still remains, "every motor vehicle, shall at all times be equipped with a muffler as defined in good working order, and in constant operation" and here's the key, "to prevent excessive or unusual noise." So it is here. The problem with section three, for those of us who restore old cars, what was the sound emitted from a 1965 muffler on a GTO? Nobody knows. It's left up to a personal interpretation, so tickets are issued. I'd like to point out that with every ticket comes this little fee that goes to the police academy to keep it running. So will there be less tickets issued under this now if we pass the Committee of Conference? You bet. Because fellows like me and a few other Senators who restore classic cars, put on the mufflers that fit. They might be a little louder than the standard muffler on a Toyota today, but that is the way we remember them, and it is subject to interpretation on every single stop. I don't see any reason why we should allow the local communities...or we shouldn't allow the local communities to have their own noise ordinances. I know we do. I know that it does talk about mufflers, because I know that you can't start a lawn mower on Sunday morning before eight o'clock because they are too noisy. So, I don't see where the local communities can't raise or lower the decibels. As far as going to rules to decide, the hair stands up on the back of my neck every time we hear a commissioner say, "kill that law or kill that change in law and I will take care of it in rules." I thought that that is what we were here for. I thought we're the ones that are supposed to make the decisions for the state of New Hampshire. I thought we were supposed to do it as a joint body of 424 people, not a joint body of ten or twelve. So, for the commissioner to come in and say don't do this and I will do it in rules, takes away the legislature's ability to actually make laws and do things that concern our constituents. I am dead set against the constant abuse that commissioners use by creating law through rules and ignoring what we were elected to do. Thank you, Mr. President.

SENATOR GATSAS: Thank you. Senator Clegg, would you believe that the concern is not about the Senators that rebuild old automobiles and have GTOs that you really can't tell what the mufflers sound was back when the car was built, but the bigger concern is the modifications that would be allowed to be put on a muffler? That doesn't stop that from happening on a new car to make that sound of your GTO. Would you believe that?

SENATOR CLEGG: Well, I would believe that, if that is the case, then they're covered under 266:59, section I, which says that you can't have anything that would be excessive or unusual noise. So I think that they are covered.

SENATOR GATSAS: Is there a reason why we wouldn't...I know that we had a similar issue on a bill at a shooting range, and we talked about excessive noise, and we talked about it at the shooting range. How do we define excessive noise?

SENATOR CLEGG: I'm not sure. I didn't look up in the statute what was excessive noise, but in the case that you are talking about, when they amplified those little cars with the big coffee cans on the end of the exhaust, that would be unusual noise, because that is not a noise that would be usual on a motor vehicle.

SENATOR GATSAS: Thank you.

SENATOR PETERSON: Senator Clegg, living near a highway myself, I find that the loudest noise comes from motorcycles, also perhaps sometimes from trucks. How would this legislation affect a motorcycle user?

SENATOR CLEGG: Basically, it has the same affect on motorcycles that are normal. I know that a lot of times you buy a brand new motorcycle and it doesn't necessarily have the pipes that came in the factory because the local dealers put enhancements on it. But when you talk about trucks and noise, probably the most disturbing noise to most people in the summer is the sound of a brake called the "Jake break" on trucks as they use those in order to reduce their speed, rather than their brakes. It is quite loud, and it is a lot louder than any car muffler or any coffee can on the back of one of those little sports cars.

SENATOR BELOW: Senator Clegg, would you believe the Senate version of this bill, that this body had passed, eliminated the need for rules on these issue because it made it clear that people could modify their exhaust systems but not in a way to amplify or increase the noise?

SENATOR CLEGG: I believe that the Senate is always right, but I also believe that in a Committee of Conference the art of compromise to get something done is just as important.

Question is on the adoption of the Committee of Conference Report.

A roll call was requested by Senator Below.

Seconded by Senator Sapareto.

The following Senators voted Yes: Gallus, Johnson, Boyce, Flanders, Odell, Roberge, O'Hearn, Clegg, Martel, Sapareto, Morse, Prescott.

The following Senators voted No: Kenney, Below, Green, Peterson, Foster, Larsen, Gatsas, Barnes, D'Allesandro, Estabrook, Cohen.

Yeas: 12 - Nays: 11

Adopted.

**May 18, 2004
2004-1607-CofC
09/10**

Committee of Conference Report on HB 369, an act relative to the Henniker and Hillsborough district courts.

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 Henniker District Court. Amend RSA 502-A:1, XV to read as follows:

XV. ~~[HENNIKER-HILLSBOROUGH]~~ **HENNIKER** DISTRICT. The ~~[Henniker-Hillsborough]~~ *Henniker* district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county ~~[and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county].~~ The *district* court *for the district* shall be located in ~~[a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. Special sessions of said court for cases arising from the town of Henniker shall be held at the principal court location as the caseload and justice requires. The court shall bear the name of the city or town in which it is located.]~~ *Henniker, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Henniker District Court.*

2 Hillsborough District Court. Amend RSA 502-A:1, XXIII to read as follows:

XXIII. ~~[HENNIKER-HILLSBOROUGH]~~ **HILLSBOROUGH** DISTRICT. The ~~[Henniker-Hillsborough]~~ *Hillsborough* district shall consist of the towns of ~~[Henniker, Warner, and Bradford in Merrimack county and the towns of]~~ Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The *district* court *for the district* shall be located in ~~[a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.]~~ *Hillsborough, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Hillsborough District Court.*

3 Henniker-Hillsborough District Court. RSA 502-A:1, XV is repealed and reenacted to read as follows:

XV. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as

justice may require. Special sessions of said court for cases arising from the town of Henniker shall be held at the principal court location as the caseload and justice requires. The court shall bear the name of the city or town in which it is located.

4 Henniker-Hillsborough District Court RSA 502-A:1, XXIII is repealed and reenacted to read as follows:

XXIII. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

5 Contingency. If the department of administrative services and the towns in the Henniker and Hillsborough districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 3 and 4 of this act shall take effect July 1, 2006. If the department of administrative services and the towns in the Henniker and Hillsborough districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 3 and 4 of this act shall not take effect.

6 Hampton District Court. Amend RSA 502-A:1, II to read as follows:

II. [~~HAMPTON-EXETER~~] *Hampton* DISTRICT. The [~~Hampton-Exeter~~] *Hampton* district shall consist of the towns of Hampton, Hampton Falls, North Hampton, South Hampton, *and* Seabrook[, Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping, and Brentwood]. The *district court for the district* shall be located in [a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located] *Hampton, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Hampton District Court.*

7 New Paragraph; Exeter District Court. Amend RSA 502-A:1 by inserting after paragraph II the following new paragraph:

II-a. EXETER DISTRICT. The Exeter district shall consist of the towns of Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping and Brentwood. The district court for the district shall be located in Exeter, holding sessions regularly therein and elsewhere in the district as justice may require. The name of this court shall be the Exeter District Court.

8 HAMPTON-EXETER DISTRICT. RSA 502-A:1, II is repealed and reenacted to read as follows:

II. HAMPTON-EXETER DISTRICT. The Hampton-Exeter district shall consist of the towns of Hampton, Hampton Falls, North Hampton, South Hampton, Seabrook, Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping, and Brentwood. The court

shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

9 Repeal. RSA 502-A:1, II-a, relative to the Exeter District court, is repealed.

10 Contingency. If the department of administrative services and the towns in the Hampton and Exeter districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006 sections 8 and 9 of this act shall take effect July 1, 2006. If the department of administrative services and the towns in the Hampton and Exeter districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 8 and 9 of this act shall not take effect.

11 Effective Date.

I. Sections 3 and 4 of this act shall take effect as provided in section 5 of this act.

II. Sections 8 and 9 of this act shall take effect as provided in section 10 of this act.

III. The remainder of this act shall take effect July 1, 2004.

The signatures below attest to the authenticity of this Report on HB 369, an act relative to the Henniker and Hillsborough district courts.

Conferees on the Part of the Senate

Sen. Prescott, Dist. 23
Sen. Flanders, Dist. 7
Sen. Foster, Dist. 13

Conferees on the Part of the House

Rep. Mock, Carr. 4
Rep. Rowe, Hills. 47
Rep. Stone, Rock. 73
Rep. Wall, Straf. 72

2004-1607-CofC

AMENDED ANALYSIS

This bill prevents the consolidation of the Henniker district court and Hillsborough district court, if certain conditions are met regarding court facilities.

This bill also prevents the consolidation of the Hampton District court and the Exeter District court under 1992, 253, if certain conditions are met regarding court facilities.

Adopted.

May 18, 2004
2004-1639-CofC
05/01

Committee of Conference Report on HB 384, an act relative to financial affidavits in domestic relations cases.

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 384, an act relative to financial affidavits in domestic relations cases.

*Conferees on the Part
of the Senate*

Sen. Peterson, Dist. 11
Sen. Sapareto, Dist. 19
Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. Hunt, Ches. 28
Rep. Holden, Hills. 48
Rep. Stepanek, Hills. 47
Rep. DeStefano, Merr. 41

Adopted.

May 18, 2004
2004-1611-CofC
10/09

Committee of Conference Report on HB 426, an act relative to the monitoring and approval of appraisers by the commissioner of revenue administration.

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 Assessment Report. Amend RSA 21-J:11-a, II to read as follows:

II. The commissioner shall issue a copy of the report upon its completion to the municipality and to the assessing standards board. ***The report shall be completed after the completion of the equalization of property valuations conducted pursuant to RSA 21-J:3, XIII.*** When issued, the report shall be a public document.

Amend the bill by replacing section 15 with the following:

15 New Section; Appraisal of Taxable Property; Annual Appraisal; Municipalities Over 10,000. Amend RSA 75 by inserting after section 8-a the following new section:

75:8-b Annual Appraisal; Municipalities Over 10,000. Except when assessing real estate under RSA 75:8-a, any municipality with a population over 10,000 as determined pursuant to RSA 78-A:25 intending to appraise real estate annually at market value, as defined in RSA 75:1, shall authorize such annual appraisal by a majority vote of the governing body. The governing body shall hold 2 public hearings regarding the annual appraisal process at least 15 days, but not more than 60 days, prior to the governing body's authorization vote. Any municipality with a population over 10,000 as determined pursuant to RSA 78-A:25 annually appraising real estate at market value shall provide notification of changes to the assessed valuation prior to the issuance of the final tax bill, either by individual notice to the property owner, by public notice in a newspaper of general circulation, or by any other means deemed appropriate by the governing body.

The signatures below attest to the authenticity of this Report on HB 426, an act relative to the monitoring and approval of appraisers by the commissioner of revenue administration.

*Conferees on the Part
of the Senate*

Sen. Green, Dist. 6
Sen. Barnes, Dist. 17
Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Stohl, Coos 1
Rep. Gillick, Rock. 85
Rep. Patten, Carr. 7
Rep. Theberge, Coos 3

2004-1611-CofC

AMENDED ANALYSIS

This bill:

I. Provides for the certification and decertification of assessors of taxable property by the commissioner of revenue administration and the assessing standards board.

II. Allows towns and cities to change the scale and updating of tax maps, and requires certain information on abatement application forms.

III. Changes a reference to enforcement procedures applicable to discretionary preservation easements.

IV. Establishes procedures by which a municipality with a population over 10,000 may adopt annual appraisals of real estate.

V. Requires the commissioner of the department of revenue administration to make reports to the fiscal committee on the status of monthly tax refunds.

Adopted.

May 14, 2004
2004-1574-CofC
05/04

Committee of Conference Report on HB 551, an act relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

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 inserting after section 6 the following new section and renumbering the remaining section 7 to read as 8.

7 New Paragraph; Child Protection Act; Protective Custody; Effect of Parent's Refusal to Administer Psychotropic Drug. Amend RSA 169-C:6 by inserting after paragraph VII the following new paragraph:

VIII. Unless otherwise ordered by the court, the refusal of a parent or other person having control of a child to administer or consent to the administration of any psychotropic drug to such child shall not, in and of itself, constitute grounds for the police or a juvenile probation and parole officer to take the child into custody, or for the court to order that such child be taken into custody. However, if the administration of a decreasing dose of the drug is required during withdrawal from the medication, the refusal may constitute grounds for taking the child into protective custody.

The signatures below attest to the authenticity of this Report on HB 551, an act relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

*Conferees on the Part
of the Senate*

Sen. Martel, Dist. 18
Sen. Boyce, Dist. 4
Sen. Estabrook, Dist. 21

*Conferees on the Part
of the House*

Rep. Itse, Rock. 80
Rep. Arnold, Hills. 46
Rep. McRae, Hills. 48
Rep. Gile, Merr. 38

2004-1574-CofC

AMENDED ANALYSIS

This bill provides that a parent's refusal to administer a psychotropic drug to his or her child shall not, in and of itself, provide grounds for the state to take the child into protective custody under RSA 169-C, the child protection act. This bill also establishes a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

Adopted.

May 18, 2004
2004-1622-CofC
09/01

Committee of Conference Report on HB 618-FN-A, an act making technical corrections to certain local property tax laws.

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 5 with the following:

5 Municipal Budget Law; Posting of Budget. Amend RSA 32:5, VII to read as follows:

VII. The governing body shall post certified copies of the budget, with the warrant for the meeting. ***The operating budget warrant article shall contain the amount as recommended by the budget committee if there is one.*** In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its posted budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

The signatures below attest to the authenticity of this Report on HB 618-FN-A, an act making technical corrections to certain local property tax laws.

*Conferees on the Part
of the Senate*

Sen. Johnson, Dist. 2
Sen. Gallus, Dist. 1
Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. Patten, Carr. 7
Rep. Gillick, Rock. 85
Rep. Letourneau, Rock. 77
Rep. Theberge, Coos 3

MOTION TO TABLE

Recess.

Out of recess.

Senator Gatsas moved to have **HB 618-FN-A** laid on the table.

The Chair ruled the motion to Lay on the Table to be out of order.

SENATOR EATON (In the Chair): The chair says that these are up and down votes and there are no tabling motions.

SENATOR LARSEN: I was advised by the Senate Clerk that a tabling motion was in order. This bill in fact was a vehicle, a possible FN bill relating to property taxes, by which we could have restored funding to the property tax communities of our state. If you vote no on this and vote not to allow a tabling motion, you are closing out the options by which you can resolve some of the poorest communities' losses of education funding in this state. It is worth all of our efforts this day to attempt to fix these problems. I believe that if you are roll called as a no vote against tabling, you ought to be held accountable for your votes that you wanted to close your ears to this possibility.

SENATOR EATON (In the Chair): Senator Larsen, the ruling was based on Mason's as he just said and we do not use Mason's rules.

SENATOR LARSEN: I understand that that is your advice. I will just say that there are many in this room who I know care about the communities and want to see some options here.

SENATOR BARNES: Thank you, Mr. President. Senator Larsen, don't you agree that the whole battle of the day is on 302 and you and I have talked and a lot of others of us have talked, and that is where the real battle is going to be, and let's...the President has made his motion, made his decision how this is going to go. All 24 of us, two years ago, voted for him. He is running the show here, and let's roll to 302. There will be plenty of conversation and I am going to be joining with the chorus of the five towns that are getting gypped. But that will come later this afternoon.

SENATOR LARSEN: I agree that the major battle is in 302, but I also know from being here that oftentimes if you close the doors to your options, you have closed them forever.

SENATOR COHEN: I have a question of the chair if I may.

SENATOR EATON (In the Chair): Go ahead.

SENATOR COHEN: It is not clear to me how the decision was arrived at, what the basis is for denying the ability to have a vote on the tabling motion. What is the...

SENATOR EATON (In the Chair): It is not in our rules. The Clerk had spoke about Mason's Rules and we don't go by Mason's Rules. So we are either voting up or down.

SENATOR COHEN: Okay, we are not voting by Mason's Rules but where is...

SENATOR EATON (In the Chair): It is the parliamentary decision.

SENATOR COHEN: Is the decision simply with the chair, not based on any particular rules that we have? It is just your decision not to allow a tabling motion?

SENATOR EATON (In the Chair): That is correct.

SENATOR COHEN: Thank you.

Recess.

Out of recess.

The question is on the adoption of the Committee of Conference Report.

A roll call was requested by Senator Larsen.

Seconded by Senator Green.

The following Senators voted Yes: Gallus, Kenney, Boyce, Flanders, Odell, Roberge, Peterson, O'Hearn, Foster, Clegg, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott.

The following Senators voted No: Johnson, Below, Green, Larsen, Cohen.

Yeas: 18 - Nays: 5

Adopted.

**May 17, 2004
2004-1592-CofC
04/09**

Committee of Conference Report on HB 640-FN, an act relative to post-conviction DNA testing.

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 each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 640-FN, an act relative to post-conviction DNA testing.

*Conferees on the Part
of the Senate*

Sen. Peterson, Dist. 11
Sen. Sapareto, Dist. 19
Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Knowles, Straf. 69
Rep. Stevens, Carr. 7
Rep. Lasky, Hills. 65
Rep. Holbrook, Belk. 30

Adopted.

**May 12, 2004
2004-1554-CofC
09/01**

Committee of Conference Report on HB 643-FN, an act relative to the family division of the courts.

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 3 with the following:

3 Family Division Study Committee. The family division study committee appointed by the supreme court shall make recommendations for

the expansion of the family division of the courts statewide and for changes in the operation of the family division in Rockingham and Grafton counties. In developing its recommendations, the committee shall consider the recommendations in the Report of the Resolution of Family Issues in the Courts Study Committee, dated January 15, 1995. The committee shall also consider any more recent studies and reports on the family division, including recommendations made by any commission established to study the operations of the family division in Grafton county. The committee shall report its findings and recommendations to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, the chief justice of the supreme court, and the state library on or before December 1, 2004. Such report shall include a detailed statewide plan for the proposed implementation of the family division, including restructuring of the court system as necessary to accomplish this purpose, and recommendations for legislation.

Amend the bill by replacing all after section 6 with the following:

7 New Subdivision; Marital Masters; Recommendations, Appointments and Procedures. Amend RSA 491 by inserting after section 20 the following new subdivision:

Marital Masters

491:20-a Nominations and Appointments.

I. The chief justice of the superior court shall recommend persons to the governor and council for initial appointment as marital masters. In recommending candidates for initial appointment as marital masters under this subdivision, the court shall utilize the procedures and standards described in superior court rules in effect as of July 1, 2004, except as otherwise provided in this subdivision.

II. For appointments of new marital masters, the chief justice of the superior court shall submit to the governor the name of a nominee. The governor may accept the candidate nominated by the chief justice and submit the candidate to the council for confirmation or may reject the candidate submitted by the chief justice, and request a new nominee. If the council rejects a candidate for confirmation, the governor shall request a new nominee.

III. Marital masters shall serve an initial term of 3 years. Subsequent reappointments shall be made in accordance with superior court rules. During appointment terms, the authority and responsibility to conduct annual performance reviews, and termination, if necessary, shall be with the chief justice of the superior court.

491:20-b Qualifications.

I. Marital masters shall possess the following qualifications:

(a) Professional experience in family law matters.

(b) Legal and personal qualities including, but not limited to:

(1) Knowledge of family matters, including related matters such as tax and pension law;

(2) Personal maturity so as to understand and make decisions on matters before the court; and

(3) Personal qualities of patience and understanding of the difficult personal matters which are the subject of divorce and a willingness to deal with complex family matters in a non-adversarial manner.

II. Each marital master shall complete a course in court process and procedures and mediation and negotiation.

491:20-c Orders of Martial Masters. All orders of martial masters shall be signed by a judge.

8 Applicability. Any marital master serving on the effective date of this act shall not be subject to the provisions of section 7 of this act.

9 Effective Date.

I. Section 3, 5, and 6 of this act shall take effect upon its passage.

II. Section 4 of this act shall take effect as provided in section 5 of this act.

III. Sections 7 and 8 of this act shall take effect July 1, 2004.

IV. The remainder of this act shall take effect July 1, 2005.

The signatures below attest to the authenticity of this Report on HB 643-FN, an act relative to the family division of the courts.

*Conferees on the Part
of the Senate*

Sen. Peterson, Dist. 11

Sen. Roberge, Dist. 9

Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Mock, Carr. 4

Rep. Dudley, Graf. 18

Rep. R. Wheeler, Hills. 48

Rep. Wall, Straf. 72

2004-1554-CofC

AMENDED ANALYSIS

This bill makes the family division of the courts currently operating as a pilot program in Grafton and Rockingham counties a permanent component of the judicial branch. The bill requires the family division study committee appointed by the supreme court to make recommendations for the expansion of the family division statewide and for changes in the operation of the family division in Rockingham and Grafton counties.

This bill reduces the number of superior court justices from 29 to 22.

This bill also requires marital masters to be recommended by the superior court and appointed by the governor and council and establishes certain qualifications and requirements for marital masters.

Adopted.

May 18, 2004

2004-1644-CofC

10/01

Committee of Conference Report on HB 651-FN, an act relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

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 651-FN, an act relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

*Conferees on the Part
of the Senate*

Sen. Green, Dist. 6

Sen. Roberge, Dist. 9

Sen. Peterson, Dist. 11

*Conferees on the Part
of the House*

Rep. O'Neil, Rock. 85

Rep. Hall, Hills. 58

Rep. Irwin, Hills. 44

Rep. R. Wheeler, Hills. 48

Adopted.

May 17, 2004
2004-1587-CofC
06/01

Committee of Conference Report on HB 698-FN, an act relative to electronic toll collection.

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 698-FN, an act relative to electronic toll collection.

*Conferees on the Part
of the Senate*

Sen. Kenney, Dist. 3
 Sen. Morse, Dist. 22
 Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Graham, Hills 57
 Rep. McConkey, Carr. 6
 Rep. Malloy, Hills. 66
 Rep. Weyler, Rock. 79

Adopted.

May 14, 2004
2004-1571-CofC
06/01

Committee of Conference Report on HB 713-FN, an act relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings.

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 1 with the following:

2 Repeal. RSA 75:11, V, requiring assessing officials to file with the register of deeds a list of residences located in an industrial or commercial zone which are eligible for special appraisal, is repealed.

3 Effective Date.

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

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

The signatures below attest to the authenticity of this Report on HB 713-FN, an act relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings.

*Conferees on the Part
of the Senate*

Sen. Roberge, Dist. 9
 Sen. Morse, Dist. 22
 Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Brundige, Hills. 58
 Rep. Gillick, Rock. 85
 Rep. Gould, Rock. 77
 Rep. M. Cooney, Graf. 15

2004-1571-CofC

AMENDED ANALYSIS

This bill establishes a higher civil penalty for second and subsequent violations of a zoning ordinance and provides that a prevailing municipality shall recover the costs and attorney's fees it incurred in pursuing the violation.

This bill also repeals the law requiring assessing officials to file with the register of deeds a list of residences located in an industrial or commercial zone which are eligible for special appraisal.

SENATOR D'ALLESANDRO: Mr. President, a question on the previous bill. It says Committee of Conference Report on HB 698-FN, but with the signatures its a report on HB 696-FN. I think there is a clerical error and we ought to correct that. We voted on 698-FN, but they signed off on 696-FN. In our report.

SENATOR EATON (In the Chair): Senator D'Allesandro, thank you for...

SENATOR D'ALLESANDRO: Senator Sapareto found it.

SENATOR EATON (In the Chair): I see. There are two different numbers on the bill. Thank you. It will be noted in the Enrolled Bills. Thank you.

Adopted.

May 18, 2004
2004-1656-CofC
04/01

Committee of Conference Report on HB 727-FN-LOCAL, an act establishing a legislative oversight committee for the school administrative unit system.

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 5 with the following:

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 30, 2004.

The signatures below attest to the authenticity of this Report on HB 727-FN-LOCAL, an act establishing a legislative oversight committee for the school administrative unit system.

*Conferees on the Part
of the Senate*

Sen. Green, Dist. 6
 Sen. Flanders, Dist. 7
 Sen. O'Hearn, Dist. 12

*Conferees on the Part
of the House*

Rep. Alger, Graf. 14
 Rep. Scott, Straf. 71
 Rep. Weyler, Rock. 79
 Rep. Dunn, Ches. 25

Adopted.

May 19, 2004
2004-1670-CofC
06/09

Committee of Conference Report on HB 1148, an act defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

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 Smith Pond Repairs. Without prejudice or effect as to determinations of ownership or liability for the dam and dikes impounding Smith Pond in Enfield, the department of environmental services is authorized to undertake repairs to dikes which are located within the boundaries of the fish and game department's Enfield Wildlife Management Area; provided, that the owners of land needed for access to the work grant permission for such access, and to the extent that funding for such repair work is available from sources other than the department of environmental services. The department is authorized to accept contributions and grants for such purpose. The department of environmental services shall obtain the advice and consent of legislative dam management review committee prior to undertaking any such work.

Amend the bill by replacing all after section 5 with the following:

6 Repeal. Section 4 of this act, relative to Smith Pond repairs, is repealed.

7 Effective Date.

I. Section 5 of this act shall take effect upon its passage.

II. Section 2 of this act shall take effect July 1, 2005.

III. Section 6 of this act shall take effect December 31, 2005.

IV. The remainder of this act shall take effect July 1, 2004.

The signatures below attest to the authenticity of this Report on HB 1148, an act defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

*Conferees on the Part
of the Senate*

Sen. Johnson, Dist. 2
Sen. Prescott, Dist. 23
Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Lawton, Belk. 30
Rep. Royce, Ches. 28
Rep. Russell, Belk. 31
Rep. Brueggemann, Merr. 40

2004-1670-CofC

AMENDED ANALYSIS

This bill:

I. Defines "wetlands" for purposes of RSA 482-A, fill and dredge in wetlands, and for local land use planning and regulation.

II. Establishes a criterion for timely filing of an appeal to the wetlands council.

III. Authorizes the department of environmental services to undertake repairs to the dam and dikes impounding Smith Pond in Enfield to the extent that funding for such work is available from outside the department. The department shall first obtain consent from the dam management review committee.

IV. Exempts trails for snow travelling vehicles from site plan review by a planning board.

Adopted.

May 13, 2004
2004-1562-CofC
04/01

Committee of Conference Report on HB 1162, an act relative to school district policies on bullying.

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 193-F:3, II as inserted by section 1 of the bill by replacing it with the following:

II. (a) Any school employee, or employee of a company under contract with a school or school district, who has witnessed or has reliable information that a pupil has been subjected to insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response that violates the school bullying policy shall report such incident to the principal, or designee who shall in turn report the incident to the superintendent and the school board.

(b) The principal, or designee, shall by telephone and in writing by first-class mail, report the occurrence of any incident described in this paragraph to the parent or legal guardian of all pupils involved within 48 hours of the occurrence of such incident. The notice shall advise the individuals involved of their due process rights including the right to appeal to the state board of education. The superintendent may, within the 48 hour time period, grant the principal a waiver from the notification requirement if the superintendent deems such waiver to be in the best interest of the child. Any waiver granted shall be in writing.

The signatures below attest to the authenticity of this Report on HB 1162, an act an act relative to school district policies on bullying.

*Conferees on the Part
of the Senate*

Sen. Barnes, Dist. 17
Sen. O'Hearn, Dist. 12
Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. M. Carter, Hills. 44
Rep. Naro, Graf. 15
Rep. Carson, Rock. 75
Rep. Jean, Hills. 65

Adopted.

May 18, 2004
2004-1625-CofC
09/03

Committee of Conference Report on HB 1165, an act relative to extending domestic violence protection orders.

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

The signatures below attest to the authenticity of this Report on HB 1165, an act relative to extending domestic violence protection orders.

*Conferees on the Part
of the Senate*

Sen. Peterson, Dist. 11
Sen. Boyce, Dist. 4
Sen. Estabrook, Dist. 21

*Conferees on the Part
of the House*

Rep. Knowles, Straf. 69
Rep. T. Robertson, Ches. 25
Rep. Nedeau, Belk. 30
Rep. Bicknell, Rock. 73

2004-1625-CofC

AMENDED ANALYSIS

This bill requires a court granting an extension of a domestic violence order to state in writing, at the respondent's request, the reason or reasons for granting the extension.

Adopted.**May 19, 2004****2004-1658-CofC****06/09**

Committee of Conference Report on HB 1262, an act establishing a commission to study ways to encourage municipal recycling efforts.

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 Commission Established. There is established a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities under RSA 72:12-a.

2 Membership and Compensation.

I. The members of the commission 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.

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

(d) A member nominated by New Hampshire the Beautiful, Inc. and appointed by the governor.

(e) A member nominated by the Northeast Resource Recovery Association and appointed by the governor.

(f) Two public members, appointed by the speaker of the house of representatives.

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

3 Duties. The commission shall study:

I. Ways to enhance municipal recycling efforts.

II. Other systems for recycling currently used in the United States and Canada.

III. An environmental fee on recyclable household waste.

IV. The creation of a grant program and a fund to be used to help towns implement and expand recycling programs.

V. The use and impact of exemptions granted under RSA 72:12-a.

VI. How privately-owned landfills are assessed for tax purposes.

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

5 Report. 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 November 30, 2004.

The signatures below attest to the authenticity of this Report on HB 1262, an act establishing a commission to study ways to encourage municipal recycling efforts.

*Conferees on the Part
of the Senate*

Sen. Green, Dist. 6
Sen. Johnson, Dist. 2
Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Olimpio, Carr. 8
Rep. Rous, Straf. 72
Rep. Patten, Carr. 7
Rep. Stohl, Coos 1

2004-1658-CofC

AMENDED ANALYSIS

This bill establishes a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities under RSA 72:12-a.

SENATOR GREEN: Thank you, Mr. President. I would like to read this into the record so that it will be part of the intent of what is going on with this particular piece of legislation. This is the one that dealt with the landfill issues. We did not resolve that in committee, so I would like to read this for the record. "We recognize that the current law, RSA 72:12-a, as it is and how it applies to landfills, is currently in dispute and this committee had no opinion as to whether...as to how or why they would be able to change that particular language. We also recognize that the RSA 72:12-a and b need to be clarified because of the apparent confusion at DES as to when and to what the statute does and does not apply. The conferees also recognized that. We could not, however, reach agreement on specific language. We did agree that study committee should recommend corrective legislation early in the next session." So, this is going to be an on-going discussion regarding landfills. Thank you, Mr. President.

Adopted.

May 13, 2004

2004-1561-CofC

03/10

Committee of Conference Report on HB 1276-FN, an act relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

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 New Section; Registration Fees; Processing Fee to be Collected. Amend RSA 261 by inserting after section 141-a the following new section:

261:141-b Processing Fee to be Collected. The department shall collect an additional \$5 fee for each registration processed by electronic means.

The signatures below attest to the authenticity of this Report on HB 1276-FN, an act relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

*Conferees on the Part
of the Senate*

Sen. Kenney, Dist. 3
Sen. Morse, Dist. 22
Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Packard, Rock. 75
Rep. Letourneau, Rock. 77
Rep. J. Flanders, Rock. 79
Rep. Ferland, Sull. 23

Adopted.

May 17, 2004
2004-1596-CofC
01/04

Committee of Conference Report on HB 1281, an act permitting the adoption of an alternative cost apportionment method in a cooperative school district.

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 RSA 195:14-a, II and III as inserted by section 1 of the bill by replacing them with the following:

II. The question on the adoption of an alternative method of apportioning operating costs shall be proposed as an article in the warrant of the next cooperative school district annual or special meeting pursuant to RSA 195:13. A majority of voters present and voting on the question in each city or town in the cooperative school district shall be required to approve the alternative method of apportioning operating costs. Upon approval, the clerk of the cooperative school district shall send to the state board of education a certified copy of the warrant.

III. The procedure for modification or rescission of an alternative method of apportioning operating costs shall be as set forth in the alternative method of apportioning operating costs and shall not be subject to the provisions of RSA 195:18, III(i). A majority of voters present and voting on the question in each city or town in the cooperative school district shall be required to approve the modification or rescission.

Amend RSA 198:41, III as inserted by section 3 of the bill by replacing it with the following:

III. The department of education shall notify municipalities of the estimated amount of aid to which they are entitled for the following school year on November 15.

Amend the bill by replacing section 4 with the following:

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2005.

The signatures below attest to the authenticity of this Report on HB 1281, an act permitting the adoption of an alternative cost apportionment method in a cooperative school district.

*Conferees on the Part
of the Senate*

Sen. Eaton, Dist. 10
 Sen. Kenney, Dist. 3
 Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Major, Rock. 79
 Rep. V. Clark, Rock. 79
 Rep. Jasper, Hills. 66
 Rep. Almy, Graf. 18

2004-1596-CofC

AMENDED ANALYSIS

The bill allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

This bill establishes a legislative oversight committee to oversee the school administrative unit system.

This bill requires the department of education to notify a municipality of the estimated education grant amount to which it is entitled for the following school year on November 15.

Adopted.**May 13, 2004****2004-1609-CofC****01/09**

Committee of Conference Report on HB 1282, an act authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

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 RSA 383:10-d as inserted by section 2 of the bill by replacing it with the following:

383:10-d Consumer Complaints and Restitution. The commissioner shall have exclusive authority and jurisdiction to investigate conduct that is or may be an unfair or deceptive act or practice under RSA 358-A and exempt under RSA 358-A:3, I or that may violate any of the provisions of Titles XXXV and XXXVI and administrative rules adopted thereunder. The commissioner may hold hearings relative to such conduct and may order restitution for a person or persons adversely affected by such conduct. The commissioner may request the assistance and services of the consumer protection and antitrust bureau of the department of justice. In the instance of conduct involving an alleged criminal offense, the commissioner shall refer to the department of justice all aspects relevant to the criminal investigation and prosecution of such matter.

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

4 Contingency. If SB 371 of the 2004 legislative session becomes law, then section 3 of SB 371 shall take effect June 30, 2004.

5 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

The signatures below attest to the authenticity of this Report on HB 1282, an act authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

*Conferees on the Part
of the Senate*

Sen. Flanders, Dist. 7
Sen. Prescott, Dist. 23
Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Hunt, Ches. 28
Rep. Fraser, Merr. 37
Rep. Spiess, Hills. 47
Rep. DeStefano, Merr. 41

2004-1609-CofC

AMENDED ANALYSIS

This bill authorizes the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees

This bill also changes an effective date of a section of SB 371 of the 2004 legislative session.

Adopted.

May 18, 2004

2004-1631-CofC

03/04

Committee of Conference Report on HB 1293, an act relative to emission control equipment for certain vehicles.

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 New Paragraph; Unfair Insurance Trade Practices; Coercion in Requiring Certain Automobile Rental. Amend RSA 417:4 by inserting after paragraph XXI the following new paragraph:

XXII. Coercion In Requiring Certain Automobile Rental.

(a) No insurance company, agent, or adjuster shall engage in any act or practice of intimidation, coercion, threat, for or against any insured person or entity to use a particular company or location to provide rental automobile services or products.

(b) Nothing shall prohibit any insurance company, agent, or adjuster from providing to such insured person or entity the name of an automobile rental company with which arrangements may have been made with respect to automobile rental services.

6 Repeal. RSA 417:4, XXII, relative to automobile rental coercion, is repealed.

7 Effective Date.

I. Sections 3 and 5 of this act shall take effect 60 days after its passage.

II. Section 6 of this act shall take effect July 1, 2006.

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

The signatures below attest to the authenticity of this Report on HB 1293, an act relative to emission control equipment for certain vehicles.

*Conferees on the Part
of the Senate*

Sen. Clegg, Dist. 14
 Sen. Kenney, Dist. 3
 Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Thomas, Belk. 31
 Rep. Hunt, Ches. 28
 Rep. Artz, Hills. 64
 Rep. Kaen, Straf. 72

Adopted.

May 19, 2004
2004-1655-CofC
01/04

Committee of Conference Report on HB 1295 an act relative to certain court records.

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 New Paragraphs; Exemptions; Certain Documents. Amend RSA 91-A:5 by inserting after paragraph VI the following new paragraphs:

VII. Any notes or other materials made for personal use that do not have an official purpose, including notes and materials made prior to, during, or after a public proceeding.

VIII. Preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum or a majority of those entities defined in RSA 91-A:1-a.

The signatures below attest to the authenticity of this Report on HB 1295, an act relative to certain court records.

*Conferees on the Part
of the Senate*

Sen. Roberge, Dist. 9
 Sen. Odell, Dist. 8
 Sen. Clegg, Dist. 14

*Conferees on the Part
of the House*

Rep. Haytayan, Hills. 46
 Rep. Mock, Carr. 4
 Rep. Rowe, Hills. 47
 Rep. Craig, Hills. 50

2004-1655-CofC

AMENDED ANALYSIS

This bill:

I. Declares that certain court records involving an action against a governmental unit shall be available as a public record under RSA 91-A.

II. Exempts notes or other materials made for personal use that do not have an official purpose from the right-to-know law.

III. Exempts preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to certain entities from the right-to-know law.

SENATOR LARSEN: It is my understanding that within HB 1295 there continues to be language that, in the description, says clarifies the right to know law. I wondered if we could have someone explain what the new language talking about a work product is and how we are affecting the right to know law and people's right to know what is public record, what should be public record?

SENATOR CLEGG: Thank you. The Senate took the House's amendment, which basically clarified that any time a working document was given to a quorum of the public body, it would then have to be public. So in a committee such as a Senate committee, there is five on the committee, if three got a draft, it would then be a public document, the same as in your local community. That is the only change that I could see from the Senate position. The House felt that that clarified any problems of people stamping things willy nilly draft to keep them out of the public's view.

Adopted.

May 17, 2004
2004-1600-CofC
08/09

Committee of Conference Report on HB 1296, an act establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

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 Food Service Licensure; Definition. Amend RSA 143-A:3, V to read as follows:

V. "Occasional food service establishment" means any food service establishment operated by a private or public organization or institution, whether profit or nonprofit, which prepares food or drink for sale or for service, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge, no more than [4 days] **96 hours at no fewer than 3 hours a day** during a 30-day period.

The signatures below attest to the authenticity of this Report on HB 1296, an act establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

*Conferees on the Part
of the Senate*

Sen. Prescott, Dist. 23
 Sen. Green, Dist. 6
 Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. Olimpio, Carr. 8
 Rep. Cernota, Hills. 65
 Rep. P. LaFlamme, Hills. 61
 Rep. Diamond, Graf. 17

Adopted.

May 18, 2004
2004-1630-CofC
05/03

Committee of Conference Report on HB 1326, an act establishing a study committee to examine the classification of consumer and display fireworks.

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 160-B:16-b and RSA 160-B:16-c as inserted by section 2 of the bill by replacing them with the following:

160-B:16-b Retail Sale of Firecrackers Prohibited; Penalty. The retail sale of firecrackers is prohibited. In this section, "firecracker" means a ground device firecracker as defined by the American Pyrotechnics Association in APA Standard 87-1 (2001) 3.1.3.1, as amended. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

160-B:16-c Retail Sale of Bottle Rockets Prohibited; Penalty. The retail sale of bottle rockets is prohibited. In this section, "bottle rocket" means a bottle rocket as defined by the American Pyrotechnics Association in APA Standard 87-1 (2001) 3.1.2.1, as amended. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

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

5 Permissible Fireworks; Rulemaking; Bond for Retail Sellers of Permissible Fireworks Prohibited. Amend RSA 160-C:4, II to read as follows:

II. Insurance~~[, bonding,]~~ or other evidence of financial responsibility to be required of any person licensed under this chapter, ***except that no bonding requirement shall be imposed on retail sellers of permissible fireworks.***

6 Committee Established. There is established a committee to study the classification of consumer and display fireworks.

7 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) Two members of the senate, appointed by the president of the senate.

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

8 Duties. The committee shall examine the state and federal regulation of consumer and display fireworks in New Hampshire, including RSA 160-B, RSA 160-C, Saf-C 2601, and 27 C.F.R. 555. The purpose of the study shall be to propose a recodification of the applicable statutes such that RSA 160-B shall regulate display fireworks, formerly known as class B special fireworks, and RSA 160-C shall regulate consumer fireworks, formerly known as class C common fireworks, a subdivision of which shall be permissible fireworks, as selected by the permissible fireworks review committee. The committee shall solicit such information and testimony as it deems necessary to conduct the study.

9 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. Three members of the committee shall constitute a quorum.

10 Report. The committee shall report its findings and any proposed recodification of RSA 160-B and RSA 160-C 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, 2004.

11 Effective Date.

I. Sections 1, 2, and 4 of this act shall take effect September 30, 2004.

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

The signatures below attest to the authenticity of this Report on HB 1326, an act establishing a study committee to examine the classification of consumer and display fireworks.

*Conferees on the Part
of the Senate*

Sen. Peterson, Dist. 11
 Sen. Clegg, Dist. 14
 Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Welch, Rock. 79
 Rep. Knowles, Straf. 69
 Rep. Bemis, Straf. 67
 Rep. Bicknell, Rock. 73

2004-1630-CofC

AMENDED ANALYSIS

This bill:

I. Changes the requirements for obtaining a state license to sell permissible fireworks.

II. Prohibits the retail sale of firecrackers and bottle rockets.

III. Provides the commissioner of the department of safety with rule-making authority relative to the licensing of persons responsible for the use of flame, pyrotechnics, or special effects before an audience.

IV. Changes the meeting requirements of the permissible fireworks review committee.

V. Prohibits bonding of retail sellers of permissible fireworks.

VI. Establishes a study committee to examine the classification of consumer and display fireworks.

Adopted.

May 19, 2004

2004-1652-CofC

03/01

Committee of Conference Report on HB 1348-FN, an act relative to registration of business organizations.

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 29 with the following:

29 Registered Limited Liability Partnerships. Amend RSA 304-A:44, III to read as follows:

III. A partnership becomes a registered limited liability partnership at the close of business on the date of the filing of the initial registration with the secretary of state or at the effective time or the delayed effective time and date not later than the ninetieth day after the date the registration is filed, specified in the registration, if, in any case, there has been substantial compliance with the requirements of this chapter. ***A document filed electronically shall be effective at such delayed effective time and date or upon the date and time of acceptance by the secretary of state corporate database and application, if, in any case, there has been substantial compliance with the requirements of this chapter.*** A partnership continues as a registered limited liability partnership if there has been substantial compliance with the requirements of this chapter. The status of a partnership as a registered limited liability partnership and the liability of a partner of such registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in a registration under paragraph I of this section.

Amend the bill by replacing section 35 with the following:

35 Registered Limited Liability Partnerships; Execution of Documents, Filing Requirements, Fees. Amend RSA 304-A:51, V to read as follows:

V.(a) Except as provided in paragraph VI, a document accepted for filing is effective:

(~~(a)~~) (1) At the close of business on the date it is filed, as evidenced by the secretary of state's date endorsement of the original document; or
 (b) (2) At the time specified in the document as its effective time on the date it is filed.

(b) A document filed electronically shall be effective upon the date and time of acceptance by the secretary of state corporate database and application or as specified in accordance with paragraph VI.

Amend the bill by replacing section 38 with the following:

38 Uniform Limited Partnership Act; Certificate of Limited Partnership. Amend RSA 304-B:8, II to read as follows:

II. A limited partnership is formed at the close of business on the date of the filing of the certificate of limited partnership in the office of the secretary of state, [~~together with the certificate required by RSA 421-B:13, I-a(b);~~]

or the effective time or the delayed effective time and date specified in accordance with RSA 304-B:13, IV in the certificate of limited partnership if, in any case, there has been substantial compliance with the requirements of this section. **A limited partnership filed electronically will be effective upon the date and time of acceptance by the secretary of state corporate database and application or as specified in accordance with RSA 304-B:13, IV.**

Amend the bill by replacing all after section 65 with the following:

66 New Section; Department of State; Handling Charge. Amend RSA 5 by inserting after section 10 the following new section:

5:10-a Handling Charge. If the secretary of state collects a fee electronically for any registration, any document, or any other purpose, the secretary of state shall collect a handling charge for each fee paid electronically, including by Internet or facsimile, by adding \$2 to the total fee.

67 Repeal. RSA 5:10-a, relative to department of state handling charges, is repealed.

68 Effective Date.

I. Section 67 of this act shall take effect July 1, 2008.

II. The remainder of this act shall take effect July 1, 2004.

The signatories below attest to the authenticity of this Report on HB 1348-FN, an act relative to registration of business organizations.

*Conferees on the Part
of the Senate*

Sen. Clegg, Dist. 14
 Sen. Peterson, Dist. 11
 Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Hunt, Ches. 28
 Rep. Stepanek, Hills. 47
 Rep. Brady, Coos 2
 Rep. Kopka, Hills. 63

Adopted.

**May 18, 2004
 2004-1621-CofC
 04/05**

Committee of Conference Report on HB 1367, an act permitting the parents or legal guardians of a sexual assault victim to remain with the victim during the legal proceedings.

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 1367, an act permitting the parents or legal guardians of a sexual assault victim to remain with the victim during the legal proceedings.

*Conferees on the Part
of the Senate*

Sen. Peterson, Dist. 11
Sen. Roberge, Dist. 9
Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Knowles, Straf. 69
Rep. Welch, Rock. 79
Rep. Bemis, Straf. 67
Rep. Bicknell, Rock. 73

Adopted.**May 18, 2004****2004-1614-CofC****04/10**

Committee of Conference Report on HB 1380-FN, an act relative to unauthorized video surveillance.

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 644:9, I (c) as inserted by section 1 of the bill by replacing it with the following:

(c) Outside a private place, any device for the purpose of hearing, recording, amplifying, broadcasting, or in any way transmitting images or sounds originating in such place which would not ordinarily be audible or comprehensible outside such place.

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

2 Breach of Peace; Violation of Privacy. Amend RSA 644:9, III to read as follows:

III. A person is guilty of a class A misdemeanor if that person knowingly disseminates or causes the dissemination of any photograph or video recording of himself or herself engaging in sexual activity with another person without the express consent of the other person or persons who appear in the photograph or videotape. In this paragraph, "disseminate" and "sexual activity" shall have the same meaning as in RSA 649-A:2.

IV. ~~[This paragraph]~~ **Paragraphs I and II** shall not be construed to impair or limit any otherwise lawful activities of law enforcement personnel, ~~[or]~~ **nor are paragraphs I and II intended to limit** employees of governmental agencies or other entities, public or private, who, in the course and scope of their employment and supported by articulable suspicion, attempt to capture any type of visual image, sound recording, or other physical impression of a person during an investigation, surveillance, or monitoring of conduct to obtain evidence of suspected illegal activity, the suspected violation of any administrative rule or regulation, a suspected fraudulent insurance claim, or any other suspected fraudulent conduct or activity involving a violation of law, or pattern of business practices adversely affecting the public health or safety.

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

The signatures below attest to the authenticity of this Report on HB 1380-FN, an act relative to unauthorized video surveillance.

*Conferees on the Part
of the Senate*

Sen. Barnes, Dist. 17
Sen. Gatsas, Dist. 16
Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Tholl, Coos 2
Rep. Knowles, Straf. 69
Rep. Bicknell, Rock. 73
Rep. Nedeau, Belk. 30

Adopted.

May 18, 2004
2004-1619-CofC
04/05

Committee of Conference Report on HB 1401-FN, an act limiting the use of traffic signal preemption devices.

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 228:69, I(c) as inserted by section 7 of the bill by replacing it with the following:

(c) To provide funding for the Boston to Montreal High Speed Rail Planning and Feasibility Study for the high speed rail connection between Boston and Montreal in an amount not to exceed \$85,000.

The signatures below attest to the authenticity of this Report on HB 1401-FN, an act limiting the use of traffic signal preemption devices.

*Conferees on the Part
of the Senate*

Sen. Flanders, Dist. 7
Sen. Barnes, Dist. 17
Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Packard, Rock. 75
Rep. Royce, Ches. 28
Rep. Letourneau, Rock. 77
Rep. Ferland, Sull. 23

Adopted.

May 18, 2004
2004-1640-CofC
05/04

Committee of Conference Report on HB 1408-FN, an act relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

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 the bill by replacing section 1 with the following:

1 New Paragraphs; Director of Charitable Trusts; Reports by Trustees of Charitable Trusts; Reporting Requirements Added. Amend RSA 7:28 by inserting after paragraph III the following new paragraphs:

III-a. Any charitable organization with revenue, gains, and other support of \$500,000 or more that is required to file an Internal Revenue Service Form 990 with the attorney general shall also submit the organization's latest financial statement prepared in accordance with generally accepted accounting principles.

III-b. Any charitable organization with revenue, gains, and other support of \$1,000,000 or more that is required to file an Internal Revenue Service Form 990 with the attorney general shall also submit the organization's latest audited financial statement prepared in accordance with generally accepted accounting principles.

III-c. Charitable organizations for which compliance with paragraphs III-a or III-b would constitute a financial burden may request an exemption according to criteria established and administered by the director of charitable trusts. An exemption, if granted, shall be valid for 3 years from the date of issuance unless revoked by the director of charitable trusts and written notice of such revocation is provided to the charitable organization.

The signatures below attest to the authenticity of this Report on HB 1408-FN, an act relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

*Conferees on the Part
of the Senate*

Sen. Flanders, Dist. 7
Sen. Barnes, Dist. 17
Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Hunt, Ches. 28
Rep. Spiess, Hills. 47
Rep. Stepanek, Hills. 47
Rep. Meader, Ches. 25

Adopted.

May 19, 2004
2004-1654-CofC
05/01

Committee of Conference Report on HB 1411-FN-A, an act establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

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 Appropriation; Department of Corrections; Lapse Date Extended. The \$750,000 appropriation to the department of corrections in 1997, 349:1, III(D), for the prison automation system, is hereby extended to June 30, 2005.

2 Oversight and Reporting Required. The department of corrections shall provide a report every 90 days to the legislative capital budget overview committee on the progress of the prison automation project beginning September 30, 2004, until the funds appropriated and extended for such purpose in section 1 of this act are fully expended. The reports shall include the current total project cost, funds encumbered, actual expenditures, and the estimated completion date for the project.

3 Office of Information Technology; Oversight and Reporting Required. The office of information technology shall provide a report every 30 days to the fiscal committee of the general court and to the house and senate ways and means committees on the progress of the prison automation project beginning September 30, 2004, until the funds appropriated and extended for such purpose in section 6 of this act are fully expended. The reports shall include the current total project cost, funds encumbered, actual expenditures, and the estimated completion date for the project.

4 State Laboratory Committee Established. The general court recognizes that certain functions of state government may directly or indirectly compete with services and products otherwise provided by the private sector. State government has a responsibility to consider very carefully any decision to provide products and services to the public at large, particularly where the products and services to be provided may compete with similar products or services offered by the private sector. Therefore, there is hereby established the state laboratory committee, a study committee to examine the current structure of the state laboratories to identify those services which compete directly with the private sector and to examine the true costs of providing such services where private market-priced services are concerned.

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

(a) Three members of the senate, appointed by the president of the senate, one of whom shall be a member of the senate ways and means committee and one of whom shall be a member of the senate finance committee.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be a member of the house public works and highways committee, one of whom shall be a member of the house ways and means committee, and one of whom shall be a member of the house finance committee.

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

III. The committee shall:

(a) Study and direct the commissioners of agencies that operate state laboratories to adjust laboratory fees to reflect market conditions and trends to keep laboratory fees comparable to the private sector.

(b) Consider the feasibility of implementing a facility fee for laboratory services to pay for maintenance and debt service on the renovation and expansion of the state laboratories.

(c) Determine the extent to which the state laboratories compete against the private sector in offering its products and services to the general public.

(d) Examine the benefits and true cost savings to the state associated with the possibility of phasing out those services in which the state unfairly competes against the private sector today.

(e) Review similar operations and the competitive position in the marketplace of similarly-provided laboratory services of other states.

(f) Evaluate the need to refocus the role and responsibilities of the state laboratory services to provide necessary services available in the private sector, such as those related to homeland security.

(g) Develop recommendations and legislative proposals for reorganization and implementation of changes based on the findings of this committee.

(h) Study other issues deemed relevant to the committee's purpose.

(i) Solicit relevant information and testimony from the following individuals and organizations:

- (1) The New Hampshire Municipal Association.
- (2) The New Hampshire Waterworks Association.
- (3) The Business and Industry Association of New Hampshire.
- (4) The Lab Association of New Hampshire.
- (5) American Council of Engineering Companies-New Hampshire

Chapter.

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

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

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

IV. 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.

V. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2004.

5 Public Health; Laboratory of Hygiene; Fee Required; Fees Changed. RSA 131:3-a, III is repealed and reenacted to read as follows:

III. Unless otherwise prohibited by the Safe Drinking Water Act or the EPA grants referenced in paragraph I, the commissioner of environmental services shall adopt rules, under RSA 541-A, to change the fees established in paragraphs I-II in accordance with the findings of the state laboratory committee established in the 2004 legislative session. The commissioner shall make future adjustments to the fees, by rule, to reflect market conditions and trends to keep specified lab fees comparable to the private sector.

IV. All fees collected by the commissioner of environmental services under this section shall be deposited with the state treasurer as unrestricted revenue, with the exception that 50 percent of every analysis fee shall be deposited with the state treasurer and reserved in a special nonlapsing fund to be used by the commissioner of environmental services for the purchase of replacement or new laboratory equipment designed to improve service. The commissioner may, with prior approval of the governor and council, use funds in the nonlapsing account for unanticipated personnel or supply expenditures made necessary by unexpected changes in or additions to federal or state required laboratory analyses, or unusual volume of samples.

6 Effective Date.

I. Section 5 of this act shall take effect January 1, 2005.

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

The signatures below attest to the authenticity of this Report on HB 1411-FN-A, an act establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

*Conferees on the Part
of the Senate*

Sen. Prescott, Dist. 23

Sen. O'Hearn, Dist. 12

Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. E Smith, Ches. 26

Rep. C. Bouchard, Merr. 39

Rep. Waterhouse, Rock. 76

Rep. R. Wheeler, Hills. 48

2004-1654-CofC

AMENDED ANALYSIS

This bill:

I. Prevents the lapse of a prior appropriation to the department of corrections for a prison automation system.

II. Establishes a study committee relative to state laboratory fees.

III. Requires the commissioner of environmental services to establish, by rule, competitive fees for laboratory services.

Adopted.

May 19, 2004

2004-1649-CofC

05/10

Committee of Conference Report on HB 1428-FN, an act relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

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 deleting sections 12 and 13 and renumbering the original section 14 to read as 12.

Amend the bill by replacing section 12 with the following:

12 Effective Date.

I. Sections 6 and 7 of this act shall take effect January 1, 2005.

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

The signatures below attest to the authenticity of this Report on HB 1428-FN, an act relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

*Conferees on the Part
of the Senate*

Sen. Barnes, Dist. 17

Sen. Roberge, Dist. 9

Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Rogers Johnson, Rock. 83

Rep. Hunt, Ches. 28

Rep. Rodeschin, Sull. 20

Rep. Wallner, Merr. 40

2004-1649-CofC

AMENDED ANALYSIS

This bill:

I. Establishes a position in the department of health and human services to assist recipients of home care for children with severe disabilities in obtaining reimbursement or payment from private insurers whenever possible, and appropriates \$1 in each year of the biennium to fund the position.

II. Establishes program eligibility criteria for home care for children with severe disabilities and authorizes the department to loan specialized equipment to program participants.

III. Directs the department to adopt the expired rules regulating home care for children with severe disabilities as interim rules and provides that such rules shall remain in effect until July 1, 2005.

IV. Establishes a commission to study the medical assistance program.

V. Expands the definition of health carrier for purposes of disclosing insurance information to the department of health and human services for medicaid reimbursement.

VI. Permits the department to seek reimbursement or payment from a health carrier for a medical assistance recipient if the claim is made within 5 years of the service.

VII. Prohibits a reduction in the appropriation to the home care program for children with severe disabilities for the biennium ending June 30, 2005.

VIII. Clarifies when standardized health statements are to be used for medical underwriting.

Adopted.

May 19, 2004
2004-1669-CofC
06/01

Committee of Conference Report on HB 2004-FN-LOCAL, an act relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

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 6 with the following:

7 Penalties for Frivolous Actions; State Construction Projects Added. RSA 507:15 is repealed and reenacted to read as follows:

507:15 Penalties for Frivolous Actions.

I. If, upon the hearing of any contract or tort action, it clearly appears to the court that the action or any defense is frivolous or intended to harass or intimidate the prevailing party, then the court, upon motion of the prevailing party or on its own motion, may order summary judgment against the party who brought such action or raised such defense, and award the amount of costs and attorneys' fees incurred by the prevailing party plus \$1,000 to be paid to the prevailing party, provided such costs and fees are reasonable. The trial judge shall also report such conduct to the supreme court committee on professional conduct.

II. If the court determines that the action under paragraph I causes substantial delay to a state road project, costs may include increased construction costs incurred by the state.

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

The signatures below attest to the authenticity of this Report on HB 2004-FN-LOCAL, an act relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

*Conferees on the Part
of the Senate*
Sen. Clegg, Dist. 14
Sen. Morse, Dist. 22
Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*
Rep. E. Smith, Ches. 26
Rep. Rausch, Rock. 77
Rep. Holland, Rock. 76
Rep. Graham, Hills. 57

2004-1669-CofC**AMENDED ANALYSIS**

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Establishes a committee to study the adequacy of funding for the state's 10-year transportation plan.

III. Grants authority to the commissioner of transportation to make improvements to the turnpike system required by the 10-year transportation plan.

IV. Changes appropriations for certain projects in the turnpike system.

V. Allows the prevailing party, in a suit brought concerning a state construction project, to recover costs, attorneys' fees, and damages that include any increased construction costs incurred by the state.

SENATOR LARSEN: While it is clear that the state needs a 10-year transportation plan, it is not clear that we need this second section that relates to frivolous actions in court cases. This language, while better than what was passed through the Senate, continues to be an issue for citizens who seek to get redress to issues relating to highway constructions around the state. You have to depend upon the court through this language, perhaps, for some salvation from what might be huge attorneys' fees to be repaid. In essence, it causes problems for citizens who seek to bring out issues relating to environmental concerns on road projects. It gives them pause before they bring these forward. I point out that that section of the bill is one which continues to cause problems.

Adopted.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bills:

SB 109, adopting the model Drug Dealer Liability Act.

SB 153, adopting the nurse licensure compact.

SB 302-FN-L, making technical corrections to the education funding formula.

SB 312-FN, establishing a state code of ethics.

SB 317, relative to registration of pesticide applicators and rules of the pesticide control board.

SB 338-FN, relative to the purchase of prior service credit by certain political subdivision employee members.

SB 376-FN-A, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

SB 381, relative to the transfer of certain capital appropriations within the department of safety.

SB 382-FN-L, relative to medical service rates for state prisoners.

SB 391, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections.

SB 407-FN-L, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

SB 413-FN, relative to financing federally aided highway projects.

SB 415-FN, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

SB 421, relative to charter schools.

SB 423, relative to confidentiality and workers' compensation.

SB 449, relative to fluoridation of municipally-owned public water systems.

SB 453, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

SB 459, making certain changes to the real estate practice act.

SB 461, relative to the regulation of gift certificates under the consumer protection act.

SB 478-FN, relative to penalties for DWI offenses.

SB 481-FN-L, establishing a sewer and other water-related purposes district for Great Bay.

SB 490-FN, relative to the Help America Vote Act.

SB 500-FN, relative to certain procedures of financial institutions.

SB 508-FN, relative to grant-funded programs.

SB 521-FN, increasing the penalty for identity fraud.

SB 526, relative to sexual harassment complaint procedures for public employees.

SB 533, relative to licensing requirements for certain recreation and child care programs.

SB 534-FN-A, relative to the reorganization of certain functions and duties of state agencies.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

SJR 3, a resolution urging the United States Supreme Court to retain the words "under God" in the pledge of allegiance.

May 18, 2004
2004-1610-CofC
09/10

Committee of Conference Report on SB 109, an act adopting the model Drug Dealer Liability Act.

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

The signatures below attest to the authenticity of this Report on SB 109, an act adopting the model Drug Dealer Liability Act.

*Conferees on the Part
of the Senate*

Sen. Prescott, Dist. 23
 Sen. Clegg, Dist. 14
 Sen. Martel, Dist. 18

*Conferees on the Part
of the House*

Rep. Haytayan, Hills. 46
 Rep. Woods, Straf 69
 Rep. Craig, Hills. 50
 Rep. Knowles, Straf. 69

2004-1610-CofC

AMENDED ANALYSIS

This bill adopts the model Drug Dealer Liability Act, which has been adopted by the bipartisan American Legislative Exchange Council.

Adopted.**May 17, 2004****2004-1599-CofC****08/09**

Committee of Conference Report on SB 153, an act adopting the nurse licensure compact.

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 153, an act adopting the nurse licensure compact.

*Conferees on the Part
of the Senate*

Sen. Martel, Dist. 18
 Sen. Peterson, Dist. 11
 Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. P. LaFlamme, Hills. 61
 Rep. Dexter, Ches. 27
 Rep. N. Allan, Hills. 63
 Rep. Pilotte, Hills. 55

Adopted.**May 19, 2004****2004-1672-CofC****04/10**

Committee of Conference Report on SB 302-FN-LOCAL, an act making technical corrections to the education funding formula.

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 Education Property Tax; Version Effective July 1, 2004. 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 \$3.33 on each \$1000 of the value of taxable property 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.

2 Education Property Tax; Version Effective July 1, 2005. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. Beginning July 1, 2005, and every fiscal year thereafter, the commissioner of the department of revenue administration shall set the education property tax rate at a level sufficient to generate revenue equal to the statewide education property tax revenue generated in the previous fiscal year. Such rate shall be 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. The education property tax rate shall be effective for the fiscal year in which the calculation is made.

3 School Money; Definitions. RSA 198:38 is repealed and reenacted to read as follows:

198:38 Definitions. In this subdivision:

I. "Municipality" means a city, town, or unincorporated place.

II. "School district" means school district as defined in RSA 194:1 or RSA 195:1.

III. "Elementary school" means a school with any of the grades kindergarten through 8.

IV. "Average per pupil adequacy cost" means the amount as determined in accordance with RSA 198:40.

V. "Average daily membership in attendance" means average daily membership in attendance as defined in RSA 189:1-d, III, as of September 30th of the second school year preceding the year in which the calculation is made.

VI. "Average daily membership in residence" means the average daily membership in residence as, defined in RSA 189:1-d, IV, as of September 30th of the second school year preceding the year in which the calculation is made, provided that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

VII. "Adequate education cost" means the amount calculated for a municipality in accordance with RSA 198:41. 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.

VIII. "Department" means the department of education.

4 School Money; 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 [~~statewide enhanced education property tax hardship relief under RSA 198:55~~] ***low and moderate income homeowners property tax relief under RSA 198:56-198:61***. The state treasurer shall deposit into this fund immediately upon receipt:

5 School Money; Determination of Average Per Pupil Adequacy Cost; Fiscal Year 2004. RSA 198:40 is repealed and reenacted to read as follows:

198:40 Determination of Average Per Pupil Adequacy Cost.

I. Beginning July 1, 1999, and every biennium thereafter, the average per pupil adequacy cost shall be established using the following formula:

(a) The department shall calculate the cost 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 a cost per pupil.

(b) The department shall identify those school districts where 40 to 60 percent of the elementary pupils enrolled in the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above. From these school districts, the department shall then identify those school districts that have the lowest cost per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified.

(c) The department shall multiply the cost per pupil of each school district identified in subparagraph I (b) by the average daily membership in attendance at each of the selected school districts, and add the results across all districts selected. This sum shall then be divided by the total average daily membership in attendance at the elementary school level in all of the selected school districts and the result shall be multiplied by .9025 to attain the average per pupil adequacy cost.

II. For each fiscal year, the statewide cost of an adequate education shall be determined by:

(a) Multiplying the average per pupil adequacy cost by the statewide average daily membership in residence; and

(b) Adding the total statewide targeted aid for low income pupils and the total statewide targeted aid for property poor municipalities, as determined in RSA 198:41, to the result obtained in subparagraph II (a).

6 School Money; Determination of Average Per Pupil Adequacy Cost; Version Effective July 1, 2005. The introductory paragraph to RSA 198:40, I is repealed and reenacted to read as follows:

I. Beginning July 1, 1999, the average per pupil adequacy cost shall be established using the following formula:

7 New Subparagraph; Determination of Average Per Pupil Adequacy Cost; Consumer Price Index Adjustment; Version Effective July 1, 2005. Amend RSA 198:40, I by inserting after subparagraph (c) the following new subparagraph:

(d) For each biennium beginning July 1, 2005 and every biennium thereafter, the average per pupil adequacy cost calculated for the previous biennium shall be multiplied by 2 times the average annual percentage rate of inflation for the immediately preceding 4 calendar years based on the northeast region consumer price index for all urban consumers, as published by the Bureau of Labor Statistics, United States Department of Labor.

8 School Money; Targeted Aid; Determination of Adequate Education Grants. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Targeted Aid; Determination of Adequate Education Grants.

I. A municipality shall receive aid for low income pupils which shall be calculated by multiplying the average per pupil adequacy cost, determined in RSA 198:40, I, by 0.6 and multiplying the result by the number of pupils in the municipality eligible to receive a free or reduced-price meal as reported to the department.

II. A municipality may receive aid as a property poor municipality as follows:

(a)(1) Divide the total statewide equalized valuation of all municipalities as determined by the department of revenue administration, excluding property subject to taxation under RSA 82 and RSA 83-F, from the second year preceding the year in which the calculation is made, by the total statewide average daily membership in residence. The result shall be the statewide average equalized valuation per pupil.

(2) Divide the equalized valuation of all property in a municipality as determined by the department of revenue administration, excluding property subject to taxation under RSA 82 and RSA 83-F, from the second school year preceding the year in which the calculation is made, by the municipality's average daily membership in residence. The result shall be the municipality's equalized valuation per pupil.

(b) In any fiscal year, if a municipality's equalized valuation per pupil is less than or equal to 90 percent of the statewide average equalized valuation per pupil, such municipality shall receive aid as a property poor municipality as follows:

(1) Multiply the statewide average equalized valuation per pupil by 0.9 and subtract the municipality's equalized valuation per pupil. Multiply the result by the municipality's average daily membership in residence to obtain the municipality's adjusted equalized valuation per pupil.

(2) Divide the municipality's adjusted equalized valuation per pupil by the sum total of adjusted equalized valuations per pupil statewide. Multiply the result by the statewide amount of aid for low income pupils in a fiscal year to obtain the municipality's aid as a property poor municipality.

(c) In every fiscal year, the amount distributed as targeted aid for property poor municipalities under this paragraph shall be equal to the amount distributed as targeted aid for low income pupils under paragraph I of this section.

III. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department shall determine the amount of the adequate education grant for a municipality as follows:

(a) Multiply the average per pupil adequacy cost by the average daily membership in residence for the municipality; and

(b) Add to the product of subparagraph (a), the amount of targeted aid for low income pupils and the amount of targeted aid for property poor municipalities which a municipality is entitled to receive as calculated under this section; and

(c) Subtract from the sum of subparagraph (b) the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

IV. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department shall determine the amount of the adequate education grant for each municipality as the lesser of the two following calculations:

(a) The amount calculated in accordance with paragraph III of this section; or

(b) The total amount paid for items of current education expense as determined by the department minus the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

9 School Money; Distribution Schedule of Adequate Education Grants. RSA 198:42, II is repealed and reenacted to read as follows:

II. For the fiscal year beginning July 1, 2004, 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. 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.

10 Cooperative School Districts; Certification of District Taxes. Amend RSA 195:14, I(c)-(d) 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, [XH] VIII, and the amount above the cost of an adequate education to be assessed and collected as local educational taxes.

(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) (1) 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) (2) Second, the department shall then deduct each pre-existing school district's adequate education cost under RSA 198:38, [XH] VIII, from its proportional share of the total amount to be apportioned.

(iii) (3) Third, the department shall notify the commissioner of revenue administration of its determinations.

(iv) (4) If the amount determined in subparagraph (ii) (2) 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) (1) and the pre-existing district's adequate education cost under RSA 198:38, [XH] VIII.

11 Cooperative School Districts; State Aid. 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, [XH] VIII 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.

12 School Money; Maintenance of Local Control. Amend RSA 198:48 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~~] **are based on adequate education costs determined in RSA 198:40** and are independent of how the municipalities 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.

13 School Money; Duties of the Department of Education and the State Board of Education. Amend RSA 198:44, I to read as follows:

I. The department of education shall, on or before September 30 of each year, collect from the school districts final data concerning all aspects of student attendance for the school year ending June 30 of that year necessary to establish the average daily membership[;] **and** average daily membership in residence[~~, and weighted average daily membership in residence,~~] including the municipality of residence for each pupil for that year. The department of education shall submit a report by December 31 to the speaker of the house of representatives and the senate president to be used for purposes of determination by the legislature of the appropriation to the education trust fund. A copy of such report shall, at the same time, be given to the department of revenue administration.

14 School Districts; Unanticipated Funds Available. Notwithstanding RSA 198:20-b and RSA 198:48, for the fiscal year ending June 30, 2005, a school district may accept and expend unanticipated funds from the education trust fund which may become available during the year as a result of adjustments to the calculation of adequate education grant amounts.

15 School Districts; Special Meetings. Notwithstanding RSA 197:3, for the fiscal year ending June 30, 2005, a school district at a special meeting may make adjustments to the district's operating budget due to adjustments to the calculation of adequate education grant amounts.

16 Education Property Tax; Rate Established; Contingent Version. 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 \$4.92 on each \$1000 of the value of taxable property 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.

17 Assessment; Commissioner's Warrant; Commissioner's Report; Contingent Versions. RSA 76:8 and 76:9 are repealed and reenacted to read as follows:

76:8 Commissioner's Warrant.

I. The commissioner of revenue administration shall annually calculate the proportion of education property tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

II. The commissioner shall issue a warrant under the commissioner's hand and official seal for the amount computed in paragraph I to the selectmen or assessors of each municipality by December 15 directing them to assess such sum and pay it to the municipality for the use of the

school district or districts and, if there is an excess education tax payment due pursuant to RSA 198:46, directing them to assess the amount of the excess payment and pay it to the department of revenue administration for deposit in the education trust fund. Such sums shall be assessed at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

III. Municipalities are authorized to assess local property taxes necessary to fund school district appropriations not funded by the education property tax, by distributions from the education trust fund under RSA 198:39, or by other revenue sources.

76:9 Commissioner's Report. The commissioner of revenue administration shall report to the governor, the speaker of the house of representatives, the president of the senate, and the commissioner of education each year on or before October 1, a statement of the education property tax warrants to be issued for the tax year commencing April 1 of the succeeding year.

18 Utility Property Tax; Exemption; Contingent Version. RSA 83-F:9 is repealed and reenacted to read as follows:

83-F:9 Exemption From 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.

19 School Boards, Teachers; Definitions Amended; Contingent Version. RSA 189:1-d is repealed and reenacted to read as follows:

189:1-d Definitions. In this chapter:

I. "Attendance" means full-time participation in a program of instruction under the direction of a teacher employed by the school district. Educationally disabled home educated pupils educated at school district expense under the direction of a teacher employed by the school district shall be included.

II. "Membership" means pupils of whom attendance is expected, whether a pupil is present or absent on any given day.

III. "Average daily membership in attendance" means the aggregate half-day membership of pupils attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance for preschool and kindergarten pupils shall be divided by the number of instructional days offered to higher-level elementary grades.

IV. "Average daily membership in residence" means the average daily membership in attendance of pupils who are legal residents of the school district pursuant to RSA 193:12 or RSA 193:27, IV and are attending any public school, or who are attending any charter school or private school program approved by the department of education at the expense of the school district.

20 School Money; Definitions; Education Trust Fund; Determination of Per Pupil Adequate Education Cost; Determination of Adequate Education Grants; Contingent Version. RSA 198:38-41 are repealed and reenacted to read as follows:

198:38 Definitions. In this subdivision:

I. "Municipality" means a city, town, or unincorporated place.

II. "School district" means school district as defined in RSA 194:1 or RSA 195:1.

III. "Elementary school" means a school with any of the grades kindergarten through 8.

IV. "High school" means a school with any of the grades 9 through 12.

V. "Base expenditure per pupil" for each school district that operates an elementary school means the amounts calculated in accordance with RSA 198:40, I(a).

VI. "Average base cost per pupil of an elementary school pupil" means the amount as determined in accordance with RSA 198:40.

VII. "Weighted pupils" means resident pupils weighted as follows:

(a) Every pupil, including kindergarten pupils, 1.0.

(b) A high school pupil, an additional weight of 0.2.

(c) An educationally disabled child, an additional weight of 1.0.

(d)(1) Additional weights based on pupils eligible to receive a free or reduced-price meal shall be calculated by multiplying each municipality's elementary average daily membership in residence by the percentage of elementary pupils eligible to receive a free or reduced-price meal in the district of residence, and multiplied by:

(A) If the district percent is less than or equal to the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, zero.

(B) If the district percentage is greater than the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, the lesser of 1.0 or a number equal to 5 times the difference between the district percentage and the state average percentage multiplied by 0.85.

(2) If the elementary average daily membership of the district of residence is less than 10, the percentage of elementary pupils eligible to receive a free or reduced-price meal shall be equal to the percentage eligible in that district in which the majority of the elementary pupils attend.

(e) Each pupil who is home educated pursuant to a program approved under RSA 193-A shall be added as follows:

(1) 0.1 for each home educated pupil participating in a public school activity; and

(2) An additional 0.15 for each academic course taken in a public school, provided that no co-curricular activity, as defined by the department of education, shall count as an academic course under this subparagraph.

VIII. "Educationally disabled child" means an educationally disabled child as defined in RSA 186-C:2, I.

IX. "Average daily membership in attendance" means average daily membership in attendance as defined in RSA 189:1-d, III.

X. "Average daily membership in residence" and "resident pupils" mean the average daily membership in residence as defined in RSA 189:1-d, IV except that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

XI. "Transportation costs" means the cost of transporting pupils in kindergarten through grade 8, excluding educationally disabled pupils, to and from school as reported by school districts on the DOE-25 form.

XII. "Adequate education cost" means the amount calculated for a municipality in accordance with RSA 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.

198:39 Education Trust Fund Created and Invested.

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 low and moderate income homeowners property tax relief under RSA 198:56-198:61. The state treasurer shall deposit into this fund immediately upon receipt:

(a) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-A:20-a, relative to business profits taxes.

(b) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-E:14, relative to business enterprise tax.

(c) Funds collected and paid over to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-A:26, III relative to the tax on motor vehicle rentals.

(d) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78:32, relative to tobacco taxes.

(e) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-B:13, relative to real estate transfer taxes.

(f) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-F:7, I, relative to the utility property tax.

(g) The full amount of excess education property tax payments from the department of revenue administration pursuant to RSA 198:46.

(h) All moneys due the fund in accordance with RSA 284:21-j, relative to sweepstakes.

(i) Tobacco settlement funds in the amount of \$40,000,000 annually.

(j) The school portion of any revenue sharing funds distributed pursuant to RSA 31-A:4 which were apportioned to school districts in the property tax rate calculations in 1998.

(k) Any other moneys appropriated from the general fund.

II. The education trust fund shall be nonlapsing. The state treasurer shall invest that part of the fund which is not needed for immediate distribution in short-term interest-bearing investments. The income from these investments shall be returned to the fund.

198:40 Determination of Per Pupil Adequate Education Cost and Adequate Education Grant.

I. For the biennium beginning July 1, 1999, and every biennium thereafter, the cost per pupil shall be established using the following formula:

(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.

(b) The adequate education grant amount shall be calculated as follows:

(1) The department of education shall identify those school districts where 40 to 60 percent of the elementary pupils enrolled in the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above.

(2) From the school districts identified in subparagraph I(b)(1) of this section, the department of education shall then identify those school districts that have the lowest base expenditure per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified in subparagraph I(b)(1) of this section.

(3) The department of education shall calculate the average base cost per pupil of an adequate education at the elementary school level by multiplying the base expenditure per pupil of each school district identified in subparagraph I(b)(2) of this section by the average daily membership in attendance at each of the selected school districts, and add the results across all districts selected. This sum shall then be divided by the total average daily membership in attendance at the elementary school level in all of the selected school districts and the result shall be multiplied by .9025.

II. The weighted average daily membership in residence for each municipality shall be calculated by combining the elementary average daily membership in residence with the weighted high school average daily membership in residence, the average daily membership in residence resulting from educationally disabled children, and the additional average daily membership in residence resulting from elementary pupils eligible to receive a free or reduced-price meal. The statewide weighted average daily membership in residence of pupils shall be calculated by combining the weighted average daily membership in residence of each municipality in the state.

III. The statewide cost of an adequate education for all pupils shall be calculated by multiplying the average base per pupil cost of an adequate education by the statewide weighted average daily membership in residence of pupils and then adding 100 percent of transportation costs as defined in RSA 198:38, XI.

198:41 Determination of Adequate Education Grants.

I. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for the municipality as follows:

(a) Multiply the average base cost per pupil of an elementary pupil by the weighted average daily membership in residence for the municipality; and

(b) Add to the product of subparagraph (a), 100 percent of the municipality's apportioned transportation costs as defined in RSA 198:38, XI;

(c) Subtract from the sum of subparagraph (b) the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for each municipality as the lesser of the two following calculations:

(a) The amount calculated in accordance with paragraph I of this section; or

(b) The total amount paid for items of current education expense as determined by the department of education minus the amount of the

education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

21 School Money; Distribution of Education Grants; Contingent Version. RSA 198:42, II is repealed and reenacted to read as follows:

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. 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 education grants.

22 Consumer Price Index Adjustments to the Base Cost Per Pupil Calculation. The base cost per pupil shall be adjusted by the average annual percentage rate of inflation for the 4 immediately preceding calendar years.

23 Contingent Applicability. If the New Hampshire supreme court declares any provision of sections 1-15 of SB 302-FN-LOCAL of the 2004 legislative session to be contrary to the New Hampshire constitution, and if the New Hampshire supreme court determines that the applicability thereof to any agency, person, or circumstance is held invalid, then sections 16-22 of this act shall take effect immediately upon the determination of such unconstitutionality and invalidity, and shall remain in effect thereafter.

24 Repeal. The following are repealed:

I. 2003, 241:10-27, relative to the statewide enhanced education property tax formula.

II. 2003, 241:33, relative to the severability of certain provisions of 2003, 241.

III. RSA 198:40, II-III relative to calculating the weighted average daily membership in residence and calculating the statewide cost of an adequate education.

25 Effective Date.

I. Section 1 shall take effect July 1, 2004.

II. Sections 2, 6, and 7 shall take effect July 1, 2005.

III. Section 24 of this act shall take effect June 30, 2004.

IV. Sections 16-22 of this act shall take effect as provided in section 23 of this act.

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

The signatures below attest to the authenticity of this Report on SB 302-FN-LOCAL, an act making technical corrections to the education funding formula.

*Conferees on the Part
of the Senate*

Sen. Clegg, Dist. 14

Sen. Morse, Dist. 22

Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Whalley, Belk. 31

Rep. Kurk, Hills. 48

Rep. Major, Rock. 79

Rep. Lasky, Hills. 65

2004-1672-CofC

AMENDED ANALYSIS

This bill:

I. Establishes the education property tax rate at \$3.33 for the 2005 fiscal year.

II. For the 2006 fiscal year and every fiscal year thereafter, requires that the commissioner of the department of revenue administration to set the education property tax rate at a level sufficient to generate revenue equal to the revenue generated in the previous fiscal year.

III. Revises the formula for determining adequate education costs and adequate education grants.

IV. Provides targeted aid grants for low income pupils in each municipality.

V. Provides targeted aid grants for certain property poor municipalities based on the relationship between the statewide average equalized valuation per pupil and the municipality's equalized valuation per pupil.

VI. Effective June 30, 2004, repeals certain sections of HB 608-FN-LOCAL of the 2003 legislative session relative to the statewide enhanced education tax.

VII. Provides that the education funding formula for the 2004 fiscal year shall take effect if any provision of sections 1-15 of SB 302-FN-LOCAL of the 2004 legislative session is found by the New Hampshire supreme court to be unconstitutional and invalid.

SENATOR GATSAS: Thank you, Mr. President. I didn't think that I would be the lead off hitter, but sometimes it is best to get on base and have your colleagues knock you home. So let me set the plate.

SENATOR EATON (In the Chair): Did Jack give you that?

SENATOR GATSAS: No, he didn't give me that, Senator. I never thought for once forever in my life that I would ever be standing before this body and talking against an education funding bill. But the way that the cards have been dealt, I am going to look at my colleagues in the Senate because every one of us is about process, every one of us is about what is right. We all believe that we should stand behind the Senate position. So with that, I am going to tell you a story, a story that some people may not want to hear, but it has got to be told. A story that I guess I am going to ask the question before I tell the story because it is important enough because that is the first question. I don't know who formulated the formula, but somebody needs to address it because it is wrong. The numbers are incorrect. So, if somebody wants to step to the forefront before I start my story, somebody should tell us what we are going to do, either follow the legislation as written, or the spreadsheet that we have been given, because the numbers are wrong. Mr. President, I am asking somebody that was on that Committee of Conference to tell me whether we go by the legislation as it is written or by this spreadsheet. Will somebody answer that question for me, Mr. President?

SENATOR EATON (In the Chair): Are you asking for a...

SENATOR GATSAS: I am asking for somebody who was on the Committee of Conference.

SENATOR CLEGG: Thank you. The spreadsheet should reflect the intent of the legislation.

SENATOR GATSAS: Follow up question for Senator Clegg. Senator Clegg, will you agree with me that, if over 100 communities' grant

amount changes, that I should sit down...and if I can show you that, that I should sit down and this body should vote 24-0 to go back to a Committee of Conference?

SENATOR CLEGG: No.

SENATOR GATSAS: You don't?

SENATOR CLEGG: No. I don't. I don't think we need another Committee of Conference because I don't think that we will gain anything or lose anything.

SENATOR GATSAS: I guess my question is, Senator, if the numbers are wrong, do we go by the numbers or the legislation as written?

SENATOR CLEGG: Well, I will tell you Senator, if it will make you happy, at the end of this, if it passes, I will ask that the spreadsheet be entered into the record and certified by the clerk so that the intent is clear.

SENATOR GATSAS: Thank you. Now it is time to tell the story. If you would help me pass those things out. I think that two years ago, actually it has almost been...it feels like it has been a lifetime. I started down this road of education funding. Why? If you can just hold onto the envelopes, don't open them yet, please. This is all about process. We all believe about process. I am watching you, Senator. I think it is important that we go forward and understand where we are at because I never once heard anything but this from this body, "It was a broken formula." The formula was broken. We needed to get more money to the poor communities, take money away from the wealthy communities, and try and get rid of the donor towns. Well, this body passed a piece of legislation called HB 608 with a vote of 18-6. We did exactly that. We got money to the poor communities, we took it away from the wealthy communities, and we got rid of the donor towns. We fixed a broken formula. Now let me start with the story. I guess you can open your envelopes. "When what you believe comes from the heart, it gives you the energy and the drive that generates enthusiasm that's contagious." I hope that is what I do. I hope that I give you the enthusiasm that's contagious. That quote comes from Elizabeth Dole, President and CEO of the American Red Cross. How did we develop 608? Because everybody says, "Senator, you developed that formula for Manchester." Well, I started with some pretty simple premises. As you will see, the first pass out that I gave you talks about base cost per child. A novel idea. In 1999 a lot of you people sat in here and maybe sat in the House and developed an education funding formula. What was that based on? Base cost per child. A little bit of weighting for high school, a weight for free and reduced lunch, a weight for special education and transportation was included in that process. In the first year that formula came out, the base cost per child was \$3,201. How did we get to that \$3,201? We took the NEAP scores. We took the range between 40 and 60. We took the elementary count. We took an average for each school. There were 37 schools. I want to thank Senator O'Hearn because she taught me that formula as we went through the state. That formula was supposed to be followed in every biennium. The base cost, as you can see on this sheet, says that, in '04 it was supposed to be \$3,451. It didn't happen. \$3,390. Why? Because '04 was supposed to be the transition year to get to '05, to fix a broken formula. A broken formula. Did we take the process? Yes we did. Did everybody participate in the process? Yes they did. The door to my office was never closed. Anybody that had a question, I sat and I talked with them. Funny thing is, the '05 number. Based on CPI, I didn't put the CPI in. I think

our colleagues across the hall did or across the wall. For '05, it was supposed to go to \$3,541. What is the adequacy number? \$3,390. And, we even have a projected one here for '06 and '07, \$3,726. So when I sat down and started building the formula, I assumed that at least we should look at a number on a per child basis, that was in excess of \$3,541. So we built a formula as if there was one school district. We then took a look at something else that came from the LBO and the one that says "A-1." That says that the formula should say, in the year 2004, that when we started our funding process, it should have been with that magical discounted number. How do you like that? Constitutionally right, I am sure. Because it says it is supposed to be \$3,940. The Constitution allows us to discount that money. I didn't use a discounted number when we set up a formula for the Senate. But then we have comments from the Department of Education that says "you have double subtraction, we can't distribute the amount of money that you are going to distribute." I gave you a cover sheet dated 3/11/03, which is item C. Where does that come from? The Department of Education. I tell you to look at the most important column, and you need to go right to the last page because, if you take a look at the last page, and you look under the column that says "State Grant '04", and at this time, we weren't talking about a transition year. We were talking about putting this formula in place for '04 and '05. So, as you can see, and I think that some of my colleagues said that it does come from the Department of Education. The amount that the Department of Education, on their spreadsheet, that they said that they were going to distribute, based on everything that we did, was \$433 million. That was with a property tax, if you all remember when we first started this discussion, of \$3.80. Three dollars and eighty cents is when we started. Take a look at the bottom of the page. There are probably some interesting comments. I think that everybody should know those comments. They should read them. I didn't put them there. So, early on, the Department of Education was involved in the discussions. Early on they produced spreadsheets. Early on they knew what the intent was of the legislation, and even on their own spreadsheets, they ran those. The next one is "D". That comes from the Department of Education some ten days later. It shows you the cost of \$802 million that we projected for spending, with a \$3.80 rate, and then grants a \$433 million again. There is no double subtraction here. I don't see it. Do you see it? I would have thought that they would have done it already. The next page is "E." The date on that one, as you can see from the fax is May 2, 2003. This was when we started making the adjustments in legislation so that we could present it to the Education Committee. It comes from Sallie Fellows, Department of Education. You can see my notes. You can see the page and the line number that we were talking about for changes. I don't know. It doesn't say anything in here about double subtraction. Then I come to "F." Some of the colleagues that respect here and on the other side of that wall, said to me, "you need to talk to somebody that knows about constitutionality and will at least tell you whether it is constitutional or not." I went to see Andy Volinsky early on. I sat down with him and I showed him the plan. He never commented on constitutionality or unconstitutionality, but he did look at the plan. I then went to Gene Van Loan who I believed defended one of the Claremont situations, maybe not. I will leave that up to the experts that know the law, because I don't claim to know it. But I sat down with him on May 21, 2002 and we went through this. Excuse me, that was 2003 and I think that he made a mistake, because if you look at the fax date at the top it is 2003. God knows I didn't start on this plan that long ago. He goes through every category

in this plan. Every single one. He doesn't leave one out. He talks about, interestingly enough, all the things that somebody from across the street sent us in a letter. But we will get to that a little later because we need to talk about the story. So I tell you, did we do our work? I did my work. Everyone in this chamber got a copy of this letter. Does everybody remember it? Probably not because it wasn't significant at the time. I then take you to the next one and that is "G." That comes October 5th. It comes from the Department of Education. This comes during the time when we as a Senate passed HB 608. We went to a Committee of Conference and the Senate stuck to its guns. It didn't move from the Senate position. The Senate position was that the plan would go into effect in '05. That was the Senate position. We did agree that we would sit down as a study committee and attempt to work out a formula to help the middle communities somehow. Nobody ever told us, in 13 weeks of that committee, "you have more money to spend." Everybody told us "do what you have to do" but only spend \$428 million. That is what they told us. We went through this state, not to a lot of communities, but the communities that invited us to go. We sat and we told them that 608 is a formula that replaces a broken formula. We sat in front of Plaistow people; we sat in front of Hooksett people; and we sat in front of Bedford people, the school board of Bedford. The school board in Bedford, after we explained the formula to them and explained to them that it was a broken formula, understood. They were happy that they weren't a donor community and then sent a letter to their Senator and their Representatives saying they supported the formula. They understood that losing \$1million was okay. We then come to November 4th. The first Attorney General's remarks on the technical corrections, and I turn you to the second page. It says, "Always, the Attorney General wishes to express his appreciation to the committee for its willingness to hear its concerns and allows staff to assist the committee. Associate Attorney General, Anne Edwards is in the main contact for education funding issues." Nowhere, nowhere in this document will you find the word "unconstitutional" and that is in November. The next one comes November 12th. Some more technical corrections. Those were drafted. Nowhere in here does it talk about "unconstitutional" again. February 17th we have another letter from the Department of Education talking about technical corrections to SB 302. Nowhere in here does it talk about double subtraction. Then we need to talk about fiscal notes. In January, the LBA sent over for a fiscal note to Education. I will turn you to the second page. "A". "Fiscal notes for adequacy aid require a comparison of cost under the proposed formula to the costs under the existing formula, as well as an explanation of the methodology and assumptions used to prepare the estimates. Since the Department has not received permission to release any estimate, we are unable to respond to your fiscal note." The Department was told not to release it. It is about process and it is about a broken formula. Hold it and don't release it. I didn't write these words. It came from the Department. Funny thing is, another fiscal on "L". That comes on March 31st, and it is a whole different fiscal note. Three months later, because it was requested. I believe it was requested by House Finance. Now I take you to "M", the infamous Attorney General's letter. I read this and I read it three or four times. I looked at the date of when it was released and I guess my concern was, if that was the reason, and the date that it was released, why did it come from a leak? Why didn't the people that it was addressed to speak up and say we have a problem with the legislation? We didn't hear that. It came from a leak. But let's go through this let-

ter because I think that it is important that we all understand about process, fairness and what is right. I take you to the first paragraph, "throughout this process my staff continued to express concerns regarding the constitutionality of the current law." Well I can tell you that, early in April, I sat in the Senate President's office. Attorney General Heed was there, Anne Edwards was there, legal counsel from the Senate was there, the Senate President was there, and there was discussion about the comfortability of constitutionality. They said they would have to rewrite the purpose clause so it would be defensible by the Attorney General's Office. Ted Gatsas didn't rewrite the purpose clause. The purpose clause was rewritten. I guess I go to the next paragraph and that is really what concerns me. "These comments as inappropriate while the Claremont Lawsuit is still pending, were made in private to key legislators, staff and legal counsel." That comes way before the date of the letter. I know that I am not a key legislator and I know that I am not a staff and I know that I am not legal counsel. It is about process people. That is what we are here for. It is about process. I take you down to the fourth paragraph. I guess this is what concerns me more than even process. "The biggest challenge that existing law faces is that the cost of an adequate education is determined by taking the local property value statewide, and dividing it by the number of students in the state. This then becomes the average cost per pupil." I don't think anybody in this room believes that the average cost per pupil is \$497,000 because that is what this does! It says \$497,000 per pupil. I don't think any of us in this room believe this. I couldn't even convince Senator Foster over a box of Joe with that, that that was what the adequacy number was. But that is what somebody interpreted in this letter. It must have been somebody that was sitting through and listening to education funding, but why would they put that in there? Then I take you to the second page and the last paragraph because I think that is an important one. We won't talk about somebody that probably will have to defend a suit, whether it is the current 302 or the plan that left this Senate 14-10 or 18-6. Finally, under section eight, "many schools are scheduled to receive only 80 percent of their calculated aid." There isn't a school district, when we put the formula together, that was only going to get 80 percent of their calculated aid. What they were going to get was the transition. Eighty percent of what they received in '04 as a transition grant for '05. Nobody was getting 80 percent of aid. I look at this and say, "where were these people when the discussion was going on? Were they listening to nothing for two years?" In that letter, it talks about weighting. Then I take you to the one that says 1-W or 1-M. M-1. We are going to hear probably that it was weighting. This formula was built for Manchester. There is once, twice, three times weighting for children. I had a concern. I went to my school district because I wanted to make sure that wasn't happening. Senator O'Hearn went to her school district. She wanted to make sure that wasn't happening. Senator Morse went to his school district to check on the same thing. Well you know, come to find out, it doesn't happen. Manchester has 14,818 students. There are 34 children that are triple weighted. Thirty-four out of 14,818. Now folks, is that taking advantage of a system? Now let's talk about double weighting because people are going to talk about double weighting. Oh my God, they must be cheating there! The City of Manchester, double coding of educational disability and free and reduced lunch. Out of 14,800 students, 527. Let's take a look at a community and let's look at one school. Let's take a look at Beech Street School. They have 659 kids. Of those kids, 535 are on free

and reduced lunch. What are the possibilities of another 94 kids being disabled children out of 535 children that are on free and reduced lunch? Possibilities are pretty good. How many of those children are English as second learners? Two-hundred and seven. I look around and say "fairness." I look around and say "equity." But is it about Manchester? It is not about Manchester. Let's take a look at "N" because this is about other schools and other school districts. What have I done? I have prepared a sheet here by district so you don't have to go running around and looking to see where your district is or where your community is. I took a version of the bill that the House passed with that God awful cigarette tax, and I compare it to what the Committee of Conference passed. Each one has a highlight. District one, comparing the two plans, loses \$5.49 million. District two loses \$2.9 million. District three loses \$8.8 million. The most eye opening sheet is "O" because, in that sheet, you see the community of Hollis at the top. The community of Hollis has a median family income of \$104,000 per household. The difference that you see here is that, in the House-passed version, Hollis picked up an additional \$500,000 from what 608 gave them. If 608 was in play, Hollis, with the version passed from the Committee of Conference, would have received \$1 million more. Hollis has 2,260 households. That is roughly \$500 a household savings in the community of Hollis. Stratford, the poorest community in the state. The median family income is \$33,295. In the Committee of Conference, they lost \$123,000. They have 269 residents in Stratford. That is roughly \$500 a household. That is what we are talking about folks. Fair and equitable. Fair and equitable. Is it right? I don't think any of us can say that it is right. Hollis should not be receiving those funds. I guess the story continues. I think it is important that for two years we talked about education funding in this chamber. I take you to the legislation. I take you to the legislation and I ask Senator Clegg a question. If the grant amounts for 119 communities change, should we vote against this legislation and go to another Committee of Conference? You're right people. I do my homework. And I don't claim to be the most intelligent person when it comes to educational funding because there are people in this room that I have learnt a lot from. Maybe too much, but I thank you all for that. This is a spreadsheet and it is surprising that you folks didn't receive the spreadsheet that accompanies the numbers. Has anybody got that spreadsheet? Nobody has the one that really goes with the legislation. I think it is important that we get the piece of...the spreadsheet that accompanies the legislation. I guess nobody is making a move to go get that copy. I think that they should, because I think that it is imperative that you look at the numbers. I will take you to page...just bear with me for one second, please. I will take you to page three and I take you to line 25. Actually let's start at line 23. What it says there is "targeted aid determination of an adequate education is repealed". Then we will read slowly because it is important that if I am wrong, I apologize. I don't have a problem apologizing to my colleagues in the Senate if I am wrong. It says there, "A municipality...page three, and let's start on line 30. "A municipality may receive aid as a property poor municipality as follows: A-1: divide the total statewide equalized evaluation of all utilities as determined by the Department of Revenue Administration, excluding, excluding, property subject to taxation under RSA 82 and RSA 83-F for the second year preceding the year in which the calculation is made." I assume that means without utilities. If that means without utilities, the calculations that have been made and that the House voted on are incorrect. So, I will take you to the spreadsheet,

and only because I happen to know numbers on equalized evaluation with utilities and without, because in the formula that this Senate passed in 302, equalized evaluation with utilities was \$99 billion. The same thing when I asked for the spreadsheet in the Senate Chamber today, that I received. I received that spreadsheet in the Senate Chamber, excuse me, in the Senate President's office when we were in caucus. I asked for it. It says, "equalized evaluation with utilities, \$99 billion." That is not what the paper says. The paper says it is based on equalized evaluation without utilities. That is what that sheet says, Senator, you are right. But that is not the sheet of calculation because if you take a look at your spreadsheet and you take a look at a community based on the correct assumption at the top...let's take a community like Allentown, 'cause heck, everybody knows that Allentown is a poor community. If you take a look at their grant amount, their total grant amount, with equalized evaluation, is \$4.2 million. Can somebody tell me what the equalized evaluation is on the sheet that everybody has been passed out with numbers? No, the number is \$4,260,743. There is a difference. The sheets are different. They are calculated on the wrong equalized evaluation. So is it process folks? You bet your life it's process. Did I ask Senator Clegg a question for a reason? You bet your life I did. I think it goes back to a more serious process. This body is elected by 55,000 people individually. None of us represent any more people or any less. Maybe that is not true, maybe there is a few numbers that are different, based on deviations, but I think it is important that we all respect this Chamber. Respecting this Chamber means process. We got a letter from the Attorney General that was leaked, on a time-frame that, if we look at that time-frame, it is going to be a very uncomfortable feeling. The House voted for a cigarette tax. It didn't pass it by 51 percent. It passed the cigarette tax by a 79 percent margin. This body never had an opportunity to take a look at that bill and vote on it. That is about process. I can't tell you whether it would have passed or whether it would have failed, but it is about process. It is funny because that is what we are all embedded with is process. I sat through a couple of Committee of Conferences, not a germane amendment, can't listen to it. Didn't have anything to do with the bill, can't listen to it. Where is the process in the piece of legislation that the House just passed and the committee passed onto us? I take a look at that bill and I went through the numbers. I invite you folks to do the same. Maybe nobody has taken the time. We take an adequacy cost of \$3,390, a number that is better than four years old. We then want to say, gee we have to split this somehow and get some money to poverty targeting and we have to take some money and talk about free and reduced lunch. So we will split it in half and put in each one and we will just keep shaking the calculator until the split comes to where we want it. Well, we take 60 percent of that \$3,390 and it is \$2,034 per child. But then we have to be careful, because if we use the full 100 percent of equalized evaluation and credit communities to that amount, we are going to have some communities getting extra money because they fall underneath that. So let's drop that amount to 90 percent of the equalized evaluation. Where do we come up with 90 percent? I don't know, I guess it just makes the process work. Where did we get the 60 percent? It just makes the process work. SB 302 and 608 as passed by the Senate, there was never jiggling of numbers to make the number work. We never did that. When we got to the study committee, to attempt to help the middle communities, we brought everybody up to the level they should be with \$300 of free and reduced lunch that we took away to help the House with their

targeting formula in '04. Is it about process? Yes, it is about process. We then said, we only have \$428 million to stay because that is all that is in the budget. Nobody told us to spend another \$22 million. Nobody allowed us to do that. I am sure that myself and Senator O'Hearn and Senator Morse, and Senator King, could have found a way to distribute those funds fairly. Nobody told us "you have more money that you can spend." So we did what we thought was right. We tried to help those middle communities and we discounted everybody six percent. Did we take some money away from the poor communities? Yes, we did. Was it the right thing to do? Probably not. Were there other options? No. Because we didn't have more money. If we had more money, we would have fixed it. The story continues. Have I given up? I haven't given up. People say "you don't have the votes." It is all about story and process, 'cause I am looking at some of my colleagues in here that that is what they base a lot of the things on that they do. I am going to pass you out another sheet. What I have attempted to do was, I guess my main reason for standing to speak against this piece of legislation, is to offer you something that makes sense. Now that I understand that we can spend more money, it is easy. Did anybody ask the original author how do we do this? I sat and watched House Finance for weeks trying to move the property tax to get the donors included. They couldn't do it. I watched for weeks. I sat there, nobody asked the question. I sat outside and I watched the Committee of Conference. Did anyone ask the question, is there something else that we can do? Nobody asked the question. So what this does is, if you take a look at the ...and remember, I give everybody the long sheet, so that you can see the process, not that somebody just reduced 400 kids, excuse me, the wrong number, 700 children in a community and they lost \$3 million. Nothing that this program did. Nothing that affected the calculations. I then go to the smaller page that has "1" on it. What the long sheet does is it includes the \$300 that we took out for free and reduced lunch. We, as a Senate, believed that special ed transportation should be included. That \$13 million is back into the formula. So, if we were going to spend the purity of the formula, we would be spending \$444 million. But everybody told us "you can only spend \$428." The reason why I give you this sheet, the long one, is it is important for you folks to look at the second column. The second column says "equalized evaluation with utilities, \$99 million". Coincidence. The Committee of Conference one says it is without utilities and the two numbers are identical. They can't be. The House conference spreadsheet is wrong. So that is the way that we get to the total spending. **TAPE CHANGE** the next column is called a transition grant. I want everybody to make sure they understand this is a transition grant and we are not, we are not, subtracting from communities. We are trying to get them a little bit more money. There are two formulas here. If you have better than a 150 percent of the state average in family median income, you will only get 75 percent to get to your 2004 formula. If you are at 85 percent, that means you are below the 150 percent. There are four communities that are affected. Hollis, Amherst, Windham, and it is going to take me a second to remember the fourth one. No, it is not Hudson. No, I wouldn't do that to Senator Clegg. Their median family income is not that high. But there is another and it will come to me. Bedford, excuse me. Thank you very much. So those are the four communities that, instead of getting 85 percent of the grant, the transition grant, to see what they got in '04, they get 75. Is it fair? I think it is fair. Maybe some other people will think it is not fair. I then take you to "2" because the story is coming to a con-

clusion. I know that you are all hoping that I sit down and am quiet. The numbers that you have before you on "2" again, I did it by district so that you could see the pain that you are inflicting on your districts. The third column over shows you the \$458 million. The next column shows you that the Committee of Conference spent \$451million. Not \$428, \$451 million. We didn't have that ability. You are right, I made a note right under that \$451, that \$22 million is the donor amount. The additional spending, when you see the new plan greater than the Committee of Conference, is \$49 million. The donor towns spend \$22 to shift the money and \$27 million is taken away from the poor communities. And "3" is something that I don't think anybody wants to look at when we do it. Because the third spreadsheet shows you from the wealthiest community in the state to the poorest community in the state and where the funds came from. You take a look at the very last column. It says "Committee of Conference Greater than the New Plan, \$19 million." I stand corrected, it is not 29, it is 19. You take a look at the amounts of money coming to the 25, the 50, the 75 wealthiest communities in the state, and then you turn to the last page and start looking to see where that money came from. It came from Stratford. It came from Northumberland. It came from Ellsworth. It came from Stewartstown, Warren, Berlin, Ossipee, Albany. Right, it came from the poor communities. It is about fair and equitable. Is the plan that we have before us fair and equitable? We took a vote in this body. Katie Beckett, let me remind everybody. It was HB 1428. The vote in this body was 24-0. That was about attempting to protect 250 families. However, the new Committee of Conference doesn't give a weight to special education. That's wrong. We stood here and protected 250 families, yet we wipe out special education out of the formula. That is wrong. Is this formula about Manchester? Absolutely not. It is about fairness and equity. Is there a solution? There is a solution. I think the novel solution is to make 250 communities in this state donor communities. We have increased the property tax from \$3.24 to \$3.33. We've increased it and it hasn't even gone into law yet. Not even into law. And we say it is better to raise the property tax. We all voted 18-6 to reduce the property tax. So, how do we raise the additional \$29 million? By making every community a donor community for .26. If every community donates .26 of their property tax without utilities, it raises \$29 million. Bedford understands what it is to be a donor community. Manchester understands what it is to be a donor community. Claremont understands what it is to be a donor community. That funds it and it brings the property tax rate to \$3.50. Ironically, that is the statewide property tax that was put into effect 1919 according to my colleague Senator Sapareto. So it is amazing how history repeats itself. We are talking about fair and equity. We are talking about what this Senate did one year ago. We sent a bill along that was fair and equitable. We tried to help middle communities in a study committee because we, as a Senate, agreed to it. We came back, we changed that bill. I have one more thing to pass out. We changed it. Am I giving you an opportunity? I am giving you an opportunity again. If you can just wait until everybody gets their envelope because this is the conclusion of the story. I know that I have taken your time and I certainly have spoken from the heart. I think that every one of you understand what fair and equity is about and what process is about. So I hope we vote this bill down. Don't leave this state empty because that is what this is all about, process and about doing nothing. Because for two years, the envelope's empty and that means that we did nothing. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. It looks like my friend, Senator 16 over here is on base, so I just got the sign from the coach and the sign was to bunt him along to second if I could. A couple of weeks ago, you heard me standing up here telling you all that I represent 12 communities and that is where my first blush belongs, with my communities. They are the folks that elect me. I am able to stand up here today and do that, but also to stand up for some other areas in this state of New Hampshire. I pick up a sheet and it tells me I have 12 towns and the three lowest family income towns are Pittsfield at \$44,000, Allenstown at \$52,000, and Raymond at \$51,000. Three of those towns are in my district. Two of those towns are plaintiff towns. Towns that have sued the state on the education. Remember, Pittsfield, \$44,000 the average income. So guess what? Out of my 12 towns, four of them do not too well. Eight of them do quite well. So I should be standing up saying "whoopie doupee" my district makes out. My district picks up an extra \$900,000 for my towns; however, I am concerned about Allenstown, Pittsfield and Raymond. And, another town that lost money, is the town with the \$53,000 income and that happens to be the town of Northwood. I look at this sheet and I want to throw up. Every time I look at this, I get a little more upset. We had five plaintiff towns in the lawsuit. I happen to have a handy-dandy sheet here. I don't have these fancy things that Senator 16 passed out 'cause he is the man that knows the numbers and I just know what is on some sheets that I read. It shows that the plaintiff towns lose on this wonderful plan that the House passed, \$923,000. Every one of the plaintiff towns, the five of them, of the four towns and the city, lose a million dollars. How the heck do you guys and gals sit here and allow that to happen? I don't think you can. If you can, I am ashamed of you. I can't do it. I think it is a sad day in this Chamber when we would go along with something like that. I ran on a platform, and I will tell you, the platform that I ran on, some of you ran on too, because I happened to see some of your handouts, and I happened to read your fancy ads that you put in the newspapers. You know what most of you said? And I know what I said. I said I am going to work with my colleagues on this school funding situation that we have to make it a fair plan and to target aid to the needy towns. This damn thing doesn't target aid to the needy towns; it targets aid to the rich towns. You know some people might say, "oh the Senate President, this thing fits into his ballgame very well." Well, I want to defend the Senate President because his city of Keene, where he lives, loses almost \$600,000. So, the Senate President has nothing to do with pushing for this thing. His town takes a huge hit. I am sure that he knows that. He had nothing to do with moving numbers around. I ask you to knock this thing down. Kill it, and get another Committee of Conference so we can do it the fair way. Another thing that you are going to hear, I've heard for the two years up here, with all of you guys and gals in this body, most of you have been concerned about the process. Where the heck is the public hearing on this? Where was the public? All of a sudden the thing shows up. What public had input in this other than the seven people on the Committee of Conference? Now let me say this to you. I have been here 14 years. I have been on a lot of Committee of Conferences and I have been here a lot of days of this session reading these reports. The first time since I have been here, the three of the original members of the seven-man Committee of Conference have refused to sign off. Yes, I have seen one. Yes, I have seen two, but I have never seen three members. So Senator D'Allesandro, I want to take my hat off to you for step-

ping off the committee because they are doing the wrong thing and you did the right thing by getting the hell off of there. Thank you, Senator D'Allesandro! Thank you, Mr. President.

SENATOR D'ALLESANDRO: Thank you, Mr. President. The Senate is a very honorable body and I think every Senator works diligently to try to do the right thing for their constituents and for the state at large. I think when we get involved in contentious debate, there are times sometimes, when we lose perspective. But, we're here to do the right thing and, in my opinion, the right thing is to vote against this Committee of Conference report. Now let me tell you why. I have been an educator all of my life. I started out as a high school teacher and progressed a little bit and got a couple of promotions and moved up the ladder. But I do know this: that children, in the process of their education, it is not a situation where every child is exactly the same. We promote individual differences in children, we respect individual differences in children, and one of the things that has come about is the advent of special education. That special education was to take a youngster who needed additional help and to give that youngster additional help so that that youngster could finish their career and move on to a better life. Another situation that we deal with significantly is the drop out rate, because we know that a child who drops out of school won't have the same advantages of a child that finished school. We have taken all kinds of studies that indicate that a high school education you make more, a college education you make more, your advanced education you make more. So we set about, in the state of New Hampshire, to create a situation where we tried to level the playing field so that the rich, the poor and the middle income would all get the same opportunity, equal opportunity. I have been to North Strafford. I visited every school in the state of New Hampshire. I walked into that school, I walked into the first floor and saw children being taught in a boiler room. Actually being taught in a boiler room. They didn't have any money to build a new space. They were strapped. Strapped financially. They need assistance in order to create that level playing field. Let me talk about my home community of Manchester because that is the community that I know best. It is the community that I represent and if I want to be parochial, I have to be in this sense. I represent Manchester and Goffstown. Now, based on educational reform, these communities have gone well out front in terms of improving their educational facilities. Manchester has spent \$100 million in terms of a bond issue, to make the buildings more serviceable for their student bodies. Goffstown, another bond issue. Goffstown recently produced kindergarten, voted for kindergarten. Manchester has the largest number of students in the state of New Hampshire. We have the most diversified population. I had a class from Hillside Middle School here on Monday, 31 kids. There were 18 different languages spoken by those 31 children. Those children need to be taught at a special level so that their English proficiency can be achieved, and they can be productive members of this society. That is an expensive situation. Manchester was challenged by the Office of Civil Rights to provide that education. We did that. As a member of the School Board in Manchester, I was there when we appropriated an additional \$1 million so that these students could be taken care of. So, the largest district in the state, the most diverse district in the state, a district that has made the quantum leap in terms of improving education and asking the taxpayers of the city of Manchester and the town of Goffstown, to support bond issues that improve those facilities. All of this based on the fact that we were going

to receive aid from the state of New Hampshire, and that that aid was going to be consistent over the course of a biennium. Well that has changed. That is a dramatic change. The city of Manchester suffers because of that. But our students suffer. Every individual in our city suffers. That creates a problem for me. It creates a problem that we have to deal with. The purpose of educational reform was to provide an impetus for a community to become involved in making education better. We were going to do this with a grant so that adequate education could be provided for. And if we wanted to, we could provide more money on the other side, because if we felt that we needed a capital expenditure and we felt it was a worthwhile situation, we invested in our community. Manchester took that step and invested \$100 million in improving our facility. Goffstown did the same for their facility at a lesser level. The Manchester Board of Mayor and Aldermen put together a budget. That budget had to be crafted before this Committee of Conference. In that budget, \$45 million was put for education. We find out after this Committee of Conference we are only going to get \$41 million. That is a \$4.5 million shift. That is a very difficult thing to accept. When you come here and when you agree to serve, you say "I am going to do the best that I can for all of the people in this state." I have no quarrel with anyone. I just think that when the rubber hits the road, the fairness issue is the issue that is on the table. We've got to be fair. We've got to be fair and we have to have a meeting of the minds that produces this fairness. That fairness is for everyone. In this life, you know we have always heard, "the rich are getting richer and the poor are getting poorer." And sometimes, I think that is what this bill is producing. I can only say to you this. That we, as a body, can do better. We, as a 24 member Senate, can do better. If we challenge ourselves, we can do better. We've got good minds in this body. We've got very good minds. We've got statistical analysis on the one hand, we have good political skills on the other hand. We have the makings of a great legislative body. The product that we produce should mirror the quality of this body. It should mirror the intent of this body. There are good, good people here. This does not represent the quality that we can produce. It just doesn't represent the best that we can do. Each one of us is challenged to do the best that we can do. Mr. President, I am proud to be a member of this body. I am proud to serve you as the President, as a Chairman of your committee and I am proud to work with others. I know that we can do better because we are challenged to do better. People all over this state want us to do better. We can do better. So I ask you, call upon all of the resources that are available to us and let's do better. Let's leave this hall knowing that we did the best that we could do. Thank you, Mr. President.

SENATOR GREEN: Thank you, Mr. President. This plan, as it is before us, violates every principle basically, that we started out with when we started trying to solve this problem, at least in the two years I have been here. I can't talk about past. I have seen past reports. I've looked at numbers, I've looked at spreadsheets. In fact, I've looked at so many spreadsheets I am not sure which one I am looking at anymore. The principles that I thought we started out with, whether we were going to target our aid to the needy communities, whatever we appropriated, that was priority number one. Number two, we knew how bad the situation that had been created with donor towns and we had our communities fighting among themselves for whatever money we decided to appropriate. So we knew that was a bad thing to have and a bad thing for the legislature to continue. The third thing, and let's let the cat out

of the bag. We were only going to spend so much money, regardless of what adequate education costs. So, here we are. Number one, we have not targeted aid to the neediest communities. We started down that slippery slope with the Conference Committee from last summer. Now, I have nothing against the communities in the middle or I have nothing against the communities who are so supposedly rich. What I have a problem with is, if you are going to satisfy everybody, you have to raise more money. We don't want to raise any more money, we don't want to define an adequate education, because we will have to spend more money. So we violated our basic principle of seeing that the money we raised, whatever it is, goes to the neediest communities. We now have donor towns back. Great concept. And, of course, we don't want to spend any more money, so we are going to spend less money and the money that we have, we are going to give to the richest communities. Well, that really makes a lot of sense to me based on where we started. I am not going to get parochial because that debate is what it is all about here. If I was putting together a spreadsheet and I wanted to count 13 votes to pass it, I would make sure that 13 Senators in this room got more money, regardless of the fairness, regardless of who gets it. I would make sure that the Senators who get enough money to buy their vote, I would give it to them. I would make sure that happens. It is a great political move, but it is a lousy move in terms of the people we are representing and if we really care about education in this state. Until the state decides that we're going to look at education and this state as one school district, we are going to decide how much money we got to raise for an adequate education, we are going to collect it in Concord. It is not going to be this game of you keep some and you send some, and we have donor towns and receiver towns. And we are going to distribute it to the neediest communities. Until we do that, you guys are going to be here forever doing this. You are never going to solve the problem. It is a non-solvable problem. It is called a Catch-22. You can't get there from here. This plan is going down the road that you were trying to prevent and we are right back in the middle of it. We have an executive branch which is running and driving this train. Every time we do something in this body, the Department of Education gives you different numbers. You don't even know, as you are here today, on what you are voting on. You don't know. You cannot be guaranteed that the money that you think is on a spreadsheet is going to be the money that goes to your community. That is what you don't know. Now, if you feel comfortable doing that, do that. If you feel comfortable violating everything we agreed to by votes in this Senate, over this term, then you vote for it. Nobody is happy; even those who did the Conference Committee I don't believe are happy. They are not happy. They know they got a tiger by the tail and it is not working. This thing is going to blow up. We've got local communities who have just about reached their max that they can stand for increase in property taxes. We can't go much further. Property taxes are getting out of hand. In my communities, the biggest problem they have is not state taxes; it is the local property tax. People cannot afford to keep doing this. Not only do we give them more taxes that shifts down to the local property tax, but what else do we give them? We take exemptions from them. So we make them get less money because we do exemptions. So we do exemptions, we pass laws that give them added costs. Now we are going to take the poorest communities in this state and say this to them, "we know you can't afford it, that is tough. You just have to raise the money." I don't want to be part of that. I refuse to be part of that. I

think you better look down deep in your heart and make up your mind that you...what you are really doing here. I know this body has the capability and the intelligence to do it right. The only way we're going to prove that to ourselves is to go back to a conference and work it out because this is not the answer. This is not a parochial question from me, it is a question of what we do as a state Senate and take our position and stand tall. You can't stand tall if you pass this in my opinion. Thank you, Mr. President.

SENATOR COHEN: Thank you, Mr. President. A lot of good points have been made. I think one of the key points is the word, the name of the town, Stratford. You know, what is happening there? Look at what we are doing with 302...look what it does to the town of Stratford. Is this good public policy? There are blatant inequities. That is probably the most blatant inequity that there is in this. This is not serving the public good. We have a situation, as we all know, where the towns that have worked really hard to create their 2005 budgets. They have done that. They have built it on the assumption of certain money that they are getting. This throws a monkey wrench into that process. This is wrong for the state to be doing that to the towns that have worked hard to put together their budget. It creates chaos. It does. It creates chaos. Are we here to create chaos? I don't think so. We are here to serve the public and to come up with a real solution. We all know that we are not there yet, we don't have a real solution, but this is making matters a heck of a lot worse. As Senator Green said, this is pitting community against community. I think it is important to realize, and it is important for the people of New Hampshire to recognize that we haven't discussed a key component of what got us into this situation at all. I think as public servants we have an obligation to address that issue and we need to make our voices heard, 'cause the reality is, the federal government is shortchanging our schools. If the federal government would keep its own promises, we wouldn't be having this conversation today. The fact is, almost 30 years ago, the federal government committed to funding 40 percent of education. They're doing it now at 17 percent. That is not right. We are fighting amongst ourselves here. We got town against town, and yes, it is the state's problem, and we are not doing it, but we also need to raise our voices and recognize that the federal government is not respecting us. We need to demand that the federal government meet its promises.

SENATOR BARNES: Point of order, Mr. President. We are talking about SB 302, Mr. President.

SENATOR COHEN: Mr. President, if I may? We are here as servants to the public. We have an obligation to serve them and recognize that while we are creating a situation where the towns are fighting amongst themselves, there is part of the problem that has not been addressed. We need to recognize that. I urge my colleagues to vote against this bill because it makes things a lot worse. It creates a lot of chaos. But, there are other factors here that, as servants to the public, we need to raise our voices about. Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. As my colleagues said, we all believe we're here to do what we figure out to be the best right thing. Since the Committee of Conference report was issued last week, I have been struggling with what I feel is the right thing in this case. So when we have a hard decision to make like that, sometimes it helps we know to put it on paper, the pros and the cons. I thought I would share

the two sides of the list I have been compiling as I have tried to decide my vote. First on the no side is the process which brings us to this vote. The crisis atmosphere created by the legislature's posturing, denial and procrastination has led to new lows in corruption of the legislative process surrounding an issue of great importance. On this basis alone, the bill should be opposed. I know myself, having spent endless hours working and now what feels like endless years, working on this issue in the light of day on the Adequacy Commission, it pains me to even consider supporting this proposal. Then there is the substance of 302. Two of the new provisions are so objectionable they also should stand as sufficient cause to oppose the bill. I have spoken repeatedly against trying to tie the rise and the cost of education to the Consumer Price Index, an index which doesn't include education's biggest costs, labor. This will only cause a continuing decline in the state's share of education costs. SB 302 also removes the aid given communities for English as a second language and special education students, retaining only the weighting for free and reduced lunch students. Common sense tells us that it costs more to educate a poor student who does not speak English as the native language than a poor student who does. This is another cost being shifted to local communities and we can see that, and no wonder Manchester does so poorly under this plan. Then there is the principle. One of the principle positions I've held as I've served in this Senate seat is to advocate for greater state education aid. Greater aid to the state as a whole; greater aid to the neediest communities; and greater aid to the communities of my district. The bill we have before us forestalls a further decline in state aid overall, but accomplishes just one of those goals to my district. If elected statewide at large, I would have a hard time deciding whether these serious objections I have raised should outweigh my first entry on the Yes side of my list. My grave concerns about what I call the default. What will happen if this bill fails? Scenario one has last session 608 becoming law, leading us still further from the goal of greater state aid and eventually to court or a new Committee of Conference could be established. The likelihood in that case seems to me to be a continued closed door process and a continued unwillingness on the part of the Senate to accede to the House revenue generator. Meanwhile, the now legendary instability our local communities face as a result of our inability to get real drags on. Then, of course, the determining yes on my list. I am not elected statewide at large. I sit not only as one of 24 representing the state, but also as just one of one, representing the communities of District 21. The plain fact is, this bill provides 20 percent more state aid to the communities of District 21 than under 608. In Dover's case, more even than in '04. Whether 302 lives or dies, there is widespread acknowledgment that next session it will be back to the drawing board and likely back to court. During my freshman term on House Education, we managed to reach agreement on defining and costing an adequate education, but only under the pressure of a court directive. The only good thing I can say about legislative action on this issue since that time is its refusal to remove the courts, because sadly it seemed that another court decision may be required to force a more stable, long-term solution, as the bill's contingency, itself, acknowledges. So for now, on balance, in this seat, I will vote yes.

SENATOR MARTEL: Thank you, Mr. President. My colleagues have really expressed their sides very well. I've made it very, very evident from day one that I could not support this bill for its lack of funding, and I have made that known clearly. I still hold that position today, even more so today than ever. When I look back and I look at some of the things that

have gone by over time within the school system, and I keep looking at flashbacks of things and events that have happened, such as understanding, at least trying to understand, why schools in Manchester can't get enough money to buy or rent a bus to come up here and make visits to the State House. That happened at the Beech Street School. That is unconscionable. Those children that go to Beech Street School are the neediest children that you are ever going to find. They are not only challenged by not speaking English as well as we do, but also because of the fact that they come from refugee countries. A situation that we have in Manchester. We didn't ask that it be put there, but these people come and they excel, and these children have excelled in school to a point where they have showed some interest in our form, not only government, but also form of the United States, and I should say the state, excuse me. But when I see the school budget doesn't even maintain that amount of money for just that, I ask the question as to how many more schools across the state may face the same thing. As far as the amount of students we have in Manchester, yes, we do have the largest school system in the state. We are really...we not only have a mix of wonderful children, but also not only from the public school aspect but also from the parochial school aspect. I know that we are just speaking about public schools today, but I certainly do have to measure myself as to what type of schools that I have seen come through here. Like today, I was proud to announce my grandnephew, who is a fourth grader at St. Anthony's School who came up here with his mother and his class. Also, we have St. Catherine's School, which my children went to. Then I looked at as I said, Beech Street School. Even worse than that is the Bakersville School. Now these schools individually don't mean anything to many of you, but Bakersville is actually in Senator D'Allesandro's district. My district begins on the south side of Queen City Avenue. So it is a kind of weird situation, where the children in my district go to his school. But it is a wonderful school. It does everything it can under the poorest conditions, even more poor than actually the Beech Street School. Isn't it ironic that here in the city of Manchester, we have the wealthiest of wealthy businesses who provide the engine for the city and the state, but yet we can't find any money for small projects like this. English is a second language. This is dictated upon us, and if these children are to grow and to increase their knowledge, okay, in not only the state, but also the United States, English is a necessity if they are to survive in business or you know, later on in life. If they can't do that, they are going to be lost, and they will be among the lowest of people in education or who go into the job market. We can't allow that. We have to prepare them early. I believe there is no doubt that Manchester is not getting its fair shares of monies in this budget of SB 302. I believe that it has to be fixed. A new Committee of Conference, I believe, should be called and we should do this now. The point of view is that we can yell and scream at each other all day until the cows come home, but unless we sit down and dig in and do what's right for our students, it will never get done. I certainly would not allow that to happen and I am sure my Senate colleagues here would not allow that to happen. I look forward to making and getting through this process so that we have fair and adequate funding for all schools in this state. So I thank you, Mr. President, for time to speak. Thank you very much.

SENATOR KENNEY: Thank you, Mr. President. **TAPE CHANGE** which is always to expect the unexpected. Last year, when I voted for 608, there was great optimism in my district in the sense that the six donor communities were going to be phased out. As everyone knows, one of the

major donor communities is Moultonborough. So it made sense to me, obviously. But I also understood that there was a Josiah Bartlett study that came out that looked at communities...a lot of communities were spending more because the money was being held at the state level. So, by lowering the tax rates, you were actually getting a better understanding at the local school boards on what you were spending on education. So I thought eliminating donor communities was actually going to allow those communities to better spend their money on education. As it stands right now, one-third of that \$22 million under this plan that is going into the Educational Trust Fund to be redistributed, one-third of that comes from my district. So, you are looking at rough \$6.5 million. In the total swing of where I was from last year in my district to what I am losing in this plan is rough \$7.5 million. That is tough to swallow. I wouldn't expect any colleague that was in my position could support this particular educational funding plan based off of that. I have some concerns, much like Senator Green has pointed out, on the per capita. I have a few communities up in Carroll County that their per capita is like \$19,000 for an individual, but yet their property taxes are going to go up. My own community of Wakefield, \$1.8 million it received this past year in educational fund money. They are going to be down to \$1 million. So basically, they are going to lose \$800,000 under this plan. Understandably, they would have lost money anyway because of the re-evaluation that went on this year, but still, these are the people that I have to respond to when I go back to my district. I have to say why has there been a loss? I would hope that we could go back to the drawing board and look at how we are allocating this money, look at per capita income, and make that factoring much like the old Augenblick Formula did, because what is happening in southern Carroll County is that there is a huge growth spurt going on and the per capita income is low, the taxes are going up, there is growth going on in that part of the state, and granted there are people that have money who live on the lakes, but even they are paying their fair share of taxes. So, from my standpoint, we need to go back to the drawing board. I supported the Gatsas plan knowing that it would eliminate the donor town concept. I never thought, much like along the Murphy's law concept, that it would totally eliminate donor towns, but at least there would be a withdrawal from those communities on paying the amount of money in which they are paying now under this plan. So, I full heartily believe that some of what the coalition communities have suggested, and past educational plans need to be re-addressed and I do support the Gatsas plan. Thank you, Mr. President.

SENATOR ODELL: Thank you, Mr. President. Although we often would like to deny that we think parochially about legislation like this, I would like to just remind you, my fellow members, that I represent Claremont. One out of four residents of the eighth senatorial district live in Claremont. After I was elected two years ago, one of the first meetings I went to was the school board meeting in Claremont. I saw them at that time address the issue of cutting teacher salaries, cutting teacher positions, and reducing some other expenditures that seemed at that moment to be quite urgently needed. I got to become...I became very enthusiastic about the potential that was in 608 because I believe that the idea of targeting money to the communities that needed it the most was fundamental to the fairness, that was essential to providing each youngster in New Hampshire with an equal opportunity at an adequate education. This spring, with 302 on the horizon, I went to the school board

meeting. It was well publicized. Ten days later, a very prudent and responsible budget for the schools and the city of Claremont were defeated at the polls by a wide margin. Mr. President, I mention that because people are losing faith in us. They are losing confidence in us. They are losing confidence in their elected officials in Concord to do the right thing. The right thing being so fundamental to them, I don't understand why we have to struggle with it in here. Because of the property valuations of your community, your child should neither be beneficiary or on the short end. That is what we create with what is going on currently. I also want to mention, Mr. President, that I want to get this behind us. No community in New Hampshire wants to get this behind us more than the city of Claremont. We believe that the high property taxes there are driving people out of the community. We believe that it is hurting our efforts at economic development. This is a monkey on the back of the city of Claremont because of the fact we are the named community on the lawsuit. It has an impact when, year after year after year, this grinds on. We need, Mr. President, a resolution, but I caution that we need the right resolution, and 302, as we see it today, is not a resolution, nor is it fair, nor is it equitable, nor is it sustainable. I encourage my fellow members to join me in voting against it. Thank you, Mr. President.

SENATOR GALLUS: Thank you, Mr. President, members of the Senate. This is really all about trust, the trust that the people in New Hampshire placed in us when we passed 608. We assured the local communities they would have figures needed to plan budgets. I am proud to say I represent the great people of many of the state's poorer communities. This bill violates their trust. Changing figures after communities have set their budgets is just plain ridiculous. I can't see that we can legitimately sit here today, after the fact, and try to pass this bill. It is a timing issue. I am used to losing. I get no highways in the north country, I am constantly whining, as you all know. I get very little up north. I can take this loss. Do it to me next year. Don't do it to me now when my towns have already passed their budgets. I mean, I have had little towns all over the north country calling me, and I can almost feel and hear the tears in their eyes on the telephone. It is just ridiculous. Most of my towns, and most of what I have read and seen in the last few days, think that it is business as usual in Concord, Stratford, New Hampshire and my poorer towns, should not be losing over \$5 million. It is the timing. It is too late in the ballgame. So you can take your money and run today, or you can do the right thing. It is really too late to be changing the rules this year. I thank you for your time and I would urge you to vote no on 302.

SENATOR O'HEARN: Thank you, Mr. President. As I look through this body, there are a number of us that have been here doing this for a number of years. We always get put on the crunch time to do it at the last minute. When you look from Augenblick to the ABC plan, to the Sytek plan, to the Donor Community plan, to the Hess plan, to the Gatsas plan, to the Committee of Conference plan, it is either groundhog day or from here to eternity. We are never going to get there if we are going to keep using spreadsheets without determining the policy first. Policy, as we have looked at it over the years and we have tried to determine what's the right thing to do, and then make corrections as we go, there is always a spreadsheet. It is not about the policy and it is not about doing the right thing. It is the bottom line. We are never going to get out from under this. We have one tax that we are using on this that is constitutional and that is the statewide property tax. As long as that is all we

have, we're not going to get out from using a spreadsheet. Nothing in the Claremont decision said we had to include free and reduced lunch. Nothing in the Claremont decision said we had to use special education. Nothing in the Claremont solution said we had to use ESL. These were all policy decisions that we moved along the way. We look for a plan that is fair and equitable, but it is really supposed to be fair and proportional. We look for a plan that is constitutional, and those will always get tested. I look at what happened with my community when I supported 608. I know what happened at home. I know our property values went up. They went up \$1 billion. I know our school population dropped and that had a major effect. Now I am looking at a Committee of Conference plan and we're still losing money, but we are gaining from where we were. It still comes down to looking at the bottom line. I don't think the policy in the Committee of Conference is so bad. We are getting really right down to the basics, but we are not over yet. I look at New Jersey who went through over 20 years of trying to solve this problem. I see this as something that is going to go on forever until we can all sit down, write a policy, look at the policy, agree the policy is where we want to go, vote on it, then run a spreadsheet. But we are never going to get there until we do it that way. Thank you, Mr. President.

SENATOR GATSAS: Senator O'Hearn, I guess this is going to be a would you believe. As you and I toured many different communities, would you believe that the way we presented 302 or 608 was never with a spreadsheet? What we talked about was a broken formula and a concept. We went to the town, would you believe, of Bedford, where we thought we were going to have a problem? We talked about concept rather than a spreadsheet. Would you believe that, when we left, they understood that losing \$1 million, based on the concept, was alright?

SENATOR O'HEARN: Yes, Senator Gatsas. We also went to Hollis without a spreadsheet. We also went to Merrimack without a spreadsheet, and we recognized that we were going to be, or we thought we were going to be in for a battle. Once we got through explaining the concept, they thought it was fair. I am not disagreeing with 608 or 302. I just feel that we are now in a different place because of a letter that came out on constitutionality. Whether the constitutionality is questionable or not, whether it is unconstitutional or not, we've made a step in a direction that creates a perception that we're going in the wrong direction. How to correct that? We will probably continue to work ...continue working on our plans.

SENATOR GATSAS: Thank you. Senator Larsen, would you believe...

SENATOR O'HEARN: No, it's Senator O'Hearn.

SENATOR GATSAS: Excuse me. I apologize. It was the pink that got my eye. Senator O'Hearn, would you believe that I believe that the education funding formula, whether you look at the Committee of Conference, or 302, or a piece of legislation that we come forward with, that right now we're playing a timing game, and that is all that we are playing? We are playing a game that says one of these bills is going to the gentleman with the black robes 'cause you know that the bill that is before us, would you believe, is going to the gentleman with the black robe? So all we are doing, would you believe, is buying time and putting something in front of people that they think they can swallow? Would you believe that, Senator O'Hearn? And, would you believe that everything that you have taught me about educational funding, 'cause I admire you for what

you taught me. You taught me that adequacy was important. You taught me that special ed transportation was important, because we as a Senate, would you believe, put it back into 302 when we brought that forward? Would you believe that, Senator O'Hearn?

SENATOR O'HEARN: I hope that I can remember all your questions, Senator Gatsas.

SENATOR GATSAS: Just say yes, Senator O'Hearn.

SENATOR O'HEARN: No, Senator O'Hearn doesn't just say yes. Senator Gatsas, I have seen you to be a good student and appreciate the work you have done on adequacy. I still believe your formula was fair and equitable. I also have seen enough of these plans coming forward, enough of the work going on, that it is still a game of chance and it is a game of timing. When it comes down to the crunch time, this is when it usually cracks and comes forward. Whether it is the best or not, we can usually all sit here and say it isn't, and it still needs more work, and I'm afraid that is why I say it is from here to eternity that we are going to be working on this, until we find an answer to it.

SENATOR GATSAS: Thank you, Senator.

SENATOR BARNES: Thank you, Mr. President. Senator O'Hearn, I didn't get you mixed up. There is a plus for me right?

SENATOR O'HEARN: Thank you.

SENATOR BARNES: About 8:30 this morning, would you believe, I know you were there, and I think Senator Gatsas asked a question, he wanted to see the letter. You mentioned that letter. Have you been lucky enough to see that boogie man letter, 'cause I haven't seen it yet, and it was asked for at 8:30 this morning? Maybe it came to that end and maybe it is working its way down. Is that true? Have you seen it? You referred to that letter as being very important.

SENATOR O'HEARN: Senator Barnes, are you asking about the original letter or a copy of the letter?

SENATOR BARNES: I am asking you about the original letter from the Attorney General that was asked for by Senator Gatsas in our caucus this morning, that I still haven't seen a copy of. If you have seen it, I would like to know it.

SENATOR O'HEARN: I have seen a copy of the letter several times, but not the original.

SENATOR BARNES: Not the original. That is the boogie man. That is the one you used in your speech a few minutes ago. I just wanted to clear that up. So you haven't seen that boogie man letter that you brought up earlier?

SENATOR O'HEARN: I have not seen the original, Senator Barnes.

SENATOR BARNES: That is the boogie man. Thank you.

SENATOR BELOW: Thank you, Mr. President. I just want to make three basic points about this. The first is that the process has real world consequences for children in schools. Just to take one case in point where we have a severe case of reverse Robin Hood. My community, Lebanon, the city of Lebanon, makes out. We get over a quarter million dollars more than any plan...the previous versions of this that have been considered or are current law. So personally, I would be better off if this passes. But, you look at the community like the city of Franklin, which is a particular

problem. They have a tax cap in their city charter. They built a budget around what was expected, what was talked about, what was law. The only number that was out there. And here, at the last minute, after they have already adopted a budget, there is half a million dollar cut in what they are going to get funded. Now unlike most communities, they can't just raise their local property tax rate, they have to go back and cut most or all of that out of their budget. It doesn't make sense that they're getting this half a million dollar hit while a community like Lebanon that never expected the quarter million dollar windfall or Hollis that is getting a million dollar windfall, over what it expected to get and what it built its budget around, that that's occurring at this late date. That is wrong. The second serious problem is this risk is costing us whole lot more than we realized, and I this, I guess, is part of the process, with regard to what we have done with special education. I just want to point out what our law says about special education. We recognize in RSA 186-C. 1. As a statement of policy and purpose. It says, "It is hereby declared to be the policy of the state that all children in New Hampshire be provided with equal educational opportunities. It is the purpose of this chapter to ensure that the State Board of Education and the school districts of the state provide a free and appropriate public education for all educationally disabled children." We go on to mandate that districts provide a free appropriate education for children with educational disabilities. Okay? The Claremont decision said that we have to fund the cost of an adequate education for each child. On top of that, we have a constitutional provision that says that we don't create mandates that we don't fund. We mandate this and now we are saying, no extra weight for special education pupils. They get the \$3390. If they happen to be free and reduced lunch, there is an extra 60 percent there. But, most of them or a large number of them, don't have that, so we are funding \$3390 per educational pupil with an educational disability. Now we do have additional aid often called catastrophic aid that kicks in at three and a half times the estimated state average expenditure per pupil. Well, what is that? It is not a defined term, but if you go to the Department of Education website, they have total expenditures for elementary and secondary education per pupil of about \$9,933. Something tells me that is not the number they used. It is probably the number stripped out of capital expenses and transportation and things like that. You get down to \$7,800 per pupil, average cost per pupil to educate. Three and a half times that is \$27,300. We're funding \$3,390 per pupil. That leaves \$24,000 for each local district to make up before they start getting 80 percent of the state payment for that. Even with the double weight we're not even getting up to the actual average cost per pupil and we know that special education students typically cost double or more of that \$7,800 or \$10,000 average amount per pupil. But worse than that, okay? Unintended consequences. Guess what? This will put us in violation of federal law. In 35 CFR (Code of Federal Regulations) 300.154 states that the state will not reduce the amount of state financial support for special education, for children with disabilities or otherwise make available because of the excess cost for educating those children below the amount of that support for the preceding fiscal year. Maintenance of effort. We have seen that a lot in the Finance Committee when we looked at things. We had proposed cuts from the Governor that would have cost us many millions more than what they say because of failure to maintain our effort. We have an obligation under federal law. Guess what? There is a penalty of \$41.8 million lost to local school districts in the state in special education funding because now we are funding \$3,390 per pupil instead of double weight

per pupil for special education pupils. There is a bill in the U.S. Senate right now that would reauthorization IDEA, that would double that to a \$90 million penalty in fiscal year 2005. I think this merits a public hearing. At least, Okay? You know, to be honest, I haven't voted for 608 or 302 or whatever it is. I think all these fall way short of our obligation to fund an adequate education. We are only funding about 21, 22 percent of the total cost with something other than the state property tax of educating children, but maybe that is beside the point right at the moment. The point is that, at the very least, we need to give communities an ability to have some reasonable expectation of what their budgets are and not put at risk these special education funds. I just want to make one last point, which is, it really wouldn't cost that much to at least hold communities harmless. To at least give them enough money to proceed with what they built their budgets around. In fact, if we gave every school district in the state the maximum, the greater of what they would get from this Committee of Conference plan or what they would have gotten under current law, under the 608, Senate plan for fiscal year 2005, it would only cost another \$15.2 million. Only \$15.2 million to give every community the bigger number; the biggest number of the two numbers that they have seen. I'd suggest that that would be a cheap price to pay to give communities a little confidence. I might add that the LBA, the last time that they did a projection, they presented over in the House a couple of months ago on the Education Trust Fund, they're projecting a \$15 million surplus that will transfer back to the general fund. So, just funding it with what we appropriated for education, just funding it with what we have dedicated by law to the Education Trust Fund, we could give every community the greater of the Committee of Conference report or the current law with the correction. There are other hold harmless scenarios that would cost somewhat less, but I won't go into that because that is the point. For another \$10 to \$15 million, we could really, pretty much, make all the communities whole, at least in terms of what they are expecting at this point. Certainly we ought to go back and look at how we should maintain the double weighting for special education pupils so that we don't put at risk, \$41 to \$90 million. Come on. Please vote no and let's not send this back to Committee of Conference. Let's open this up. We have to suspend the rules one way or the other for a legislative process. Give ourselves a week or two deadline, but let's have the legislators do this legislation out in the open, not a couple of people behind closed doors. Thank you.

SENATOR LARSEN: Senator Clegg, back in the beginning of this debate, it was pointed out that the formula distribution in the distribution charts that we received don't match the words that are in the legislation, primarily whether the equalized evaluation is with or without utilities. The way we read it, it is the law...what we are looking at for law, would be without utilities, and if you use that spreadsheet, it does not match the Committee of Conference handout that we received on the night of the 302 Committee of Conference. Those don't match. The question that I have for you is, when you are looking at certain communities, it is a minimal difference. In Allenstown for example, it is the difference between the spreadsheet that was handed out to us originally that said that they were going to receive \$3.6 million and Allenstown instead would receive \$3.589. But on some communities, particular smaller ones like Stratford, it is a difference of \$100,000, which to Stratford is meaningful. I think it is only fair if you mentioned that we were going to put this in the record, that we put the correct spreadsheet in the record, and what I'm asking

you now is what is the correct spreadsheet? If I could just add, just to point out that it is the difference between Berlin receiving \$6.9 under this spreadsheet or \$7.2. For some communities, these are significant enough money that I think they have the right to understand what is coming and all of us who are voting on this have a right to know.

SENATOR CLEGG: It is my intent, at the end, to enter in the 302 Committee of Conference spreadsheet as the Committee of Conference understood what we were doing, which would be, in the case of Berlin, would be the \$6.9. In the case of Allenstown, would be the \$3.6. Those are the numbers that after we had done the formula, those are the numbers that the Committee of Conference looked at. Those are the numbers that the Committee of Conference voted on. While there may be some technical problems, just like there was in 608 and all of the bills prior to that, I will ask the clerk to enter this and to certify this as the spreadsheet that the Committee of Conference intended to be the result of the legislation we drafted.

SENATOR LARSEN: How do you instruct those who do the distributions to break what will be the law? The law will say that it will be an equalized evaluation without utilities, where instead this included utilities.

SENATOR CLEGG: We don't...we think that the intent of the legislature is more important and we think that both the Attorney General will agree and the Governor will agree that that is the intent of the legislature. If there is a flaw in a couple of words, our intent is stated here on the floor and that is what should be moved forward.

SENATOR GATSAS: Thank you, Senator Clegg. Senator Clegg, from what you just said, 608 is law, and would you believe, if we vote this down, the intent of 18 Senators coming out of here, and I don't know what the vote was coming out of the House for 608 as being law with the intent, even though the Department of Education says it is a double subtraction, then we have the ability, by the intent of this body, would you believe Senator, that we have a piece of legislation that is in place by intent, so removing this from the table and killing it, doesn't cause a train wreck?

SENATOR CLEGG: I would agree that, if this law went down, the current law would remain in effect. Whether or not that is a train wreck, I will address when it is my turn to speak.

SENATOR GATSAS: I guess I will wait for the next question then when it is his turn to speak.

SENATOR BELOW: Senator Clegg, are we enacting a statute with language from the Committee of Conference into law or are we enacting the spreadsheet into law?

SENATOR CLEGG: We're enacting a statute and we're enacting...we're also going to place, or it is my intent to place with the Clerk, the spreadsheet that goes along with it, so that there is no question of DOE.

SENATOR BELOW: If there is a plain conflict between the language of the law and the spreadsheet, which do you think will prevail as law?

SENATOR CLEGG: I think whatever our intent is here in this Chamber, and in the Chamber on the other side, I think that that is the prevailing method for...you may not like it, but that is my opinion. It is our intent. You know, maybe if they understood our intent more often, we wouldn't have to keep redrafting and redoing all of the time.

SENATOR SAPARETO: Thank you, Mr. President. Senator Clegg, as I look at the calculations with LBA and what this Committee of Conference reports, it doesn't appear that the math is actually accurate along in that fourth column. And if that being the case right now, if we enact the bill with the improper wording and the math doesn't add up in here, are we going to create a revised spreadsheet and vote again on what the bill should be saying? Because the information that we have right here is very reminiscent of HB 117 that I listened six years ago with numerous errors that we had to pass...correct the legislation for. So, I guess my question is, if this spreadsheet doesn't jive and the numbers don't add, and this spreadsheet and the numbers don't add, and they are very different, and the wording that is left within the bill is also in error, how can we vote on this?

SENATOR CLEGG: I have no idea what spreadsheets you have. The one that I have says SB 302 Committee of Conference Report Spreadsheet. Is that what you have?

SENATOR SAPARETO: That is one from LBA.

SENATOR CLEGG: That is the only one I am talking about.

SENATOR SAPARETO: That is the one with the numbers that don't add.

SENATOR CLEGG: They don't add up?

SENATOR SAPARETO: No.

SENATOR CLEGG: What doesn't add up?

SENATOR SAPARETO: The fourth column. If you look at the separate numbers you've got, 802,361.16 in that column, which is total adequate education costs, throughout all of these pages with a separate numbers. You look at the other spreadsheet, which is published by LBA, probably the same program, that adds that numbers, it comes out to different figures.

SENATOR CLEGG: I am not comparing this spreadsheet against anybody else's spreadsheet. This is the spreadsheet that the Committee of Conference believed was the spreadsheet. These are the numbers for grants. I can't help it if other people have LBA do other spreadsheets. Just because it says LBA doesn't mean it came from the Committee of Conference.

SENATOR SAPARETO: My question is, when you add all of the numbers up, they don't add to what is listed within that column, how can we determine the amounts of grants under this spreadsheet you want to submit?

SENATOR CLEGG: I don't understand your question. Every town has a dollar amount at the end. This is the adequate education grant.

SENATOR SAPARETO: Correct. If you look at the bottom numbers, the total of these amounts that state that it is \$802,360,116 is not the sum of the total amounts in all of these columns. How can this possibly be entered in? How could it be entered? Wouldn't there have to be math corrections on it?

SENATOR CLEGG: I don't get you. It starts out at \$802,360,116 and it ends at \$802,360,116. It is not supposed to? It shouldn't balance? The top shouldn't be the same as the bottom?

SENATOR SAPARETO: No, the numbers, when you add them all up, don't add up to \$802,360,116.

SENATOR CLEGG: I haven't added every number. I took it to believe that our Legislative Budget Accounting Office knows how to add numbers. Now, if you're sitting here telling me that the Legislative Budget Accounting Office cannot add and subtract, then I think that maybe we ought to dump that entire office and hire some new accountants, because there is definitely a problem.

SENATOR SAPARETO: Thank you, Senator. Thank you, Mr. President. But, in their defense actually, they have. The numbers on this page do add and come out to the correct figure within this. So this is also by LBA.

SENATOR CLEGG: Well this is what they gave me as the 302 spreadsheet that goes with the Committee of Conference. If you're telling me that they helped craft the language and drafted this, and that they can't add, then there is a serious problem with accountants who can't add.

SENATOR GATSAS: Senator Clegg, would you believe that I asked you for a reason this morning or asked an aide this morning for a copy of the detailed report for a reason?

SENATOR CLEGG: You always have a reason. You want to check things.

SENATOR GATSAS: And, as I said to you in here, would you believe, "did you check it?" and you said to me, no, you didn't?

SENATOR CLEGG: Correct.

SENATOR GATSAS: Then I said to you, "I feel uncomfortable with that." I read the law, I sat here by myself for one hour. Take a look at the date of the spreadsheet that I asked LBA to run. The date is 5/25. Would you believe that Senator?

SENATOR CLEGG: I'm sure that you do have a 5/25 spreadsheet.

SENATOR GATSAS: And that is the one that you have before you?

SENATOR CLEGG: There is one that is sitting here, yes.

SENATOR GATSAS: And, the two numbers, based on the way the law is written, the law is written with equalized evaluation without utilities. So, your Committee of Conference drew up legislation that never followed suit with a spreadsheet that the members in the House saw because we in the Senate never saw the detailed sheet. Members of the House got detailed sheets.

SENATOR CLEGG: Senator, if you had stayed here that night, you too would have received a detailed sheet because they were available. They were given to everybody that night. It wasn't a secret.

SENATOR GATSAS: I don't want to go with the secret. Let's go with something else, because we know how secrets are. They are never secrets when more than one person knows, as the Attorney General's letter proves.

SENATOR CLEGG: You betcha.

SENATOR GATSAS: Wouldn't you believe that the House members, not knowing that the spreadsheets versus the law that is different, shouldn't they be entitled to an opportunity to know that?

SENATOR CLEGG: Senator, I am not so sure that the House didn't know that there is a technical glitch in the wording in the bill. And, for you to assume that they don't know, makes you better than me. I am not a Houdini. I am a Svengali. I can't go over there and ask them all...easy guys.

SENATOR GATSAS: Spell that please for them.

SENATOR CLEGG: Sven...for short. I am not so sure that they don't know that there is a technical glitch. I don't know. I know that over, there, they voted on, as most people do, as the previous Senator said, not on the technical language in the bill, but on that last line that says here's how much my community gets. That's what they voted on. That's what they expect, and that's what we should put as the certified record for our intent.

SENATOR GATSAS: But Senator, all I know that is that the legislation as drafted, in 1188, we did that specifically. We put those amounts in legislation. It shocks me why...maybe you can tell me why the Committee of Conference didn't enter numbers on a spreadsheet because of the same problem that happened with 608. Can you tell me why those numbers weren't entered?

SENATOR CLEGG: I have no idea why we didn't enter those numbers.

SENATOR GATSAS: And, can you tell me how we're going to enter them now into law?

SENATOR CLEGG: No, I am not going to enter them into law. I am going to put them in as part of the record, so that the intent of the Chamber is clear.

SENATOR GATSAS: So if we do vote this down, 608, as the intent of this Chamber on May 24th, when it left here...May 22nd, I forget, because that was my birthday. When it left here, that was the intent of this Chamber.

SENATOR CLEGG: Did you forget because it was your birthday 'cause you were celebrating or?

SENATOR GATSAS: No, because it was my anniversary on the 24th and that sometimes is more important than my birthday.

SENATOR CLEGG: You betcha. Yup. That is what would happen.

SENATOR GATSAS: Thank you.

SENATOR CLEGG: I get an hour. That's what Senator Gatsas had. I want to just make a couple of points. A lot of people have sat here and they have talked about poor community, rich community. But I want you to understand that, just because Amherst appears to be rich, doesn't mean that it doesn't have poor people in its community. It does have mobile home parks and it does have mansions. When you talk about income, three or four millionaires, especially today's millionaires at \$30, \$40 or even \$600 million, in a community, can skew the median average for that community. None of our plans have ever talked about funding education based on income because that is an income tax. If that is what you want, you want to send money based on income, and you want to collect it based on income, then vote for an income tax. But that is not what we have. We have a statewide property tax. A statewide property tax, in order to be constitutional, and not constitutional as Gene Van Loan says. When he talks about the Constitution, he says, "I am not talking about what the Constitution says; I am talking about what the court says the Constitution says." But we got this letter. I don't know how the *Telegraph* got it, but we got it. In it, it says that the amended section now provides that any money raised in what was formerly known as donor communities is now clearly to stay and be spent in those communities before raising any additional education tax. He talks about this and he talks about in 1998 we

had the same thing. He says we believe that the same situation would exist in this amendment, in this bill, and would create a problem of constitutionality, because, by allowing a donor community to keep its money, you have in essence said to the poorer communities, you have to pay higher taxes. Was there a sense of urgency? Well, when you read an interview by John DiStaso on May 14, 2004, where he interviewed the chief lawyer for the Claremont Coalition Communities, and you see that one of his quotes is, "Volinsky said he had read Heed's letter. The legal team for the Claremont Coalition, the five property poor plaintiff school districts and their supporters, and I quote, "have discussed virtually the same issues that Peter Heed identified and have virtually the same conclusions." So what do we do? Do we just go off onto vacation and have this come up in July or August because of a lawsuit and have the court say, you're not going to disperse any money because your plan's unconstitutional? What kind of shock is that going to be to the communities? I thought that I was getting \$6.9 million in Berlin, but the court just said I don't get anything because it is not constitutional. Maybe the court in New Hampshire would do what they did in, I believe it's Kansas. They shut down the schools until they got a new formula. I don't think that is what we want. That is not what the Committee of Conference wanted. We wanted to send something out that would keep things moving. The formula was simple. It is not complicated. It says every child gets \$3,390. That is whether you live in Hollis, whether you live in Amherst or Moultonborough or Berlin. Every child gets \$3,390. Then the Committee of Conference said we need to help people with poor or poverty stricken children. So we gave a weight to that and we said we're going to pay some extra money. Then we looked at those communities that have a tough time because they are property poor, and said, let's give them some more money. Now the amazing this is, when you look at Amherst who is a big, rich community, supposedly, they get money under the free and reduce because they actually have some poor kids in their community. I know they're not supposed to, because they are rich, but they do. Now, did they get anything under the effort of tax...tax effort column? Not a penny, because they have enough property in their community to tax at a reasonable rate and get the money they need. That was simple. It keeps us moving. No one on the Committee of Conference ever assumed that this was the last and final plan. We all understood that, in January when we are back here, or those who are back here, are going to be looking at a whole new plan, a whole new concept, probably a whole new tax, who knows? It depends on who gets elected, and a new method of funding education. But, in the meantime, do we take the situation and let it move forward and let the court decide? Most of us on the Committee of Conference said no. Most of us remember how they fixed redistricting. We're not about to let them do a formula for education and say, here is what it is. Is the plan temporary? You bet. There is no way in the world that I would ever say that this is a permanent fix. I don't think next year, if you pass a bill, that that is a permanent fix, because every year somebody is going to come in and say, I've got to figure out a way to get more money for my community and there will be a new plan. There will be a new debate. You heard me say that the intent of the Committee of Conference was that spreadsheet prepared for us. It is my hope that the Department of Education understands the intent of the legislation. I hope the AG understands the intent of the legislation. Everyone here knows that they are basing their decision on whether or not to vote for this bill, based on what was in this sheet and how much money your community was getting. So I am going to ask the Clerk to enter this into the

record, to show what our intent was, what the grants were supposed to be according to our intent, if this bill passes. Now if this bill doesn't pass, what happens? Well, since 608 that it would revert to for '05, appears to have the same problems as 302. If challenged, since 608 had a fallback position, we go back to the '04 formula. The '04 formula keeps the tax rate at \$4.92. It gives donor communities no break in how much money they contribute because the tax rate stays up. At least by reducing their tax in 302 to \$3.33, the donor communities get a break. It doesn't go to zero, but it is a huge **TAPE CHANGE**. So, if we end up going back and 608 for '05 is found unconstitutional for the same reasons that the Attorney General puts out, we go back to a tax rate of \$4.92. That's existing law. That's what happens when you shut down 302, go home and allow 608 to go into law. Because if it is challenged, and it is successful, the cost to your communities is going to be high. The property tax, like I said, will not be \$3.33, which is a reduction by the way. It is not an increase, it is a reduction from today's rate. Today's rate is \$4.92. If 302 passes, it is \$3.33. While some people say that is an increase, I don't get it. I might go down to LBA and ask them if they can do the numbers for me and see if they add up, but I am not sure. But it is a reduction, and it is a help to everybody. It distributes the money in a simple, simple fashion. Every child is worth \$3,390. I'm not going to argue whether that is enough money or too much money. We target money for poverty and we target money for property poor. Simple formula. Easy to understand and hopefully, we can pass it and move forward. Thank you, Mr. President.

SENATOR GATSAS: Thank you, Mr. President. Senator Clegg, can you tell me, I think my math is right, but I am sure that you will correct me if it is wrong. That the tax effort to receive targeted aid based on property, the equalized evaluation per pupil is \$497,469. The community of Amherst is \$482,377. Can you tell me why they don't receive targeted aid based on property?

SENATOR CLEGG: Basically, because I believe they are over the 90 percent.

SENATOR GATSAS: So, what you are saying is, somebody looked at the formula and said Amherst could be getting more aid based on this formula, so we need to discount it?

SENATOR CLEGG: No. I think what we said is Amherst doesn't need the aid as far as property values go.

SENATOR GATSAS: So the formula was discounted?

SENATOR CLEGG: The formula says anybody who is in excess of 90 percent wouldn't be eligible.

SENATOR GATSAS: You read for...can you explain to me why everybody on this side of the river doesn't want to allow the people with the black robes on that side of the river to make decisions about constitutionality? We already have constitutionality of 608. That is unconstitutional. And they are going to tell the people we aren't going to give you this money. I understand they wear black robes, and sometimes they make decisions we don't like. But, do you really believe in your heart Senator, that they aren't going to send the money to the communities in this state and put communities like Stratford in a position to shut down at a time when they have passed budgets? At a time when they expect to receive money? Do you really believe that the court is that bad?

SENATOR CLEGG: Senator, I can't believe that someone could take the word cherish and make it say that in equals you have to pay for it. So when it comes to courts, I am open to anything that could possibly happen. Do I believe they could shut down the schools? You bet.

SENATOR GATSAS: Is that a piece of information that you have received or that you have knowledge of?

SENATOR CLEGG: Senator, you asked me my opinion. You didn't ask me if I had inside information. I'm telling you that my opinion is that the court is able to do whatever it wants. It can shut down the school system. It can set up its own formula. The same way it set up the new districts in the Senate and in the House.

SENATOR GATSAS: But in no way, in no way, can anybody possibly believe that until the court makes a decision, that communities would not receive, based on constitutionality, funding that they believed that they were going to get, either in 608 or 302.

SENATOR CLEGG: Senator, you have a letter from...it has been printed in the *Nashua Telegraph* from the chief law enforcement officer and the person who would have to defend the legislature who tells you that it cannot be defended. So to pass something or to move forward with something that you already know is the wrong thing, is obviously not the right thing to do.

SENATOR GATSAS: You made reference to a letter from Attorney Van Loan, you read from that letter, and you read from the letter from Attorney Heed that said that based on 302, if communities raise funds and they retain them all for education, that would be a violation of the Constitution. I read to you, and would you believe, that Attorney Van Loan looked at that? And, in response, would you believe, it said, "this will encourage all municipalities to spend at least as much on education as sweet raises because they get no break by spending less. In fact, if a property rich student poor town, it may actually encourage overspending on education; however, that is not likely to be a constitutional problem."

SENATOR CLEGG: Senator, I can only answer that by saying that the cover letter he sent to you, he talks about constitutionality and he says, "P.S. Suffice it to say that when I use the term constitutional, I mean as defined by the courts setting Claremont, not what the Constitution really says." As soon as he puts that caveat in there, he is telling me he has ignored the Constitution because he thinks he can, and gone through. So I don't...and I have great respect for Gene Van Loan, but it says to me that he hasn't taken the Constitution, but taken what he believes the court says is the Constitution. So, I can't take his opinion.

SENATOR GATSAS: Senator Clegg, wouldn't you believe that, since there has been a change at the court, and I believe we all believe that there is a change, that it is really not fair to judge constitutionality based on this side of the river, and we should allow to do the legislative process that we have to do here? Because if every time we turn around and look about constitutionality, we wouldn't pass many laws because we would always be in question about constitutionally. Would you believe we should allow the courts to make those decisions?

SENATOR CLEGG: Senator, when I took my oath to be a Senator, I vowed to uphold the Constitution. I won't speak for anyone else but I do look at the laws that we pass and I do look to see if I believe they are constitutional. No, I don't think it is the right thing to do, to pass something that

you believe is unconstitutional just to see if the guys on the other side of the river will catch it and agree or disagree with you. I think that is poor lawmaking.

SENATOR BARNES: Thank you, Mr. President. Senator Clegg, I've got nothing but respect for you. Would you believe that, if I had a town of Auburn, family income of \$72,600 and is picking up \$550,000 on this plan, and if I had the town of Hudson, with the \$71,000 family income, picking up \$2,050,751, and if I were fortunate enough to have Londonderry with \$73,513 family income, picking up \$2,802,000 realizing that you must have several millionaires in there to make that skew, would you believe that I would want to move some of my millionaires to Pittsfield who is losing \$300,000 with a \$44,000 income? I think I would hire the moving truck to some of the millionaires in those towns that are skewing up your numbers to make it a fairer situation. Would you believe that?

SENATOR CLEGG: Well Senator, I would believe that, since Auburn, Londonderry and Hudson all have students that they are entitled to the same per student rate that everyone else gets. I also believe if they have poverty students, and it is amazing, we have mobile home parks, we have all kinds of low income. It is amazing in my district, that they too, should be entitled to the same. Just because some people make \$71,000 a year doesn't mean everyone does. I know in my home town of Hudson, everybody is not making \$71,000.

SENATOR BARNES: The sorry thing about that is you're right. That means that that \$44,000 average income in Pittsfield, a lot of people are making less than \$44,000. Would you believe that?

SENATOR CLEGG: As they are in my community, Senator.

SENATOR BARNES: Your community averages \$71,000. Forty-four thousand dollars. You have more on the upper end than you do on the lower end.

SENATOR CLEGG: And that could be because it is skewed by four or five millionaires.

SENATOR BARNES: Send them over to Pittsfield. We would like to have them.

SENATOR CLEGG: I am not sure they want to live there.

SENATOR BOYCE: Senator Clegg, actually this is a three-part. First, would you believe that not all of us in this chamber are voting on this based on what is in these spreadsheets, but in what we think is the right thing to do?

SENATOR CLEGG: I believe that.

SENATOR BOYCE: And, would you believe that some of don't believe in the Marxist principle of the government deciding where people should live and how much they should make, and further, that some of us have a real problem with debates that go on this long?

SENATOR CLEGG: Senator, I agree with you, mostly on the last one.

SENATOR SAPARETO: Thank you, Mr. President. I hadn't planned on speaking. I have been silent for a while on a lot of these issues and I probably am the only one in here who sat through all of the Claremont II cases, the Brentwood cases when they were challenged. I was in the courtroom listening to the court's opinions on all of these issues. I can name the justices with some of their phrases. One of the things that I

do recall is that we look at, I think Justice Batchelder had a few good points when we were looking at how we define and what it would cost...the adequacy cost. Now, six years ago when I sat in that chamber next door, adequacy was \$854 million when we first passed it in SB 117. Under that, Speaker Sytek created donor and receiver towns. At that time, when we voted on that bill, we thought those were the correct numbers. Now at the...education back then, costs throughout the state, certainly were less than they are today. They have gone up. The constitutional issue here becomes how can adequacy be \$854 million in 1998 and then today it is now \$807 million? That, I believe is the weakest link in what we have passed and what we're looking at here. The trend in both of these houses tends to be to reduce the amount of aid thinking that we are saving money to the taxpayer. Meanwhile, while we end up screwing the taxpayer on the local property taxes and that is the wrong thing to do. Now, I mean, I will look at this situation where I am in right now, and I look at my communities and my communities, based on the spreadsheet number for my community, it says that it looks like they get a higher grant. Well yeah, and I am going from a \$3.24 statewide property tax in the previous calculations in 608 to \$3.33. So I am raising the statewide property tax from that aspect of it. No longer are we going to raise a specified amount of money in this new bill, the \$363 million with a rate. That's gone. We don't have that anymore. All the progress that we made in six years, six years of working on this problem and listening to all of these things, and having all these ideas come back that we mentioned before, many of us have, all of a sudden, they are a new issue. They are not a new issue. I mean, what are we kidding ourselves? We look at these spreadsheets and we look at it and say, well what happens to my community? Should I prostitute myself and support something in short term right now that I know is going to be a problem next year and punt and kick it off to the next legislature, and pray to God that they do something better than I am able to do? Well, it hasn't happened in the four terms that I have been up here in the two Chambers right now. You know, I can't stand it when I have to go back to my school boards and say, look it, this is what you are going to get but, oh, sorry, we made a mistake. You are not really going to get that, and by the way, we don't know if it is constitutional or not depending on which plan we like. That is what we end up doing. I mean, let's call a spade a spade. We are not really voting or trying to create and trying to correct property taxes or the education here in this state. We are not trying to do that. We're all looking at what we get and we don't care about ethics. We don't care if our towns set their budgets and then we end up getting them in the thirteenth hour and say sorry, you have to raise another half a million or one million in your community in the thirteenth hour. But that is what we do here. You know, there has to be some basic premise that we look at for fairness and whatever it is that we do here. You know, I look around at my colleagues and I sympathize. I look at Senator Gallus in district one with what happens to Berlin. I grieve for my people that I represent right now having to pay an enormous tax rate and then I look at his and they are even higher! What have they done wrong? They spent less per student than some of the other communities that are screaming because they are donor communities. By the way, that was created by leadership in the House, across the way, six years ago and here we are still trying to fix that same problem over and over again. You know, all the progress in the past five or six years get blown away in a second, just because we

can now match some numbers that look a little better. I remember how 117 was crafted in the thirteenth hour, within four days, with the wrong numbers and then we passed corrective bills from then on to try to fix it because, in the last hour we couldn't come up with a new plan. It is just many of the things that we just do wrong here. I would hope that maybe some of my other colleagues, when I look at the fairness and the proposal, and that I know what my community is going to be receiving in aid, and then when someone tries to change that, and I find out that I have to go back to my taxpayers and tell them they got to pay another \$1,000 for each household because of errors that we made. I would hope that my colleagues would sympathize with me and say, well maybe that is not fair. But that seems to be what we are doing here. We entice people with the numbers regardless of ethics. That is just not right. I know that there was just a few of us that were swing votes that weren't...were a little undecided today, myself being one of them. The only thing that made it attractive to me from this is well maybe I can do something to help lower the property taxes in my community because the spreadsheet says so. Now the only thing that I looked at that was a benefit to this proposal right now is wrong. In that this...the wording of it, the math on this stuff, all these things are wrong because they were done in the 13th hour and, for all I know, on the back of another envelope. You know I want to lower property taxes for my community, but I rely on my colleagues to look at the fairness with what they have. Some of you that look at these spreadsheets are probably in the same position that I am and say, how could I not vote for this, because look what happens to my community? Look at what happens to the community next year and what is going to happen the year after. Would you want that type of fairness? You want to be the next community that is on the chopping block in having your aid reduced? Is that fair? Is that really what you want to do, because I can't do that. I know that in the long run, it is going to cost my community a lot of money. It is going to cost all of the communities I have a lot of money if you take that type of ethics. So after long and hard thought and probably making my decision on the thirteenth hour, I just can't support this. Thank you, Mr. President.

SENATOR GATSAS: Thank you, Mr. President. The first time I spoke I told you a story. This time I'm going to plead with my colleagues. I'm going to plead with you because I sat here for an hour. I sat in this room by myself from twelve to one. I had a lot of time to reflect on what the process was all about. Then I said, you know, this isn't about process, this is about looking and seeing where we're at. So did I take the time and the effort in one hour? You know, I have heard the LBA condemned. I will tell you what. Those bunch of guys work their butts off. Every single day they are under the demands of 424 people asking them to do things. They are a great bunch of people. They help us every single day. I commend them. I absolutely commend them for their confidentiality. They don't tell anybody anything. I sat here and I read the legislation. I read it twice. I read it a fourth time. The House didn't read it. They looked at spreadsheets. We have the ability right here to say what we're going to do is about process and what is right. Not to pass numbers because those are the numbers and nobody took the time to put a spreadsheet together with words. That's wrong. If I had waited until seven o'clock I would have got a spreadsheet. I asked for it at eight thirty this morning. Did anybody else get one? No. That is the process. That is what I have a problem with. I have a problem that we have somebody telling

us it is unconstitutional. I have a problem that that person can't even make a letter obvious to every one of us. The boogeyman letter as Senator Barnes calls it. It should be a question. I believe the Governor appointed the Attorney General. I know, if I was the Governor, I would find out who asked for that letter. 'Cause somebody had to ask for it! He didn't just wake up one morning and say, I think I am sending a letter to the Governor, the Senate President and the Speaker. I don't believe that Peter Heed would react that way. The question should be asked, and we should find it out, whether we take this vote up or down, we should know that as a body. We should know what is happening. The story is over. Let's find out the truth. Thank you, Mr. President.

SENATOR LARSEN: Like all of you, I've spent a good deal of today listening to our colleagues and it is not an easy issue today for some of us. Many of us in the room have problems with this formula, the CPI language in there. There are problems that we are keeping donor towns when we thought donor towns were not going to be in this legislation. There are problems that we are not funding special education, when some of us actually served on the original language that created a formula that was based on what we were trying to make fund an adequate education, because we knew that special ed requires additional funding. We added in transportation aid back in that original formula because we knew that it costs more to transport certain kids from distances in communities that have greater distances. There are problems with this formula in that it was created with no public hearings. There are problems with this formula in that it was passed after school budgets were set. And now, there are problems that we just hear today that there are math errors. There are problems in the process of this. From the day one of our discussion throughout the session, there have been problems because we arbitrarily set \$428 million as the amount somehow, we are...magic amount...we are willing to spend on an adequate education. We backed into figuring out how to pay for an adequate education based on the numbers not based on the needs of the children of this state. We have even allowed, in certain permutations of this, to "X" out the word adequate out of some of our formulas passed out of this Senate. Senate Bill 302, as passed by the Gatsas plan in the Senate, was not based on a per pupil basis, which some of us in the original Claremont discussions knew that that was one of the requirements. Senate Bill 302 and many of the calculations, 608, 302 as passed by the Senate, 302 as passed by the House, balanced the reductions on the backs of the middle communities. Because, when you only have \$428 million and you shift those deck chairs around on the Titanic, you still have to...you only have some chairs left, and you do not have the additional ability to aid those communities you know need it. The problem with the process that all of us should have is that, on Conference Committee day, when all of us were signing off on bills, who was upstairs making this formula? How many of you in this room got to have your say in what was in this formula? I was around all day. I was in the halls trying to figure out what we could do. Some of you who were on the Conference Committee were not allowed in that room to discuss what was part of this formula. This formula came out of a dark conference room. It was not agreed to by a group of us in fact, but a very small select party were a party to this agreement. It is wrong. It is the wrong process. So I look at how can my vote help this process. How can I move this process? Can my no vote improve this process? Can my no vote help the town of Stratford? Can I somehow move this body to do what is right? Earlier today, we saw a bill that we saw was a fis-

cal noted bill talking about property tax. That if we had been able to table it, perhaps with right minded people, we would have been able to take what we know is money in the Education Trust Fund, sitting in the Education Trust Fund currently scheduled to go back to the general fund. Fifteen million dollars, and I know we have a handout somewhere here in the room. I want you all to look at this. In March of this year, the House Finance looked at our budget balances and how we were going to look at the end of the year. One of the pages which you are receiving is the page from the Education Trust Fund balance. That page shows that they expect a \$15.4 million excess in revenues to the Education Trust Fund. I am told by the LBA, this is an LBA print sheet. I am told by the LBA that these monies are coming in at higher rates because of our real estate transfer tax that we increased to pay for education. They are coming in because sweepstakes are coming in at more. But, what are we planning on doing with this \$15 million, which may in fact, I hear, be higher? As this chart shows you, there is currently the intent to transfer it back to the general fund. These monies have been sitting there. I know our Chairman of Finance knows this because he in fact, mentioned it in the school choice discussions. These are monies that could have been used to target aid to those communities that needed it. Fifteen million dollars, as Senator Below mentioned, are the monies that you could put all of the communities back to 95 percent hold harmless or even greater. If we had used HB 618 for this purpose, you could have maintained the communities that are in this current SB 302 at the printout levels that you have received and you could have taken care of those towns that were seeing losses. Our attempt to put that bill on the table so that we could address this was denied. So then I look at that didn't work, can we create...if I vote to create a Committee of Conference, to nonconcur, can we get something better out of this group? I am not saying any one person in this room, but the body together, can we work together? Is there the will? Is there the will to make this better? Have you seen the will in the House leadership? Have you see the will in the small group that created this formula to make something better? Have you seen the care given to those communities that are losing? We need to find a way to stop shifting these \$428 million around and around so that each of our communities is fighting against the other. There was a way. We didn't do it today. The House tried to do a cigarette tax. The Senate said no. The Senate had a chance to take it out of this excess in the Education Trust Fund. The Senate said no. So I come down to what I consider, and someone left me a message on my machine, calling it "Sophie's Choice," I see the question. Do I save one child or do I try to save both children and in the process lose both? I do not...it comes down to the issue of trust as Senator Gallus said. I do not trust, and I have been around here long enough to know that trust is something that we all hope to have, but there are times in our lives when we don't have it. I do not trust that a better solution will come out of this group than what we have seen in 302. So I choose to vote for my communities and that is a very sad choice.

SENATOR GATSAS: Senator Larsen, would you believe that this Senator would work hand-in-hand with you to try and find an opportunity that funds the state? The education plan that we all believe should be the right thing. I believe in your heart that you are a process person, and I believe that it should be an open policy, just as you do. I know this one Senator certainly would be able to sit there and say the process should be open because, for two years, would you believe, Senator, I have never closed the process to anyone? So I ask you rethink your Sophie's choice

'cause you, as a mother, understand what choices are all about. So would you believe that I think that we can get a different reaction and you, as a mother, should understand that more than most of us in here?

SENATOR LARSEN: Senator, I had a similar choice or sought the saving of one of my children when 302 left the Senate. Under 608, which was the Gatsas law, in current law, Concord lost \$1.5 million. In 302, Concord lost \$1.3 million. In 302, even with the tobacco tax, Concord would have lost \$1.2. This is only looking at if Concord were to, for example, keep its 2004 level of funding. And, so I come back to an issue of trust. Do I trust this group? I understand your intent, but when you take \$428 and you start shifting all around again, I see this baby going down with the ship.

SENATOR GATSAS: Senator, we have heard the testimony today that the men in the black robes could rule this is unconstitutional and no community would get any money. Would you believe that that's what is going to happen? And, would you believe if that is what happens, then Concord gets nothing?

SENATOR LARSEN: I believe that, if the courts take this, they will probably find issues with it. Primarily one which says that it is not...we are not funding education adequately. But until such time as I see a resolution to work towards a commonsensical distribution of adequate education to the communities that we are responsible for which, by the way are actually to the children to whom we are responsible for. We are responsible for all those children. Until that point, all I can do is save the one baby I can get my hands on.

SENATOR GATSAS: Senator, I will leave you for a moment to think of your Sophie's choice.

Recess.

Out of recess.

Question is on the adoption of the Committee of Conference Report.

A roll call was requested by Senator Clegg.

Seconded by Senator Foster.

The following Senators voted Yes: Johnson, Boyce, Flanders, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Estabrook, Morse, Prescott.

The following Senators voted No: Gallus, Kenney, Below, Green, Odell, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Cohen.

Yeas: 13 - Nays: 11

Adopted.

**May 18, 2004
2004-1603-CofC
05/04**

Committee of Conference Report on SB 312-FN, an act establishing a state code of ethics.

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 Subdivision; Code of Ethics. Amend RSA 21-G by inserting after section 20 the following new subdivision:

Code of Ethics

21-G:21 Definitions. In this subdivision:

I. "Agency" means any executive branch agency, department, division, board, commission, or entity of the executive branch.

II. "Conflict of interest" means a situation, circumstance, or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty.

III. "Gift" means any money or thing of value received in excess of \$50 or in excess of \$250 in aggregate from any single source during any calendar year. Gift shall not include contributions as defined in RSA 664; a commercially reasonable loan made in the ordinary course of business; meals and beverages consumed in the course of official business; ceremonial gifts or awards which have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; reasonable expenses for food, travel, and lodging for an in-state meeting at which the elected official or public employee participates in a panel or a speaking engagement; gifts of tickets or free admission extended to an elected official to attend charitable or political events, if the purpose of such gift or admission is a courtesy customarily extended to the office; gifts that are purely private and personal in nature; or gifts from relatives by blood or marriage, or a member of the same household.

IV. "Public employee" means any person, including but not limited to a classified employee, who is acting on behalf of the governor or an agency while engaged in state business.

V. "Public official" means a commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.

21-G:22 Conflict of Interest. Public employees and public officials shall avoid conflicts of interest. Public employees and public officials shall not participate in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.

21-G:23 Misuse of Position. No public official and no public employee shall disclose or use confidential or privileged information for personal benefit or for financial gain. Public officials and public employees shall not use their positions with the government to secure privileges or advantages for themselves, which are not generally available to governmental employees, or to secure governmental privileges or advantages for others.

21-G:24 Acceptance of Campaign Contributions. A public official or a public employee who is a candidate for an elective office that is not subject to the reporting requirements of RSA 664 and who accepts a financial contribution or other form of political contribution from an entity which is or is likely to become subject to that public official's or public employee's duties shall make a disclosure of such contributions to the secretary of state within 5 days of receipt of such contributions. The disclosure shall be in writing and on such form as the secretary of state shall prescribe.

21-G:25 Acceptance and Giving of Gifts. Any public employee, public official, and any public employee's or public official's spouse or dependent, who gives, solicits, accepts or agrees to accept a gift from a person who is subject to or likely to become subject to or interested in, any

matter or action pending before or contemplated by the public employee or official or by the governmental body with which that employee or official is affiliated shall disclose the gift in the statement of financial disclosure filed under RSA 21-G:28. Nothing in this section shall be construed to prohibit gifts made to the state of New Hampshire and accepted in accordance with the law.

21-G:26 Employment Restrictions. For 6 months after leaving office or employment with the state, no public official shall appear as a lobbyist to promote or oppose directly any specific legislation pending or proposed before the general court on behalf of any matter over which that official had personal and direct responsibility while in state government.

21-G:27 Supplemental State Agency Ethical Codes. In addition to this code, each agency may promulgate a supplemental ethics code to address issues specific to that agency. In the event of a conflict, the provisions of this code shall supersede the agency code. To the extent that this code or an ethics code adopted by an agency shall apply to classified employees, this code, or an agency code, shall be interpreted to be consistent with the provisions of the classified employees' collective bargaining agreement.

21-G:28 Financial Disclosure.

I.(a) To ensure that the performance of official duties does not give rise to a conflict of interest, the following public officials shall file with the secretary of state a statement of financial disclosure in such form as the secretary of state may prescribe:

(1) All agency heads; and

(2) Any public official designated, due to the responsibilities of the position, by the agency head.

(b) The agency head shall file with the secretary of state an organizational chart identifying the names, titles, and position numbers of officials required to file a statement of financial disclosure.

II. The initial statements of financial disclosure and organizational charts required under this section shall be filed by July 1, 2005. Thereafter, revised statements of financial disclosure and organizational charts shall be filed immediately upon any change of status. New agency heads shall file a statement of financial disclosure no later than the first day of service.

III. Statements of financial disclosure and organizational charts filed with the secretary of state shall be public documents.

21-G:29 Penalty.

I. Any person who knowingly or willfully violates this subdivision shall be guilty of a misdemeanor and may be subject to termination.

II. In the case of any person convicted under this section, the court may order restitution.

The signatures below attest to the authenticity of this Report on SB 312-FN, an act establishing a state code of ethics.

*Conferees on the Part
of the Senate*

Sen. Barnes, Dist. 17
Sen. Sapareto, Dist. 19
Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. O'Neil, Rock. 85
Rep. Hamel, Rock. 79
Rep. Drisko, Hills. 46
Rep. F. Sullivan, Hills. 52

Adopted.

May 18, 2004
2004-1626-CofC
08/09

Committee of Conference Report on SB 317, an act relative to registration of pesticide applicators and rules of the pesticide control board.

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 317, an act relative to registration of pesticide applicators and rules of the pesticide control board.

*Conferees on the Part
of the Senate*

Sen. Johnson, Dist. 2
 Sen. Odell, Dist. 8
 Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Ahern, Belk. 29
 Rep. Williams, Graf. 16
 Rep. Owen, Merr. 34
 Rep. Cernota, Hills. 65

Adopted.

May 18, 2004
2004-1643-CofC
10/01

Committee of Conference Report on SB 338-FN, an act relative to the purchase of prior service credit by certain political subdivision employee members.

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 Retirement System; Political Subdivision Employees; Purchase of Certain Prior Service Credit. Amend RSA 100-A:28 to read as follows:

100-A:28 Limitation on Membership. This retirement system and the provisions hereof shall not apply to any person benefited by or entitled to participate under any other provisions of law which provides wholly or in part at the expense of the state or any other employer, for retirement benefits for employees, teachers, permanent policemen, and permanent firemen employed by the state or such other employer, their widows or other dependents, with respect to the same period of service for which they are eligible for benefits under the terms of this chapter. The provisions of this section shall not apply to any person participating in, or receiving or eligible to receive benefits under the old-age and survivors insurance provisions of Title II of the federal Social Security Act, as amended or under a retirement arrangement federally tax-qualified under sections 403(b) or 457 of the United States Internal Revenue Code of 1986, as amended. ***The provisions of this section shall not apply with respect to the purchase of prior service credit under RSA 100-A:3, VI by any person who had participated in or deemed eligible to receive benefits under a retirement arrangement funded, wholly or in part, by contributions from a political subdivision of the state, or an agency or instrumentality of a political subdi-***

vision of the state; provided, that such arrangement shall first be terminated in full, but in no event later than December 31, 2005; and, further provided, that the benefits thereunder shall be distributed in their entirety to eligible participants and beneficiaries in accordance with the terms and conditions of such terminated retirement arrangement.

Amend the bill by replacing all after section 5 with the following:

6 Applicability. Notwithstanding section 2 of this act, any New Hampshire retirement system member who was making additional contributions under RSA 100-A:16, I(c) prior to December 31, 2004 or who applied to make additional contributions under RSA 100-A:16, I(c) prior to December 31, 2004 may continue to make additional contributions after December 31, 2004.

7 Effective Date.

I. Sections 2 and 6 of this act shall take effect December 31, 2004.

II. The remainder of this act shall take effect July 1, 2004.

The signatures below attest to the authenticity of this Report on SB 338-FN, an act relative to the purchase of prior service credit by certain political subdivision employee members.

*Conferees on the Part
of the Senate*

Sen. Green, Dist. 6
Sen. Roberge, Dist. 9
Sen. Peterson, Dist. 11

*Conferees on the Part
of the House*

Rep. O'Neil, Rock. 85
Rep. Hall, Hills. 58
Rep. Irwin, Hills. 44
Rep. R. Wheeler, Hills. 48

Adopted.

May 18, 2004
2004-1634-CofC
03/01

Committee of Conference Report on SB 376-FN-A, an act relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

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 sections 24-25 with the following:

24 Medical Care; State Plan; Amendments. Amend RSA 161:2, VI to read as follows:

VI. MEDICAL CARE. In cooperation with state health authorities and county and local officials, develop and administer a state plan for providing medical or other remedial assistance. *The department of health and human services shall not amend nor seek to amend, nor gain nor seek to gain approval of waivers to, the state medicaid plan in any way that would consolidate federal grants or allotments or would cap the federal portion of medicaid spending or would in any way result in a change to the state-federal proportional share of medicaid spending or any component thereof, without the prior approval of the fiscal committee of the general court.*

25 Health Services Planning and Review; Exemption Added. Amend RSA 151-C:13, I(g) to read as follows:

(g) Hospice houses;

(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by Androscoggin Valley Hospital or Franklin Regional Hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 C.F.R. Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit; provided, however, that the number determined under this subparagraph shall not exceed 10 beds.

Amend the bill by inserting after section 26 the following and renumbering the original section 27 to read as 28:

27 Health Services Planning and Review Board; Rehabilitation Beds and Services. Through the period ending December 31, 2006 unless sooner authorized by the general court, the health services planning and review board shall not authorize changes regarding the licensure or certification of any rehabilitation beds in any type of facility, shall not authorize the addition of any rehabilitation beds in any type of facility, and shall not grant any certificate of need related to the board's administrative standards for comprehensive physical rehabilitation services. This section shall not prohibit the voluntary transfer of rehabilitation beds between 2 licensed health care facilities; provided, that any such transaction does not result in an increase in the number of any type of rehabilitation beds in the state.

The signatures below attest to the authenticity of this Report on SB 376-FN-A, an act relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

*Conferees on the Part
of the Senate*

Sen. Boyce, Dist. 4
Sen. Gallus, Dist. 1
Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. Kurk, Hills. 48
Rep. Emerton, Hills. 48
Rep. Rogers Johnson, Rock. 83
Rep. Wallner, Merr. 40

2004-1634-CofC

AMENDED ANALYSIS

This bill:

I. Authorizes the director of plant and property management or any other appropriate purchasing authority to purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital.

II. Changes the medicaid enhancement tax to be imposed on net patient services revenue rather than gross patient services revenue.

III. Amends the statutes relative to county nursing homes and proportionate share payments.

IV. Clarifies the nursing facility quality assessment law and changes the method of how funds are expended from the nursing facility trust fund.

V. Repeals the medicaid quality incentive program.

VI. Establishes a commission to study long-term care reimbursement.

VII. Requires that certain amendments to the state plan for providing medical or other remedial assistance be approved by the fiscal committee of the general court.

VIII. Adds an exemption from the certificate of need law for certain hospitals.

IX. Limits the authority of the health services planning and review board relative to rehabilitation beds and services.

SENATOR GREEN: Thank you, Mr. President. I am trying to see what all of the language is on this bill as it relates to this particular issue. This particular piece of legislation, as is currently before us, is a piece of legislation that puts into law the language that puts into action what many of us have heard, but have not seen in writing, which is the handshake agreement between the executive of the state and the federal government. I, as an individual Senator, knowing what the financial impact will have, am very concerned. We just spent three hours or whatever, three and a half hours, fighting over a few million dollars, \$15 million would solve the problem. Now we are going to talk about a little extra money. A hundred million dollars of Medicaid money, if this is adopted, will not come to the state of New Hampshire. Now that \$100 million goes into the general fund. Those of you who are wishing to come back here next time, guess what? You have to find \$100 million to balance the budget. We have a chief executive officer who says no new taxes. No increases in revenues. No new money. Well, that says to me, that you all think that we can cut the budget by another \$100 million. Do you really think you can do that and not destroy this state and our obligations under the law? I know you can't do it. You can try, but you can't do it without destroying the state government as we know it. We won't be debating about how much money Katie Beckett gets. We won't be debating how much money is in the Education Trust Fund. We won't be debating whether we can protect the environment. We won't be debating about LCHIP, which everybody seemed to really like. We won't be debating those things. Forget it. You don't have the money. Now my view of this is we are putting in writing what the goal and objective is. Starve the revenues, make the cuts, violate the law and let's forget about having anything we can remotely call responsible state government. That's one piece. Second piece has to do with counties. Now there is no more bigger supporter than counties as far as I am concerned, and a lot of you are in the same boat as me. Some of you are, I am. This bill extends the current arrangement for one year, but it relies on getting money from the federal government. We passed 663 last year and we tried to do that for our counties. It still isn't going to work and now we are back to the granny tax. We are going to tax people and make them pay a tax and we're going to give them some kind of a credit. We tried to exempt them in the budget because we knew that wasn't fair. Those who had Medicaid beds would get their money back after the match and the state would keep the rest. We don't know if this is going to pass either. This has got to get a waiver. If we don't get that, that's another \$50 million we've got to worry about. Twenty-five from the state and twenty-five to the counties. Then this bill all of a sudden shows up and throws a piece of legislation on it that we opposed. I didn't oppose it. This body opposed it. That was the position of the Senate. Here it is again. That is the piece that deals with nursing beds. So here we have another piece of legislation that everybody thinks that we should just roll over, forget how much we are going to lose, forget about defending our position with the federal government. Hey, no big deal. So we worry about \$15 million to solve the education problem

and now we are not going to worry about \$125 million to round it off. Wonderful. I'm glad that we aren't all doing our kitchen table budget, because I don't know how you would balance it. You would be declaring bankruptcy or you would be violating the law because you are not meeting your obligations. Now if you want to change the laws, change the laws and let's have a debate over the laws on what our responsibilities are. But as long as those laws are on the books, you can't walk away from your financial obligation. This bill does that to this state. Don't kid yourselves. This is a major decision in your thinking about what is going to happen to this state financially going forward. Thank you, Mr. President. I would ask that you vote against this Committee of Conference.

SENATOR ESTABROOK: Thank you, Mr. President. First I would like to say that I share Senator Green's concerns. I have been saying recently to folks, as the Medicaid situation unfolds, that it is going to dwarf the educating funding problem going forward. Healthcare is clearly going to be the number one issue we are going to have to deal with and I agree that this bill makes that worst. I also rise to speak against another provision of this bill, another provision that was added as the process broke down again. Decisions were made without public hearings, without proper discussion and deliberation, and therefore, without the facts necessary to support sound public policy. Tucked into the proposed report here is a new section 27, insisted upon by the House that was never acted on by either body, never a subject even discussed in the Conference Committee. That provision concerns rehabilitation beds and their dispersion around the state. Had the discussion taken place, it would have been revealed that the CON Board has found that there is a severe shortage of acute rehabilitation services in the seacoast area and in the north country. In fact, there are no such services available in New Hampshire east of Route 93. They would have found out that patients discharged to such care, most of whom are elderly, are denied that care because they are faced with having to travel up to three hours to get it, or having to reside in a facility with a lessor license, with lesser treatment capabilities or by simply staying home and not receiving rehabilitation. The numbers show us that, for every ten Nashua residents in need of acute medical rehab, five get it. For every ten in Manchester or Keene, three get it. For every ten in the seacoast, one gets it. We have a system in place to deal with this. The CON Board acted to open the seacoast to competitive acute rehab care, but there was a nursing moratorium that might stand in the way. So to be sure that the care was available on a competitive basis, Senators Green, Gallus, Johnson, Kenney and I, offered SB 405 to open up the CON process to both specialty rehab hospitals and acute care hospitals. That bill was strongly objected to by certain nursing home interests and was therefore, laid on the table in the Senate. The Senate chose not to act. We decided to leave the status quo where it was. And where was that? The CON was advised by the Attorney General that, because no action was taken, only acute care hospitals could apply under the CON rules to meet that need. So CON has moved forward under that process, and now at least one hospital has announced plans to step up and meet that need. But the Committee of Conference provisions steps into this ongoing process and stops it. The provision now forbids meeting that need, unless a bill is passed allowing it. In short, those whose medical needs are being met and who wave the flag of competition every day, has flipped a poison pill into this report and asked us to swallow it. The pill prohibits the provision of this needed care and

prohibits CON from providing it. It reaches into an existing proceeding and changes it. All to protect special interest. This is not just bad process here in the legislature, it is bad process for the state and it has been inflicted upon those most in need by special interest using a backdoor amendment that promotes monopolistic behavior rather than competition. It is not fair to those in need on the seacoast and in the north country or to those of us who again have been told to have faith in the process. Another reason to oppose this Committee of Conference report.

SENATOR BOYCE: Thank you, Mr. President. As a member of the Committee of Conference on this bill, it was our intention in putting the new section 27 into this bill...the intention was to make clear the legislature's intent that the scope of the current nursing home bed moratorium indeed applies to rehabilitation beds, which we thought was our intent when we laid the bill on the table which was just mentioned. This includes the so-called comprehensive physical rehabilitation beds. The final sentence of section 27 deals with certain voluntary transfers. That sentence was not intended to authorize any transactions which cannot currently be done under existing law and the transactions referred to in that sentence would still need to be required...reviewed...by the...and approved by the CON Board. So that was what we intended when we put that in there. The purpose of the moratorium on the beds is not to limit competition, but to limit the cost. If you have a facility that has more beds than they can fill, they have to charge more for each of those beds. That is what this whole moratorium is all about. Now it may be true that there are more beds in certain areas of the state than others, but through the Certificate of Need Board's process, that can be dealt with and it can be dealt with by transferring, under this bill, beds that are not needed in one part of the state to another part of the state where they may be needed. That is what this process is about. We want to make sure the process stays as it is intended and that it goes through the legal Certificate of Need Process. So that was the intent of putting this in that bill. Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. Senator Boyce, isn't it true that the language that you have left there allows for those beds in one part of the state to be sold for use in another part of the state instead of allowing the CON Board to redistribute those without that private transaction?

SENATOR BOYCE: It is intended that those beds might be sold. The right to have those beds could be terminated in one facility, monetary transfer may take place, and that transfer would be in favor of another facility, yes. It would still have to go through the Certificate of Need. The purpose of that is that we have, I assume, that facility that had too many beds has invested in acquiring that ability to have those beds they may have overestimated the need and gotten more allocation than they could use. But, are they to be penalized by us taking away their property? Those beds can be filled. They have the ability to fill them if they can find the people to use them. But it is their property. It is no different than if we physically went down there and tore down part of their building and said okay, that is not your building anymore, we just moved it to somewhere else. They, like any other business, are entitled to be paid for anything that the state takes away from them.

SENATOR ESTABROOK: Isn't it also true that the beds in question in the nursing homes are being filled by patients who require a different type of service, simply to keep those nursing beds full?

SENATOR BOYCE: That is not my knowledge of what the intent of this section is. The intent of this section is to prevent new beds being created when there may be additional unneeded beds somewhere else. Increasing the total supplies, it is the same theory as the CON applies to MRIs in hospitals. They don't allow a hospital to go out and buy as many MRIs as they want simply because they want them. If there isn't the need, if they can't demonstrate that they have a need for that particular equipment, it should not be there because it will only drive up the cost. If you...if every doctor's office thought that they needed an MRI, certainly there would be lots of MRIs around, but the cost of getting a doctor's care would go up. That is the point of the CON. Whether or not it works properly is debatable, but the process is there. We have the moratorium on the beds and this is simply to clarify what is intended in that moratorium.

SENATOR ESTABROOK: Isn't it also true though that this provision stuck into this bill at the last moment without debate goes beyond the status quo and interferes with the process already underway in CON, CON having already issued a request for redistribution of those beds?

SENATOR BOYCE: It is my view that what this does is it clarifies what the original intent of the moratorium was, which may have been lost in the process over the several years since it was enacted and this clarifies the intent of the legislature as to the meaning of that moratorium.

SENATOR FOSTER: Senator Green, in your remarks, you referred to the fact that this bill could result in a loss of, I think you said \$100 million to the state.

SENATOR GREEN: In two sections of it, yes.

SENATOR FOSTER: In two sections. I think one of them deals with gross versus net.

SENATOR GREEN: That is correct.

SENATOR FOSTER: What choice do I have though if this bill were to fail? From what I understand, some of this is going to occur as a result of regulations that the federal government has anyway, but maybe I am misinformed about that, so I wanted to understand what my choices are.

SENATOR GREEN: The worst case scenario is that this will happen okay, because the federal law will dictate what they are going to allow in terms of a waiver or not a waiver. Okay? The realities are that, if you just roll over and don't challenge the opinion, then you don't have a chance of saving any of this. There are about 39 states that are affected by this change in federal regulations that they want to make to change the formula to reduce the Medicaid payments to states. There are only a few states who are willing, and New Hampshire being one of them, to being a pilot state. The problem I am having is that none of us in this chamber, none of us, know anything about what the waiver is, what the language is, what the Governor and/or the Commissioner of Health and Human Services agreed to. Now I know that there have been people around here that have been asking for that information for some time. You know what? It is not available because there is nothing in writing, and if there is, they'd produce it. So as long as it is not in writing, I am saying, what are we doing putting it into law and sanctioning what we understand to be maybe an agreement? Something that is verbal in agreement? We don't know what we are doing here. There is an attempt to put in law what some people want to have in law. I'm saying I don't

think that we should be a party to something that we are not informed about and know about in a formal way. I would say to you that there is nothing that I know of, and if somebody can produce it, please produce it, that says that this is going to happen automatically. It is not. Don't forget, there is more than New Hampshire involved in here. There are at least 39 states that are involved in this. If we all just roll over and say, okay, we're going to accept, that's fine. I would also suggest to you that this arrangement is the precursor to the block-grant arrangement. Now the block-grant arrangement...I have been down that road before by the way. I know what that is. The bottom line is you get less money, you get more flexibility. That's the bottom line. There is no room for growth and New Hampshire is growing. You just live with it every year. So every year you are going to have less money and more services to provide and it is going to be on the back of the state. So I am just saying it is a bad deal. Don't put it in writing. That is my advice.

SENATOR FOSTER: So we are being asked to sign on in a sense to a settlement agreement without the information behind that?

SENATOR GREEN: Well said from an attorney.

SENATOR FOSTER: There are those who say that, if we don't pass this and it does put some restriction on entering into a block-grant, I think that it has to go to the Fiscal Committee?

SENATOR GREEN: They can't do anything without going to the Fiscal Committee.

SENATOR FOSTER: If we don't do this though, can't the Governor do it anyway?

SENATOR GREEN: Yes, the Governor can do whatever he wants, but it will be on his shoulders, not on the legislature's approval of what he wants to do. I think what he wants to do is absolutely wrong. By the way, in terms of getting permission to do this, I don't think it belongs to the Fiscal Committee. I think that it belongs before the entire legislature. When you are talking about this kind of money, the Fiscal Committee was never created to do this. It was created to do transfers. It was never created to make decisions on spending an appropriation. That is what this is doing.

SENATOR FOSTER: Thank you.

SENATOR GATSAS: Senator Boyce, in section 27 of this bill, if memory serves me correct, there was a lot of discussion about this various situation in JLCAR. Is this about protecting beds for a community or protecting beds for a company that services mostly Massachusetts clients?

SENATOR BOYCE: I don't know that it is intended to protect any particular facility. There is a facility that is located basically on the state line, which may have put their anticipation of how many beds they could justify based on the Massachusetts usage. But I am not aware that this is specifically for any one company. But this is to maintain the Certificate of Need process and maintain the moratorium on those beds.

SENATOR GATSAS: Do you believe that this was a germane amendment to this piece of legislation?

SENATOR BOYCE: In that it deals with nursing homes and nursing services beds and other places, yes.

SENATOR GATSAS: So the process, you feel that the process that we have up here, that this fits the process?

SENATOR BOYCE: Yes I do.

SENATOR ODELL: Thank you, Mr. President. I don't know whether this is Sophie's choice or Hobson's choice or whatever, but I salute Senator Green for his ability to define the issues that are involved in this piece of legislation. But I would like to come back to the original point of this legislation which is that it emanates from HB 663, last year's bill that Representative King sponsored and I co-sponsored, to try to help find a solution to the lack of reimbursement by the state for Medicaid nursing home beds. In the fiscal year 2003, the deficit of the 11 nursing homes in New Hampshire, country nursing homes, was nearly \$40 million. That \$40 million was paid through local property taxes. Part of this bill, this Committee of Conference report you have before you today, addresses that and, after months and months and months of hard work, brings about a process by which, hopefully, by matching a tax on the nursing homes, they will match that with federal money and create a new pool of \$24 million, all of which will go to reduce the losses for those that have Medicaid beds private and public. So I hope that in your consideration of whether to vote for this or not, you will be thinking about the local property taxpayers, about the county nursing homes and the implications that not passing this will have after the hard work that has gone on for the past couple of years. I would also say anecdotally, that I have the same concerns that Senator Green does about this block-grant opportunity that may come to us. I will call it an opportunity. I would be much in preference of having it...the policy set by the full legislature. But, given the absence of that and the circumstance we are in, if the Fiscal Committee is the only avenue in which we have any control, then I would be an advocate of that. I would hope you would be considerate of the fact that in New Hampshire, back to the nursing homes, for five years we have not raised the budget for nursing home support, Medicaid nursing home support. So if we don't do something like that, it is just going to be an additional and an increasing burden on our local property taxes because of the deficits in the 11 county nursing homes up and down the state. Thank you, Mr. President.

SENATOR GREEN: Thank you, Mr. President. Senator Odell...

SENATOR ODELL: We didn't talk about this...

SENATOR GREEN: Well I didn't expect to do this. But anyway I think, just for clarification, let's call it friendly questions. This arrangement here is good for one year for the counties. If that \$100 million disappears, what do you think the budget is going to look like next time for nursing homes?

SENATOR ODELL: It would be tragic.

SENATOR GREEN: Yes. Thank you. Do you believe that I have worked real hard on trying to prevent increases in property taxes as well as solving the county nursing home problem?

SENATOR ODELL: Yes, Senator Green, you have. I have, lots of us have. I think that over the last couple of years it has become an increasingly greater awareness because of the activities of the counties, and some of their advocates to bring to the forefront the fact that deficits at the county nursing homes go right on the backs of the local property taxpayers, and that is what we have got to fight.

SENATOR GREEN: Thank you.

SENATOR MARTEL: Thank you very much, Mr. President. On this issue I have been reassured that the beds will be carefully monitored in

this situation here by the CON Board and the industry as well. That it is a matter of a few beds, okay, which deal primarily with the north country, Androscoggin Valley and Franklin Hospital, and also the fact that other floating beds that could be coming from other facilities that don't have a full use of their beds, and that they will have an option later on to do some trading and sale of those beds to other facilities, but they must be used for the same purposes. Medicare reimbursements are being driven by the federal government. What they are doing is they are beginning the process, okay, of the block grants to try to get more people to stay home and have home care. The pressures on the nursing homes and the county nursing homes especially, has been horrendous for the last six or seven years at least. An attempt to lower these pressures and to help the taxpayers of the state, the government has begun a process of looking at the block grants to help people stay home and care for their elderly people at home. There are issues with this of course, and not because of the fact that people are staying home, but the fact of how family members will be reimbursed from caring for their elderly. For instance, we still have the age old problem of the fact that, if a daughter leaves her job or a son leaves his job to stay home with the mother or the father, there are no reimbursements because it is his potential or her potential duty to do that as part of the family. There are discussions that are beginning to take place at NCSL and ALEC as well, which would look into this matter and try to find the solution to help alleviate the pressures off of losing income to take care of the elderly in the family. I am very, very pleased to see that that is happening. I hope that it goes further. I believe that this issue should be before the policy committee. This issue here should not be decided by any other committee. It is an issue that is so volatile that only policy committee members who have the experience to look into this, okay, should have the privilege, well not just the privilege, I am sorry, the wrong word. Should have the view to look into these matters and to bring them back to the full Senate and also to the House. Maybe in the future, maybe that may happen. Again, we have to understand, and this is the last thing that I will say on this, Mr. President, is that the southern tier of New Hampshire gets reimbursed at a higher rate of nursing home beds because they are part of the Boston market. They are within the geographics of the Boston market. If you take the western part of the state, southwestern part of the state, which is carved out, okay, and bring it up to around the Concord area and Concord north, you are not part of that market. Again, its realigning, the trying to realign the matter to help us figure out just how, what they are reimbursing in nursing homes. So, we will be looking at that and I have already spoken to the Commissioner about it with some grave concern. He told me that he would give me some data at some point. I would hope that that data is coming soon. I am putting the pressure on him soon. I thank you, Mr. President, for the time.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise in support of the Committee of Conference report, but I concur with Senator Green about what is in this piece of legislation. When I sponsored this bill, it was a very simple piece of legislation. It was a very simple piece of legislation. It was to get \$350,000 for the Elliot Hospital, something that we had committed to them in the budget process. Senator Gatsas amended it as a way to find that money, and I thought we were home free. Well we went from home free to one of the most exhaustive, extensive studies I have ever done with relation to a piece of legislation. This piece of legislation changes direction for the state of New Hampshire.

Now, I have done some research, I have talked with former commissioners of Health and Human Services and they tell me we have to do this. It is an imperative. We have to do it. Senator Green is right, you could challenge it and find out what's going to happen, but there is a significant risk there. Sections 2-6 & 10 deal with the Medicaid enhancement tax. What does that mean? That is a \$40 million loss in revenue for the state of New Hampshire. It is clear. That is on the record. What about pro-share? What about where the pro-share money goes? It changes. What about the enhancement tax as it relates to the CCRCs and how do they get reimbursed? It is still a question. Originally there was a process by which they were going to have an application of their 6% tax against their insurance tax. They don't pay an insurance tax. As a result, you can't rebate something you don't pay. So another methodology has to be found. As I said, pro-share is a problem. There is a long-term care reimbursement commission set up. The exemption to the certificate of need revenue process that helps **TAPE CHANGE** is in here. But I think the one saving grace in this bill that I guess the executive doesn't like is the fact that the Fiscal Committee will have oversight. I think that is very important, and in talking to people who have been involved in this process a lot longer than I, they think that that is our saving grace. Well I support that. But I want to make it clear to every member of this committee, that every item that I have just discussed, every section of this bill, was debated in the Committee of Conference. I had Neal Kurk answer every single question about every section. He was on the record as saying, bang, there was a gun to my head, and it had to be done. He was the author of all of this in the Committee in the House. The Senate didn't have a great deal of input with regard to this, other than the Committee of Conference. Research clearly indicates this is a major decision being made by the state of New Hampshire as it relates to each one of these items. So I will support this. I believe that we do not have an alternative. It doesn't lead down the road to block grants. I certainly hope not. Block grants would be a disaster for the state of New Hampshire. There is no question in mind. Rumor and gossip says three states have been targeted for block grants - New Hampshire, Florida and California. Well you know everything about rumor and gossip in this world, it runs the world. Christ, it is the most important product we have today. Rumor and gossip. We produce that better than any country in the world. So I support this because I believe, at this point in time, we have no alternative. Thank you, Mr. President.

SENATOR GREEN: Senator D'Allesandro...

SENATOR D'ALLESANDRO: Yes, Senator Green.

SENATOR GREEN: I know that you are trying to do what you think is right; however, do you believe or would you believe that this is the road to block grants?

SENATOR D'ALLESANDRO: There is, again, rumor and gossip...

SENATOR GREEN: I am not asking about rumors. What do you believe?

SENATOR D'ALLESANDRO: I believe that the restriction in there for the legislative Fiscal Committee can prevent that. But to answer your question directly, is the pavement there? I think so.

SENATOR GREEN: If the state of New Hampshire were to lose \$100 million in Medicaid money which goes to the general fund, do you believe we can cut enough out of the state funds to accomplish that, the reduction?

SENATOR D'ALLESANDRO: No. Absolutely not. There is not \$100 million to cut.

SENATOR GREEN: So how are we going to accommodate this bill and accommodate balancing the budget, because you are on the Finance Committee with me? How are we going to do that? I would just like to get some direction.

SENATOR D'ALLESANDRO: The only direction I can give, Senator Green, is hopefully, I will be back here next year and I will do some hard work and we will come up with a solution.

SENATOR GREEN: Do you believe that there is a lot of hope in here, but no real facts other than we know that we are going to lose \$100 million?

SENATOR D'ALLESANDRO: There is no question about that.

SENATOR GREEN: Thank you.

SENATOR D'ALLESANDRO: You're welcome.

The question is on the adoption of the Committee of Conference Report.

A roll call was requested by Senator Green.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Martel, Sapareto, D'Allesandro, Morse, Prescott.

The following Senators voted No: Below, Green, Foster, Larsen, Gatsas, Barnes, Estabrook, Cohen.

Yeas: 15 – Nays: 8

Adopted.

**May 17, 2004
2004-1588-CofC
10/01**

Committee of Conference Report on SB 381, an act relative to the transfer of certain capital appropriations within the department of safety.

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 Capital Budget; Department of Safety; Highway Fund Projects; Transfers Authorized. Amend 2003, 240:3, I to read as follows:

I. Department of Safety.

A. Finish Second Floor of DMV Building - Hazen Drive	\$ 370,000
B. Addition to DMV Building on Hazen Drive – Design/Build	3,900,000
C. Lab Expansion	167,400
D. Finish Troop D First Floor	589,000
Less Other	<u>- 111,910</u>
Net state appropriation subparagraph D	477,090

<i>E. Emergency Operations Center/Transportation Management Center</i>	9,164,503
<i>Less Federal</i>	<u>-9,164,503</u>
<i>Net state appropriation subparagraph E</i>	<u>0</u>
Total state appropriation paragraph I	\$ 4,914,490

The sum appropriated in subparagraph B for the construction of the DMV Building addition shall not be spent, obligated, or encumbered until the department has received approval of the plan from the capital budget overview committee. ***The emergency operations center/transportation management center in subparagraph E may be constructed using construction management procurement procedures.***

Notwithstanding section 9 of this act, the commissioner of the department of safety may transfer the appropriations made in paragraph I, A, B, C, and D between those individual project appropriations, if needed, to complete a project.

The signatures below attest to the authenticity of this Report on SB 381, an act relative to the transfer of certain capital appropriations within the department of safety.

*Conferees on the Part
of the Senate*

- Sen. Clegg, Dist. 14
- Sen. Morse, Dist. 22
- Sen. D’Allesandro, Dist. 20

*Conferees on the Part
of the House*

- Rep. Rausch, Rock. 77
- Rep. Waterhouse, Rock. 76
- Rep. C. Bouchard, Merr. 39
- Rep. E. Smith, Ches. 26

Adopted.

May 17, 2004
2004-1589-CofC
04/09

Committee of Conference Report on SB 382-FN-LOCAL, an act relative to medical service rates for state prisoners.

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 651-A:10-a as inserted by section 3 of the bill by inserting after paragraph VII the following new paragraph:

VIII. The commissioner of the department of health and human services shall enter into a memorandum of understanding with the commissioner of the department of corrections specifying that the department of corrections shall be responsible for providing the funding necessary to meet the state’s share of all Medicaid costs for any inmate granted medical parole under this section.

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

5 Repeal. RSA 651-A:10-a, VIII, relative to a memorandum of understanding between the commissioners of health and human services and corrections, is repealed.

6 Effective Date.

I. Section 5 of this act shall take effect July 1, 2005.

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

The signatures below attest to the authenticity of this Report on SB 382-FN-LOCAL, an act relative to medical service rates for state prisoners.

*Conferees on the Part
of the Senate*

Sen. Flanders, Dist. 7

Sen. Boyce, Dist. 4

Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Elliott, Hills. 42

Rep. Emerton, Hills. 48

Rep. Rodeschin, Sull. 20

Rep. Tholl, Coos 2

Adopted.

May 17, 2004

2004-1579-CofC

08/09

Committee of Conference Report on SB 391, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections.

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 391, an act relative to bond votes in municipalities using official ballot voting procedures

*Conferees on the Part
of the Senate*

Sen. Clegg, Dist. 14

Sen. Odell, Dist. 8

Sen. Eaton, Dist. 10

*Conferees on the Part
of the House*

Rep. Patten, Carr. 7

Rep. Stohl, Coos 1

Rep. Gillick, Rock. 85

Rep. Theberge, Coos 3

Adopted.

May 17, 2004

2004-1598-CofC

08/01

Committee of Conference Report on SB 407-FN-LOCAL, an act relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

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 40:13, XI as inserted by section 1 of the bill by replacing it with the following:

XI. (a) The [~~amount of the previous year's operating budget, as adjusted pursuant to paragraph X,~~] **default budget** shall be disclosed [~~to the voters at the first session~~] **at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, unless the provisions of RSA 40:14-b are adopted, shall complete a default budget form created by the department of revenue administration to demonstrate how the default budget amount was calculated. The form and associated calculations shall, at a minimum, include the following:**

(1) Appropriations contained in the previous year's operating budget;

(2) Reductions and increases to the previous year's operating budget; and

(3) One-time expenditures as defined under sub-paragraph IX(b).

(b) This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, **unless the provisions of RSA 40:14-b are adopted**, acting on relevant new information at any time before the ballots are printed, **provided the governing body, unless the provisions of RSA 40:14-b are adopted, completes an amended default budget form.**

(c) The wording of the second session ballot question concerning the operating budget shall be as follows:
 "Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$_____? Should this article be defeated, the [operating] **default** budget shall be \$_____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

Amend RSA 40:14-b, II(b)-(c) as inserted by section 3 of the bill by replacing it with the following:

(b) If the vote is taken after the adoption of RSA 40:13, the question shall be placed on the warrant of the annual meeting by the governing body or by petition under the procedures set out in RSA 39:3 or RSA 197:6 and shall not be amended. A public hearing on the question shall be held by the local governing body following the procedures in RSA 40:14, IV. A vote to adopt the question shall conform with RSA 40:14, VI.

(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 40:14-b to delegate the determination of the default budget to the municipal budget committee which has been adopted under RSA 32:14?"

Amend RSA 40:14-b, III as inserted by section 3 of the bill by replacing it with the following:

III. The provisions of this section may be rescinded following the procedures set out in RSA 40:14, VII, except that the wording of the question, which shall not be amended, shall be: "Shall we rescind the provisions of RSA 40:14-b, as adopted by the (local political subdivision) on (date of adoption), so that the default budget will be determined by the governing body instead of the budget committee?"

The signatures below attest to the authenticity of this Report on SB 407-FN-LOCAL, an act relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

*Conferees on the Part
of the Senate*

Sen. Roberge, Dist. 9
 Sen. Boyce, Dist. 4
 Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Patten, Carr. 7
 Rep. Brundige, Hills. 58
 Rep. Boyce, Belk. 31
 Rep. N. Johnson, Straf. 68

Adopted.

May 19, 2004
2004-1661-CofC
06/10

Committee of Conference Report on SB 413-FN, an act relative to financing federally aided highway projects.

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 413-FN, an act relative to financing federally aided highway projects.

*Conferees on the Part
of the Senate*

Sen. Clegg, Dist. 14
 Sen. Morse, Dist. 22
 Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. Graham, Hills. 57
 Rep. McConkey, Carr. 6
 Rep. Cloutier, Sull. 22
 Rep. Waterhouse, Rock. 76

Adopted.

May 19, 2004
2004-1660-CofC
09/01

Committee of Conference Report on SB 415-FN, an act continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

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 415-FN, an act continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

*Conferees on the Part
of the Senate*

Sen. Roberge, Dist. 9
 Sen. Gallus, Dist. 1
 Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Moran, Hills. 57
 Rep. Gile, Merr. 38
 Rep. Gargas, Hills. 46
 Rep. Itse, Rock. 80

Adopted.

May 17, 2004
2004-1645-CofC
04/10

Committee of Conference Report on SB 421, an act relative to charter schools.

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 194-B:3-a, IV as inserted by section 5 of the bill by replacing it with the following:

IV. The state board of education shall either approve or deny an application ~~[based on]~~ **using reasonable discretion** ~~[the criteria]~~ **in the assessment of the elements** set forth in RSA ~~[194-B:1-a]~~ **194-B:3, II, (a)-(bb) and (dd)**. Approval of an application constitutes the granting of charter status and the right to operate as a **public** charter school. The state board of education shall notify all applicants of its decision **in writing**, and shall include in any notice of denial a **written** statement **specifying any areas deemed deficient, the reasons for the denial, and explaining** that the applicant may reapply under RSA 194-B:3, RSA 194-B:4, or under this section in a subsequent year.

Amend RSA 194-B:5, III as inserted by section 7 of the bill by replacing it with the following:

III. **Notwithstanding RSA 194-B:1, III**, an established charter school shall be a corporation, **which shall be registered with the secretary of state after receiving approval under this chapter but before its first day of actual operation**, with authority necessary or desirable to carry out its charter program including, but not limited to, the following:

The signatures below attest to the authenticity of this Report on SB 421, an act relative to charter schools.

*Conferees on the Part
of the Senate*

Sen. O'Hearn, Dist. 12
Sen. Green, Dist. 6
Sen. Estabrook, Dist. 21

*Conferees on the Part
of the House*

Rep. M. Carter, Hills. 44
Rep. Naro, Graf. 15
Rep. Alger, Graf. 14
Rep. Dunn, Ches. 25

Adopted.

May 17, 2004
2004-1578-CofC
01/10

Committee of Conference Report on SB 423, an act relative to confidentiality and workers' compensation.

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 273:5, II as inserted by section 1 of the bill by replacing it with the following:

II. Notwithstanding paragraph I or any other provision of law to the contrary, the department of labor shall maintain the confidentiality of the names, addresses, and medical records of workers' compensation claimants and the worker's "First Report of Injury" filed with the department.

The signatures below attest to the authenticity of this Report on SB 423, an act relative to confidentiality and workers' compensation.

*Conferees on the Part
of the Senate*

Sen. Flanders, Dist. 7
Sen. Clegg, Dist. 14
Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Woods, Straf. 69
Rep. Lasky, Hills. 65
Rep. Haytayan, Hills. 46
Rep. Rowe, Hills. 47

Adopted.

May 18, 2004
2004-1627-CofC
06/01

Committee of Conference Report on SB 449, an act relative to fluoridation of municipally-owned public water systems.

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 paragraph I of section 7 of the bill by replacing it with the following:

I. Notwithstanding RSA 485:14-a, the secretary of state shall place the following question on the September 2004 state primary election ballot and on a separate ballot for undeclared voters for the city of Manchester and other municipalities whose voters directly receive water from the city of Manchester, water works department: "Shall fluoride be used in the Manchester public water system?"

The signatures below attest to the authenticity of this Report on SB 449, an act relative to fluoridation of municipally-owned public water systems.

*Conferees on the Part
of the Senate*

Sen. Prescott, Dist. 23
 Sen. Johnson, Dist. 2
 Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. Brundige, Hills. 58
 Rep. Gillick, Rock. 85
 Rep. Dowd, Rock. 77
 Rep. Osborne, Merr. 40

Adopted.

May 18, 2004
2004-1632-CofC
09/04

Committee of Conference Report on SB 453, an act establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

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 453, an act establishing a committee to study the master settlement agreement revenue stream to the state.

*Conferees on the Part
of the Senate*

Sen. Johnson, Dist. 2
 Sen. Flanders, Dist. 7
 Sen. Estabrook, Dist. 21

*Conferees on the Part
of the House*

Rep. Jasper, Hills. 66
 Rep. Gibson, Hills. 58
 Rep. Ingram, Rock. 76
 Rep. C. Hamm, Merr. 34

Adopted.

May 19, 2004
2004-1657-CofC
08/01

Committee of Conference Report on SB 459, an act making certain changes to the real estate practice act.

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 all after section 6 with the following:

7 New Paragraph; Prohibited Conduct. Amend RSA 331-A:26 by inserting after paragraph XXXVII the following new paragraph:

XXXVIII. Submitting a property owner's name to any electronic database or multiple listing service that may be accessed by any other person other than the property owner's broker without the express written permission of the property owner.

8 Effective Date.

I. Section 7 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect 60 days after its passage.

The signatures below attest to the authenticity of this Report on SB 459, an act making certain changes to the real estate practice act.

*Conferees on the Part
of the Senate*

Sen. Gallus, Dist. 1
 Sen. Roberge, Dist. 9
 Sen. Peterson, Dist. 11

*Conferees on the Part
of the House*

Rep. P. LaFlamme, Hills. 61
 Rep. Fitzgerald, Belk. 30
 Rep. F. Sullivan, Hills. 52
 Rep. Hamel, Rock. 79

Adopted.

May 18, 2004
2004-1641-CofC
05/01

Committee of Conference Report on SB 461, an act relative to the regulation of gift certificates under the consumer protection act.

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 461, an act relative to the regulation of gift certificates under the consumer protection act.

*Conferees on the Part
of the Senate*

Sen. Roberge, Dist. 9
 Sen. Morse, Dist. 22
 Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Hunt, Ches. 28
 Rep. Stepanek, Hills. 47
 Rep. Spiess, Hills. 47
 Rep. Kopka, Hills. 63

Adopted.

May 17, 2004
2004-1586-CofC
03/01

Committee of Conference Report on SB 478-FN, an act relative to penalties for DWI offenses.

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 478-FN, an act relative to penalties for DWI offenses.

*Conferees on the Part
of the Senate*

Sen. Barnes, Dist. 17
 Sen. Clegg, Dist. 14
 Sen. Eaton, Dist. 10

*Conferees on the Part
of the House*

Rep. Tholl, Coos 2
 Rep. Welch, Rock. 79
 Rep. Nedeau, Belk. 30
 Rep. Pantelakos, Rock. 86

The question is on the adoption of the Committee of Conference Report.

A roll call was requested by Senator Boyce.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Below, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senators voted No: Sapareto.

Yeas: 23 - Nays: 1

Adopted.

May 1, 2004
2004-1653-CofC
06/01

Committee of Conference Report on SB 481-FN-LOCAL, an act establishing a sewer and other water-related purposes district for Great Bay.

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 485-E:12 as inserted by section 1 of the bill by replacing it with the following:

485-E:12 Outfall Pipe; Legislative Approval Required. EAST shall obtain approval from the legislature before constructing a regional outfall sewer pipe.

The signatures below attest to the authenticity of this Report on SB 481-FN-LOCAL, an act establishing a sewer and other water-related purposes district for Great Bay.

*Conferees on the Part
of the Senate*

Sen. Prescott, Dist. 23
 Sen. Green, Dist. 6
 Sen. Below, Dist. 5

*Conferees on the Part
of the House*

Rep. Ahern, Belk. 29
 Rep. Philbrick, Carr. 5
 Rep. Williams, Graf. 16
 Rep. Rous, Straf. 72

SENATOR COHEN: Yes, I would just like to point out that the version, the language that we have here is actually different from what the committee agreed to. I raise concerns about that. I was on the committee. The actual language on line 13, which...yes, it is line 13 here. It currently says "before constructing a regional outfall sewer pipe." The committee had actually agreed to this language, "before any action is taken to construct a regional outfall sewer pipe." The concern is that, if money is raised in the process as it is going along, it might be more difficult to stop this process. A lot of environmental questions have been raised about this. I have real concerns about this. It would be better had the committee version been agreed to, such that it would read "before any action is taken to construct" because this can allow the process to be ongoing and be more difficult to stop should the legislature see it necessary to stop it.

SENATOR JOHNSON: Thank you, Mr. President. As Chair of the Senate Environment, I just want to thank Senator Prescott and Senator Green for all the hard work they did on this bill. It was something that I think, was behind the curve, and they are attempting to bring us up to speed on it. I just wanted to mention that. Thank you.

SENATOR GREEN: I rise for a clarification. Maybe we don't need it, but I just want to make sure. The language that Senator Cohen is talking about is the correct language for the Conference Committee. The language you are referring to earlier about prior to any actions, was in the bill. That was the House version. We changed the House version and this is the version that was actually adopted in the Committee of Conference. The chairman of the Committee can verify that, I am sure. Yes, it is correct as it is.

Adopted.

May 18, 2004
2004-1620-CofC
03/10

Committee of Conference Report on SB 490-FN, an act relative to the Help America Vote Act.

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 section 4 with the following:

4 Preparing Checklist. Amend RSA 654:25 to read as follows:
 654:25 Preparing Checklist.

[F] The secretary of state shall issue and distribute guidelines for the composition and style of checklists and for the maintenance of data related to checklists by which the supervisors of the checklist shall compile and correct the checklist. Such guidelines shall specify the information which will be maintained and updated by the supervisors. The sec-

retary shall establish standard forms and procedures for the use of the supervisors for the maintenance of such information. The information to be maintained and updated shall include the full name, address, and party affiliation, if any, of each voter on the checklist and such other information as the secretary requires. ~~[The supervisors shall use the information so maintained and updated to prepare the checklist for all state elections. Except as provided in paragraph H,] Every checklist used at any [state] election shall contain [as a minimum] the full name, address, [and mailing address if different,] and party affiliation, if any, of each voter on the checklist. The *name and* address [and mailing address, if different,] of a voter shall not appear on the checklist at the request of the voter if the voter presents to the supervisors of the checklist a valid protective order pursuant to RSA 173-B. [A voter who presents a valid protective order may, however, request that a mailing address, if different, be maintained on the checklist. If a voter who presents a valid protective order requests that no address be maintained on the checklist, the supervisors of the checklist may nonetheless maintain a designation on the checklist which indicates that no address is required for that voter.] *The name, address, and mailing address, if different, of such a voter shall be maintained on a separate list of voters, which shall be nonpublic and not subject to RSA 91-A. If it is necessary to establish such a nonpublic list, the public checklist shall be marked at the end with a notation of the number of voters whose names are maintained on the nonpublic list.*~~

~~[H. If a municipality prepares a separate checklist solely for use at a state election, such checklist may omit a voter's mailing address, if different.]~~

Amend the bill by replacing section 6 with the following:

6 Preparation of Voting Materials; Squares. Amend RSA 656:8 to read as follows:

656:8 Squares. Directly at the right of the name of each candidate there shall be a square, *box, oval, or other appropriate symbol for directing voters where to make the appropriate mark*; except that, in the case of president and vice-president of the United States, one square, *box, oval, or other appropriate symbol* shall suffice which shall be placed opposite the designation "President and Vice-President of the United States".

Amend the bill by replacing section 8 with the following:

8 Manchester; Ward Boundaries. For purposes of elections for state senator and state representative conducted after the effective date of this act, ward boundaries for senate and representative districts in Manchester shall be the ward boundaries established by the city of Manchester in its charter.

The signatures below attest to the authenticity of this Report on SB 490-FN, an act relative to the Help America Vote Act.

*Conferees on the Part
of the Senate*

Sen. Boyce, Dist. 4
Sen. Martel, Dist. 18
Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Drisko, Hills. 46
Rep. Vaillancourt, Hills. 56
Rep. Dorsett, Graf. 16
Rep. Buckley, Hills. 56

Adopted.

May 17, 2004
2004-1591-CofC
06/01

Committee of Conference Report on SB 500-FN, an act relative to certain procedures of financial institutions.

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 3 with the following:

3 Removal by Bank Commissioner; Financial Institution. Amend RSA 384:6 to read as follows:

384:6 Removal by Bank Commissioner. Whenever, in the opinion of the bank commissioner, any officer, trustee, or director of a [~~savings bank, state bank, guaranty savings bank or trust company~~] **financial institution** shall have continued to violate any law relative thereto, or shall have continued unsafe or unsound practices in conducting the business of said [~~bank~~] **financial institution**, after having been warned in writing by the commissioner to discontinue such violations of law or such unsafe or unsound practices, he may cause notice to be served upon such officer, trustee, or director to appear before him to show cause why he should not be removed from office. A copy of such order shall be sent by registered mail to each trustee or director of the [~~bank~~] **financial institution** affected. If, after granting such officer, trustee, or director a reasonable opportunity to be heard, the commissioner finds that he has continued to so violate the law, or has continued unsafe or unsound practices after having been warned, the commissioner may, with the approval of 2 persons of good standing in the banking business, to be named by the governor upon the request of the bank commissioner, order that such officer, director, or trustee be removed from office. A copy of such order shall be served upon such officer, trustee, or director and upon the [~~bank~~] **financial institution** of which he is an officer, trustee, or director whereupon he shall cease to be an officer, trustee, or director of such [~~bank~~] **financial institution**. Provided that such order and the findings of fact upon which it is based shall not be made public or disclosed to any one except the officer, trustee, or director involved and the trustees or directors of the [~~bank~~] **financial institution** affected, otherwise than in connection with proceedings for a violation of this section. No such officer, trustee, or director removed from office as herein provided shall, without the consent of the bank commissioner, participate in any manner in the management or operation of said [~~bank~~] **financial institution**. Any person so removed from office may, with the approval of the trustees or directors of the [~~bank~~] **financial institution** affected expressed by majority vote in which he shall not participate, appeal by petition to the supreme court within 30 days from the date of the order of removal. Upon hearing, after such notice as the court may order, the burden of proof shall be upon the petitioner to show that the order of removal is clearly unreasonable or unlawful, and all findings of the bank commissioner upon all questions of fact properly before him shall be deemed to be prima facie lawful and reasonable and the order shall not be set aside or vacated except for errors of law unless the court by a clear preponderance of the evidence before it finds that such order is unjust or unreasonable. Pending decision of the supreme court, the order of removal shall continue in effect.

Amend the bill by inserting after section 15 the following and renumbering the original sections 16 and 17 to read as 20 and 21, respectively:

16 Name and Charter Powers. Amend RSA 388:14 to read as follows:

388:14 Name and Charter Powers. The bank resulting from a consolidation under the provisions of this chapter may adopt the charter of either of the consolidating banks with such change of name as may be desirable. Any proposal for such adoption of charter and change of name shall be set forth in the petition filed under RSA 388:1 and 388:8 and shall become effective upon approval thereof by the bank commissioner, and filing in the office of the secretary of state together with the payment of a fee of [~~\$5~~] **\$35**.

17 Approval of Petition; Filing With Secretary of State. Amend RSA 386-A:29, II to read as follows:

II. If the board of trust company incorporation finds that the proposed amendment satisfies the requirements of RSA 386-A:26 and was adopted in accordance with RSA 386-A:27, and that the public convenience and advantage and the interest of the petitioning institution, its members, stockholders and depositors will be promoted by the proposed amendment, it shall so certify, and shall endorse its approval on one of the certified copies of the amended articles of agreement or amended charter. The petitioning savings bank shall thereupon file the same in the office of the secretary of state, accompanied by a fee equal to the fee charged by the secretary of state to business corporations under RSA 293-A. The secretary of state shall thereupon cause said amended articles of agreement or amended charter, with the endorsement thereon, to be recorded, and shall issue a certificate of amended incorporation, and thereafter such savings bank shall have all the powers and privileges provided for by said amended articles of agreement or amended charter. The fee for recording with the secretary of state any amended articles of agreement or amended charter, which does not embody any increase of the authorized capital debentures, capital stock or special deposits, shall be [~~\$25~~] **\$35**.

18 Fees for Recording. Amend RSA 392:29 to read as follows:

392:29 Fees for Recording. The fee for recording with the secretary of state any amended certificate, which does not embody an increase of the authorized capital stock, shall be [~~\$5~~] **\$35**.

19 Contingency. If HB 1348-FN of the 2004 legislative session becomes law, sections 16-18 of this act shall take effect on July 1, 2004 at 12:01 a.m. If HB 1348-FN does not become law, sections 16-18 of this act shall not take effect.

Amend the bill by replacing section 21 with the following:

21 Effective Date.

I. Sections 16-18 of this act shall take effect as provided in section 19 of this act.

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

The signatures below attest to the authenticity of this Report on SB 500-FN, an act relative to certain procedures of financial institutions.

*Conferees on the Part
of the Senate*

Sen. Flanders, Dist. 7
Sen. Odell, Dist. 8
Sen. Foster, Dist. 13

*Conferees on the Part
of the House*

Rep. Hunt, Ches. 28
Rep. Spiess, Hills. 47
Rep. Meader, Ches. 25
Rep. Stepanek, Hills. 47

Adopted.

May 17, 2004
2004-1580-CofC
08/09

Committee of Conference Report on SB 508-FN, an act relative to grant-funded programs.

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 508-FN, an act relative to grant-funded programs.

*Conferees on the Part
of the Senate*

Sen. Flanders, Dist. 7
 Sen. Boyce, Dist. 4
 Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Stohl, Coos 1
 Rep. Lockwood, Merr. 35
 Rep. Boyce, Belk. 31
 Rep. Nancy Johnson, Straf. 68

Adopted.

May 18, 2004
2004-1633-CofC
04/10

Committee of Conference Report on SB 521-FN, an act increasing the penalty for identity fraud.

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 521-FN, an act increasing the penalty for identity fraud.

*Conferees on the Part
of the Senate*

Sen. Peterson, Dist. 11
 Sen. Green, Dist. 6
 Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Bemis, Straf. 67
 Rep. Fish, Ches. 25
 Rep. K. Gilbert, Rock. 82
 Rep. Movsesian, Hills. 60

Adopted.

May 18, 2004
2004-1629-CofC
08/09

Committee of Conference Report on SB 526, an act relative to sexual harassment complaint procedures for public employees.

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 526, an act relative to sexual harassment complaint procedures for public employees.

*Conferees on the Part
of the Senate*

Sen. Boyce, Dist. 4
 Sen. Odell, Dist. 8
 Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. MacKay, Merr. 39
 Rep. Stohl, Coos 1
 Rep. N. Allan, Hills. 63
 Rep. Tilton, Ches. 27

SENATOR LARSEN: I just rise to applaud the passage of this bill. Obviously it was important in this session that we address sexual harassment procedures for public employees. Certainly those within the State House complex had prior to this, not a clear line. This new law, assuming it is signed into law, will in fact, produce a clear line of authority for...to prohibit the kind of sexual harassment that occurred in this past session, and in fact, will bring, hopefully, a better workplace for all who work within these walls. Thank you.

Adopted.

May 17, 2004
2004-1595-CofC
05/04

Committee of Conference Report on SB 533, an act relative to licensing requirements for certain recreation and child care programs.

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 533, an act relative to licensing requirements for certain recreation and child care programs.

*Conferees on the Part
of the Senate*

Sen. Johnson, Dist. 2
 Sen. Martel, Dist. 18
 Sen. Larsen, Dist. 15

*Conferees on the Part
of the House*

Rep. Brundige, Hills. 58
 Rep. Twombly, Straf. 67
 Rep. Dowd, Rock. 77
 Rep. Schmidt, Straf. 70

Adopted.

May 19, 2004
2004-1651-CofC
09/01

Committee of Conference Report on SB 534-FN-A, an act relative to the reorganization of certain functions and duties of state agencies.

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 20 with the following:

20 Transfer of Certain Programs From Office of State Planning and Energy Programs to Department of Environmental Services.

1. Notwithstanding any provision of law to the contrary, all of the functions, powers, duties, and responsibilities of the office of state planning and energy programs relating to the coastal zone management program and the New Hampshire estuaries project shall be transferred

to the department of environmental services. The transfer provided for in this section shall include, but not be limited to, the following personnel from the coastal zone management program: position numbers 40468, 40469, 10026, 10027, 30001, 9T006, 16669 and 16670 and from the estuaries project: position numbers 9T003, 9T005 and 8Temp. The transfer provided in this section, shall include all of the equipment, books, papers, records, unexpended appropriations, and other available funds in any account or subdivision of an account of the office of state planning and energy programs related to the above functions and authorized for use by the office of state planning and energy programs for said programs.

II. All existing rules, statutory responsibilities, regulations, and procedures in effect, in operation, or adopted in or by the former coastal zone management program and New Hampshire estuaries program are transferred to the department of environmental services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

III. The department of environmental services shall be considered a temporary host for the New Hampshire estuaries project. The management committee of the estuaries project shall report to the speaker of the house of representatives and the president of the senate by December 1, 2004 recommending a permanent host for the project. Nothing in this section shall preclude the department of environmental services from becoming the permanent host.

Amend the bill by replacing all after section 39 with the following:

40 Position Transferred from Department of Resources and Economic Development to Department of Cultural Resources; New Hampshire Film and Television Commission. Position number 41616, related to the New Hampshire film and television commission, is transferred from the department of resources and economic development to the department of cultural resources.

41 Appointments; Department of Education. RSA 21-N:3, I and II are repealed and reenacted to read as follows:

I. The governor, after consultation with the board of education, shall appoint the commissioner and the deputy commissioner of the department of education with the consent of council. Each shall serve for a term of 4 years. The commissioner and the deputy commissioner may succeed himself or herself, if reappointed. The commissioner and deputy commissioner shall be qualified to hold their positions by reason of education and experience.

II. The commissioner, after consultation with the board of education, shall nominate each division director for appointment by the governor and council. The division directors shall serve for a term of 4 years. They may succeed themselves, if reappointed. The directors shall be qualified to hold their respective positions by reason of education and experience.

42 Applicability. Section 41 of this act shall take effect upon the date of the expiration of each of the terms of the current commissioner, deputy commissioner, and division directors of the department of education.

43 New Paragraph; Major Capital Projects. Amend RSA 228:4 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding any other provision of law, the commissioner is authorized to use the design build method of contracting for any buildings that are part of capital projects. The capital budget overview committee shall approve all such plans prior to construction.

44 Reference Changes; Office of State Planning and Energy Programs Renamed Office of Energy and Planning. Amend the following RSA provisions by replacing "office of state planning and energy programs" with "office of energy and planning": the chapter heading of RSA 4-C; RSA 4-C:1, I; 4-C:1, II; 4-C:2; 4-C:3; 4-C:4; 4-C:5, 4-C:6; 4-C:6-a; 4-C:7; the introductory paragraph of 4-C:8; 4-C:9; 4-C:9-a; 4-C:10; 4-C:19; 9-A:2; 9-A:4; 12-G:13; 12-K:2, V; 12-K:3, IV; 12-K:6; 12-K:8; 12-K:9; 17-M:2, V; 21-O:5-a, I(d); 21-O:7, I(b); 21-P:48, I(h); 36:45; 36:46; 36:47, III; 36-B:1; 78-A:25; 78-A:26, I(b); 125-G:2, VII; 125-G:3; 125-G:5, I; 125-G:16; 126-A:4, V(b); 147-B:4, III; 162-C:1, I; 162-H:3; 162-L:15, II(b); 162-L:19; 204-C:8, V; 216-J:2, I(g); 227-G:2, XII; 227-M:4, II(d); 216-A:3-c, V; 216-F:5, I; 217-A:3, II; 227-C:4, XIII(d); 227-E:3; 227-E:6; 233-A:2; 235:23, I; 238:20, I(d); 238:23; 261:153, V; 270:65; 270:67; 270:68; 270:71, II; 374:22-J, XIII; 432:19; 483:8, II; 483:10, I; 483:10-a; 483-A:6, III; 483-A:7; 483-B:4, XVI(c); 483-B:5, I; 483-B:12, III; 483-B:16; 483-B:19; 485-A:4, IX; 485-C:3, III; 673:3-a; 674:3; 675:9.

45 Reference Changes; Office of State Planning and Energy Programs Renamed Office of Energy and Planning. Amend RSA 4-C:8, III to read as follows:

III. Provide computer interface capability among and between each regional planning commission, the office of ~~state~~ **energy and** planning ~~[and energy programs]~~, and state data collection and storage sources. The computer interface capability shall be used by regional planning commissions to respond to municipal requests for assistance in the preparation and amending of master plans and in the evaluation of municipal infrastructure needs. The computer interface capability shall also be used by regional planning commissions to develop and update regional master plans, as provided in RSA 36:47. The computer equipment used for the purposes of this paragraph shall be compatible and able to interface with the office of ~~[state planning and energy program's]~~ **energy and planning's** geographic information system, as well as with other similar state computerized data collection and storage sources.

46 Transition; Documents, Forms, and Supplies.

I. Current documents, forms, or any other supplies with the name office of state planning and energy programs may be used by the office of energy and planning until exhausted.

II. After all documents, forms, or any other supplies with the name office of state planning and energy programs have been exhausted, the official name of the office shall be the office of energy and planning for the purposes of all correspondence and advertising.

47 Land Conservation Investment Program; Monitoring Endowment. Amend RSA 162-C:8, I to read as follows:

I. The monitoring endowment established by the board of directors pursuant to former RSA 221-A:5, III shall be maintained in perpetuity and **any interest generated thereon** shall be utilized by the council only for the purposes of monitoring and enforcing the property rights of persons with ownership interests in property acquired through the former land conservation investment program ~~[and for the purposes of RSA 227-M:12]~~. **Additional contributions to the endowment pursuant to RSA 227-M:12, I and any interest generated thereon, shall be utilized only for the purposes of RSA 227-M:12, II. Additional gifts, donations and grants to the endowment may be utilized for monitoring and enforcing other land conservation interests that may be acquired by the state of New Hampshire.**

48 Police Officer; Definition. Amend RSA 100-A:1, VII-a (b) to read as follows:

(b) Any bingo or lucky 7 inspector, security officer appointed pursuant to RSA ~~135:41~~ **21-P:7-b**, any juvenile probation and parole officer, or any person employed in the bureau of trails of the department of resources and economic development; or

49 New Paragraph; Department of Safety; Duties of Commissioner. Amend RSA 21-P:4 by inserting after paragraph X the following new paragraph:

XI. Have the discretion to grant to security officers of the New Hampshire hospital security force such titles, ranks and police powers as the commissioner deems necessary up to and including that of ex officio constables including the power of arrest for violations of the criminal and motor vehicle laws and the power to serve criminal process, and may limit such powers as deemed necessary. They shall have general police powers on the state office campus and New Hampshire hospital grounds and when in hot pursuit of a person who has committed a crime on the campus or escaped from the hospital, and when acting to transport a patient to or from the hospital, the court or another mental health facility.

50 New Sections; Department of Safety; New Hampshire Hospital Security Force. Amend RSA 21-P by inserting after section 7-a the following new sections:

21-P:7-b New Hampshire Hospital Security Force. The commissioner of safety is authorized to organize a hospital security force for the purpose of patrolling the hospital's buildings, roads, and grounds of the campus of the state office park south and providing for general security on the campus. The hospital security force shall be under the immediate control of and responsible to the commissioner of safety or his or her designee.

21-P:7-c Authority of Hospital Security Force Officers; Memorandum of Understanding; Funding.

I. All security officers of the hospital security force shall possess such police powers as are granted to them by the commissioner of safety pursuant to RSA 21-P:4, XI. All officers of the hospital security force hired after the effective date of this paragraph shall be required to meet the training standards required generally of police officers by the police standards and training council pursuant to RSA 188-F and in addition shall receive additional training in dealing with persons with mental illness as specified by the commissioner of safety after consultation with the superintendent of the New Hampshire hospital.

II. The commissioner of the department of health and human services shall enter into a memorandum of understanding with the commissioner of safety for the purposes of delineating the functions, duties, and responsibilities of the department of safety in regard to the provision of security and dispatch services to the New Hampshire hospital. The memorandum of understanding shall include, but not be limited to: responding to emergencies within New Hampshire hospital, maintaining the security of the hospital buildings, insuring the safety of patients, staff and visitors, apprehending involuntarily committed persons who leave the hospital without authorization, accepting custody of involuntary admissions, transporting patients for medical, legal and other purposes, investigating cases of abuse, neglect, sexual assault and other criminal conduct, providing training and conducting searches and seizures of contraband. In addition, the department of safety shall provide dispatch services including, but not limited to: monitoring hospital access between 8 p.m. and 8 a.m. operating and monitoring video security systems, receiving incoming communications, assessing the priority of

the call and dispatching appropriate assistance, coordinating emergency preparedness procedures, receiving incoming fire calls and alarms and operating the switchboard between 8 p.m. and 8 a.m. and at other times as needed.

III. Within the limits of funds budgeted for hospital security force positions, the department of health and human services shall maintain the funding for the hospital security force and pay the department of safety for providing these services.

51 Transfer of Functions, Positions, Equipment, Records and Accounts; Rules Continued.

I. Notwithstanding any provision of law to the contrary, all of the functions, positions, powers, duties and responsibilities of the department of health and human services, division of behavioral health, New Hampshire hospital security force used for the provision of security to the hospital's building, roads and grounds of the campus of the state office park south and providing for the general security on campus shall be transferred to the department of safety. The following personnel shall be transferred from the department of health and human services, division of behavioral health to the department of safety: position numbers: 15799, 30896, 15787, 16389, 30807, 15789, 15820, 15763, 15736, 30799, 15843, 15710, 15839. The transfer provided in this section shall include all of the equipment, books, papers, and records of the department of health and human services, division of behavioral health, New Hampshire hospital related to the above functions and authorized for use by the New Hampshire hospital security force.

II. All existing rules, statutory responsibilities, regulations and procedures in effect, in operation or adopted in or by the department of health and human services, division of behavioral health, New Hampshire hospital security force are transferred to the department of safety, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

52 Repeal. The following are repealed:

I. RSA 135:41, relative to hospital security force.

II. RSA 135:42, relative to authority.

III. RSA 135:43, relative to training.

53 Report Required; Capitol Police Force. The commissioner of safety and the commissioner of health and human services shall report by December 1, 2004 to the speaker and the senate president with a proposal for establishing a capitol police force. Such police force shall be responsible for the security of all state buildings in the city of Concord.

54 New Sections; General Administration of Regulatory Boards and Commissions; Certain Appeals; Expansions in Scope of Practice. Amend RSA 332-G by inserting after section 4 the following new sections:

332-G:5 Certain Appeals. Notwithstanding any other provision of law to the contrary, any person affected by the final decision of the electricians' board, established under RSA 319-C:4, or the state board for the licensing and regulation of plumbers, established under RSA 329-A:3, may appeal such final decision to the state building code review board established under RSA 155-A:10.

332-G:6 Scope of Practice. Any expansion in the scope of practice of a profession regulated under this title shall be adopted by legislation and not by administrative rule.

55 New Section; State Building Code Review Board; Appeals of Decisions of the Electricians' Board and the State Board for the Licensing and Regulation of Plumbers. Amend RSA 155-A by inserting after section 11 the following new section:

155-A:11-a Appeal of Decisions of the Electricians' Board and the State Board for the Licensing and Regulation of Plumbers.

I. The board shall hear appeals of final decisions of the board established under RSA 319-C:4 and the board established under RSA 329-A:3.

II. The board shall hold a hearing within 40 days of the receipt of an appeal, unless an extension of time has been granted by the board at the written request of one of the parties and shall render a decision within 30 days of the conclusion of the hearing.

56 New Section; Appeals From Final Decisions of Electricians' Board. Amend RSA 319-C by inserting after section 12-a the following new section:

319-C:12-b Appeals. Any person affected by a final decision of the board may appeal such final decision to the state building code review board, pursuant to RSA 155-A:11-a.

57 New Section; Appeals From Final Decisions of the State Board for the Licensing and Regulation of Plumbers. Amend RSA 329-A by inserting after section 12 the following new section:

329-A:12-a Appeals. Any person affected by a final decision of the board may appeal such final decision to the state building code review board, pursuant to RSA 155-A:11-a.

58 Study Committee on Office of Administrative Adjudications.

I. There is established a committee to study transferring the adjudicatory functions of occupational regulatory boards and commissions to an office of administrative adjudications.

II.(a) The members of the committee shall be as follows:

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

(2) Three members of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall:

(a) Study the issue of creating an office of administrative adjudication to conduct all disciplinary proceedings currently conducted by occupational regulatory boards and commissions. This study shall include the analysis of the staffing and budget requirements of such an office, and the role, if any, of regulatory board members in any disciplinary action.

(b) Clearly define which boards would be affected by this change.

(c) Study any other matter the committee deems relevant.

IV. 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.

V. 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, 2004.

59 Effective Date.

I. Sections 27, 32-35, and 53-58 of this act shall take effect upon its passage.

II. Sections 1-17 and 48-52 of this act shall take effect January 1, 2005.

III. The remainder of this act shall take effect July 1, 2004.

The signatures below attest to the authenticity of this Report on SB 534-FN-A, an act relative to the reorganization of certain functions and duties of state agencies.

*Conferees on the Part
of the Senate*

Sen. Clegg, Dist. 14
Sen. Prescott, Dist. 23
Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. O'Neil, Rock. 85
Rep. Stone, Rock. 73
Rep. R. Wheeler, Hills. 48
Rep. F. Sullivan, Hills. 52

2004-1651-CofC

AMENDED ANALYSIS

This bill:

I. Transfers administration and enforcement of bingo and lucky 7 to the pari-mutuel commission.

II. Transfers the bureau of environmental and occupational health from the department of health and human services to the department of environmental services.

III. Authorizes the commissioner of the department of environmental services to nominate certain division directors.

IV. Transfers certain programs from the office of state planning and energy programs to the department of environmental services and changes the name of the office of state planning and energy programs to the office of energy and planning.

V. Requires a review of the salaries of the commissioner and assistant commissioner of the department of environmental services.

VI. Removes the office of state planning and energy programs from the permitting process for public and congregate moorings.

VII. Establishes a committee to study the reorganization of the department of revenue administration.

VIII. Changes the name of the division of aeronautics to the division of aeronautics, rail, and transit.

IX. Establishes a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation; and changes obsolete references to the department of public works and highways to the department of transportation.

X. Transfers certain state house rooms from the executive branch to the legislative branch.

XI. Transfers bioterrorism positions from the department of health and human services to the department of safety.

XII. Transfers the New Hampshire film and television commission from the department of resources and economic development to the department of cultural resources.

XIII. Authorizes the commissioner of transportation to use the design build method of contracting for buildings that are part of capital projects.

XIV. Changes the appointment authority for department of education officials.

XV. Clarifies permissible uses of the land conservation investment program monitoring endowment.

XVI. Transfers authority over the New Hampshire hospital security force from the department of health and human services to the department of safety.

XVII. Requires the commissioner of safety and the commissioner of the department of health and human services to report to the legislature on a proposal to establish a capitol police force.

XVIII. Establishes an appeal process to the state building code review board for persons affected by final decisions of the electricians' board and the state board for the licensing and regulation of plumbers.

XIX. Requires any expansion in the scope of practice of a profession regulated by an occupational regulatory board or commission to be adopted by legislation and not by administrative rule.

XX. Establishes a committee to study transferring the adjudicatory functions of occupational regulatory boards and commissions to an office of administrative adjudications.

SENATOR D'ALLESANDRO: Thank you, Mr. President. Mr. President, there are a couple of problems with this piece of legislation. I think they were inadvertently put in. So, I just want to make sure for the record that on page two of the bill, and I have spoken to the prime sponsor about this, line six, Arabic V, subset (n). I don't believe that this was in the intent of this legislation. The purchase of gaming tickets and the dispensing equipment by the Pari-Mutuel Commission under RSA 287-E. "The Pari-Mutuel Commission shall make such purchases under competitive bidding requirements except when waived by the Pari-Mutuel Commission or its authorized agent with written jurisdiction." We license, at the present time, distributors to do this. They pay a \$10,000 licensing fee. I don't think that, and Senator Clegg might want to comment on this, correct me if I am wrong, I don't think we meant to displace these distributors who pay for that fee to do this, and replace them with a state agency. That was not done under the Sweepstakes Commission, and I don't think it was meant to be done under this transfer. What I believe the intent was we were to transfer all of the activities that took place at the Sweepstakes Commission to the Pari-Mutuel Commission and we weren't going to do anything beyond that. So I want for the record, to know that this language was not part of the original purpose. Thank you, Mr. President.

SENATOR BOYCE: Senator D'Allesandro, is it possible that that language was inadvertently taken out of the Sweepstakes Commissions language where they buy the lottery tickets, the dispensers that are put in the vending machines in the stores, and that in drafting this bill, Lucky Seven's and Lottery tickets got confused in the drafting?

SENATOR D'ALLESANDRO: I think that's an excellent point. I think that's where the confusion might have arisen, because they do purchase or they do lease the other machines, but this goes beyond that. I think you are right.

SENATOR BOYCE: Thank you.

SENATOR D'ALLESANDRO: Thank you.

SENATOR CLEGG: Thank you. I would like to reiterate the intent of the legislature as Senator D'Allesandro spoke. I would also like to point out that we did make a change about being able to use design/build for construction projects. For the record, we want to be clear that design/build and construction management are basically the same. If you can do a design/build, you can do construction management. I wanted to point that out to the members of the body because some have asked me what the difference was. It is so minute that it really didn't matter and I just wanted you to know that we are going to continue and DOT is going to continue under this bill to put out projects under the design/build construction management process.

SENATOR LARSEN: I simply rise to object to, on page two, section 41, the language which politicizes the Commissioner of the Department of Education. Currently, appointees to the Department of Education to be commissioner are chosen by the State Board of Education. This results in, hopefully, a choice of a commissioner who has educational qualifications such that people who are on the State Board of Education believe that they will lead the state in a good direction. All, as we know, all of the State Board of Education Commissioners are gubernatorial and council approved.. But to make this Department of Education Commissioner a political appointee, I think, is the wrong step. It was slipped in, in Conference Committee, while in the House Committee, and it was wrong that we agreed to this change. I think that it will not be good for the state as we continue forward as we struggle with education funding and other issues. Thanks.

Adopted.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bills:

HB 176, relative to listing candidates on ballots and relative to instructions to voters.

HB 243, relative to motor vehicle exhaust noise standards.

HB 369, relative to the Henniker and Hillsborough district courts.

HB 384, relative to financial affidavits in domestic relations cases.

HB 426, relative to the certification of property assessors and assessing officials, the updating of tax maps by municipalities, the form for abatement applications, the enforcement of discretionary preservation easements, the annual appraisal of real estate, and reports on the status of monthly tax refunds.

HB 551, establishing a committee to study the use of prescription psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

HB 618-FN-A, making technical corrections to certain local property tax laws, relative to posting of municipal budgets, relative to claims for low and moderate income homeowners property tax relief, allowing the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities, and authorizing Manchester Airport to tow and impound abandoned vehicles.

HB 640-FN, relative to post-conviction DNA testing.

HB 643-FN, relative to the family division of the courts and reducing the number of superior court justices.

HB 651-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

HB 698-FN, relative to electronic toll collection.

HB 713-FN, relative to the penalty for violating a zoning ordinance.

HB 727-FN-L, establishing a committee to study the issue of school choice in New Hampshire.

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to Smith Pond in Enfield, and relative to site plan review of certain trails.

HB 1162, relative to school district policies on bullying.

HB 1165, relative to extending domestic violence protection orders.

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts and making certain changes to the tax exemption for water and air pollution control facilities.

HB 1276-FN, relative to special number plates for veterans, establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star, and authorizing rules relating to certain commemorative license plates.

HB 1281, permitting the adoption of an alternative cost apportionment method in a cooperative school district, establishing a legislative oversight committee for the school administrative unit system, and relative to notification of education grant amounts to municipalities.

HB 1282, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

HB 1293, relative to emission control equipment for certain vehicles and relative to unfair motor vehicle insurance trade practices.

HB 1295, relative to certain court records and exempting certain documents from the right-to-know law.

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food, and relative to food service licensure.

HB 1326, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

HB 1348-FN, relative to registration of business organizations.

HB 1367, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

HB 1380-FN, relative to unauthorized video surveillance.

HB 1401-FN, limiting the use of traffic signal preemption devices, establishing a commission to study railroad matching funds, authorizing an expenditure for a certain feasibility study, and relative to landowner permission for OHRV operation and loading and unloading OHRVs on highways.

HB 1408-FN, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

HB 1428, relative to the administration of the medical assistance program for home care for children with severe disabilities; establishing a commission to review the medical assistance program for home care for children with severe disabilities; and relative to the use of standardized health statements and renewals of certain insurance policies.

HOUSE MESSAGE

The House of Representatives refuses to adopt the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1411-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

HOUSE MESSAGE

The House of Representatives refuses to adopt the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

The Committee of Conference has been discharged and the House requests a new Committee of Conference.

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

REPRESENTATIVES: Leber, Rausch, Graham & Cloutier.

SUSPENSION OF THE RULES

Senator Flanders moved that the rules of the Senate be so far suspended as to permit the Senate to accede to the House request for a new Committee of Conference on **HB 2004** after the deadline for formation has passed.

The question is on the adoption of the suspension of the rules.

SENATOR CLEGG: Mr. President, I would recommend that we vote no. The House has been stuck on its position and we removed most of everything that the Senate had put in. Now they have come back to us and said it is our plan or no plan. Just so everyone knows, if we don't go back to a Committee of Conference, the existing highway plan that is in place, stays in place and we can start again in January with a new bill.

SENATOR GATSAS: Thank you, Mr. President. It is my understanding that if we don't go back to a Committee of Conference, the Granite Street Bridge in Manchester will be costing us \$7 million. So I guess if we are not going to go, and Manchester is going to take it on the chin for the second time in the course of the day, then let's have a roll call about who's not sending it because everybody in this state should understand who doesn't want to go to a Committee of Conference.

SENATOR ESTABROOK: Just for a question, Mr. President. If we do form a new Committee of Conference, when would this body then vote on the new Committee of Conference report?

SENATOR EATON (In the Chair): I would assume that we would vote on it on Veto Day, which I believe is June 17.

SENATOR MORSE: Thank you, Mr. President. With all due respect to Senator Clegg, I think there was a strong effort to bring frivolous lawsuits in, and our friends in the House that fought for frivolous lawsuits said that we were going to have a tough battle to get it through the House because the position was so strong against it. I think when you go through 21 communities and put together a piece of legislation like the 10-year Highway Plan, we have an obligation to move that forward. You know, I have

been accused of not standing on principle today, but the one thing that I learned in the House was to stand on principle on public works, 10-Year Highway Plans. While I do believe the federal government still owes us an answer to the \$9 million worth of projects that were moved up in the 10-Year Highway Plan as to how they are going to fund them, because I don't believe they should be funded in the regular allotment that the state gets. I think we should go with this Committee of Conference and I think we should move forward with the 10-Year Highway Plan. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I, too, support the convening of another Committee of Conference. I think it is in our best interest to do that. It is in the best interest of the people of the state. There are projects that we are very concerned about, particularly the Manchester project. I think that is a vital project, not only for the city but for the state, but there are numerous other projects. I think it is clear that we should go back to the table and certainly the Majority Leader has made his position known, but I think being the political force that he is, he can help us on this new Committee of Conference.

PARLIAMENTARY INQUIRY

SENATOR GREEN: We have a couple of Senators who are missing. What I would like to know is how many votes do you need to have a 2/3 vote? Is it the entire body or is it those present?

SENATOR EATON (In the Chair): Of those present.

SENATOR GREEN: How many votes do we need for 2/3rds?

SENATOR EATON (In the Chair): That is 16, I believe.

SENATOR GREEN: Two Senators.

SENATOR EATON (In the Chair): That is 15.

SENATOR GREEN: So it's those who are present and voting, not the entire body?

SENATOR EATON (In the Chair): That is correct.

SENATOR GREEN: Thank you.

SENATOR KENNEY: Thank you, Mr. President. I would also recommend a Committee of Conference now that I have had time to really think about it, because we have just had this come before us here within the last five to ten minutes. When you look at the process and it starts out at the regional planning level, and you look at the commissioner and the staff that she brings along to these particular meetings, there are dozens and dozens from one end of the state to the other. We have spent literally, probably hundreds of thousands of dollars just to get through this 10-year Highway Plan planning process from the local to the regional, to the state level, and to the Governor and Council level. So I think, out of respect to the Department of Transportation, and the officials, and to the public, who actually themselves went out to these hearings and meetings, and yes, there are winners and there are losers, and yes, the 10-year highway plan is more like the 20-year highway plan, but I think that we owe it to them to respect this process even though we didn't get what we really wanted to get. I think if we are not creating an art of compromise with the House, at least we are creating the art of compromise with the public and with the DOT and the people who came out to the public hearings. So I would support a Committee of Conference.

SENATOR O'HEARN: Senator Clegg, in this 10-year highway plan, if you knew one of the members of the Senate body needed a piece to be put back into the Senate highway plan because it is not in the old one, would you then support reconvening of the Committee of Conference?

SENATOR CLEGG: Well, yes. I would.

SENATOR O'HEARN: Thank you.

SENATOR SAPARETO: Thank you, Mr. President. Senator Clegg, it is my understanding that there are two points that are very important to me in this bill. One is the GARVEE bonds and the other one is, well primarily the GARVEE bonds that we talked...or supported before, and the other is frivolous lawsuits. Is it my understanding that now the House is not willing to consider either one of those two issues?

SENATOR CLEGG: That is correct.

SENATOR SAPARETO: Thank you.

SENATOR CLEGG: You could do a Committee of Conference in two seconds, by just giving up everything we did and agreeing with the House's version of the bill and you'd be all done. You wouldn't even have to come back, you could do it in two seconds.

SENATOR SAPARETO: Thank you.

Recess.

Out of recess.

SENATOR CLEGG: Mr. President, I recommend that we form a new Committee of Conference on the 10-year highway plan.

The question is on the adoption of the suspension of the rules.

A roll call was requested by Senator Gatsas.

Seconded by Senator Martel.

The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Martel, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senators voted No: None.

Yeas: 20 - Nays: 0

Adopted by the necessary 2/3 vote.

**SENATE ACCEDES TO HOUSE REQUEST FOR
A COMMITTEE OF CONFERENCE**

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

Senator Clegg 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: Clegg, Morse & D'allesandro.

Recess.

Out of recess.

SENATOR COHEN (RULE #44): Yes, while my family is here yes, yes. Thank you this is a Rule #44 point of privilege and this speech has been a long time coming. I am not sure if the Grateful Dead have ever been quoted on the Senate floor before, but "What a Long Strange Trip It's Been." I wish to announce today that I am not running for reelection to this great legislative body, the New Hampshire state Senate. It has been exceptionally rewarding, giving of myself to my communities and to my state. Making a difference is what a lot of people dream of and all of us here have had a chance to do that. My experience here started 14 years ago after many hours of caucusing to pick a new Senate President. It was actually at the stroke of midnight on December 5, 1990 as I turned 40 years old. Back then we had no cell phones, no internet. It has been a long time. I never intended to stay in the state Senate this long, but the Republicans kept targeting me for a defeat, so I knew that I must be doing something right. The truth is that all of us here are doing something right. Listening to our constituents, listening to our hearts, attending to the prayers of our minister. Each in our own way, doing what we could to make the state of New Hampshire better. In 14 years, I have had the honor of working with some 74 great, dedicated colleagues. Some really terrific people, too many to list here, but some of them are still with us, many have passed on. It has been really an honor to work with so many state Senators. We won our best results when we worked in a bipartisan fashion. When I worked with Ed DuPont the first Senate President that I worked with and other Republicans to get the state involved in economic development, with the Business Finance Authority, and other novel approaches. We have seen the results that the transformed Pease International Trade Port. There was nothing going on when we started and there was a lot of effort, but my goodness, it was worth it. Together we helped to spread kindergarten across New Hampshire. We worked to protect our natural and cultural resources, enhancing our precious identity. I am particularly proud to have stopped the demolition of the Wentworth Hotel back in 1995 when the owners at the time had the wrecking ball ready. I got a petition here in the state Senate, and 23 of us signed it. That stopped the demolition. Now we have a wonderful, new, grand old hotel. Now it has been returned to its former glory. This is part of New Hampshire's identity, which makes us strong. I am proud to have worked to make sure that people most affected by decisions have a chance to participate in the decision making process, in the cases of cell tower citing, large water withdrawals and use of public land. We need more public participation and decision making. I am still dedicated to making that happen. We moved to improve transportation a bit, as Senator Barnes can recall. We have taken on many fights, taken political risks, but I don't regret a single risk that I have taken. Most frustrating has been our inability to fully and fairly solve our education funding crisis. It is time for a system in which no one pays more than their fair share. As we all know, we are not there yet. I thought that I wouldn't be leaving the state Senate until we had resolved this, but that could take many decades. I am proud to have taken on the polluters. And while we have taken on progress, those in New Hampshire who have a responsibility to reduce mercury pollution, have resisted and still unnecessarily, send mercury into our air, our lakes and our streams. I am proud to have ended legal discrimination based on sexual orientation and required safe storage of loaded weapons when you know children are likely to be present. As I look back, also, I am very proud to have been one of the

people who made the New Hampshire Veteran's Cemetery happen. It is the least that we can do for our veterans. We helped to ensure better protection of child victims of abuse and better prosecution of the perpetrators. We have done a lot in 14 years. I am indeed proud to have served. Being there for constituents. Hearing their thanks is by far the best reward, although I think that we have been worth the money that we do get paid here. Every penny of it. As you know, I intend to continue to serve. I promise to work as hard for the people of the entire state of New Hampshire as I have for the seacoast. I will respect, listen to and respond to those that I serve. I will continue the fight to bring government back to the people. That is what we as granite stater's rightly expect. It is not without some pain that I say goodbye to the New Hampshire Senate, I have indeed loved it. It doesn't matter which party, I will always value the friendships that I have forged and the memories created. I am proud of the work that we have done together. I especially want to thank the Senate staff. Where would we be without you guys? You just hold it all together. I do want to especially want to thank Margaret Fitz that I have had a chance to work with so closely. She has been just terrific. I will really miss her. I thank you for your late nights, your long hours and your dedication of doing what is right. No matter what comes next, I intend to be true to myself and to the citizens of New Hampshire. It has been my goal to meet the challenges set by our nation's founders, to have a republic in which active participating citizens govern ourselves. Each day that we have been in this Chamber, we have succeeded in that goal. Many challenges remain for you and the new faces of those who will be here next year. I sincerely wish you all success as we, each of us in our own way, strive to serve the state that we love. Thank you all.

SENATOR EATON (In the Chair): Thank you Senator Cohen. Thanks for all of your long hours and efforts, and these nice little young ladies also, I know who don't get to see you as much that way either.

SENATOR D'ALLESANDRO (RULE #44): We have a lot of debate in this body and we do a lot of things. As we can see by today's action, all of us have different opinions on different things. But let me just thank every member of this Senate for something that happened this year that is going to make the difference in the lives of people in this state. That was by virtue of the passage of our birth records bill and the passage of our birth records bill in the House. I have been in this business a long time, but never in my life have I had as much invested in a piece of legislation as in the birth records bill. I am the father of adopted children. I know what it means to be looking for your birth parents and not be able to find them. I know what it means to be rebuffed when you go through the court system when that birth parent refuses to recognize you. I know what it is to have that feeling of self be withheld from you. So I brought that bill forward and with the help of many people, and I thank every member of this Senate. I thank you, Mr. President, our majority leader, and everybody here, for allowing that bill to pass. I know it was tough. I know it was a difficult decision for everybody in the Senate. That bill walked out of here 11-10. We overturned an inexpedient to legislate vote in the committee. It was a 5-0 vote. Brought it over to the House and that bill passed overwhelmingly. There are times in this life when you set partisan politics aside and you look at human beings and you say this is the right thing to do because everybody deserves to know who they are. That bill, I can't tell you the calls, letters, cards I have received from

people all over the country. I think if you looked at the front page of *The Union Leader* today, you read a story about an airman who was killed in Vietnam, what 40 years ago? And one thing he wanted to find out was who his parents were because he was an adoptee. He never realized that and never found out. If you read that story, I think it is really a manifestation of everything I talked about on the floor of this Senate. So I am eternally grateful to everybody in this body and everybody on the other side of the wall for making some dreams come true. That's why I came here and that's why I know you're here. It is just one of the great experiences of my life was to wrap my arms around friends and say, listen, you can find out who you are now. You know? That is something that we all want to know. So I thank you, Mr. President and I thank every member of this body for their help and support. As I said, I think that's what government is all about and that's why we come here. Thank you.

SENATOR LARSEN (RULE #44): I just rise at the end of this session to congratulate Senator D'Allesandro, but to also recognize the high ideals that each of us brings to this body, and to particularly recognize Senator Cohen who, for all of these years, has held the highest ideals working on environmental issues, standing up for children, attending children's trust fund committee meetings when they were...when he was in a busy session himself. The many times that all of us spend beyond our session days giving back to our community. Senator Cohen has shown his dedication to the community that he represents and to the community of New Hampshire. So, for that, we thank you for your service. It has been a lot of fun working with you and we look forward to future work together. Thank you.

SUSPENSION OF THE RULES

Senator Clegg moved that the rules of the Senate be so far suspended as to permit the body to act on the report of the Committee of Conference on HB 2004 after the deadline for sign off has passed.

Adopted by the necessary 2/3 vote.

May 25, 2004
2004-1676-CofC
05/10

Committee of Conference Report on HB 2004-FN-LOCAL, an act relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

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 2004-FN-LOCAL, an act relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

*Conferees on the Part
of the Senate*

Sen. Clegg, Dist. 14
 Sen. Morse, Dist. 22
 Sen. D'Allesandro, Dist. 20

*Conferees on the Part
of the House*

Rep. Leber, Merr. 35
 Rep. Rausch, Rock. 77
 Rep. Cloutier, Sull. 22
 Rep. Graham, Hills. 57

The question is on the adoption of the Committee of Conference Report.

A roll call was requested by Senator Gatsas

Seconded by Senator Green.

The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Martel, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senators voted No: Boyce.

Yeas: 20 – Nays: 1

Adopted.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds, relative to frivolous actions against the state concerning state construction projects, and relative to financing federally aided highway projects.

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(s):

HB 697, relative to the sale of motor fuel.

SB 366, relative to the Interstate Insurance Product Compact.

SB 367, relative to the New Hampshire Insurance Guaranty Association Act of 2004.

SB 375, relative to the regulation of physician assistants.

SB 414, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations.

Senator D'Allesandro moved adoption.

Adopted.

RESOLUTION

Senator Clegg moved that the Senate now adjourn from the early session and that the business of the late session be in order at the present time.

Adopted.

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the purposes of receiving Messages, and processing Enrolled Bill Reports and Amendments.

Adopted.

In recess to the Call of the Chair.

The SB 302 Committee of Conference Report spreadsheet

LBAO, 5/19/2004	SB 302 Committee of Conference Report Spreadsheet						FY2005
City/Town	2002 ADM-R	Per-Pupli Adequacy	Targeted Aid	Total Adequacy	SWPT	FY 2005 Adequacy	Savings Due To
	without	Cost	50% poverty	Education		Education	SWPT Rate
	Home		50% property	Cost		Grant	Reduction
	School	\$3,390			3.33		
	199,156	675,137,484	127,222,632	802,360,116	373,519,291	426,840,825	99,825,984
ACWORTH	145.9	494.601	137,208	631,809	186,031	445,778	42,448
ALBANY	134.9	457,311	200,938	658,249	209,730	448,519	39,447
ALEXANDRIA	258.3	675,637	187,483	1,063,120	348,686	714,434	99,613
ALLENSTOWN	828.9	2,609,971	1,450,772	4,260,743	657,155	3,603,588	189,446
ALSTEAD	322.4	1,092,936	511,131	1,804,067	407,267	1,196,800	101
ALTON	683.5	2,317,065	268,488	2,585,553	3,293,632	(708,079)	557,593
AMHERST	2,444.2	8,285,838	103,734	8,389,572	4,310,009	4,079,563	1,425,712
ANDOVER	317.8	1,077,342	134,244	1,211,586	517,285	694,301	203,683
ANTRIM	528.9	1,792,971	791,777	2,584,748	537,650	2,047,098	139,023
ASHLAND	286.7	971,913	180,978	1,152,891	467,190	685,700	120,580
ATK & GILMANTON ACAD.					2,605	(2,605)	1,061
ATKINSON	991.3	3,360,507	20,340	3,380,847	2,563,253	817,594	729,566
AUBURN	908.3	3,079,137	254,372	3,333,509	1,514,690	1,818,819	303,970
BARNSTEAD	739.2	2,505,888	688,211	3,194,099	1,036,665	2,157,434	241,624
BARRINGTON	1,265.1	4,288,689	712,993	5,001,682	1,841,419	3,160,262	555,834
BARTLETT	418.0	1,417,020	176,958	1,593,978	2,094,150	(500,172)	514,856
BATH	137.7	466,803	125,102	591,905	195,640	396,265	33,468
BEAN'S GRANT							
BEAN'S PURCHASE					304	(304)	79
BEDFORD	3,390.5	11,493,765	75,258	11,569,023	8,196,273	3,372,780	2,549,153
BELMONT	1,169.7	3,965,283	1,136,384	5,100,667	1,627,748	3,472,919	335,191
BENNINGTON	235.7	799,023	324,831	1,123,854	252,596	871,258	56,888
BENTON	35.0	118,650	14,238	132,888	53,495	79,393	23,918
BERLIN	1,421.0	4,817,190	2,991,789	7,808,979	833,213	6,975,766	426,325
BETHLEHEM	386.6	1,310,574	402,206	1,712,780	612,464	1,100,316	79,662
BOSCAWEN	521.5	1,767,885	597,553	2,365,438	620,718	1,744,721	168,167
BOW	1,722.2	5,838,258	52,884	5,891,142	2,360,297	3,530,845	1,073,642
BRADFORD	260.6	883,434	108,105	991,539	443,390	548,148	95,608
BRENTWOOD	605.3	2,051,967	36,612	2,088,579	1,065,143	1,023,436	309,779
BRIDGEWATER	135.3	458,667	52,684	511,351	754,930	(243,379)	66,442
BRISTOL	494.7	1,677,033	240,012	1,917,045	950,567	966,478	151,645
BROOKFIELD	104.6	354,594	6,136	362,730	230,581	131,849	61,083
BROOKLINE	991.6	3,361,524	781,159	4,142,683	1,209,131	2,933,551	320,423
CAMBRIDGE	0.8	2,712		2,712	21,265	(18,553)	6,623
CAMPTON	482.7	1,636,353	426,257	2,062,610	689,541	1,373,069	224,300
CANAAN	546.8	1,853,652	593,625	2,447,277	678,304	1,768,973	177,419
CANDIA	660.4	2,238,758	165,147	2,403,905	1,069,609	1,334,294	301,702
CANTERBURY	292.4	991,236	18,306	1,009,542	602,918	406,624	126,423
CARROLL	101.1	342,729	44,748	387,477	581,726	(174,249)	108,592
CENTER HARBOR	133.7	453,243	32,544	485,787	1,112,145	(626,358)	297,367
CHANDLER'S PURCHASE					66	(66)	17
CHARLESTOWN	860.2	2,916,078	1,692,894	4,608,972	659,707	3,949,264	141,342
CHATHAM	54.3	184,077		184,077	103,385	80,692	47,844
CHESTER	816.3	2,767,257	282,523	3,049,780	1,265,114	1,784,666	317,761
CHESTERFIELD	636.3	2,157,057	101,700	2,258,757	1,145,077	1,113,680	282,478
CHICHESTER	362.6	1,229,214	127,809	1,357,023	619,378	737,645	124,765
CLAREMONT	1,918.2	6,502,698	3,047,573	9,550,271	1,784,816	7,765,452	720,442
CLARKSVILLE	41.9	142,041	8,136	150,177	77,250	72,927	14,911

COLEBROOK	360.0	1,220,400	666,466	1,886,866	316,904	1,569,963	67,202
COLUMBIA	105.7	358,323	73,224	431,547	120,664	310,883	32,476
CONCORD	6,089.4	20,643,066	3,355,831	23,998,897	9,438,149	14,560,749	2,756,290
CONWAY	1,355.5	4,595,145	726,138	5,321,283	3,306,784	2,014,499	873,304
CORNISH	272.2	922,758	223,110	1,145,868	342,350	803,518	83,198
CRAWFORD'S PURCH.	-	-	-	-	551	(551)	143
CROYDON	96.8	328,152	46,337	374,489	154,793	219,696	39,679
CUTT'S GRANT	-	-	-	-	-	-	-
DALTON	143.4	486,126	215,401	701,527	189,150	512,377	28,992
DANBURY	186.2	631,218	219,479	850,697	251,459	599,238	62,062
DANVILLE	759.6	2,575,044	558,986	3,134,030	978,530	2,155,499	288,219
DEERFIELD	732.6	2,483,514	343,243	2,826,757	1,123,831	1,702,926	246,820
DEERING	271.4	920,046	324,591	1,244,637	402,499	842,138	44,719
DERRY	6,797.4	23,043,186	7,967,621	31,010,807	7,669,292	23,341,515	1,871,700
DIX GRANT	0.0	-	-	-	2,902	(2,902)	1,077
DIXVILLE	1.0	3,390	-	3,390	66,671	(63,281)	18,270
DORCHESTER	68.6	232,554	116,429	348,983	76,138	272,845	17,202
DOVER	3,236.5	10,971,735	1,955,324	12,367,059	6,701,724	5,665,335	2,014,714
DUBLIN	141.3	479,007	36,612	515,619	533,988	(18,369)	387,948
DUMMER	62.3	211,197	24,408	235,605	84,223	151,382	76,755
DUNBARTON	347.1	1,176,869	30,510	1,207,179	680,674	526,505	142,214
DURHAM	1,043.1	3,536,109	54,918	3,591,027	2,330,102	1,360,925	712,021
EAST KINGSTON	345.0	1,169,550	20,340	1,189,890	600,277	589,613	205,120
EASTON	26.1	88,479	6,102	94,581	120,582	(26,001)	40,006
EATON	57.0	193,230	10,170	203,400	210,598	(7,198)	15,623
EFFINGHAM	219.5	744,105	197,292	941,397	313,556	627,801	131,663
ELLSWORTH	12.8	43,392	-	43,392	28,582	14,810	8,951
ENFIELD	564.0	1,911,960	187,128	2,099,088	1,067,504	1,031,584	249,845
EPPING	918.8	3,114,732	667,331	3,782,063	1,358,285	2,423,778	295,153
EPSOM	647.2	2,194,008	396,353	2,590,361	952,332	1,638,029	222,717
ERROL	33.2	112,548	14,238	126,786	135,649	(8,863)	58,767
ERVING'S GRANT	-	-	-	-	314	(314)	151
EXETER	2,291.2	7,767,168	274,590	8,041,758	4,026,604	4,015,154	1,200,747
FARMINGTON	1,057.4	3,584,586	1,941,313	5,525,899	1,019,951	4,505,949	233,344
FITZWILLIAM	335.8	1,138,362	216,258	1,354,620	560,523	794,097	108,878
FRANCESTOWN	263.2	892,248	103,197	995,445	452,637	542,807	112,074
FRANCONIA	144.3	489,177	52,884	542,061	561,101	(19,040)	140,241
FRANKLIN	1,268.2	4,299,198	2,653,654	6,852,852	1,276,515	5,576,337	269,336
FREEDOM	138.1	468,159	50,850	519,009	993,459	(474,450)	243,627
FREMONT	610.7	2,070,273	235,557	2,305,830	910,313	1,395,516	267,174
GILFORD	1,197.5	4,059,525	215,604	4,275,129	3,667,049	608,080	882,553
GILMANTON	531.3	1,801,107	220,306	2,021,413	976,193	1,045,220	111,869
GILSUM	110.0	372,900	158,744	531,644	112,623	419,020	43,267
GOFFSTOWN	2,307.3	7,821,747	748,130	8,569,877	3,675,235	4,894,642	957,048
GORHAM	467.0	1,583,130	440,161	2,023,291	477,823	1,545,468	201,006
GOSHEN	126.5	428,835	166,975	595,810	161,155	434,654	24,262
GRAFTON	191.3	648,507	222,821	871,328	227,558	643,770	36,892
GRANTHAM	300.3	1,018,017	40,680	1,058,697	1,205,909	(147,212)	237,033
GREENFIELD	258.9	877,671	171,501	1,049,172	360,737	688,435	106,530
GREENLAND	496.1	1,681,779	38,646	1,720,425	1,504,419	216,006	444,527
GREEN'S GRANT	-	-	-	-	8,953	(8,953)	2,293
GREENVILLE	375.4	1,272,606	743,888	2,016,494	239,492	1,777,002	106,522
GROTON	83.5	283,065	65,428	348,493	112,432	236,061	31,022
HADLEY'S PURCH	-	-	-	-	-	-	-
HALES LOCATION	0.0	-	-	-	141,160	(141,160)	37,059
HAMPSTEAD	1,662.0	5,634,180	70,009	5,704,189	2,720,156	2,984,033	907,470
HAMPTON	1,962.3	6,652,197	614,268	7,266,465	7,454,376	(187,911)	2,327,788
HAMPTON FALLS	326.5	1,106,835	10,170	1,117,005	998,776	118,229	330,426
HANCOCK	269.9	914,961	38,612	951,573	605,432	346,141	178,714

HANOVER	1,164.8	3,948,672	24,406	3,973,080	4,692,632	(719,552)	997,976
HARRISVILLE	120.7	403,173	12,204	421,377	373,355	48,022	118,724
HART'S LOCATION	7.5	25,425	-	25,425	39,246	(13,821)	11,176
HAVERHILL	684.2	2,319,438	907,333	3,226,771	654,435	2,672,336	233,846
HEBRON	34.6	117,284	10,170	127,454	510,725	(383,261)	187,954
HENNIKER	803.6	2,724,204	768,380	3,492,584	971,774	2,520,810	237,042
HILL	168.0	569,520	147,153	716,673	228,834	487,838	24,036
HILLSBORO	918.6	3,114,054	1,329,460	4,443,514	1,064,094	3,379,420	269,214
HINSDALE	743.4	2,520,126	1,346,876	3,867,002	519,841	3,347,162	201,774
HOLDERNESS	333.2	1,129,548	75,258	1,204,806	1,512,002	(307,196)	139,881
HOLLIS	1,506.1	5,105,679	54,918	5,160,597	3,171,846	1,988,651	1,186,297
HOOKSETT	1,870.6	6,341,334	278,658	6,619,992	3,901,171	2,718,821	781,060
HOPKINTON	964.0	3,267,960	107,822	3,375,782	1,725,839	1,649,923	398,396
HUDSON	3,994.1	13,539,999	380,358	13,920,357	6,851,445	7,068,912	2,357,695
JACKSON	82.3	278,997	4,068	283,065	873,480	(590,415)	199,436
JAFFREY	841.5	2,852,685	699,895	3,552,580	1,178,629	2,373,951	339,532
JEFFERSON	160.5	544,095	87,796	631,891	241,670	390,221	80,557
KEENE	3,063.5	10,385,265	2,665,155	13,050,420	4,179,719	8,870,701	1,406,329
KENSINGTON	370.4	1,255,656	10,170	1,265,826	816,397	449,429	165,156
KILKENNY	-	-	-	-	-	-	-
KINGSTON	968.0	3,281,520	130,176	3,411,696	1,770,109	1,641,587	515,217
LACONIA	2,310.6	7,832,934	1,560,078	9,393,012	4,399,783	4,993,229	1,032,406
LANCASTER	578.8	1,962,132	1,033,034	2,995,166	534,591	2,460,575	140,628
LANDAFF	41.1	139,329	12,204	151,533	85,973	65,560	16,357
LANGDON	89.9	304,761	76,144	380,905	114,510	266,395	46,552
LEBANON	1,742.8	5,908,902	463,752	6,371,844	3,796,846	2,574,998	1,311,699
LEE	848.4	2,876,076	508,196	3,384,272	1,115,689	2,268,583	370,016
LEMPSTER	155.0	525,450	202,962	728,412	195,066	533,347	24,815
LINCOLN	165.6	561,384	48,816	610,200	1,603,639	(993,439)	278,167
LISBON	292.6	991,914	579,800	1,571,714	267,284	1,304,430	50,421
LITCHFIELD	1,539.5	5,218,905	1,242,583	6,461,488	1,978,254	4,483,234	386,286
LITTLETON	923.8	3,131,682	644,442	3,776,124	1,218,879	2,557,245	307,348
LIVERMORE	-	-	-	-	171	(171)	82
LONDONDERRY	5,531.0	18,750,090	3,513,489	22,263,579	8,134,322	14,129,257	1,138,828
LOUDON	796.6	2,700,474	470,384	3,170,858	1,223,977	1,946,881	254,337
LOW & BURBANK GR.	-	-	-	-	-	-	-
LYMAN	63.2	214,248	36,288	250,536	108,627	141,909	20,173
LYME	258.2	875,298	20,340	895,638	719,391	176,247	165,396
LYNDEBOROUGH	237.8	806,142	38,846	844,988	409,557	435,231	230,701
MADBURY	335.7	1,138,023	274,016	1,412,039	448,895	963,144	86,683
MADISON	380.3	1,289,217	115,938	1,405,155	964,218	440,937	124,779
MANCHESTER	14,818.1	50,233,359	13,230,034	63,463,393	22,402,805	41,060,588	5,437,211
MARLBOROUGH	305.3	1,034,967	284,495	1,319,462	405,123	914,339	77,556
MARLOW	115.0	389,850	116,268	506,118	134,201	371,917	47,272
MARTIN'S LOCATION	0.0	-	-	-	-	-	-
MASON	174.4	591,216	10,170	601,386	334,331	267,055	154,443
MEREWORTH	961.3	3,258,807	498,330	3,757,137	3,428,182	328,955	948,389
MERRIMACK	4,738.3	16,062,837	288,828	16,351,665	7,929,301	8,422,364	2,607,688
MIDDLETON	292.9	992,931	406,959	1,399,890	345,010	1,054,880	73,230
MILAN	249.1	844,449	355,170	1,199,619	221,925	977,695	56,651
MILFORD	2,443.1	8,282,109	1,493,154	9,775,263	3,491,168	6,284,095	1,114,345
MILLSFIELD	2.5	8,475	-	8,475	18,351	(9,876)	5,422
MILTON	666.1	2,256,079	1,020,912	3,276,991	879,464	2,399,527	105,732
MONROE	127.8	433,242	-	433,242	169,244	263,998	25,991
MONT VERNON	448.4	1,520,076	291,078	1,811,154	629,787	1,181,366	127,870
MOULTONBOROUGH	666.4	2,259,096	203,400	2,462,496	6,496,076	(4,033,580)	1,672,367
NASHUA	12,914.4	43,779,816	6,108,102	49,887,918	23,981,920	25,905,998	7,638,946
NELSON	112.1	380,019	32,544	412,563	209,239	203,324	61,018
NEW BOSTON	767.4	2,601,486	206,770	2,808,256	1,228,006	1,580,250	325,232

NEW CASTLE	111.9	379,341	-	379,341	1,402,214	(1,022,873)	589,413
NEW DURHAM	419.5	1,422,105	120,006	1,542,111	913,052	629,059	44,667
NEW HAMPTON	274.5	930,555	107,802	1,038,357	532,741	505,616	112,516
NEW IPSWICH	817.9	2,772,681	969,908	3,742,589	936,887	2,805,702	245,700
NEW LONDON	409.9	1,389,561	69,156	1,458,717	2,973,602	(1,514,885)	(330,088)
NEWBURY	276.7	938,013	44,748	982,761	1,456,325	(473,564)	137,214
NEWFIELDS	305.2	1,034,628	4,068	1,038,696	653,319	385,377	209,429
NEWINGTON	110.8	375,612	12,204	387,816	2,104,194	(1,716,378)	155,422
NEWMARKET	1,057.2	3,583,908	322,611	3,906,519	1,818,243	2,088,276	458,013
NEWPORT	1,110.2	3,763,578	2,098,605	5,862,383	902,129	4,960,253	346,074
NEWTON	808.4	2,740,476	436,389	3,176,865	1,184,253	1,992,612	250,201
NORTH HAMPTON	675.3	2,289,287	69,156	2,358,423	2,846,703	(488,280)	310,727
NORTHFIELD	815.9	2,765,901	1,344,295	4,110,196	655,055	3,455,141	264,449
NORTHUMBERLAND	421.1	1,427,529	764,087	2,191,616	305,502	1,886,115	107,570
NORTHWOOD	723.2	2,451,648	399,332	2,850,980	997,712	1,853,268	342,969
NOTTINGHAM	655.9	2,223,501	120,006	2,343,507	1,223,731	1,119,776	354,507
ODELL	0.0	-	-	-	6,106	(6,106)	1,804
ORANGE	56.5	191,535	65,703	257,238	57,040	200,199	22,653
ORFORD	149.9	508,161	-	508,161	333,304	174,857	29,655
OSSISPEE	707.5	2,398,425	500,364	2,898,789	1,442,957	1,455,832	136,095
PELHAM	1,916.4	6,496,596	156,618	6,653,214	3,511,451	3,141,763	1,223,616
PEMBROKE	1,185.7	4,019,523	1,243,142	5,262,665	1,357,650	3,905,015	403,531
PETERBOROUGH	978.0	3,315,420	317,304	3,632,724	1,687,331	1,945,393	464,299
PIERMONT	113.7	385,443	44,934	430,377	145,237	285,140	93,838
PINKHAM'S GRANT	0.0	-	-	-	11,579	(11,579)	3,119
PITTSBURG	124.9	423,411	42,714	466,125	450,936	15,199	160,060
PITTSFIELD	782.7	2,653,353	1,648,600	4,301,953	641,711	3,660,241	105,931
PLAINFIELD	369.1	1,251,249	78,168	1,329,417	586,009	743,409	185,435
PLAISTOW	1,345.7	4,561,923	93,564	4,655,487	2,568,973	2,086,514	883,280
PLYMOUTH	691.8	2,345,202	1,108,187	3,453,389	726,237	2,727,151	210,466
PORTSMOUTH	2,162.5	7,330,875	1,112,598	8,443,473	9,543,113	(1,099,640)	4,527,890
RANDOLPH	40.2	136,278	10,170	146,448	129,968	16,482	52,863
RAYMOND	1,705.9	5,783,001	1,785,190	7,568,191	2,188,275	5,381,916	575,107
RICHMOND	197.8	670,542	232,542	903,084	217,892	685,192	70,679
RINDGE	757.4	2,567,586	250,182	2,817,768	1,436,705	1,381,063	281,300
ROCHESTER	4,360.4	14,781,756	5,028,701	19,810,457	5,242,697	14,567,760	1,723,968
ROLLINSFORD	328.3	1,112,937	61,020	1,173,957	648,750	525,207	188,212
ROXBURY	29.4	99,666	6,102	105,768	61,742	44,026	16,018
RUMNEY	224.1	759,699	132,210	891,909	372,554	519,355	121,350
RYE	704.6	2,388,594	32,544	2,421,138	4,510,516	(2,089,378)	1,345,469
SALEM	4,509.6	15,287,544	797,328	16,084,872	11,659,288	4,425,584	3,248,615
SALISBURY	194.5	659,355	83,654	743,009	276,460	466,549	92,571
SANBORTON	375.2	1,271,928	93,564	1,365,492	999,532	365,960	171,104
SANDOWN	1,107.9	3,755,781	992,635	4,748,416	1,336,487	3,411,928	323,026
SANDWICH	166.6	564,774	38,646	603,420	977,655	(374,235)	156,449
SARGENT'S PURCHASE	-	-	-	-	19,373	(19,373)	5,810
SEABROOK	1,069.9	3,626,961	612,234	4,239,195	2,967,813	1,271,382	892,618
SECOND COLLEGE GR.	-	-	-	-	5,544	(5,544)	2,337
SHARON	47.1	159,669	16,272	175,941	118,250	57,691	32,414
SHELBURNE	60.7	205,773	14,238	220,011	102,844	117,167	42,792
SOMERSWORTH	1,669.8	5,660,622	2,016,323	7,676,945	2,130,549	5,546,396	518,726
SOUTH HAMPTON	133.9	453,921	-	453,921	349,718	104,203	162,115
SPRINGFIELD	185.6	629,622	36,612	666,474	398,834	267,640	67,040
STARK	91.6	310,524	80,318	390,842	88,802	302,040	29,261
STEWARTSTOWN	129.6	439,344	127,488	566,832	149,242	417,590	35,761
STODDARD	98.8	334,932	6,102	341,034	475,592	(134,558)	104,037
STRAFFORD	788.0	2,671,320	500,471	3,171,791	1,075,418	2,096,373	286,462
STRATFORD	131.6	446,802	253,204	700,006	107,812	592,194	19,089
STRATHAM	1,260.0	4,271,400	58,986	4,330,386	2,898,172	1,432,214	986,819

SUCCESS	0.0	-	-	-	30,231	(30,231)	9,512
SUGAR HILL	68.7	232,853	4,068	236,961	347,498	(110,537)	62,066
SULLIVAN	97.2	329,508	158,024	487,532	96,847	390,685	25,553
SUNAPEE	511.6	1,734,324	134,244	1,868,568	2,414,601	(546,233)	256,220
SURRY	82.0	277,980	150,516	428,496	169,472	259,024	59,920
SUTTON	256.1	868,179	14,238	882,417	527,683	354,734	142,492
SWANZEY	1,203.8	4,080,204	1,826,350	5,706,554	1,271,415	4,435,139	373,647
TAMWORTH	362.4	1,228,536	138,312	1,366,848	766,589	600,259	66,678
TEMPLE	231.1	783,429	124,612	908,041	355,890	552,151	67,801
THOM & MES PURCH.		-	-	-	17,008	(17,008)	4,962
THORNTON	272.4	923,436	95,598	1,019,034	636,148	382,886	154,923
TILTON	506.2	1,716,018	303,066	2,019,084	1,176,080	843,004	222,667
TROY	391.4	1,326,846	599,775	1,926,621	297,484	1,629,137	107,956
TUFTONBORO	286.2	970,218	134,244	1,104,462	2,051,006	(946,544)	219,719
UNITY	186.8	633,252	204,573	837,825	245,610	592,215	47,661
WAKEFIELD	733.4	2,486,226	412,902	2,899,128	1,877,940	1,021,188	83,764
WALPOLE	553.4	1,876,026	130,176	2,006,202	874,513	1,131,689	357,441
WARNER	408.5	1,384,815	207,619	1,592,434	650,824	941,810	182,100
WARREN	134.4	455,616	192,800	648,416	138,817	509,599	17,523
WASHINGTON	134.2	454,938	54,918	509,856	417,827	92,029	94,906
WATERVILLE VALLEY	26.9	91,191	-	91,191	736,834	(645,643)	220,454
WEARE	1,711.9	5,803,341	1,921,854	7,725,195	1,823,120	5,902,075	438,440
WEBSTER	242.2	821,058	98,660	919,718	447,992	471,726	40,769
WENTWORTH	157.6	534,264	238,955	773,219	180,227	592,993	21,400
WENTWORTH LOC.	4.3	14,577	4,068	18,645	21,084	(2,439)	6,309
WESTMORELAND	254.7	863,433	143,074	1,006,507	389,839	616,668	84,289
WHITEFIELD	340.6	1,154,634	517,519	1,672,153	392,276	1,279,877	51,421
WILMOT	212.2	719,358	54,320	773,678	357,121	416,556	71,803
WILTON	518.3	1,757,037	113,904	1,870,941	1,021,007	849,934	277,395
WINCHESTER	674.4	2,286,216	1,437,224	3,723,440	556,649	3,166,791	180,315
WINDHAM	2,111.1	7,156,629	91,530	7,248,159	4,916,084	2,332,075	1,245,391
WINDSOR	27.5	93,225	10,170	103,395	52,713	50,682	18,653
WOLFEBORO	953.7	3,233,043	280,692	3,513,735	4,234,708	(720,973)	135,865
WOODSTOCK	199.1	674,949	58,986	733,935	511,022	222,913	230,317
	199,156	675,137,484	127,222,632	802,360,116	373,519,291	428,840,825	99,825,984

Out of Recess.

June 3, 2004
2004-1697-EBA
06/01

Enrolled Bill Amendment to SB 109

The Committee on Enrolled Bills to which was referred SB 109

AN ACT adopting the model Drug Dealer Liability Act and permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

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 109**

This enrolled bill amendment corrects the title of the bill to reflect its contents and makes certain technical corrections.

Enrolled Bill Amendment to SB 109

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

AN ACT adopting the model Drug Dealer Liability Act.

Amend RSA 318-C:3, VIII, as inserted by section 1 of the bill by replacing line 2 with the following:

and interdependent, even if their identities are unknown to one another. Each new dealer obtains the

Amend RSA 318-C:3, IX, as inserted by section 1 of the bill by replacing line 3 with the following:

manufacturer of the product that is claimed to have caused them harm, allowing recovery from all

Amend RSA 318-C:12, as inserted by section 1 of the bill by replacing line 5 with the following:

chapter and existing law against a person against whom a defendant has asserted a right of contribution.

Senator Eaton moved adoption.

Adopted.

May 27, 2004
2004-1679-EBA
03/09

Enrolled Bill Amendment to SB 153

The Committee on Enrolled Bills to which was referred SB 153

AN ACT adopting the nurse licensure compact.

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 153**

This enrolled bill amendment makes grammatical corrections and inserts an omitted word.

Enrolled Bill Amendment to SB 153

Amend RSA 326-B:34, article II(n) as inserted by section 3 of the bill by replacing line 3 with the following:
grounds for imposing discipline. The term state practice laws does not include the initial

Amend RSA 326-B:34, article III(b) as inserted by section 3 of the bill by replacing line 2 with the following:
multistate licensure privilege of any nurse to practice in their states and may take any other actions

Amend RSA 326-B:34, article VI(b) as inserted by section 3 of the bill by replacing line 8 with the following:
evidence are located;

Amend RSA 326-B:34, article VI(c) as inserted by section 3 of the bill by replacing line 2 with the following:
states;

Amend RSA 326-B:34, article IX as inserted by section 3 of the bill by replacing lines 1-2 with the following:
No party state or the officers or employees or agents of a party state's nurse licensing board who act in accordance with the provisions of this compact are liable on account of any act or omission in good

Amend RSA 326-B:4, XIV as inserted by section 4 of the bill by replacing line 4 with the following:
examinations, ~~and~~ renewal of licenses, *and multistate licenses*, as well as fees for verifying

Amend section 5 of the bill by replacing lines 3-7 with the following:

XV. Require a registered nurse or a licensed practical nurse licensed in the state of New Hampshire to obtain a multistate license if the registered nurse or licensed practical nurse practices in a remote state. The board may charge an additional fee for such a multistate license.

XVI. In accordance with state due process laws, limit the multistate

Amend RSA 326-B:8-a, V as inserted by section 6 of the bill by replacing line 3 with the following:

nurse or licensed practical nurse changes his or her residency to New Hampshire. The registered nurse or

Senator Eaton moved adoption.

Adopted.

May 28, 2004
2004-1684-EBA
04/09

Enrolled Bill Amendment to HB 243

The Committee on Enrolled Bills to which was referred HB 243

AN ACT relative to motor vehicle exhaust noise standards.

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 243

This enrolled bill amendment corrects the effective date of the bill.

Enrolled Bill Amendment to HB 243

Amend the bill by replacing section 2 with the following:
2 Effective Date. This act shall take effect upon its passage.

Senator Eaton moved adoption.

Adopted.

May 28, 2004
2004-1682-EBA
09/01

Enrolled Bill Amendment to SB 302-FN-LOCAL

The Committee on Enrolled Bills to which was referred SB 302-FN-LOCAL

AN ACT making technical corrections to the education funding formula.

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 302-FN-LOCAL**

This enrolled bill amendment integrates changes made by SB 324-FN-LOCAL of the 2004 legislative session into sections 1 and 2 of this bill if SB 324-FN-LOCAL becomes law. This enrolled bill amendment also integrates a change made by HB 1355 (chapter 97) of the 2004 legislative session into the text of RSA 198:39, I(h).

The enrolled bill amendment changes the word “excluding” to “including” in 2 places in RSA 198:41, II as inserted by section 8 of the bill, to reflect the intent of the legislature. The enrolled bill amendment also corrects a cross-reference and makes other technical corrections.

Enrolled Bill Amendment to SB 302-FN-LOCAL

Amend section 6 of the bill by replacing line 2 with the following: 2005. The introductory paragraph of RSA 198:40, I is repealed and re-enacted to read as follows:

Amend RSA 198:41, II(a)(1) as inserted by section 8 of the bill by replacing line 2 with the following:
by the department of revenue administration, including property subject to taxation under RSA 82

Amend RSA 198:41, II(a)(2) as inserted by section 8 of the bill by replacing line 2 with the following:
the department of revenue administration, including property subject to taxation under RSA 82 and

Amend RSA 195:14, I(c) as inserted by section 10 of the bill by replacing line 3 with the following:
shall include the adequate education cost for the district under RSA 198:38, [XH] VII, and the

Amend RSA 195:14, I(d)(2) as inserted by section 10 of the bill by replacing line 2 with the following:
adequate education cost under RSA 198:38, [XH] VII, from its proportional share of the total

Amend RSA 195:14, I(d)(4) as inserted by section 10 of the bill by replacing lines 4 and 5 with the following:
subparagraph [(†)] (I) and the pre-existing district’s adequate education cost under RSA 198:38, [XH] VII.

Amend RSA 195:15 as inserted by section 11 of the bill by replacing line 6 with the following:

RSA 198:38, ~~[XH]~~ **VII** credited against its share of the cooperative school district budget. However,

Amend RSA 198:44, I as inserted by section 13 of the bill by replacing line 4 with the following:
~~membership in residence[, and weighted average daily membership in residence], including the~~

Amend RSA 198:39, I(h) as inserted by section 20 of the bill by replacing it with the following:

(h) All moneys due the fund in accordance with RSA 284:21-j, relative to sweepstakes and the lottery.

Amend the bill by replacing all after section 24 with the following:

25 Consumer Price Index Adjustments to the Base Cost Per Pupil Calculation. Amend 2003, 241:4 to read as follows:

241:4 Consumer Price Index Adjustments to the Base Cost Per Pupil Calculation. For the 2004 ~~[fiscal year]~~ **-2005 biennium**, the base cost per pupil shall be adjusted by the average annual percentage rate of inflation for the 4 immediately preceding calendar years.

26 Statewide Enhanced Education Tax; Version Effective July 1, 2004. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Statewide Enhanced Education Tax. An annual education property tax at the uniform rate of \$3.33 on each \$1,000 of the value of taxable property, except property subject to tax under RSA 82 and RSA 83-F, is hereby imposed on all persons and property taxable pursuant to RSA 76:8.

27 Statewide Enhanced Education Tax; Version Effective July 1, 2005. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. Beginning July 1, 2005, and every fiscal year thereafter, the commissioner of the department of revenue administration shall set the education property tax rate at a level sufficient to generate revenue equal to the statewide education property tax revenue generated in the previous fiscal year. Such rate shall be imposed on all persons and property taxable pursuant to RSA 76:8, except property subject to tax under RSA 82 and RSA 83-F. The education property tax rate shall be effective for the fiscal year in which the calculation is made.

28 Contingency. If SB 324-FN-LOCAL of the 2004 legislative session becomes law, section 26 of this act shall take effect July 1, 2004 at 12:02 a.m., section 27 of this act shall take effect July 1, 2005 at 12:02 a.m., and sections 1 and 2 of this act shall not take effect. If SB 324-FN-LOCAL does not become law, section 1 of this act shall take effect July 1, 2004, section 2 of this act shall take effect July 1, 2005, and sections 26 and 27 of this act shall not take effect.

29 Effective Date.

I. Sections 1, 2, 26 and 27 shall take effect as provided in section 28 of this act.

II. Sections 6, and 7 shall take effect July 1, 2005.

III. Section 24 of this act shall take effect June 30, 2004.

IV. Sections 16-22 of this act shall take effect as provided in section 23 of this act.

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

Senator Eaton moved adoption.

Adopted.

June 3, 2004
2004-1696-EBA
03/10

Enrolled Bill Amendment to HB 369

The Committee on Enrolled Bills to which was referred HB 369
 AN ACT relative to the Henniker and Hillsborough district courts.

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 HB 369

This enrolled bill amendment corrects the title of the bill in order to
 reflect the contents of the bill.

Enrolled Bill Amendment to HB 369

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

AN ACT relative to the Henniker and Hillsborough district courts and
 to the Hampton and Exeter district courts.

Senator Eaton moved adoption.

Adopted.

June 3, 2004
2004-1702-EBA
06/10

Enrolled Bill Amendment to SB 376-FN-A

The Committee on Enrolled Bills to which was referred SB 376-FN-A
 AN ACT relative to pharmaceutical purchases for receiving facilities and
 nonprofit hospitals, relative to the medicaid enhancement tax,
 relative to nursing facility quality assessments, relative to cer-
 tain medicaid programs, and relative to rural hospitals.

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 376-FN-A

This enrolled bill amendment makes a technical correction to the bill.

Enrolled Bill Amendment to SB 376-FN-A

Amend the bill by replacing section 10 with the following:

10 Repeal. RSA 84-A:1, II, relative to the definition of gross patient
 services revenue, is repealed.

Senator Eaton moved adoption.

Adopted.

May 26, 2004
2004-1677-EBA
05/10

Enrolled Bill Amendment to SB 391

The Committee on Enrolled Bills to which was referred SB 391

AN ACT relative to bond votes in municipalities using chartered official
 ballot voting procedures, relative to Claremont school district
 elections, and relative to the elections of officials of the union
 school district of Keene.

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 391

This enrolled bill amendment corrects a statutory reference and bill section references.

Enrolled Bill Amendment to SB 391

Amend section 2 of the bill by replacing line 1 with the following:

2 Municipal Bonds; Town Charters. Amend RSA 49-D:3, I-a to read as follows:

Amend section 8 of the bill by replacing line 5 with the following:

November biennial elections, and adopting the provisions of sections 5, 6, and 7 of senate bill 391 of

Senator Eaton moved adoption.

Adopted.

May 20, 2004

2004-1673-EBA

04/10

Enrolled Bill Amendment to SB 406

The Committee on Enrolled Bills to which was referred SB 406

AN ACT relative to adoption 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 406

This enrolled bill amendment corrects RSA references and, due to the enactment of 2004, 99 (SB 335 of the 2004 legislative session), this amendment makes a technical correction and deletes section 4 of the bill because the RSA section was previously amended by 2004, 99:1.

Enrolled Bill Amendment to SB 406

Amend RSA 170-B:2, X(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The person designated as the father pursuant to RSA [~~126:6-a~~] **5-C:11** on that child's birth certificate;

Amend RSA 170-B:16, VII as inserted by section 1 of the bill by replacing line 2 with the following:

documentation indicating compliance with RSA 170-A and RSA 170-B:28.

Amend the bill by deleting section 4 and renumbering the remaining sections 5-9 to read as 4-8, respectively.

Amend the bill by replacing section 6 with the following:

6 Annulment, Divorce, and Separation; Grandparents Visitation Rights; Reference Change.

RSA 458:17-d, VI is repealed and reenacted to read as follows:

VI. Nothing contained in this section shall be construed to affect the rights of a child or birth parent or guardian under RSA 463 or adoptive parent under RSA 170-B:25.

Senator Eaton moved adoption.

Adopted.

May 1, 2004
2004-1549-EBA
08/10

Enrolled Bill Amendment to SB 448-FN

The Committee on Enrolled Bills to which was referred SB 448-FN AN ACT relative to consumer guaranty contracts.

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 448-FN

This enrolled bill amendment makes various technical corrections.

Enrolled Bill Amendment to SB 448-FN

Amend section 1 of the bill by replacing line 1 with the following:

1 Consumer Guaranty Contracts. RSA 415-C is repealed and

Amend RSA 415-C:1, III(b)(3) as inserted by section 1 of the bill by replacing line 1 with the following:

(3) Debt cancellation or debt suspension contracts not subject to 12 CFR 37 or

Amend RSA 415-C:2, II as inserted by section 1 of the bill by replacing lines 2 and 3 with the following:

insurance laws, except for the provisions of RSA 400-A:16 through RSA 400-A:25 or as provided by this chapter.

Amend RSA 415-C:4, III as inserted by section 1 of the bill by replacing line 2 with the following:

obligor's parent, maintains a net worth or stockholders' equity of \$25,000,000 or more as evidenced

Amend RSA 415-C:6, III(a) as inserted by section 1 of the bill by replacing line 2 with the following:

not required to be preprinted on the service contract and may be negotiated at the time of sale with

Amend section 2 of the bill by replacing lines 1 and 2 with the following:

2 Insurance Department; Fees. RSA 400-A:29, VIII-a is repealed and reenacted to read as follows:

Senator Eaton moved adoption.

Adopted.

June 3, 2004
2004-1703-EBA
06/01

Enrolled Bill Amendment to SB 478-FN

The Committee on Enrolled Bills to which was referred SB 478-FN AN ACT relative to penalties for DWI offenses.

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 478-FN

This enrolled bill amendment makes technical corrections to the bill.

Enrolled Bill Amendment to SB 478-FN

Amend RSA 265:82-b, I(b)(4) as inserted by section 1 of the bill by replacing line 6 with the following:
soon [thereafter] as any circumstances approved by the department of health of human services allow;

Amend RSA 265:82-b, I(b)(6) as inserted by section 1 of the bill by replacing line 3 with the following:
extenuating circumstances approved by the department of health and human services

Amend RSA 265:82-b, I(c)(4) as inserted by section 1 of the bill by replacing line 6 with the following:
soon [thereafter] as any extenuating circumstances approved by the department of health and human

Senator Eaton moved adoption.

Adopted.

May 28, 2004
2004-1683-EBA
08/09

Enrolled Bill Amendment to SB 481-FN-LOCAL

The Committee on Enrolled Bills to which was referred SB 481-FN-LOCAL

AN ACT establishing a sewer and other water-related purposes district for Great Bay.

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 481-FN-LOCAL

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to SB 481-FN-LOCAL

Amend RSA 485-E:4, II(e) as inserted by section 1 of the bill by replacing line 2 with the following:

insurance is necessary under the laws of the state of New Hampshire.

Senator Eaton moved adoption.

Adopted.

May 17, 2004
2004-1602-EBA
04/01

Enrolled Bill Amendment to SB 498-FN

The Committee on Enrolled Bills to which was referred SB 498-FN

AN ACT relative to the regulation of debt adjustment 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 498-FN

This enrolled bill amendment makes various grammatical and technical corrections to the bill.

Enrolled Bill Amendment to SB 498-FN

Amend RSA 399-D:5, II (a), as inserted by section 1 by replacing line 1 with the following:

(a) Each application shall be accompanied by a current financial statement, certified

Amend RSA 399-D:5, II (c) as inserted by section 1 by replacing line 1 with the following:

(c) Each licensee shall furnish with the application a blank copy of the contract intended

Amend RSA 399-D:16, VI as inserted by section 1 by replacing line 4 with the following:

to the services to be performed by the licensee or the charges to be made therefor.

Amend RSA 399-D:17 as inserted by section 1 by replacing line 7 with the following:

services of an attorney or to arrange the terms of, or compensate for, such services; communicate with

Amend RSA 399-D:17 as inserted by section 1 by replacing lines 10-11 with the following:

associated, directly or indirectly, with any attorney; borrow money from or pledge assets to any attorney; or refer any debtor to any particular attorney.

Amend RSA 399-D:21, II (a) as inserted by section 1 by replacing line 1 with the following:

(a) Every licensee shall keep and use in his or her business, books, accounts, and records which

Amend RSA 399-D:22, III as inserted by section 1 by replacing line 2 with the following:

examine the records of any licensee and of any person by whom a debt adjustment contract is made,

Amend RSA 399-D:25, V as inserted by section 1 by replacing line 4 with the following:

of this chapter.

Amend RSA 399-D:28, I (b) as inserted by section 1 by replacing line 2 with the following:

report, as required in subparagraph I(a), notwithstanding the fact that such person is not licensed on the

Senator Eaton moved adoption.

Adopted.

June 2, 2004
2004-1693-EBA
03/10

Enrolled Bill Amendment to SB 534-FN-A

The Committee on Enrolled Bills to which was referred SB 534-FN-A
 AN ACT relative to the reorganization of certain functions and duties
 of state agencies.

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 534-FN-A

This enrolled bill amendment corrects certain references in the bill, incorporates changes in the law previously enacted in 2004, 97 (HB 1355), 2004, 59 (SB 450-FN), and 2004, 104 (SB 356), and inserts a contingent renumbering provision.

Enrolled Bill Amendment to SB 534-FN-A

Amend section 1 of the bill by replacing line 1 with the following:

1 Department of Safety; Duties of Commissioner. Amend the introductory paragraph of RSA 21-P:4, VI to read as follows:

Amend the bill by replacing section 2 with the following:

2 Police Standards and Training Council; Education and Training. Amend RSA 188-F:27, VI to read as follows:

VI. Any investigator who has the power to enforce the criminal laws under RSA 106-A and RSA 287-E and rules of the lottery commission [~~and~~], *the* department of safety, *or the pari-mutuel commission* and who was serving under a permanent appointment prior to July 1, 1986, shall not be required to meet the requirements of paragraphs I and III; however, any investigator referred to in this paragraph shall complete such limited programs as may be prescribed by the police standards and training council under this section within one year of the date the programs are required. Should any investigator exempted from the requirements of paragraphs I and III of this section by this paragraph terminate employment with the department of safety and be hired as a police officer by another police department of the state or a political subdivision thereof, the inspector's certification shall lapse and may be reinstated upon completion of such necessary additional training courses as the police standards and training council may prescribe.

Amend section 4 of the bill by replacing lines 2-3 with the following: paragraph VII the following new paragraph:

VIII. Rules for bingo and lucky 7 as authorized under RSA 287-E.

Amend section 6 of the bill by replacing lines 1-3 with the following:

6 Lottery Commission. Amend RSA 284:21-a to read as follows:

284:21-a State Lottery Commission. There shall be and hereby is created a state lottery commission consisting of 3 members who shall be appointed and may be removed for

Amend section 7 of the bill by replacing lines 1-2 with the following:

7 Lottery Commission. Amend RSA 284:21-i, I to read as follows:

I. The lottery commission shall be empowered to employ such technical assistants and

Amend section 8 of the bill by replacing lines 1-2 with the following:

8 Lottery Commission. Amend RSA 284:21-j, I to read as follows:

I. The state treasurer shall credit all moneys received from the lottery commission

Amend RSA 287-A:8, III as inserted by section 9 of the bill by replacing line 2 with the following:

be sold only by members of a charitable organization licensed by the [~~lottery~~] *pari-mutuel*

Amend RSA 287-E:1, VI as inserted by section 10 of the bill by replacing it with the following:

VI. "Commission" means the state [~~lottery~~] *pari-mutuel* commission.

Amend RSA 287-E:2 as inserted by section 11 of the bill by replacing line 1 with the following:

287-E:2 Administration and Enforcement. The [lottery] *pari-mutuel* commission shall

Amend RSA 287-E:16 as inserted by section 12 of the bill by replacing line 1 with the following:

287-E:16 Administration and Enforcement. The [lottery] *pari-mutuel* commission shall

Amend RSA 647:2, V(a) as inserted by section 14 of the bill by replacing line 1 with the following:

(a) Dispenser devices approved by the [lottery] *pari-mutuel* commission which are

Amend section 16 of the bill by replacing lines 2-3 with the following: duties, and responsibilities of the lottery commission regarding the administration, licensing, and enforcement of RSA 287-E. All existing rules adopted by the lottery commission for the

Amend section 17 of the bill by replacing lines 2-5 with the following:

I. Classified employees of the lottery commission responsible for the administration and licensing of bingo and lucky 7 shall be transferred to the *pari-mutuel* commission. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds, property, or obligations of any kind of the lottery commission for administration and licensing of bingo and lucky 7. The transfer

Amend section 18 of the bill by replacing line 9 with the following: 9T296, 18999, 19000, 40342, 9T112, 9T113, and 9T729. The transfer shall also include all of the

Amend RSA 270:64, III as inserted by section 23 of the bill by replacing line 2 with the following:

environmental services, or the office of energy and planning to assist in the

Amend section 30 of the bill by replacing line 3 with the following: "division of aeronautics, rail, and transit": 72:38, I-II; 21-L:8, III and V; 422:3, XIX; 422:39; 423:11,

Amend section 33 of the bill by replacing line 4 with the following: transportation": 12-A:5, I(b) and V; 37:6, VII; 48-B:2; 215-A:8; 216-B:3; 216-B:5; 216-B:6;

Amend section 34 of the bill by replacing line 4 with the following: highways", and "public works and highways department" with "department of transportation": 14:15-b;

Amend RSA 17-J:4 as inserted by section 37 of the bill by replacing line 4 with the following:

commissioner of transportation shall, within 30 days of the approval of funding for any

Amend section 44 of the bill by replacing lines 8-10 with the following: 162-L:19; 204-C:8, V; 216-J:2, I(g); 227-G:2, XII; 227-M:4, II(d); 216-A:3-c, V; 216-F:5, I; 217-A:3, XIII(d); 227-C:4, II; 227-E:3; 227-E:6; 233-A:2; 235:23, I; 238:20, I(d); 238:23; 261:153, V; 270:71, II; 374:22-j, XIII; 384-B:1, XI; 432:19; 483:8, II; 483:10, I; 483:10-a; 483-A:6, III; 483-A:7; 483-B:4,

Amend section 53 of the bill by replacing line 2 with the following: health and human services shall report by December 1, 2004 to the speaker of the house of representatives and the senate president

Amend the bill by replacing all after section 58 with the following:

59 Contingent Renumbering. If HB 520-FN of the 2004 regular session becomes law, then RSA 284:12, VIII as inserted by section 4 of this act shall be renumbered as RSA 284:12, IX.

60 Effective Date.

I. Sections 27, 32-35, and 53-58 of this act shall take effect upon its passage.

II. Sections 1-17 and 48-52 of this act shall take effect January 1, 2005.

III. RSA 162-L:19, as amended by section 44 of this act, shall take effect July 16, 2004 at 12:01 a.m.

IV. The remainder of this act shall take effect July 1, 2004.

Senator Eaton moved adoption.

Adopted.

June 2, 2004

2004-1689-EBA

04/10

Enrolled Bill Amendment to HB 551

The Committee on Enrolled Bills to which was referred HB 551

AN ACT establishing a committee to study the use of prescription psychotropic drugs, including Ritalin, in childcare centers, preschools, and public 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 HB 551

This enrolled bill amendment corrects the title of the bill to accurately reflect the content of the bill.

Enrolled Bill Amendment to HB 551

Amend the bill by replacing the title with the following:

AN ACT relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

Senator Eaton moved adoption.

Adopted.

June 2, 2004

2004-1690-EBA

08/10

Enrolled Bill Amendment to HB 618-FN-A

The Committee on Enrolled Bills to which was referred HB 618-FN-A

AN ACT making technical corrections to certain local property tax laws, relative to posting of municipal budgets, relative to claims for low and moderate income homeowners property tax relief, allowing the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities, and authorizing Manchester Airport to tow and impound abandoned vehicles.

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 618-FN-A

This enrolled bill amendment contingently incorporates an amendment to an RSA section in SB 407.

Enrolled Bill Amendment to HB 618-FN-A

Amend the bill by replacing all after section 11 with the following:

12 Municipal Budget Law; Posting of Budget; Contingent Version. RSA 32:5, VII is repealed and reenacted to read as follows:

VII.(a) The governing body shall post certified copies of the budget with the warrant for the meeting. The operating budget warrant article shall contain the amount as recommended by the budget committee if there is one. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

(b) The governing body in official ballot referenda jurisdictions operating under RSA 40:13 shall post certified copies of the default budget form or any amended default budget form with the proposed operating budget and the warrant.

13 Contingency. If SB 407 of the 2004 legislative session becomes law, then section 12 of this act shall take effect at 12:01 a.m. on the effective date of SB 407. If SB 407 does not become law, then section 12 of this act shall not take effect.

14 Effective Date.

I. Section 12 of this act shall take effect as provided in section 13 of this act.

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

Senator Eaton moved adoption.

Adopted.

June 1, 2004
2004-1685-EBA
03/01

Enrolled Bill Amendment to HB 640-FN

The Committee on Enrolled Bills to which was referred HB 640-FN AN ACT relative to post-conviction DNA testing.

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 640-FN

This enrolled bill amendment makes grammatical corrections and corrects certain references in the bill.

Enrolled Bill Amendment to HB 640-FN

Amend RSA 651-D:2, I as inserted by section 1 of the bill by replacing line 1 with the following:

I. A person in custody pursuant to the judgment of the court may, at any time after conviction or

Amend RSA 651-D:2, IV as inserted by section 1 of the bill by replacing lines 5-7 with the following:

(c) Designate the New Hampshire state police forensic laboratory to conduct the test.

(d) Designate a laboratory accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB), unless the petitioner and the attorney

Amend RSA 651-D:3, II as inserted by section 1 of the bill by replacing line 6 with the following:

investigating agency may destroy biological material 90 days after filing a petition, unless the

Senator Eaton moved adoption.

Adopted.

June 2, 2004

2004-1692-EBA

05/09

Enrolled Bill Amendment to HB 643-FN

The Committee on Enrolled Bills to which was referred HB 643-FN

AN ACT relative to the family division of the courts and reducing the number of superior court justices.

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

This enrolled bill amendment corrects the title of the bill and includes changes to RSA 491:1 made by 2004, 74 (HB 1135).

Enrolled Bill Amendment to HB 643-FN

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

AN ACT relative to the family division of the courts, reducing the number of superior court justices, and relative to marital masters.

Amend the bill by replacing section 4 with the following:

4 Superior Court Justices. Amend RSA 491:1 to read as follows:

491:1 Justices. The superior court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and [28] 21 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

Senator Eaton moved adoption.

Adopted.

June 3, 2004

2004-1698-EBA

04/09

Enrolled Bill Amendment to HB 698-FN

The Committee on Enrolled Bills to which was referred HB 698-FN

AN ACT relative to electronic toll collection.

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 698-FN

This enrolled bill amendment makes technical corrections.

Enrolled Bill Amendment to HB 698-FN

Amend section 4 of the bill by replacing lines 2-5 with the following:
RSA 260:14 by inserting after paragraph III the following new paragraph:

III-a. Except for a person's photograph, computerized image, and social security number, motor vehicle records may be made available to the department of transportation for the enforcement of the electronic toll collection, pursuant to RSA 236:31. Any records received under

Senator Eaton moved adoption.

Adopted.

June 1, 2004
2004-1686-EBA
03/10

Enrolled Bill Amendment to HB 713-FN

The Committee on Enrolled Bills to which was referred HB 713-FN
AN ACT relative to the penalty for violating a zoning ordinance.

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 713-FN

This enrolled bill amendment corrects the title of the bill in order to reflect the contents of the bill.

Enrolled Bill Amendment to HB 713-FN

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

AN ACT relative to the penalty for violating a zoning ordinance and relative to residences in industrial or commercial zones.

Senator Eaton moved adoption.

Adopted.

June 2, 2004
2004-1695-EBA
03/01

Enrolled Bill Amendment to HB 1148

The Committee on Enrolled Bills to which was referred HB 1148

AN ACT defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to Smith Pond in Enfield, and relative to site plan review of certain trails.

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 1148

This enrolled bill amendment inserts an omitted word into the text of the bill.

Enrolled Bill Amendment to HB 1148

Amend section 4 of the bill by replacing line 8 with the following: environmental services shall obtain the advice and consent of the legislative dam management review

Senator Eaton moved adoption.

Adopted.

May 18, 2004
2004-1618-EBA
06/09

Enrolled Bill Amendment to HB 1207-FN-A

The Committee on Enrolled Bills to which was referred HB 1207-FN-A AN ACT relative to a Global War on Terrorism operations service bonus payment.

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 1207-FN-A

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to 1207-FN-A

Amend RSA 115-A:19 as inserted by section 1 of the bill by replacing line 7 with the following: exercised parental control at the time of or most nearly prior to the date of the qualified person's entry

Senator Eaton moved adoption.

Adopted.

May 28, 2004
2004-1681-EBA
05/10

Enrolled Bill Amendment to HB 1262

The Committee on Enrolled Bills to which was referred HB 1262 AN ACT establishing a commission to study ways to encourage municipal recycling efforts and making certain changes to the tax exemption for water and air pollution control facilities.

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 1262

This enrolled bill amendment corrects the title of the bill and reinserts the effective date section.

Enrolled Bill Amendment to HB 1262

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

AN ACT establishing a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities.

Amend the bill by inserting after section 5 the following new section:
6 Effective Date. This act shall take effect upon its passage.

Senator Eaton moved adoption.

Adopted.

June 3, 2004

2004-1699-EBA

04/09

Enrolled Bill Amendment to HB 1281

The Committee on Enrolled Bills to which was referred HB 1281

AN ACT permitting the adoption of an alternative cost apportionment method in a cooperative school district, establishing a legislative oversight committee for the school administrative unit system, and relative to notification of education grant amounts to municipalities.

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 1281

This enrolled bill amendment inserts a contingency provision to change the paragraph numbering in section 3 of the bill, to resolve a conflict with paragraph numbering in SB 302-FN-LOCAL if SB 302-FN-LOCAL becomes law.

Enrolled Bill Amendment to HB 1281

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

4 New Paragraph; Determination of Education Grants; Notification.
Amend RSA 198:41 by inserting after paragraph IV the following new paragraph:

V. The department of education shall notify municipalities of the estimated amount of aid to which they are entitled for the following school year on November 15.

5 Contingency. If section 8 of SB 302-FN-LOCAL of the 2004 legislative session becomes law, section 4 of this act shall take effect July 1, 2005 and section 3 of this act shall not take effect. If section 8 of SB 302-FN-LOCAL of the 2004 legislative session does not become law, section 3 of this act shall take effect July 1, 2005 and section 4 of this act shall not take effect.

6 Effective Date.

I. Sections 3 and 4 of this act shall take effect as provided in section 5 of this act.

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

Senator Eaton moved adoption.

Adopted.

June 2, 2004
2004-1691-EBA
05/09

Enrolled Bill Amendment to HB 1293

The Committee on Enrolled Bills to which was referred HB 1293

AN ACT relative to emission control equipment for certain vehicles and relative to unfair motor vehicle insurance trade practices.

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 1293

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to HB 1293

Amend RSA 417:4, XXII(a) as inserted by section 5 of the bill by replacing line 2 with the following:

intimidation, coercion, or threat, for or against any insured person or entity, to use a particular

Senator Eaton moved adoption.

Adopted.

June 1, 2004
2004-1687-EBA
06/10

Enrolled Bill Amendment to HB 1295

The Committee on Enrolled Bills to which was referred HB 1295

AN ACT relative to certain court records and exempting certain documents from the right-to-know 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 1295

This enrolled bill amendment renumbers an RSA provision inserted by the bill to conform to changes made in 2004, 147.

Enrolled Bill Amendment to HB 1295

Amend section 4 of the bill by replacing lines 2-5 with the following: paragraph VII the following new paragraphs:

VIII. Any notes or other materials made for personal use that do not have an official purpose, including notes and materials made prior to, during, or after a public proceeding.

IX. Preliminary drafts, notes, and memoranda and other documents not in their final form

Senator Eaton moved adoption.

Adopted.

June 2, 2004
2004-1688-EBA
04/01

Enrolled Bill Amendment to HB 1326

The Committee on Enrolled Bills to which was referred HB 1326 AN ACT relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain 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 1326

This enrolled bill amendment corrects the title of the bill to accurately reflect the bill's contents, makes grammatical changes, and corrects statutory and paragraph references in the bill.

Enrolled Bill Amendment to HB 1326

Amend the bill by replacing the title with the following:

AN ACT relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks and establishing a study committee to examine the classification of consumer and display fireworks.

Amend RSA 160-C:3, II-f (f) as inserted by section 1 of the bill by replacing line 2 with the following:

and its principal owners pursuant to this chapter during the previous 5 years.

Amend RSA 160-C:3, II-f (g) as inserted by section 1 of the bill by replacing line 2 with the following:

his or her qualifications to perform such work.

Amend RSA 160-C:3, II-h(b) as inserted by section 1 of the bill by replacing line 1 with the following:

(b) The applicant, and any principal controlling owners, directors, or natural

Amend section 3 of the bill by replacing lines 3-4 with the following:
 VIII the following new paragraph:

IX. The commissioner of safety shall adopt rules, under RSA 541-A, for the licensing of

Amend RSA 160-C:13, II as inserted by section 4 of the bill by replacing line 2 with the following:

days prior to any testing and approval conducted pursuant to RSA 160-C:13, III, or earlier

Senator Eaton moved adoption.

Adopted.

June 3, 2004
2004-1701-EBA
08/01

Enrolled Bill Amendment to HB 1348-FN

The Committee on Enrolled Bills to which was referred HB 1348-FN AN ACT relative to registration of business organizations.

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 1348-FN

This enrolled bill amendment makes certain technical corrections.

Enrolled Bill Amendment to HB 1348-FN

Amend RSA 292:3, III(b) as inserted by section 1 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form

Amend RSA 293-B:14, IV as inserted by section 16 of the bill by replacing line 1 with the following:

IV. The certificate of trust of a New Hampshire investment trust may be revoked pursuant to

Amend RSA 293-B:16, I(c)(2) as inserted by section 17 of the bill by replacing line 1 with the following:

(2) The other entity consents to the use in writing and submits an undertaking in a

Amend RSA 294-A:7, III(b)(2)(B) as inserted by section 18 of the bill by replacing line 2 with the following:

in a form satisfactory to the secretary of state to change its name to a name that is distinguishable

Amend RSA 301:43-a, III(b) as inserted by section 23 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form

Amend RSA 304-A:45, III(b) as inserted by section 30 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form

Amend RSA 304-B:2, IV(b) as inserted by section 36 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form

Amend RSA 304-C:3, IV(b) as inserted by section 46 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form

Amend RSA 304-C:66, I(d) as inserted by section 50 of the bill by replacing line 3 with the following:

and its certificate of formation;

Amend RSA 305:2-e, II(b) as inserted by section 57 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form

Amend RSA 349:1, IV(b)(2) as inserted by section 60 of the bill by replacing line 2 with the following:

undertaking in a form satisfactory to the secretary of state to change its name to a name that

Amend RSA 349:1, IV(g) as inserted by section 60 of the bill by replacing line 1 with the following:

(c) An applicant may use the name, including the fictitious name, of another

Senator Eaton moved adoption.

Adopted.

May 21, 2004
2004-1674-EBA
08/10

Enrolled Bill Amendment to HB 1378-FN-A

The Committee on Enrolled Bills to which was referred HB 1378-FN-A AN ACT relative to New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor; and relative to tuition waivers and room and board scholarships at state educational institutions for children of certain firefighters and police officers who died while in performance of their duties.

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 1378-FN-A

This enrolled bill amendment contingently renumbers the RSA subdivision inserted by section 1 of the bill to avoid a conflict with HB 1207-FN-A.

Enrolled Bill Amendment to HB 1378-FN-A

Amend the bill by replacing all after section 5 with the following:

6 New Subdivision; Service Awards for Veterans of World War II, the Korean War, and the Vietnam War. Amend RSA 115-A by inserting after section 22 the following new subdivision:

New Hampshire Service Awards

115-A:23 New Hampshire Service Awards.

I. The adjutant general shall, with the cooperation and advice of the director of the state veteran's council and the state veterans advisory committee, design and cause to be manufactured or produced service awards for service in World War II, the Korean War, and the Vietnam War. Service awards may be in the form of medals, medallions, or certificates.

II. The awards shall be designed in a manner which:

(a) Indicates the major branches of the armed forces, which are the army, navy, air force, marine corps, and coast guard.

(b) Displays the seal of the state of New Hampshire and a likeness of the "Old Man of the Mountain."

(c) Displays an inscription stating that the award is a "New Hampshire Award for Service," the name of the war in which the recipient served and the beginning and ending dates of the war.

115-A:24 Eligibility for Award. Any person who served in any of the following wars; who, if deemed necessary by the adjutant general, earned the appropriate service medal; and who was honorably discharged, or who is missing in action, or who was killed in action; and who, at the time of entry on such active service, and at the time of such service was a bona fide resident of this state shall be eligible for the award provided under this subdivision. Eligible service is service in:

I. "World War II" between December 7, 1941 and December 31, 1946.

II. The "Korean War" between June 27, 1950 and January 31, 1955.

III. The "Vietnam War" between August 5, 1964 and May 7, 1975 or between February 28, 1961 and May 7, 1975 for persons who served in Vietnam prior to August 5, 1964.

115-A:25 Application for Service Award. Any person eligible for a service award under this subdivision, or if such person is incapacitated or deceased, the surviving spouse or child of such eligible person, may apply to the adjutant general for such service award during 2-year application time periods established by the adjutant general for each war. The adjutant general shall establish application forms and procedures.

115-A:26 Rulemaking. The adjutant general shall adopt rules, pursuant to RSA 541-A, relative to:

I. The dates for the 2-year application time period for each war for which a service award may be awarded under this subdivision.

II. Application forms and procedures under RSA 115-A:25.

III. Any other matter deemed necessary by the adjutant general relative to the design, manufacture, production, or distribution of service awards under this subdivision.

115-A:27 Gifts, Grants, and Donations. Notwithstanding any other provision of law, the adjutant general may solicit and receive monetary gifts, grants, or donations for the purpose of paying costs of the design, manufacture or production, and distribution of New Hampshire service awards under this subdivision.

115-A:28 New Hampshire Service Award Fund. There is established in the office of the state treasurer a fund to be known as the New Hampshire service award fund. All monetary gifts, grants, and donations received by the adjutant general pursuant to RSA 115-A:27 shall be deposited in such fund. The fund is established to pay the costs of the design, manufacture or production, and distribution of New Hampshire service awards under this subdivision. The money in this fund shall be nonlapsing and shall be continually appropriated to the department of the adjutant general.

7 Appropriation; Adjutant General. The sum of \$10,000 is hereby appropriated to the New Hampshire service award fund for the fiscal year ending June 30, 2005, for the purposes of start-up costs for the design, manufacture or production, and distribution of New Hampshire service awards under RSA 115-A:23-28, as inserted by section 7 of this act. This appropriation shall be nonlapsing. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

8 Contingency. If HB 1207-FN-A of the 2004 legislative session becomes law then sections 1 and 2 of this act shall not take effect and sections 6 and 7 of this act shall take effect July 1, 2004. If HB 1207-FN-A of the 2004 legislative session does not become law then sections 6 and 7 of this act shall not take effect and sections 1 and 2 of this act shall take effect July 1, 2004.

9 Effective Date.

I. Sections 1, 2, 6, and 7 of this act shall take effect as provided in section 8 of this act.

II. The remainder of this act shall take effect July 1, 2004.

Senator Eaton moved adoption.

Adopted.

June 2, 2004
2004-1694-EBA
06/04

Enrolled Bill Amendment to HB 1401-FN

The Committee on Enrolled Bills to which was referred HB 1401-FN
 AN ACT limiting the use of traffic signal preemption devices, establishing a commission to study railroad matching funds, authorizing an expenditure for a certain feasibility study, and relative to landowner permission for OHRV operation and loading and unloading OHRVs on highways.

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 1401-FN

This enrolled bill amendment makes a technical correction to the bill.

Enrolled Bill Amendment to HB 1401-FN

Amend section 5 of the bill by replacing line 2 with the following:
 of the commission shall be called by the senate member. The first meeting of the

Senator Eaton moved adoption.

Adopted.

June 3, 2004
2004-1700-EBA
08/10

Enrolled Bill Amendment to HB 1428-FN

The Committee on Enrolled Bills to which was referred HB 1428-FN
 AN ACT relative to the administration of the medical assistance program for home care for children with severe disabilities; establishing a commission to review the medical assistance program for home care for children with severe disabilities; and relative to the use of standardized health statements and renewals of certain insurance policies.

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 1428-FN

This enrolled bill amendment resolves the effective dates of amendments to RSA sections in this bill and SB 371.

Enrolled Bill Amendment to HB 1428-FN

Amend the bill by inserting after section 11 the following and renumbering the original section 12 to read as 13:

12 Duplicate Amendment. Sections 12 and 13 of SB 371 from the 2004 legislative session shall not take effect.

Senator Eaton moved adoption.

Adopted.

June 3, 2004
2004-1704-EBA
03/09

Enrolled Bill Amendment to HB 2004-FN-LOCAL

The Committee on Enrolled Bills to which was referred HB 2004-FN-LOCAL

AN ACT relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

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 2004-FN-LOCAL

This enrolled bill amendment clarifies a reference in the bill.

Enrolled Bill Amendment to HB 2004-FN-LOCAL

Amend section 3 of the bill by replacing subparagraph II(a)(1)(A) with the following:

(A) Three members of the public works and highways committee.

Senator Eaton 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(s):

HB 243, relative to motor vehicle exhaust noise standards.

HB 369, relative to the Henniker and Hillsborough district courts and to the Hampton and Exeter district courts.

HB 551, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

HB 618-FN-A, making technical corrections to certain local property tax laws, relative to posting of municipal budgets, relative to claims for low and moderate income homeowners property tax relief, allowing the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities, and authorizing Manchester Airport to tow and impound abandoned vehicles.

HB 640-FN, relative to post-conviction DNA testing.

HB 643-FN, relative to the family division of the courts, reducing the number of superior court justices, and relative to marital masters.

HB 698-FN, relative to electronic toll collection.

HB 713-FN, relative to the penalty for violating a zoning ordinance and relative to residences in industrial or commercial zones.

HB 1148, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to Smith Pond in Enfield, and relative to site plan review of certain trails.

HB 1281, permitting the adoption of an alternative cost apportionment method in a cooperative school district, establishing a legislative oversight committee for the school administrative unit system, and relative to notification of education grant amounts to municipalities.

HB 1293, relative to emission control equipment for certain vehicles and relative to unfair motor vehicle insurance trade practices.

HB 1295, relative to certain court records and exempting certain documents from the right-to-know law.

HB 1326, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks and establishing a study committee to examine the classification of consumer and display fireworks.

HB 1348-FN, relative to registration of business organizations.

HB 1378-FN-A, relative to New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor; and relative to tuition waivers and room and board scholarships at state educational institutions for children of certain firefighters and police officers who died while in performance of their duties.

HB 1401-FN, limiting the use of traffic signal preemption devices, establishing a commission to study railroad matching funds, authorizing an expenditure for a certain feasibility study, and relative to landowner permission for OHRV operation and loading and unloading OHRVs on highways.

HB 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities; establishing a commission to review the medical assistance program for home care for children with severe disabilities; and relative to the use of standardized health statements and renewals of certain insurance policies.

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

SB 109, adopting the model Drug Dealer Liability Act.

SB 153, adopting the nurse licensure compact.

SB 376-FN-A, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals.

SB 391, relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene.

SB 406, relative to adoption procedures.

SB 478-FN, relative to penalties for DWI offenses.

SB 481-FN-L, establishing a sewer and other water-related purposes district for Great Bay.

SB 534-FN-A, relative to the reorganization of certain functions and duties of state agencies.

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(s):

HB 176, relative to listing candidates on ballots and relative to instructions to voters.

HB 384, relative to financial affidavits in domestic relations cases.

HB 426, relative to the certification of property assessors and assessing officials, the updating of tax maps by municipalities, the form for abatement applications, the enforcement of discretionary preservation easements, the annual appraisal of real estate, and reports on the status of monthly tax refunds.

HB 1162, relative to school district policies on bullying.

HB 1165, relative to extending domestic violence protection orders.

HB 1262, establishing a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities.

HB 1276-FN, relative to special number plates for veterans, establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star, authorizing rules relating to certain commemorative license plates, and requiring an additional fee for certain motor vehicle registrations.

HB 1282, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

HB 1296, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food, and relative to food service licensure.

HB 1380-FN, relative to unauthorized video surveillance.

HB 1408-FN, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

SB 312-FN, establishing a state code of ethics.

SB 317, relative to registration of pesticide applicators and rules of the pesticide control board.

SB 338-FN, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

SB 381, relative to the authorization for and transfer of certain capital appropriations within the department of safety.

SB 382-FN-L, relative to medical service rates for state prisoners.

SB 407-FN-L, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

SB 415-FN, relative to the expansion of the Grafton county court pilot project relative to abuse and neglect hearings.

SB 421, relative to charter schools.

SB 423, relative to confidentiality and workers' compensation.

SB 449, relative to fluoridation of municipally-owned public water systems.

SB 453, establishing a committee to study the tobacco master settlement agreement revenue stream to the state, and changing requirements for tobacco manufacturers not participating in the tobacco Master Settlement Agreement.

SB 459, making certain changes to the real estate practice act.

SB 461, relative to the regulation of gift certificates under the consumer protection act.

SB 490-FN, relative to voting procedures and relative to ward boundaries in Manchester.

SB 500-FN, relative to certain procedures of financial institutions.

SB 508-FN, relative to grant-funded programs.

SB 521-FN, increasing the penalty for identity fraud.

SB 526, relative to sexual harassment complaint procedures.

SB 533, relative to licensing requirements for certain recreation and child care programs.

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(s):

HB 727-FN-L, establishing a committee to study the issue of school choice in New Hampshire.

HB 1207-FN-A, relative to a Global War on Terrorism operations service bonus payment.

SB 413-FN, establishing a commission to study the construction time frame and financing for the expansion of Interstate Route 93.

SB 448-FN, relative to consumer guaranty contracts.

SB 498-FN, relative to the regulation of debt adjustment services.

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(s):

SB 302-FN-L, making technical corrections to the education funding formula.

Senator Clegg moved adoption.

Adopted.

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

June 17, 2004

Senator O'Hearn in the Chair.

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

President Reagan once observed that there is no limit to what you can accomplish as long as you don't care who gets the credit. For any politician heading into an election, that is not the easiest pill to swallow, but it would be great medicine for the body politic if we could actually bring ourselves to take it. Imagine if a reporter didn't care about getting a byline in the paper or their face on the TV screen as long as the story was accurate. Imagine if the chairs of the two main political parties gave up bragging rights about the things that happened or did not happen because of their party's efforts. Imagine if, when someone was running for office they didn't talk about their accomplishments, but rather their ideas. I know that a lot of things have happened in this place over this past two years of this session that are the result of brave actions of individuals and groups that no one will ever know about, because they have fallen below the radar screen of our awareness. And, if President Reagan is right, then that's okay. Good for you. Good for you. Thank you so much for those many times when the very best that is within each one of you has come to the surface and served us without us ever knowing it. I will miss you around here. Come and visit because I am just across the street. Let us pray:

Lord of all, You bury deep within each one of us glowing embers of divinity, placing upon each of our lives a value beyond price. Thank You for the members of the Senate and those who serve along with them in this work. As they complete this work now, let each one of them know and feel the gratitude and credit that comes from the one and the only source that really matters - You. Amen

Senator Cohen in the Chair.

Senator Martel led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Senator Eaton in the Chair.

VETO MESSAGES

June 15, 2004

To the Honorable Members of the General Court:

GOVERNOR'S VETO MESSAGE ON SB 470

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed Senate Bill 470, an Act Relative to Funding for the Physician Effectiveness Program, and Establishing a Dedicated Fund

SB 470 would increase the allocation from each physician license renewal from \$20 to \$30 and place that amount into a nonlapsing fund that would be kept distinct and different from all other funds.

There is insufficient justification for the increase in physician effectiveness program funds called for by this bill. Further, recent data confirms that there is no need to increase the fee, as the current fund balance is more than adequate for the need.

Creation of dedicated, nonlapsing, fund is contrary to the principles upon which I believe that state government should operate.

For these reasons, I have vetoed SB 470.

Sincerely,
Craig R. Benson

SENATOR MARTEL: Thank you very much, Mr. President. I will be as brief as possible on this nice cool day. I would urge my confers and my sisters here in the Senate to reconsider and look at this vote to override the veto of the Governor. This program was requested by physicians, acting physicians, retired physicians and the Medical Society and many other medical organizations throughout the state. This is a very good program that helps physicians who are in trouble. It is a program that oversees their rehabilitation from alcoholism or substance abuse or other problems they may face. This entire bill focuses in on a fee that the doctors would pay when their licensure comes for renewal. The proceeds of that money, the additional \$10, from \$20 to \$30, would go directly to that program. Without that program, we may lose many fine physicians who have found themselves, okay, in problems of society today and may really hurt themselves for the rest of their lives and hurt their patients specifically. I urge you to please vote to override the Governor's veto this morning and let's move forward so that next year we can look at this and I did look in my file this morning and I did find that letter, Senator Clegg, asking that we do pass an override and that we look at the type of fund that it is, and take a look at making sure that we change that next year so that we have lapsing funds instead. So I urge you to please do that and I thank you very much.

SENATOR LARSEN: I simply rise to affirm our support for overriding the Governor's veto on this bill. As most of you know, we...this program was modeled after a similar one that pharmacists in the state have been operating under and, since 1985, this program has a 90 percent recovery rate for physicians who are in treatment. The additional funds would allow for the hiring of an addiction counselor to help with investigations, treatment, monitoring, after care, all clearly programs which all of us support. These bills, SB 470 was passed unanimously, and I am assuming that once again, the Senate will affirm the need for this bill by voting to override the Governor's veto.

SENATOR EATON (In the Chair): I am going to read this once, but it will apply to all of the questions of override today. The constitution requires this vote be passed by a 2/3 affirmative vote of both bodies and the vote must be by roll call.

PARLIAMENTARY INQUIRY

SENATOR BARNES: Thank you, Mr. President. A brief parliamentary inquiry. Are we voting, when the vote goes on, when you call for the vote, are we voting to override or to sustain?

SENATOR EATON (In the Chair): The vote will be to override the veto.

SENATOR BARNES: That will be the case in the other two also?

SENATOR EATON (In the Chair): That will be the case on all the bills today.

SENATOR BARNES: And the motion is to override?

SENATOR EATON (In the Chair): That is correct.

SENATOR BARNES: Thank you, Mr. President.

The question is notwithstanding the Governor's Veto, shall the bill become law?

A roll call is required.

A 2/3 vote is necessary.

The following Senators voted Yes: Gallus, Johnson, Kenney, Below, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senators voted No: Boyce, Barnes.

Yeas: 22 - Nays: 2

Veto overridden.

GOVERNOR'S VETO MESSAGE ON SB 484

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed Senate Bill 484, an Act Establishing the Collaborative Practice for Emergency Contraception Act

SB 484 would allow participating pharmacists to dispense emergency contraceptive pills containing elevated levels of female hormones to an individual of any age without the oversight or counsel of a licensed physician. This unprecedented action contravenes accepted practice on several levels.

First of all, the US Food and Drug Administration (FDA) has concluded that such medications should not be made available without doctor prescription because there is not sufficient data to show that young adolescent women can safely use emergency contraception without the professional supervision of a licensed practitioner. As a result, the FDA has barred emergency contraceptives from over the counter availability in the United States.

Additionally, SB 484 would allow minors access to these powerful hormonal drugs without any requirement for parental involvement or acknowledgement. Recognizing the value of family relationships and the need for parents to be involved in decisions of this kind, I find it unconscionable to allow young girls to be placed in this position without the knowledge and support of their parents.

Further, because pharmacist participation would be voluntary, availability of emergency contraceptive medication would not be guaranteed. Thus, the implementation could well be inequitable, resulting in residents of a given region or group not having access.

Finally, as written, SB 484 would allow emergency contraceptive drugs to be provided to individuals without any physical exam, emotional counseling, or requirement for follow-up health care. Birth control has always been something prescribed by a physician.

Clearly there are questions of safety, notification and appropriateness that this bill does not address.

For these reasons, I have vetoed SB 484.

Sincerely,
Craig R. Benson

SENATOR D'ALLESANRO: Thank you, Mr. President. Mr. President and my colleagues in the Senate, as the prime sponsor of this bill, I would hope that you would consider overriding the Governor's veto for three reasons. This bill is good health care. This bill is financially sound for the state, and this bill prevents abortion. Now each one of us has a different take on each one of those issues, but from the health care standpoint, from the financial standpoint, and if you are a visionary and you believe that abortion is not good, this is a way to manifest your concerns in a very positive, straightforward manner. The nation of Canada has made emergency contraceptive available without prescription. You are able to go to the Internet and purchase birth control at this point in time. This is an attempt to do the right thing. A collaboration between a physician and a pharmacist to do the right thing for that individual. It just seems to me to make good sense. I am the father of two daughters. I have three granddaughters. It means a great deal to me, in discussing their lives and how they go forward. We live in a very different world today. But we have to adjust to that world and we have to do the right thing and what's sound, and what is from a rational standpoint sound. So I ask you to consider these factors in making your decision. I recognize each and every one of you has to dig deep in this particular situation, but I think the facts speak for themselves. The facts speak for themselves and it makes good sense. Thank you, Mr. President.

SENATOR ESTABROOK: Thank you, Mr. President. I hadn't planned to rise to speak to this issue but I can't contain myself. I certainly agree with Senator D'Allesandro's arguments that this bill should move forward because it does prevent abortion. It does make sense in health care and in finance, policy terms, but I would like to add one other reason. equity. I cannot stop thinking, and there are many, many women around New Hampshire who cannot stop thinking why is the only form of contraception available without a doctor's prescription the one used by men? I hope that everyone who votes against overriding this will come back next session with a bill to make that contraception available only through a physician. We are all concerned about the health and welfare of our adolescents and it makes sense from a policy viewpoint, to treat this issue equitably. Thank you.

SENATOR BOYCE: Thank you, Mr. President. I rise against overriding this veto for several reasons, most of them health related. Just last week, I had an occasion to introduce to Senator Gregg's staff in Washington, some people from an organization called the National Association for Thrombosis and Thrombophilia. That organization is looking to try and educate the population on the dangers caused by blood clotting. Now, one of the hazards to people who do not even know that they have these conditions is birth control. There are warnings on every contraceptive birth control pill, I understand, that say that one of the side effects is clotting, and it can have fatal effects. One of the problems with this bill is that because it is going to be a woman, we can't deny that this is only a pill that is going to be taken by women. This woman does not have to see a doctor before getting this pill. Now the standard dose of birth con-

trol pills can cause clotting in people who have this clotting factor. I am told that it is a very considerable part of the population, I forget the exact numbers, that have this clotting factor. It is a genetic...there is a genetic test that can be done to test for this clotting factor propensity. Because a young woman goes in the day after having sex, unprotected sex, to a pharmacist and, without seeing a doctor, gets a triple dose of the same medicine and no doubt, it is a medicine, it is controlled by the Federal Drug Administration, and the pharmacist would be allowed to prescribe this without the doctor ever seeing the patient. Now, I would not want to be a pharmacist who gave a triple dose of a medicine that causes clotting in some people, to someone and have that young person suffer a thrombosis, a brain emergency because of clotting or a cardiac emergency because of clotting. These are very serious medical problems, and no doctor would see them before they were administered this drug. The other problems that I see with this bill is that it takes away one more of the reasons not to have unprotected sex. We have a problem with something called sexually transmitted diseases. Now if...in one of the ads that was put forth by an organization that seems to drive its entire being from the...either passing out birth control or doing abortions, that ad that I saw and heard on the radio, was talking about victims of sexual assault might even be prevented from getting this drug. The fact is that, if someone is a victim of sexual assault, which means unprotected sex with possibly a stranger, someone that they know nothing about the medical history of that person or the sexual background of that person, should certainly not go to a pharmacy and simply get a morning after pill. They should go and see a doctor because there are things that can be done the morning after a sexual assault, that can at least mitigate the possibility of having sexually transmitted disease and in some cases, can remove that possibility totally. So there is two health related problems that this is not a good health situation. As I said, it promotes this...it removes one more reason to not have unprotected sex and the idea that sex can be without consequence, when there are consequences to this activity. Another health related reason for sustaining this veto is that the...I forget the exact name of the group, but it is the pediatricians, the Association of Pediatricians nationwide, came out within the last two weeks with a statement that they are against the morning after non-prescription morning after drugs for the precise reason that they believe it is in the patient's, the young child's, best interest to see a doctor before having these pills prescribed for the reasons that I have already mentioned, the possibility of consequences. The side effects, the clotting, the problems of sexually transmitted diseases. So here we have the one side saying that this is all about health. It is a healthy thing. It is not a healthy thing. To say that the only non-prescription contraceptive is the one that is available for men is because it is not a drug. The one for men is not a drug. It is not...it doesn't have side effects that can cause health damage simply by using it. So there is no need for having a doctor involved in that, but birth control is still a prescription drug and these morning after birth control pills are a prescription drug and prescription drugs should be prescribed by a physician. I understand there are some people like physicians' assistants that have capability, and sometimes nurses have that capability, but they have the training, they have the background, and they have the understanding of the medical risks involved. I don't think that we are ready to transfer that over to the pharmacists. I certainly, if I was a pharmacist, would not want to be doing this. So I ask you to vote no on this motion. Thank you.

SENATOR SAPARETO: Senator Boyce, are you suggesting that, based on your rationale, we should ban all female contraceptives because they promote unprotected sex?

SENATOR BOYCE: No. I'm saying that they should be prescribed by a doctor so a doctor at least has a chance to talk to this person. If the person is only 13 years old, I think the doctor should be talking very seriously about the consequences of sex, protected or not protected, of this person who wants to engage in sex. I think that it should remain a prescription drug, and it should be prescribed by doctors.

SENATOR SAPARETO: Thank you, Mr. President. Would you believe that actually the subcommittees and the FDA actually approved this and it was the acting director of the FDA that is the one that is responsible for the banning of this? **TAPE INAUDIBLE.**

SENATOR BOYCE: I believe a lot of things that the federal government does are sometimes not in the best interest of everybody. Thank you.

SENATOR O'HEARN: Thank you, Mr. President. I am going to repeat what I had said when we passed this bill. We pass laws to allow someone to carry a weapon because we believe in responsibility, self responsibility. We pass laws for medical practices to review their own practices and resolve their own difficulties because we believe in their responsibility. We continually struggle with legislation that deals with parental responsibility. Nothing we can do can force that parental responsibility. To teach our children the right thing to do, when to do it, and how to do it. Whether it is juvenile justice, whether it is school choice, whether it is even programs in school, their religion, their culture or their health care. Here we have a piece of legislation that gives women self responsibility. Women of child-bearing age should have the opportunity to access emergency birth control. Women are responsible people. They are capable of making their own decisions, their ethical, moral or religious decisions. I ask you to override this veto and support the Senate position.

SENATOR BOYCE: Senator O'Hearn, you said women, but I don't see anything in here that says that this is only women. I don't consider a 13-year-old to be a woman; I consider that to be a child. Since there is nothing in this that prohibits the dispensing of this drug to anyone based on age, is there something I have missed in this bill that would require only adult women have access to this?

SENATOR O'HEARN: Senator Boyce, when I talk of responsibility and the legislation that has come before us over the past few years, I am talking about parental responsibility dealing with their 13-year-old. If parents had taken the appropriate responsibility, the appropriate guidance of their children, there is a good chance that that 13-year-old wouldn't be in this fix.

SENATOR BOYCE: Another question. Is there anything in this bill that requires the parent be notified when their child makes use of this drug at the age of 13?

SENATOR O'HEARN: No. That also occurs if they go during the week, they can receive birth control from an area where there is birth control available to them at that age. Also, Senator Boyce, we did receive a letter to the committee on this bill signed by 12 doctors, 4 advanced RN practitioners, and two pharmacists supporting this bill.

SENATOR BOYCE: Thank you.

SENATOR LARSEN: We have been debating whether this should be available to women of any age. I would respond to the debate that we just heard that, in fact, a woman becomes a woman when she takes on the responsibility of childbearing and that responsibility can start at a very early age. That carries with it huge responsibilities and huge decision making that sometimes is not wise decision making. There are times when a young person needs the full range of options, a young woman needs the full range of options to make the kind of difficult choices that that person faces. Should it be government intervention that prevents what is common in Europe from occurring in New Hampshire? In Europe, this contraceptive has been available for 30 years. As you have heard, the FDA subcommittee recommended that it be permitted in...without prescription in our country, but that was prevented. We would not be the first state. The Governor's message says it is an unprecedented action. In fact it is not. The states of Washington, California, Hawaii, New Mexico, Alaska have already done this, passed this permission for pharmacists to dispense the pills. Maine is apparently or may have already passed a similar bill. I think for any of you who are truly listening to this debate, the real question is, can this somehow reduce, reduce the need for abortion in our state. The painful, horrendous decision that young women, older women carry with their responsibility as women, an option, a choice, a personal decision. A personal decision that should be made in privacy without government intervention. These pills, these morning after pills, which are, as you know, just heavy doses of something which many, many women take across the nation, are estimated to reduce 1.7...I'm sorry, 800,000 abortions that might be avoided in our nation, and avoid 1.7 million unintended pregnancies. Unintended pregnancies are estimated to be more than half the nation's 6.3 million annual pregnancies unintended. Are we going to put the women of our state in a position where they do not have control of their personal decisions, but must in fact, try to find a physician? Perhaps they live in a rural area, try to find a clinic that is open to prevent what all of us, I think in this room, want to see, which is a reduction in the need for abortions; a reduction in unwanted pregnancies. This is an option for young people as well as older women. It is one which is not a risk to them. It is one which Europe has allowed for many, many years. We need to override this veto. We need to present these options to women across our state and allow for that private decision to continue to be private. I urge you to join with us in overriding the Governor's veto.

SENATOR GATSAS: Thank you, Mr. President. First, I would like to thank Planned Parenthood for getting me a little closer to some of the constituents in my district. I received 31 phone calls, of which 14 left messages and 17 that I spoke to. During the conversations, I asked 17 of those phone callers if they understood that the bill didn't contain a minimum age. I can tell you when I told them that a 13-year-old child could walk into a pharmacist and get a morning after pill, their position was, Senator, we agree with you. That was never told to us. Today, I feel a little bit more comfortable having this conversation because the last time we had it, we had a young page before us and she was having a very difficult time sitting through this process. I think all of us talked about prescription drugs and we talked about getting them from Canada. There is an article in the *Wall Street Journal*, "Getting Drugs Without The Doctor". It is a very good article. It talks about pharmaceutical companies, mainly Barr Pharmaceutical. "Some drug makers", as the article goes, "are lobbying on behalf of new prescription rules. During the past year, Barr Pharmaceuticals, Inc., the maker of the prescription drug "Plan B" an

emergency contraceptive pill, has dispatched lobbyists to drum up support for bills in Illinois, New Hampshire and other states." So I tell you that this isn't about abortion, 'cause it isn't. It is about pharmaceutical companies trying to pedal their drugs a little easier. No doctors scribbled prescription. Just go to the pharmacist with some training, to receive something on a Saturday morning, after a 13-year-old child made a mistake. Does this bill say, "yeah, you're entitled to one mistake? It doesn't even say that. It says that if a 17-year-old confronts you and says it is okay, let's not worry about it, we can get a pill tomorrow to fix this mistake. That's wrong. Thank you, Mr. President.

SENATOR FOSTER: Thank you, Mr. President. Senator Gatsas, I am sure that newspaper article in the *Wall Street Journal* is correct that the pharmaceutical would like to have that pill more available so it can increase its profits. What it also suggests to me, and I guess I would like your comment on it, maybe I will make it into a question at the end, do you agree. Might it also reflect the fact that it is difficult to get that prescription, because what you have to do is, on a Friday morning, Friday night, Saturday or Sunday, find a physician available to write the prescription, and if it is difficult to do that, the pill is ineffective come Monday or Tuesday. So while the pharmaceutical wants to make it more available, it is only its availability that makes it useful. Don't you agree?

SENATOR GATSAS: Senator, that's a great question. I would agree with you that Planned Parenthood, with a phone call, could find a physician or a pharmacy that would help that child that was in an emergency situation to get that prescription. I agree because they have found the ability to make those phone calls, to make us aware of this legislation. So, I agree with you. That could be done.

SENATOR FOSTER: Thank you.

SENATOR COHEN: Thank you. There was...there has been some discussion about age. What is the age of the young woman? Unless I am wrong, when boys age 13 are interested in getting male contraceptive...I mean, somebody correct me if I am wrong, there is no age for that. They can just walk into a drugstore and get what they need. Now, somebody explain to me why it is okay for boys to be getting their contraceptives, but girls the same age not to be getting it. You know, I got to tell you, the idea of 13-year-olds being sexually active is very disturbing to me. A lot of us are parents. We don't want that to happen. We need to educate our children. We need to you know, imbue them with the sense of morals and ethics and what's right and what's wrong. They need to take personal responsibility. But if the boys can get it, you know, it seems like, as Senator Estabrook said, it is a matter of equity. If we are against, if we are seriously against teen pregnancy, if we are serious about reducing the number of abortions, we have to override the Governor's veto on this. Thank you.

The question is notwithstanding the Governor's Veto, shall the bill become law?

A roll call is required.

A 2/3 vote is necessary.

The following Senators voted Yes: Gallus, Below, Green, Flanders, Odell, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Sapareto, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Johnson, Kenney, Boyce, Roberge, Gatsas, Barnes, Martel, Morse, Prescott.

Yeas: 15 - Nays: 9

The necessary 2/3 vote was not obtained.

Veto Sustained.

GOVERNOR'S VETO MESSAGE ON SB 513

May 10th, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed Senate Bill 513, an Act relative to the Death Penalty.

SB 513 prohibits any person who is under the age of 18 at the time an offense was committed from facing the death penalty. Currently, in New Hampshire, a person the age of 17 is considered an adult and subject to all penalties for all crimes.

New Hampshire, along with 18 other states, allows for the death penalty to be sought for anyone age 17 or over. New Hampshire's death penalty is relatively limited in scope. One crime subject to capital murder is the killing of a law enforcement officer in the line of duty. Anyone who murders an officer in the line of duty should be held accountable for his or her crime. As Governor, I will not support any attempts to weaken this or any protection for those who protect us daily.

Under the changes proposed in SB 513 a terrorist would not be subject to the death penalty if he or she were age 17. Similarly, a person who has committed a heinous and heartless crime, like the Washington DC area sniper, could carry out their crime without concern for their own execution. Surely, in a state where we hold our police officers in such high regard and where we share moral convictions regarding bringing offenders to justice, situations such as these are unacceptable.

New Hampshire law does not require a person convicted of capital murder be put to death. RSA 630:5 requires a jury to consider mitigating factors when determining whether a sentence of death is to be imposed. Among these mitigating factors are whether or not the defendant was youthful, and whether other factors in the defendant's background or character mitigate against the imposition of the death sentence.

For these reasons I have vetoed SB 513.

Respectfully submitted,
Craig R. Benson
Governor

SENATOR BELOW: Thank you, Mr. President. I rise to urge the body to override the Governor's veto. I will be brief because I know the vote was close in the Senate and probably minds have not changed. I would note that this passed the House with a 79 percent majority on a strong bipartisan basis and I think the House vote were four out of five members voted to end the possibility of executing juvenile offenders reflects a evolving standard of decency that has been reflected throughout the world in which every other nation in the world has moved to outlaw this

practice. In fact, the United States is the only nation in the world that officially sanctions execution of juvenile offenders and is the only nation with an organized national government that has not ratified the United Nations Convention on the Rights of the Child. The Governor, in his veto message, said that "In New Hampshire, a person the age of 17 is considered an adult." That is true only with respect to criminal prosecutions. In almost every other respect a 17-year-old is a minor under New Hampshire law. This bill would not change the fact that 17-year-old murderers would be subject to criminal prosecution as adults and subject to potential life imprisonment. It would simply say that we would not contemplate executing them as we have never done so in the past and hope we never will in the future. Thank you, Mr. President.

The question is notwithstanding the Governor's Veto, shall the bill become law?

A roll call is required.

A 2/3 vote is necessary.

The following Senators voted Yes: Gallus, Below, Odell, Peterson, O'Hearn, Foster, Larsen, Sapareto, D'Allesandro, Estabrook, Cohen.

The following Senators voted No: Johnson, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Clegg, Gatsas, Barnes, Martel, Morse, Prescott.

Yeas: 11 - Nays: 13

Veto Sustained.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):

HB 503, relative to septic system construction permits.

GOVERNOR'S VETO MESSAGE ON HB 503

April 26th, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 503, an Act relative to septic system construction permits.

HB 503 requires municipalities to provide, or assure access to, Department of Environmental Services approved septage storage facilities for residents. While I agree providing for the proper disposal of domestic septage at New Hampshire facilities is becoming increasingly difficult for septage haulers serving residents who continue to rely on septic systems, I do not believe HB 503 is the proper solution.

HB 503 can have unintended consequences which must be considered. The bill prohibits the NH Department of Environmental Services from issuing any new septic system construction permit until a municipality is in compliance with the law. The legislative purpose outlined in the bill states "The act is intended to...further restrict development that generates additional sewage...". Almost all development generates additional sewage,

therefore a municipality could use HB 503 as a tool to limit growth and encourage “snob” zoning. Simply by not complying with the provisions of HB 503 a municipality could prevent any new construction, and place the blame on the State.

In addition, the reference to “a department approved alternative option for its residents” will lead to uncertainty and may provide a loophole for municipalities to circumvent the legislature’s intent.

The State should be looking at financial incentives and disincentives to encourage municipalities and property owners to address the growing concerns of septage storage. Prohibiting new construction will not only limit the State’s economic potential, but could limit individual’s property rights.

For these reasons I have vetoed HB 503.

Respectfully submitted,
Craig R. Benson
Governor

The question is notwithstanding the Governor’s Veto, shall the bill become law?

A roll call is required.

A 2/3 vote is necessary.

The following Senators voted Yes: Johnson, Kenney, Below, Odell, Eaton, O’Hearn, Foster, Larsen, Gatsas, Sapareto, D’Allesandro, Estabrook, Cohen.

The following Senators voted No: Gallus, Boyce, Green, Flanders, Roberge, Peterson, Clegg, Barnes, Martel, Morse, Prescott.

Yeas: 13 - Nays: 11

The necessary 2/3 vote was not obtained.

Veto Sustained.

SENATE RULES CHANGE

Senator Clegg moved to amend the New Hampshire Senate Rules for the purpose of establishing a list of legislative deadlines for session year 2005:

To amend Rule 16, Sections (a) and (b) to read:

(a) *THE FILING PERIOD FOR LEGISLATION TO BE ACTED ON IN THE FIRST YEAR SESSION, BEGINNING JANUARY 2005, WILL COMMENCE ON WEDNESDAY, NOVEMBER 10, 2004.* THE OFFICE OF LEGISLATIVE SERVICES SHALL NOT DRAFT A SENATE BILL OR RESOLUTION, ~~OTHER THAN THE GENERAL APPROPRIATIONS (BUDGET) BILL OR THE CAPITAL BUDGET BILL,~~ UNLESS A REQUEST BY A MEMBER FOR DRAFTING WITH COMPLETE INFORMATION HAS BEEN RECEIVED NOT LATER THAN 3:00 P.M. ON WEDNESDAY, DECEMBER 15 ~~20~~, 2004 ~~2002~~.

(b) EVERY SENATE BILL AND JOINT RESOLUTION IN THE FIRST YEAR SESSION, EXCEPT THE GENERAL APPROPRIATIONS (BUDGET) BILL OR CAPITAL BUDGET BILL, MUST BE SIGNED OFF IN LEGISLATIVE SERVICES BY 3:00 P.M. ON FRIDAY, JANUARY 14 ~~24~~, 2005 ~~2003~~. THE LAST DAY TO ACT IN THE FIRST YEAR SESSION ON ALL SENATE BILLS IN THE FIRST BODY IS APRIL 7 ~~10~~, 2005 ~~2003~~.

Adopted.

Senator O'Hearn and Foster offered the following Proclamation:

STATE OF NEW HAMPSHIRE



STATE SENATE

Resolution on the Nashua to Lowell Commuter Rail Service and New Starts Funding

NOW BE IT RESOLVED BY the New Hampshire State Senate and in support of the State of New Hampshire and the City of Nashua effort's to establish a commuter rail service from Nashua, New Hampshire, to Lowell, Massachusetts and;

WHEREAS, the state and the city have worked for many years to plan and implement rail service to relieve traffic congestion in and around the City of Nashua, and;

WHEREAS, the New Hampshire Supreme Court has ruled against the Department of Transportation's use of state highway funds for the Lowell-Nashua commuter rail extension project, and

WHEREAS, the New Hampshire Department of Transportation and the City of Nashua are disappointed but still intend to implement fully this critically important transportation project, and

WHEREAS, the New Hampshire Department of Transportation has discussed strategy with the City of Nashua to retain and continue momentum on the commuter rail project, and;

WHEREAS, a number of realistic options for financing the non-federal share of the project, including potential public/private partnerships, have been identified along with financial options for project management, and;

WHEREAS, Federal Transit Administration appropriations for FY 2001 and 2002 totaling \$4,165,325 of New Starts funds will lapse on October 1, 2004 unless extended by Congress;

NOW THEREFORE, in the interest of advancing a balanced transportation system and improving the state's transit opportunities, and in providing an alternative mode of travel to citizens and tourists alike, the New Hampshire State Senate strongly urges the state's Congressional Delegation to support the State and its Department of Transportation by working to secure the State's existing Federal Transit Administration's New Start appropriations before they lapse and are lost to the State of New Hampshire.

The Senate directs the Clerk to send to each member of the Congressional delegation, Governor, Council members, Comm. of Transportation, & Speaker of the House, and to their Massachusetts counterparts a copy of this Resolution.

Now therefore, pursuant to a motion of Senators Below, Flanders, O'Hearn and Foster:

Jane E. O'Hearn
Joseph A. Foster

Thomas R. Eaton
President of the Senate

ATTEST:

Steven J. Winter
Clerk of the Senate

Date

The question is on the adoption of the Proclamation.

A roll call was requested by Senator Barnes.

Seconded by Senator O'Hearn.

The following Senators voted Yes: Gallus, Johnson, Kenney, Below, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senator voted No: Boyce.

Yeas: 23 – Nays: 1

Adopted.

SENATOR O'HEARN: Thank you, Mr. President. Senator Foster and I would like to invite all of the members of the Senate that have voted in the affirmative to sign the proclamation.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):

HB 520-FN, relative to maintaining records of greyhounds used in pari-mutuel racing.

GOVERNOR'S VETO MESSAGE ON HB 520

May 17th, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 520, an Act relative to maintaining records of greyhounds used in pari-mutuel racing.

HB 520 requires the pari-mutuel commission to maintain statistics and records regarding the disposition of all racing greyhounds and health records of greyhounds.

The pari-mutuel commission has stated this bill will increase state expenditures. We simply cannot afford new spending at this time. In addition, many supporters of the bill seek to put an end to greyhound racing in New Hampshire. We should be concerned about the potential loss of jobs associated with the closing down of the state's greyhound industry.

The bill creates a penalty of a Class A misdemeanor, punishable with up to a year in prison, for falsifying a disposition form or failing to record

an injury more than once. This penalty applies to the smallest of injuries that may not even be related to racing activities. The penalty provisions in this bill are simply unfair.

The racing industry is subject to enough regulation as it is. Each greyhound track in NH is currently required to have a licensed state veterinarian on duty, and the New Hampshire Dept. of Agriculture inspects facilities. The commission recently adopted new racing rules and regulations that will help ensure the safety of animals.

Finally, I recently created, by executive order, the Humane Treatment of Animals task force to examine issues related to animal abuse, including greyhounds, in New Hampshire.

For these reasons I have vetoed HB 520.

Respectfully submitted,

Craig R. Benson
Governor

SENATOR BARNES: Thank you, Mr. President. Would the Clerk share with this body the vote in the House on that vote please?

CLERK OF THE SENATE (Steve Winter): The House voted 290 yes, 52 no.

SENATOR BARNES: Thank you very much.

The question is notwithstanding the Governor's Veto, shall the bill become law?

A roll call is required.

A 2/3 vote is necessary.

The following Senators voted Yes: Kenney, Below, Green, Flanders, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, Estabrook, Morse, Cohen.

The following Senators voted No: Gallus, Johnson, Boyce, Odell, D'Allesandro, Prescott.

Yeas: 18 - Nays: 6

Veto Overridden.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):

HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

GOVERNOR'S VETO MESSAGE ON HB 2004

June 15, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed HB 2004, an Act relative to the 10-year transportation improvement plan and making certain adjustments to turnpike funds.

HB 2004 is the 10-year plan. The legislature has failed to produce a plan that is fully funded. In section 1 of the bill the legislature acknowledges the revenue projected for the plan is inadequate to fund all the projects in the plan. The legislature failed to make the tough decisions to produce a balanced plan. It is irresponsible to the citizens and taxpayers of the state to promise a project knowing it may never be completed due to lack of funding.

I proposed the use of GARVEE bonds to help reduce the construction time for the I93 widening project. The use of GARVEE's would have allowed the project to be completed as much as 4 years earlier than planned, thereby reducing the overall cost of the project.

Finally, there remains great uncertainty regarding the State's allocation of Federal Highway funds. It is possible NH's share of federal funds is diminished. HB 2004 fails to account for this possibility.

For these reasons I have vetoed HB 2004.

Respectfully submitted,

Craig R. Benson
Governor

SENATOR ESTABROOK: Yes, I would just like to urge my colleagues to join the House in overriding the veto of the 10-year transportation plan. I know that the plan includes some very important large projects, but my concern is that it also includes some very important small local projects, some of which would undoubtedly be affected if we don't move it forward. I know in Dover, construction of a small downtown bridge is the lynch pin in the revitalization of the Dover Waterfront. That is something that the city has invested a lot of effort, time and money in, and whether that particular project is in jeopardy if we don't override or not, there are undoubtedly similar projects around the state that would be in jeopardy. So, I would urge you to join the House in the override. Thank you.

SENATOR SAPARETO: Thank you, Mr. President. Mr. President, I also rise in support of the override on the Governor's veto, but I also share the Governor's concern regarding the GARVEE bonds. I would liked to have seen that in there as well, but of course that is no reason, I believe, to oppose this project. I do hope that with the overwhelming support that this will receive to pass the 10-year transportation plan, that at some point, we will be able to reintroduce the use of those GARVEE bonds so that we can proceed with a very equitable way to fund this project in that we can help save some of the taxpayers in New Hampshire some money.

SENATOR LARSEN: I simply rise to express amazement in a bill as critical and regular as the 10-year transportation plan for the state of New Hampshire, that we have a veto instead of what should have been a cooperative discussion between the legislative body and the Governor through the process, so that we wouldn't have gotten into a situation where we have a Governor's veto of a bill so critical to the state of New Hampshire. I support the override and hope we will all join together in overriding this bill, this veto. Thank you.

The question is notwithstanding the Governor's Veto, shall the bill become law?

A roll call is required.

A 2/3 vote is necessary.

The following Senators voted Yes: Gallus, Johnson, Kenney, Below, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senator voted No: Boyce.

Yeas: 23 - Nays: 1

Veto Overridden.

RESOLUTION

Senator Clegg moved that the Senate now adjourn from the early session, and that the business of the late session be in order at the present time.

Adopted.

LATE SESSION

SENATOR BOYCE: I would like to move that we adjourn to the Call of the Chair.

SENATOR EATON (In the Chair): I am not going to accept that motion until we finish some of the business in the late session.

SENATOR BOYCE: There may be no second.

ANNOUNCEMENTS

SENATOR MARTEL RULE #44: Thank you very much, Mr. President. As many of you may know, the last Good Friday, New Hampshire and Minnesota lost a valued teacher and friend. Yes, Brother Alfonsas George was currently teaching a creed in Durham High School and St. Paul Minnesota where he had taught for over 33 years. His entire life as a Christian brother was spent teaching young people. He taught for over 54 years in New Hampshire, New York and Minnesota. This outstanding teacher received immeasurable awards, medals, citations, honors from Mayor Daley in Chicago, Governor Jesse Ventura of Minnesota and was listed in Who's Who in teaching, among many others, I thought I would give you a partial list there. Brother Alfonsas was not only a great teacher, he was my uncle. His birth name was Roger William Martel, son of Alfonsas and Maryanne Coty Martel. Born in Manchester. Attended West High Schools. St. John Joseph's Junior High in Manchester and went into Christian Brothers Novitiate in Berry Town, New York in 1950. Brother Martel taught me on four occasions in high school and in college. He taught me not only French, but also history and business planning and accounting. I can honestly stand here today and tell everyone that my uncle played a major role in my upbringing and education. I am proud to have had him as one of my teachers. And I can say thank you to him for all that he gave to his former students and me, but best of all, I call him Uncle. Allow me to close in saying that, if every school district had a teacher with his abilities, teaching students over the last five decades, our school systems would be some of the best of all time. Some of the professional achievement awards that he received was, he was honored by Delta Phi Epsilon, Alpha Chapter and the charter of New York University. Minnesota Business Education, Incorporated. Association of the Supervisors of Curriculum Development of Minnesota. That is quite a challenge. He was an honorary associate of Boys Town. He received the Smithsonian Associates Award. He belonged to the National Audubon Society and was a master with them. He was a member of the Disabled American Veterans and Commanders Club. He was

a notary public. He received numerous outstanding service awards for financing and establishing schools in East Africa, and among other places in the third world. I could keep going on here, and I am not going to because the list is an entire page long. He has about four others that are just like it. Mr. President, I would just like to read this, which I am holding very close to me. This is a saying that says, "To want to be what we ought to be, to grow to be what we can be, and to seek to be what we claim to be." Yes, this was written by my uncle. It is in my office from these days forward. Mr. President, once again, thank you for this opportunity to share with you and all of my conferees in the Senate, my uncle's life as a New Hampshire citizen and a Christian Brother. Thank you.

SENATOR EATON (In the Chair): Thank you, Senator Martel. We know that you will miss him.

SENATOR GREEN (RULE #44): Thank you, Mr. President. I would like to rise to speak under Rule #44 and make the remarks to be included in the *Daily Journal* and to make the permanent record include those remarks by vote of this body after I make the remarks, as required by the rules. It does not give me any great sense of satisfaction or joy to stand before this body and raise the issues that I feel are important to be raised, because I believe firmly in this institution and the credibility of this institution. I would hope that my comments would not be taken personal. I have nothing but the highest regards and personal liking of our president. My comments are directed to the process that we go through in this body in making laws. I know emotions get in the way of some of this and I am going to try to remain calm, collective, and get my thoughts through so the record will show that there are people who have strong convictions and they cannot just sit idly by and let things occur that are close to their principles and their thoughts of how things should be done. There is a letter. I understand that some of you have not seen it. The president knows about it. Those Senators who have signed it, have signed it because they came to me and we had these discussions. I'll make the letter available to all of you after my comments and would invite any of you to sign the letter along with us. We are signing a letter that talks about the process. We are not slamming anybody. We are not making personal attacks on anybody. We are concerned about how we do business in this Chamber. I have had the advantage or disadvantage, depends on how you want to look at it, of having served in this body before. I have also had the opportunity to do my research about how we have dealt with the process in the past. My issue is no secret. It has been public information. We have discussed it, at least as Republicans in our caucus. I think that we should discuss it as a full Senate with all members of the Senate being part of that discussion. Apparently that is not going to happen or, if it would happen, I would be a very happy individual as an individual Senator. This came about, in my opinion, because we have, as a body, been wrestling for many years, since, 1999. I was not here. I have been here for two years in this process. But we are wrestling with education funding. It is a very, very complex and difficult issue because everybody cannot be satisfied either with how we get to where we are or what the end result is. I am not debating or discussing how anybody votes. That's your right to do whatever you want. But I do think that, as a body, if we vote on a piece of legislation, not what our intent is, what we actually vote on that is on a piece of paper that is in writing, and we understand. That's what the law is. If you take that right away from us, you might as well do away with this institution, because

individuals have been making decisions about what we voted on. I am going to say for the record that SB 302 is flawed because we have not followed the law or our own rules. You cannot, as an individual Senator, make a decision for the entire body unless that body knows what you have done. Under the enrolled bill process, as I understand it in writing, as I understand it as a result of legal opinions, with an "s", as I understand it by the Secretary of State, and I will not use his name in vain, other than he has been made...he made a public statement in the paper. This bill is highly unusual and, in my opinion, it is wrong. It has nothing to do with the results of the vote and how the vote came out. It has to do with we, as a body, are we going to give up our individual and collective rights to control a decision about what we vote on? I think we are a very careful...we have to be very careful or we are going to go down a slippery slope. It is true that other times in the history of this institution that there have been attempts to amend a bill in the enrolling process. But in each of those cases someone was around at the appropriate time to say, "that's wrong. You can't do that." You will hear that we have done this with other bills this time. If we have done it with other bills, it is just as wrong. It doesn't make it right. Two wrongs don't make a right. This is the first bill that I became aware of, that we have done this to. Now am I at fault for not knowing that? Yes, I guess so. But once it became known, in the light of day it came on the issue, I believe that this body is not willing to give up its constitutional right to be the sole body of Senate action, that every Senator should be voting on any changes that are made after you vote on a bill, if they are not consistent with what is normally done in the enrolled bill process. I am of the school that enrolled bills is only, and I have the law to back it up, never mind the rules, it is only for clerical, technical and relative statements to making sure statutes are consistent with the law that we have passed. You cannot change substance. You cannot infer intent, and you can't do it for convenience. So I stand here before you today to let you know that, as one Senator, and there are other Senators who have signed this letter and I invite all of you to sign it, that we do not want to see this happen in the future. The merits of my argument, along with other issues, will be determined in another forum. They apparently cannot be resolved here. I am of the opinion that this body can resolve it any way that it wants, at any time it wants, if there is enough members willing to go forward with making the corrections to make the law the way it is supposed to be with us having to act on the changes. But apparently that is not going to happen. That is why I am forced to take this route, to make sure that my comments are on the record. I also want to discuss a minute with you, because I think that a good part of my frustration and some of yours in this process, is tied to us as a body thinking that we voted for something. Thinking we voted for a particular number of distribution for your communities, thinking we know what the per pupil distribution is going to be. I think that we really believe that. But guess what? I stood up here when 302 was passed. It doesn't matter how you voted, okay? But what does matter is I, at that time, said to this body, it doesn't matter what the distribution sheet says. It is going to change. We are not the final arbitrators apparently. We should be the final arbitrators, but we are not. Because there are other people who are playing a little bit of mischief in determining what we mean. I go back to a 2000 audit of the Department of Education. Do you know what the number one...there were two material weaknesses. But do you know what the first material weakness was? This is a financial audit. Here we are '04, this is '02...2000. The year 2000. "The department must establish and

implement formal policies and procedures to strengthen controls over education adequacy grant calculations. The department needs to develop a comprehensive set of management controls to assure that the assumptions and determinations made in calculating the different components of the adequacy grant formula are consistent and reflect the public policy established by law." Not by intent; by law. The law is what is written. And the law is what the courts are going to pay attention to first. It is not going to be what our intent was. They made a calculating error, that particular time in the year 2000-2001 of \$16 million, based on their calculation of what the per pupil cost should be. Not ours, theirs. Because we didn't put it in the law. We got so frustrated in this body in 1188 that we put our spreadsheet in the law because we don't like the Department of Education, the Attorney General's Office, or any other branch of government, executive branch or agency, telling us what we mean. Yet, we are told what we mean after the fact. So we go home to our constituents and we think we know what they are going to get. So, we go to our school boards, we go to our selectmen, we go to our counselors and we say, look , this looks like the number. If any of you did that, you got in trouble because you don't know the number, because somebody else is determining that number other than us. I take offense to that. This is not a new problem, but it hasn't been solved. I think that it behooves the executive branch and the leadership of this legislature to sit down and get it solved. I had the opportunity, I guess I will call it opportunity, to get some of my questions answered about what is on the record about how you came, how the Department of Education comes to the number of what is going to be distributed per pupil. Not to my astonishment, but to the reality, that the answers to the question was, "there is nothing in writing." They sit down verbally and talk about it. But do you believe that? Come on. This audit says they should sit down with the AG and other independent parties before they publish their distribution to communities. It says to them to do that. Now, do they do it? The Commissioner of Education says yes they do that. But, in the final analysis, he makes the call. That is what the commissioner should do. So I said, "do you have anything in writing for '04?" Nope. That was the first answer. "Do you have anything in writing for '05?" Nope. Well, what do you have? "Well we had these verbal discussions among whoever the parties are going to be and I make the final decision." And, by the way, there is a worksheet for '04. We have asked for the copy of that worksheet. Is there a worksheet for '05? "No, not yet, we haven't decided that, we are still working that." Make sure we have a copy of that worksheet when you are done please. He will make it available to the committee, to the members of the committee. Fine. But I am telling you, until we start to realize that we're not making the decisions in this body, about what we think we're doing, and then we, as a body, find ourselves in a situation where the problem is magnified because we turn around and do what I believe is improper in the enrollment process. We make matters worse. We are trying to fix a problem. So, what do we do? In order to do what we think we should do, we create another problem. I want to make it clear that my position is that the enrollment of this bill was done improperly. This is not the way that you conduct business. Every member of this body should be dissatisfied and should not be happy because you were not given the opportunity to vote on those changes. I think you have a right to that opportunity. Whether you vote up or down, it doesn't matter. You have the right, as a body, to know the final document you are voting on. I would say to you that substance changes were made in the enrolling

process. If it was done in any other bill, that was also wrong. I am going to ask, as a result of the rule, that my comments be made part of the permanent record by vote of this body. If you care about this body as a whole, and your individual right as a Senator, you must vote yes to do that. If you don't care, and you are willing to give up that right, then vote no. But I think you care. Thank you, Mr. President.

The question is on the adoption of adding Senator Green's Rule #44 comments into the Senate Daily Journal.

A roll call was requested by Senator Barnes.

Seconded by Senator Green.

The following Senators voted Yes: Gallus, Johnson, Kenney, Below, Green, Flanders, Odell, Roberge, Eaton, Peterson, O'Hearn, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Sapareto, D'Allesandro, Estabrook, Morse, Prescott, Cohen.

The following Senator voted No: None.

Yeas: 23 - Nays: 0

Adopted.

SENATOR O'HEARN (RULE #44): Thank you, Mr. President. At a time like this, I know it is a privilege to have served here. Eleven years is a long time, but yet when I look back, it is also a short time. Both my children have graduated from high school and college during that time. My father-in-law and my father passed away during that time. I know the cost of an education. I know the role of a support giver and a care giver. My husband has been my support and I am pleased he enjoys going to the grocery store now. I may not want to do that again. I have enjoyed working here, could not have done it without the staff and I thank them for that. I thank all my fellow Senators for the opportunity to have learned and to have worked with each and every one of you. I know we may not have agreed on every issue, but I have certainly learned to respect your opinions. To the House, and it is interesting to note that there are 13 of us that have come from the House, I tell you, and I know how hard you work, that it is a great feeding ground for this body. My love of the House and the Senate will always remain with me. I thank you for that opportunity. Through my life as a child, as a teacher, as a mother, and as a legislator, having been, having served as the Chairman of Education, I have minded the "Three R's", "reading", "riting" and "rthmatic." As I leave today, I am going to ask you to mind the three "E's". The economics of this state, for without it, this state will fail. For the elderly, for they have come before us and we will be there at some point in our life. And for education because it is not the cost of an education, but it is the lessons learned. Thank you for this opportunity and I wish you all well, and hope to see you back here next year.

SENATOR EATON (In the Chair): Senator O'Hearn, thank you. Senator O'Hearn, the leadership roles that you have taken in both the House and the Senate will not be forgotten and they will be very large shoes to fill. We do thank you so much for all of your service.

SENATOR BARNES (RULE #44): Thank you, Mr. President. Number one. Thank you Senator O'Hearn for being here with us. It is not easy to be with some of us I understand that. All I want to have to say is that I think Senator Green did a very good job on the issue. The letter he talks about, I want my constituents to know that I happen to agree with

Senator Green and I signed that letter. Number two, I do believe that the reason that happened was done with no ill intent. I believe the Senate President had legal advice on it and he took that legal advice, and he felt what he did was right, and by gosh that's okay with me. I just happen to agree with Senator Green and that is no bad remarks about the Senate President. I think you did a great job and you had to take legal advice and that is what you did, and I just happen to disagree with your legal advice. I wish you would have taken my legal advice. With that, I will say, hey, it has been a fun year. Senator Cohen, Senator O'Hearn, the best of luck to both of you. You are both good people. There is not a bad egg in this whole Chamber.

SENATOR D'ALLESANDRO (RULE #44): Thank you, Mr. President. I rise first to say to Mr. President, I feel privileged to have served in this Senate with you as our President. I think you are an honest, honorable person, and you have been fair to everyone in this body and I appreciate that. I appreciate that very much because fairness is something that I covet in this life. I think it is very important. I think it is a value that we all share and it is something that we should be very, very proud of. I rise today to speak about one of my colleagues and that is the Honorable Jane O'Hearn. Jane and I don't agree all the time on everything, but Jane, I am honored to have served with you in this Senate. I admire your courage. You got up on the tough ones and made some very tough decisions on what you thought was the right thing. That is the mark of any human being. When they have the courage and the conviction to go against the tide because what they believe in is paramount. I commend you on that. I think courage is a virtue that it is in all of us, but it is what brings it out that makes the difference, and you did it, and you did it again today, and I admire that, because it is the people that we represent who really are the beneficiaries of the work that we do. Now we come and go in this process. That is life. It is the mark that we leave behind, that indelible mark, that makes an impact on everyone's life. You're a teacher, you're a mother, a good wife. I mean these are all virtues. Remember, in our Constitution, we eliminated women from the process. It took an amendment to the Constitution to give women the right to vote. It took an amendment to the New Hampshire Constitution to allow Roman Catholics to hold public office. It seems to me women who have taken up the mantle of leadership deserve a great deal of credit. I must say on this floor, that if it weren't for the courage, the fortitude, of my wife and her support of me over the years, I would be nowhere in this life, and Mr. O'Hearn deserves great credit for choosing you as his spouse, I will tell you that. Jane, you have left a mark on the body of class. Why more people can't fall into that category, you know, it is something that I can't understand, because the one thing that I think is happening to our body is this lack of civility. I spoke about it on the floor of the House. Jane, you and I were in the House together. I speak about here on the floor of the Senate. We have to learn to disagree because that is what the great debates are about, but we can never be disagreeable. I wish you the best because you have given us the best, and I say that with the deepest of sincerity. I am honored to have been your colleague. Thank you, Mr. President.

SENATOR FOSTER (RULE #44): Thank you, Mr. President. I, too, rise to say some remarks to Senator O'Hearn. Thank you for your service to the state and to our city that we share. You served with style, grace, and determination and hard work. We haven't always agreed, in fact, we disagreed a lot and, from time to time, I wish you weren't so determined.

Things might have come out better for my side from time to time. But, although we disagreed, your style and grace and form of leadership has never allowed our relationship to become disagreeable. As chair, you respected every opinion, let every word be heard and every opinion respected. Although we disagreed, we haven't always disagreed, and on issues from economic development, commuter rail, mental health, the elderly and so forth, your assistance and leadership has been invaluable. Let me say one more word. Because of your party and your gender, I think you have allowed opinions and words to be heard in this chamber that needed to be said. I can recall last session a speech you gave last year, a speech you gave where, on a very tough issue, where I think we could hear a pin drop in this chamber, and those are words that will always stay with me and that I will think about in the years to come. So thank you very much for your service to the city and to the state and for your friendship. Best of luck.

SENATOR COHEN (RULE #44): Thank you. I rise to speak about a different subject here. I want to thank Senator O'Hearn, too. It has been, as I said before in my last Rule #44, it has been wonderful to work with you all. I frankly thought that was going to be my last Rule #44 in here. But things have changed a little bit. There is really only one nice thing to have happened about the sudden end of my U.S. Senate campaign, and that is friendship. The cards and letters and calls and emails and hugs from people. It doesn't matter what party, it doesn't matter what part of the state, Democrats and Republicans. Everybody is saying how sorry they were about what was done to me and to my nascent to campaign. I have a lot of friends out there. It is indeed nice to know, it is truly heartening to me and to my family, in this very difficult personal time. I want to thank everyone in this Chamber and the state of New Hampshire for your kind thoughts and prayers. I especially want to thank my wife who has been through an amazingly difficult time and she has been a rock for me. It has been very difficult on her. In the last two weeks, I will say my name recognition seems to have gone up exponentially. It wasn't through the intended method however. The simple fact is, it certainly appears to me that I have had been wronged by someone I trusted. It is true in this campaign, it seems clear to me, I have been betrayed by someone I relied on to work for me, and I do intend to right that wrong. It is also true, at least in my opinion, that much of America has been betrayed and we must right that wrong as well. Today, we have an administration and its supporters, openly, unabashedly, in service to the already rich and powerful to the detriment to the common good. The fact is, our federal government was created by our founders to serve the average citizen, and here, too, we see a betrayal but on a far grander scale. This is an historic wrong which much be righted. This administration is not listening to the common folk anymore, not respecting those to whom it has been historically and constitutionally entrusted to serve. This injustice is unacceptable. It is true that I have been wronged by someone I trusted, but so have millions of American people. Others have had a lot worse done to them than I have had done to me. But the fight for the values that I hold dear, the fight of the average American citizen for justice is not over, not by a long shot. We must take our government back. We must fight to make right an egregious wrong. My reason for running for the U.S. Senate is the same its always been in politics. I have been driven by a vision of America's potential, and on that vision, I will never give up. In 2004, I will not be a candidate, but rest assured that my fighting days are not over. Together, we will bring the

values of community, justice, fairness and democracy back to America. Together, we will most assuredly take back our government from the powerful special interests which have hijacked our democracy. My role in this struggle may be different than expected this year, but I still have my voice and I still have no doubt that together we will create the better future we deserve. Thank you all.

SENATOR LARSEN (RULE #44): Thank you, Mr. President. As this is the last session, at least that we can predict for 2004, it is a time, I think, to address the honor of this group. To thank our Senate President on the hard work that you have given to the...service of this state for these past two years as our Senate President. To honor those, my Senate colleagues, all of you, who served, as we each individually know, giving much of your private time, your private lives, giving up many responsibilities in order to serve the state's responsibility. This is something which each of us recognizes in each other and it is one which I believe we need to recognize today. I recognize Senator Green for his service in standing up for the honor of our lawmaking and the words we write and the importance of precedence. I want to also speak to Senator O'Hearn and the honor that it has been to serve with you. The words that you have brought to this body, the insights as a fellow female legislator, have always been one which have been valuable to what is a large population in this state that isn't always heard from unless there are enough women here in this body. You have stood up for the education of our children and we value that. I trust we will all be seeing you and remain friends and in contact through the years. I want to also recognize the honor of Senator Cohen for his service to the state Senate and to recognize that, while there have been more recent issues, certainly there is nothing in all the evidence that will show anything other than the highest honor that it should be accorded to Senator Cohen. His willingness to serve to the state on a state level and his willingness to have put as much time and energy as he did into the beliefs of many in this state, working to be a voice for those who sought another party's voice. We thank you, Senator Cohen, and I think that I speak for all of us in that you continue to serve with honor as a citizen of this state, and I suspect future voice in other debates. To all of you, I wish you all a wonderful summer and I look forward to serving with you again in 2005 and 2006. Thank you.

SENATOR BARNES (RULE #44): Thank you, Mr. President. Seeing that I can't take a Rule #44, I will take a Rule #17 which coincides with my district. God knows what #17 is. Maybe you can find it in the book. I would like to say a few words about Senator Cohen if I could please. I have served with Senator Cohen for a number of years. You know, I have gotten to like the guy. Isn't that a heck of a thing? He and I haven't voted too often the same way. In the last three minutes of his Rule #44, I wanted to get up and strangle him, but I am not going to do that, because I respect Senator Cohen. I want to say to the folks that might be listening out there, that Senator Cohen is a straight shooter even though his gun shoots in a different direction than mine 99 percent of the time. Burt, it has been good dueling with you occasionally. Every time the folks head for the coast and you go by the Larry Bird Memorial Highway, which is Route 33 if you don't know what the Larry Bird Memorial Highway is, you'll know and think of Senator Cohen and Senator Barnes, and the boom truck putting that first 33 up there. When it was mentioned in the House as we went through the committee, they said it was a great idea because you two Senators, no matter which way you put up that 33, can't screw it up. It will still come out 33. Senator Cohen, thank you for 33

and thank you for being a good guy. A lousy voter on most issues, but a good guy, and I respect you for it, and I respect you for being a good family man. Nothing but the best of luck to you. And, if you would have listened to me a year ago, I was willing to sign on as your campaign manager but you said you had somebody that you had more faith in. Now, Burt, good luck to you.

SENATOR EATON (In the Chair): Senator Cohen, it just would have happened earlier.

SENATOR PETERSON: Thank you, Mr. President. I would like to move that Senator O'Hearn's remarks, Senator D'Allesandro's remarks and Senator Foster's remarks be made part of the Permanent Journal.

SENATOR SAPARETO: Thank you, Mr. President. I would like to move that Senator Barnes' comments on Senator Cohen's also be entered in the Permanent Journal.

SENATOR GATSAS (RULE #44): Thank you, Mr. President. I rise to thank Senator O'Hearn. There are probably people that would be a little angry with all the things you taught me, but education funding wasn't the only issue. The YDC in Manchester was another very big issue. The children in New Hampshire that may not follow the right road. The facility that was there was wrong. Senator O'Hearn, with the commission and a lot of hard pushing, funded that project through the state because we needed that project done so that the children that took that bad turn in the street had a place to maybe straighten their lives out. So yes, Senator O'Hearn, you asked me before, if I had the ability to come back, am I going to work on education funding? You are right, I am. Don't be mad if I call you and ask you for your advice 'cause I respect your advice as you have guided me for the last two years through this process. So, I think it is important, one, that you led the children that took the wrong road, but more important, that the children that we're educating in this state, because of some of the laws that you pushed very hard for, have a better opportunity. That's the important thing. Opportunity and the children of this state. I thank you for your service. I thank you for dedication.

SENATOR EATON (RULE #44): Now that our business has concluded for the 2004 session, I want to take a moment and thank all of you gathered here in this Chamber for all your hard work and dedication over the past five months. As your Senate President, it has been profound honor to lead you. I am thankful also for your help in passing legislation that meant a lot to me and the district I represent, including the capital for an 8,000 square foot technical college satellite, campus in Keene to keep the education going that is so badly needed, a push for an independent safety review of Vermont Yankee Nuclear Power Plant, funding for the building of a new state liquor store Keene, to keep our economy going, and providing startup costs to bring a nursing program back to the technical college system in Keene, a nursing program that is so badly needed as we have a shortage of nurses. I appreciate all these courtesies that you have extended to me. It is the give and take in each other's legislation that allows us to function as a team for the good of the citizens of the state. If there is one thing I have learned in Concord over here in the past couple of years in this position, no matter how well we organize, no matter how diligent we attempt to manage, each session takes on a life and personality all of its own, and this year proved to be no exception. Looking back, we all won some battles and lost others. We were able to convince a skeptical colleague and, in turn, we al-

lowed ourselves to consider other positions. In doing so, you have all left your mark on the 2004 legislative session. All citizens in New Hampshire will benefit from stronger DUI penalties, zero tolerance to rioters, clearer ethics in campaign rules, greater access to birth records, the continuation of the Katie Beckett Program, better organized state government, cheaper prescription drugs. Then, how can we thank Senator Sheila Roberge enough for trying at least, her bill 372 would have clarified the requirements for shelters used by man's best friend and that legislation would have made a big difference for all of us being in the dog house on education funding. Just because some issues remain a work in progress doesn't mean any of your service has been anything less than extraordinary. Whether it has been your first term or your tenth, I am convinced you have all made a difference here. That is no small challenge considering the 24 districts we come from are as diverse as the good folks that we represent. From where I stand, it is obvious you have all earned a well-deserved summer vacation. With so many of us having designs on returning to Concord next January, the respite will only be brief or as Will Rogers once used to say, "The trouble with a politician's life, somebody is always interrupting it with an election." I would also be remiss if I didn't ask my colleagues to join with me, in giving a big thank you for the people that make us look so good, and that is all of our staff members here, who once again, made our successes possible. That is a thank you from the bottom of all of our hearts. As we have talked about in previous conversations here, two of our colleagues won't be returning next year - Senator Cohen and Senator O'Hearn. I want you to know that it has been a pleasure to work with both of you, and I wish both of you well in your future endeavors. Thank you. Over the last two years you may remember, I have paid individual attributes to both our senior and junior Senators. This time, I want to extend my gratitude to a group I haven't recognized in the past, and because, in many respects, they are the very reason we are here in Concord. While they are not old enough to vote, they continually inspire us to make New Hampshire a better place to live, to work and to raise our families. They are the young children of the Senate. They are the ones that patiently wait for you to return as you attend to the commitments here in Concord or with a constituent or meetings at night. They are Christian Kenney; Ellie, Sarah, and Anna Peterson; Mikayla, Shoshana, and Gabriella Foster; Frank Junior and J.J. Sapareto who we saw here a number of times; Emma Morse; Carly, Maggie, Rowen and Rusty Prescott; and finally, just as we saw a few weeks ago, Meggie and Lea Cohen. In closing, it is my hope that all Senators make it home for dinner tonight on time. I want to wish you luck this summer and thank you all very much.

HOUSE MESSAGE

The House of Representatives has voted to override the Governor's veto on the following entitled Bill(s):

SB 470-FN, relative to funding for the physician effectiveness program, and establishing a dedicated fund.

HOUSE MESSAGE

The House of Representatives has voted to sustain the Governor's veto on the following entitled Bill(s):

HB 1134, relative to appointment of the chief justice of the supreme court.

HOUSE MESSAGE

As of this date, June 17, 2004, the House of Representatives has adjourned to the Call of the Chair at 12:38 p.m.

RESOLUTION

Senator Clegg moved that the Senate adjourn to the Call of the Chair.

Adopted.

Adjourned to the Call of the Chair.

OUTSTANDING BILLS

At the time of adjournment on June 17, 2004, the following Senate Bills remained on the table in the Senate.

SB 20, relative to the qualifications for the property tax exemption for the disabled.

SB 112-FN-L, relative to state use of domestic steel.

SB 327, relative to the scope of the administrative review or hearing following suspension or revocation.

SB 394-FN, relative to children's product safety.

SB 396-FN, relative to farm tractor registrations.

SB 398, relative to residency requirements for Medicaid recipients in nursing homes.

SB 405-FN, relative to standards for comprehensive physical rehabilitation service areas.

SB 422-FN, relative to the use of Route 28 in Derry and establishing a penalty for violating weight control designations made by the commissioner of the department of transportation.

SB 435-FN, relative to accessible housing for persons of all abilities.

SB 468, relative to solid waste management.

SB 474-L, exempting property owned by a private secondary or postsecondary educational institution from the education property tax.

SB 485-FN, relative to video stalking.

SB 486, prohibiting floatplanes on Pickerel Pond.

SB 501, establishing a committee to study a certain parcel of land along the Baker river.

SB 507, establishing a committee to study the application of advanced information technology in certain state agencies.

SB 516-FN, relative to special needs trusts.

At the time of adjournment on June 17, 2004, the following Senate Bill remained on the table in the House.

SB 390, relative to liability of third person under workers' compensation.

At the time of adjournment on June 17, 2004, the following Senate Bills were not signed off in Committee of Conference.

SB 61, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

SB 199, revising the nurse practice act.

SB 434, relative to importing prescription drugs from Canada.

At the time of adjournment on June 17, 2004, the following House Bills remained on the table in the Senate.

HB 107, relative to bingo.

HB 108, relative to the adoption of an optional veterans' property tax credit.

HB 499, expanding opportunities for teacher certification.

HB 829, relative to ward boundaries in Manchester and Nashua to be used in state elections.

HB 1290, establishing a study committee to examine time limits on eligibility for Temporary Assistance for Needy Families.

HB 1376, relative to agency fees assessed pursuant to public employer collective bargaining agreements.

HB 1424-FN-A, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state.

At the time of adjournment on June 17, 2004, the following House Bills were not signed off in Committee of Conference.

HB 1227, relative to land assessed for current use which is taken by eminent domain.

HB 1335, establishing a commission to examine the workers' compensation system in New Hampshire.

HB 1413, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

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- bankruptcy, retained by consumer credit reporting agencies,
 - time reduced HB 1329
- criminal, justice information system, issues of privacy, security, and
 - dissemination, study extended HB 1403
- fish and game records of violations retained for 7 years HB 1334
- local government records management programs funded by increased
 - motor vehicle registration permit fee SB 74
- medical
 - access by patient to all medical information SB 314
 - copy for patient, time limit; penalties HB 1413am
 - persons with highly communicable diseases, access, study HB 1170
- registry of deeds, additional methods of recording and preserving SB 456
- storage and management by a town for agencies of the US government,
 - other municipalities, or non-profit organizations;
 - liability limited SB 466am
- vital, improvement fund advisory committee, member added;
 - terms changed SB 128

Recycling, ways to encourage in towns, study HB 1262

Red Sox, price of victory this year, exchange between Senators Peterson
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tuition waiver for children of firefighters or policemen killed in the line of duty; room and board scholarships	HB 1378am

Registry of deeds

list of residential property in commercial or industrial zones, requirement repealed	HB 713am
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SB 408

Retirement plan, judges, technical amendments

SB 329am

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additional contributions by members repealed	SB 326
.....	SB 338am
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firefighters, permanent disability retirement, medical insurance paid for retiree and family	SB 420
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out of state service, time limitations removed	SB 338am
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extra or special duty employer to pay full contribution	SB 326
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 - report to fiscal committee on status of monthly tax refunds HB 426am
- creation of default budget form SB 407
- enforcement of assessing standards board rules on certification and decertification of appraisers HB 426
- reorganization, study SB 534
- tobacco product vending machine licensing transferred to liquor commission SB 534

Rifles and shotguns, shooting range operators exempt from nuisance actions; compliance with ordinances in effect when range began . HB 1309

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- court records, actions against governmental units, settlement agreements available to public inspection HB 1295am
- exception to public session for applications for assistance, tax abatements, or waiver of fees or fines if based on inability to pay or poverty HB 622
- exemptions, notes made for personal use and preliminary drafts, notes, and memoranda HB 1295am
- unique pupil identification information exempt SB 333

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- on or near public college campus, person may be banned from any campus; restitution HB 1361
- throwing object at police or emergency responder, penalty SB 511

Ritalin, and other psychotropic drugs, prescription to children in childcare centers, preschools, and public schools, study HB 551am

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- accidents, driver approaching scene, duties, avoidance of lane blockage; vehicle involved in accident moved to untraveled area SB 530
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 - impaired driver intervention program, proof of successful completion and payment of fees required; if further treatment is considered necessary, right to hearing SB 388
 - penalties increased; additional treatment or counseling may be required; penalty for leaving treatment early SB 478
 - scope of administrative review or hearing, alcohol concentration added SB 327
- littering, fine increased SB 364
- manufactured or modular buildings, special rules for transportation HB 1183am
- traffic signal preemption devices, use limited HB 1401

Rockingham county, child abuse or neglect hearings open to the public, pilot program SB 415

Roll calls

- Senate Proclamation, Nashua to Lowell commuter rail service and new starts funding. Question, adopt the proclamation.
 - Yeas, 23; Nays, 1 1352-1353
- Sen. Green's rule 44 comments. Question, add the comments to the Senate Daily Journal. Yeas, 23; Nays, 0 1360
- SB 117-FN-A-L, authorizing video lottery administered by a gaming oversight authority, and establishing a pharmacy benefit program. Question, adopt motion of interim study
 - Yeas, 18; Nays, 6 61

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SB 207, relative to transactions exempt from the consumer protection act. Question, adopt committee amendment. Yeas, 17; Nays, 5	22-23
SB 302-FN-L, making technical corrections to the education funding formula. Question, adopt floor amendment. Yeas, 8; Nays, 15	591
Question, lay on table. Yeas, 10; Nays, 13	596
Question, adopt bill as amended. Yeas, 13; Nays, 11	596-597
Question, adopt motion of ought to pass as amended. Yeas, 14; Nays, 10	598
Question, adopt conference committee report. Yeas, 13; Nays, 11	1264
SB 313-FN, relative to unsolicited commercial electronic mail. Question, adopt committee report of inexpedient to legislate. Yeas, 15; Nays, 8	151
SB 326-FN, relative to contributions by political subdivision employers for certain employee service, and repealing certain retirement system provisions permitting additional contributions by members. Question, adopt committee amendment. Yeas, 8; Nays, 15	375
SB 371, relative to certain technical changes in the insurance laws. Question, adopt Larsen floor amendment. Yeas, 8; Nays, 15	408-409
SB 374, relative to emissions requirements for municipal waste combustion units. Question, adopt committee report of interim study. Yeas, 13; Nays, 10	488-489
SB 376-FN-A, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals. Question, adopt conference committee report. Yeas, 15; Nays, 8	1278
SB 383-FN, relative to pharmacy benefit management. Question, adopt motion to concur. Yeas, 16; Nays, 5	1115
SB 390, relative to liability of third person under workers' compensation. Question, adopt motion of ought to pass as amended. Yeas, 17; Nays, 6	70
SB 419, relative to the use of standardized health statements. Question, adopt floor amendment. Yeas, 24; Nays, 0	427
SB 421, relative to charter schools. Question, adopt floor amendment. Yeas, 7; Nays, 16	484
Question, adopt the bill as amended. Yeas, 23; Nays, 0	485
SB 427, relative to the definition of marriage. Question, adopt motion of ought to pass. Yeas, 16; Nays, 7	439-440
SB 429, relative to state and municipal contracting practices for public works. Question, adopt bill as amended. Yeas, 13; Nays, 10	425-426
SB 431, prohibiting the waiver of workers' compensation subrogation rights. Question, adopt committee amendment. Yeas, 17; Nays, 5	126-127
SB 454-FN, relative to carrying a concealed weapon without a license. Question, lay on table. Yeas, 7; Nays, 16	245
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SB 470-FN, relative to funding for the physician effectiveness program, and establishing a dedicated fund. Question, pass over governor's veto. Yeas, 22; Nays, 2	1343
SB 478-FN, relative to penalties for DWI offenses. Question, adopt floor amendment. Yeas, 6; Nays, 17	329-330
Question, adopt bill as amended. Yeas, 22; Nays, 1	330
Question, adopt conference committee report. Yeas, 23; Nays, 1	1286
SB 480-FN-A, making an appropriation to the tobacco use prevention fund for the purpose of smoking cessation programs. Question, adopt motion of inexpedient to legislate. Yeas, 12; Nays, 10	391
SB 484, establishing the Collaborative Practice for Emergency Contraception Act. Question, adopt motion of ought to pass. Yeas, 14; Nays, 9	623
Question, pass over governor's veto. Yeas, 15; Nays, 9	1348-1349
SB 490-FN, relative to the Help America Vote Act. Question, adopt floor amendment. Yeas, 6; Nays, 17	229

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SB 510-FN, relative to unprivileged physical contact without the intent to harm. Question, adopt committee amendment.
Yeas, 13; Nays, 10 335

SB 513, relative to the death penalty. Question, adopt motion of ought to pass. Yeas, 12; Nays, 11 255
Question, pass over governor's veto. Yeas, 11; Nays, 13..... 1350

SB 523-FN, prohibiting the use of government property for electioneering. Question, adopt committee report of inexpedient to legislate.
Yeas, 17; Nays, 6 199-200

SB 524, relative to the incineration of construction or demolition debris. Question, adopt committee report of interim study.
Yeas, 13; Nays, 10 495

SB 528, establishing a right-to-work act which provides for freedom of choice on whether to join a labor union. Question, adopt committee report of interim study. Yeas, 18; Nays, 5 562

SCR 5, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans. Question, adopt motion of ought to pass.
Yeas, 24; Nays, 0 559

SJR 3, urging the United States Supreme Court to retain the words "under God" in the pledge of allegiance. Question, adopt motion of ought to pass. Yeas, 21; Nays, 0 929

HB 176, relative to listing candidates on ballots. Question, adopt bill as amended. Yeas, 15; Nays, 6 821

HB 243, relative to motor vehicle exhaust noise standards. Question, adopt conference committee report. Yeas, 12; Nays, 11 1185

HB 264, establishing state representative districts. Question, adopt committee amendment. Yeas, 17; Nays, 7 1044

HB 299, removing judicial discretion to order a divorced parent to contribute to an adult child's college expenses. Question, adopt motion of ought to pass. Yeas, 20; Nays, 2 31-32

HB 366, relative to mercury reduction. Question, adopt committee report of inexpedient to legislate. Yeas, 15; Nays, 6 840

HB 503, relative to septic system construction permits. Question, adopt committee report of ought to pass. Yeas, 16; Nays, 7 681
Question, pass over governor's veto. Yeas, 13; Nays, 11 1351

HB 516-L, relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth. Question, order to third reading in the early session and passage of the bill.
Yeas, 22; Nays, 0 209

HB 520-FN, relative to maintaining records of greyhounds used in pari-mutuel racing. Question, adopt committee report of inexpedient to legislate. Yeas, 9; Nays, 14 608
Question, adopt floor amendment. Yeas, 17; Nays, 6 613
Question, adopt bill as amended. Yeas, 14; Nays, 9 613
Question, pass over governor's veto. Yeas, 18; Nays, 6 1354

HB 618-FN-A, making technical corrections to certain local property tax laws. Question, adopt conference committee report.
Yeas, 18; Nays, 5 1193

HB 664-FN, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks. Question, adopt the bill as amended. Yeas, 18; Nays, 3 720

HB 727-FN-L, establishing a legislative oversight committee for the school administrative unit system. Question, adopt committee amendment. Yeas, 11; Nays, 10 806-807
Question, adopt floor amendment. Yeas, 10; Nays, 13 1008-1009
Question, reconsideration of committee amendment.
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HB 1188, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan. Question, adopt floor amendment. Yeas, 22; Nays, 2 991-992

HB 1228, relative to changes to the uniform fine schedule. Question, adopt floor amendment. Yeas, 9; Nays, 14 1026

HB 1281, permitting the adoption of an alternative cost apportionment method in a cooperative school district. Question, adopt floor amendment. Yeas, 10; Nays, 13 983

HB 1367, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. Question, adopt sections two, four, five, and six of the bill. Yeas, 17; Nays, 5 914

HB 1413, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims. Question, adopt the bill as amended. Yeas, 19; Nays, 3 902

HB 1416-FN, extending the property tax exemption for wooden poles and conduits and establishing a committee to study issues related to the exemption. Question, lay on table. Yeas, 10; Nays, 11 639

HB 1424-FN-A, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state. Question, lay on table. Yeas, 14; Nays, 7 845

HB 1428-FN, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. Question, adopt floor amendment. Yeas, 14; Nays, 8 1073

Question, adopt bill as amended. Yeas, 20; Nays, 1 1074

HB 2004-FN-L, relative to the state 10 year transportation improvement plan and making certain adjustments to turnpike funds. Question, adopt floor amendment. Yeas, 6; Nays, 17 965

Question, adopt bill as amended. Yeas, 24; Nays, 0 965-966

Question, adopt suspension of the rules (to allow new conference committee after deadline). Yeas, 20; Nays, 0 1304

Question, adopt conference committee report. Yeas, 20; Nays, 1 1308

Question, pass over governor's veto. Yeas, 23; Nays, 1 1355-1356

CACR 5, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule. Question, adopt floor amendment. Yeas, 6; Nays, 17 907

Question, adopt committee report of ought to pass. Yeas, 18; Nays, 6 907

CACR 27, relating to elective franchises. Providing that the right to vote in elections shall be limited to citizens of the United States. Question, adopt committee report of ought to pass. Yeas, 24; Nays, 0 134-135

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- joint legislative committee on administrative rules, staffing requirements; legal counsel SB 514
- liquor commission rule Liq 404.05(d)(3) prohibited from adoption HJR 26
- repeal, expedited procedure; deadlines waived by legislative services director HB 230am
- transportation department rule Tra 601.15 prohibited from adoption HJR 25

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- capital improvements appropriation, transfers between individual projects; federally funded emergency operations center added SB 381
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 - and health and human services commissioner report on proposal to establish capitol police force SB 534am
- bingo and lucky 7 enforcement transferred to pari-mutuel commission SB 534
- boating accident reports and investigations, property damage amount increased SB 424
- carnival-amusement rides, inspection and reports by agents of the commissioner SB 424
- fire detection and suppression system installers, inspectors, and servicers, voluntary certification, rulemaking SB 355
- pyrotechnics before an audience, licensing, rulemaking HB 664
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- safety and security zones on public or coastal waters; marine officers may assist Coast Guard in enforcement SB 424
- divisions renamed and consolidated SB 432
- forensic science laboratory, funding sources, study HB 1411
- gaming enforcement division established SB 117
- information technology, advanced, application, study SB 507
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- NH hospital security force transferred from health and human services SB 534
- positions established SB 222
- statewide incident command system to respond to certain emergencies SB 380
- terrorism positions transferred from health and human services SB 534am

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- animals, commercial kennels defined and included in licensing requirement; fees and penalties increased SB 399
- children's product safety act adopted SB 394
- condominium units, disclosures required prior to sale HB 1133
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- mercury-added products, restricted HB 366
- milk product pricing, study extended HB 1403
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- tobacco products, laws amended SB 186

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- requirements to be considered for FDIC insurance SB 500

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- boards, to adopt policy recommending that all pupils participate in daily physical activity, exercise, or physical education HB 1352
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- pupils
 - bullying, notification to parents of policy and of any incidences
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 - Ritalin, and other psychotropic drugs, prescription in childcare
 - centers, preschools, and public schools, study HB 551am
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 - county extended; appropriation; responsibility transferred
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 - adequate education, grants, date for notification of amounts HB 1281am
 - education property tax, rate for fiscal 2005; afterwards, revenue
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 - statewide enhanced education tax, language clarified SB 303
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 - private, property exempt from statewide enhanced education tax SB 474
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State agencies (*cont.*)

rules (*cont.*)

- joint legislative committee on administrative rules, improving procedures, study HB 230
- joint legislative committee on administrative rules, staffing requirements; legal counsel SB 514
- liquor commission rule Liq 404.05(d)(3) prohibited from adoption HJR 26
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- transportation department rule Tra 601.15 prohibited from adoption HJR 25

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adop	adopted
am	amended, amendment
Cap Budget	referred to Capital Budget committee
Com	re-referred to committee
conc	concurred
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	nonconcurred
opin	opinion
psd	passed
RC	roll call
remt	recommitted
recon	reconsideration, reconsidered
rej	rejected
rep	report
req	request, requested
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study	referred to interim study committee
wthd	Withdrawn, withdrew, withdrawal

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- SB 207**, relative to transactions exempt from the consumer protection act. (Banks)
New title: relative to exemptions from the consumer protection act and the regulation of retail installment sales of motor vehicles.
 am (RC) & LT 20-26, am 91-99, psd 128, conc H am 1107, enr 1179 Chapter 141)
- SB 215-FN**, relative to the use of prerecorded telephone messages for political advocacy. (Interstate Cooperation)
 H nonconc 47
- SB 220**, repealing the professional malpractice claims panel. (Judiciary)
 study 29
- SB 222-FN-A**, relative to motor vehicle fees. (Transportation)
 H nonconc 47
- SB 228**, relative to the preservation of historic barns and similar historic agricultural structures by municipalities. (Public Affairs)
 K 40-41
- SB 230**, relative to transition service and relative to the sale of PSNH generation assets. (Energy and Economic Development)
 study 58

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- SB 301-FN**, relative to liquor licenses. (Sen. Eaton, Dist 10 et al: Judiciary)
New title: relative to liquor licenses and relative to sales of alcoholic beverages.
 3, SO 127, psd 135, 167, conc H am 1107, enr 1179 (Chapter 142)

- SB 302-FN-LOCAL**, making technical corrections to the education funding formula. (Sen. Gatsas, Dist 16 et al: Finance)
4, LT 428, am (3RCs) 574-597, recon & psd (RC) 597-598, 627, nonconc H am, conf 1132, rep adop 1217, (RC) 1219-1264, conf spreadsheet printed 1309-1313, enr am 1316-1317, enr 1340, remarks (RC) 1357-1360 (Chapter 200)
- SB 303-FN**, clarifying the language in the education funding formula. (Sen. Eaton, Dist 10 ; Chandler, Car 4: Finance)
First new title: eliminating the business profits tax exemption for qualified investment companies.
Second new title: eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration.
Third new title: relative to the strengthening the requirements for qualified investment company status and the resulting exemption from business taxes, and eliminating the tax-exempt status of qualified investment capital companies.
47, am 500-507, psd 627, conc H am 1107, enr 1179 (Chapter 143)
- SB 311**, relative to civil penalties for unlawful campaign practices. (Sen. Estabrook, Dist 21 et al: Internal Affairs)
4, am 514-516, psd 627, H conc 779, enr 882 (Chapter 50)
- SB 312-FN**, establishing a state code of ethics. (Sen. Larsen, Dist 15 et al: Public Affairs)
4, am & LT 255-261, am 272-273, psd 279, nonconc H am, conf 1133, rep adop 1217, 1264-1266, enr 1339 (Chapter 214)
- SB 313-FN**, relative to unsolicited commercial electronic mail. (Sen. Cohen, Dist 24; Sen. Sapareto, Dist 19: Internal Affairs)
4, K (RC) 147-151
- SB 314**, relative to access to medical records. (Sen. Sapareto, Dist 19: Insurance)
4, psd 62, 89, conc H am 1107, enr 1179 (Chapter 144)
- SB 315**, establishing a committee to study cyber security. (Sen. Sapareto, Dist 19; Morris, Rock 84: Internal Affairs)
4, K 151-152
- SB 316**, relative to the payment of salaried employees. (Sen. Sapareto, Dist 19: Insurance)
4, psd 62, 89, conc H am 1108, enr 1179 (Chapter 145)
- SB 317**, relative to registration of pesticide applicators and rules of the pesticide control board. (Sen. Below, Dist 5 et al: Environment)
4, psd 107-108, 128, nonconc H am, conf 1122, 1145, rep adop 1217, 1267, enr 1339 (Chapter 215)
- SB 318**, relative to the applicability of driving while intoxicated prohibitions. (Sen. Sapareto, Dist 19; Morris, Rock 84: Judiciary)
4, am 231-232, psd 279, H nonconc 883
- SB 319-FN-LOCAL**, relative to the New Hampshire state flag. (Sen. Barnes, Dist 17 et al: Internal Affairs)
4, K 220-222
- SB 320-FN**, relative to penalties for damaging emergency vehicles. (Sen. Cohen, Dist 24; Bridle, Rock 85: Transportation)
4, am 267-268, psd 279, H nonconc 883
- SB 321**, relative to the certification of pharmacy technicians by the board of pharmacy. (Sen. Cohen, Dist 24: Executive Departments and Administration)
4, K 176
- SB 322-FN**, relative to payment of medical benefits costs for disabled group II members of the retirement system. (Sen. Larsen, Dist 15 et al: Insurance)
4, K 62-63
- SB 323-LOCAL**, relative to the age groups under the elderly property tax exemption. (Sen. Barnes, Dist 17; Flanagan, Rock 78: Ways and Means)
4, K 562-563

- SB 324-FN-A-LOCAL**, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality. (Sen. Clegg, Dist 14 et al: Ways and Means)
New title: relative to the real estate transfer tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality.
 5, psd 158, 167, conc H am 1108, enr 1179 (Chapter 195)
- SB 325-FN-LOCAL**, relative to penalties for a false report to a law enforcement officer. (Sen. Boyce, Dist 4; Giuda, Graf 13: Judiciary)
 5, psd 71-73, 89, H nonconc 780
- SB 326-FN**, relative to contributions by political subdivision employers for certain employee service, and repealing certain retirement system provisions permitting additional contributions by members. (Sen. Flanders, Dist 7; Zolla, Rock 77: Insurance)
 5, SO 296-297, K (RC) 366-375
- SB 327**, relative to the scope of the administrative review or hearing following suspension or revocation. (Sen. Flanders, Dist 7; Tholl, Coos 2: Judiciary)
 5, SO 128, LT 135, 1366
- SB 328**, relative to preservation of breath samples. (Sen. Flanders, Dist 7; Tholl, Coos 2: Judiciary)
 5, SO 128, K 135-136
- SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts. (Sen. Flanders, Dist 7; Zolla, Rock 77: Insurance)
New title: relative to the recovery by the retirement system of the overpayment of benefit amounts, relative to payment of medical benefits costs for disabled group II members of the retirement system, and making technical changes to the judicial retirement plan.
 5, Finance 63, psd 178, 200, conc H am 1108, enr 1179 (Chapter 146)
- SB 330-FN**, relative to creditable service of retirement system members reemployed after qualifying military service. (Sen. Flanders, Dist 7; Zolla, Rock 77: Insurance)
 5, Finance 63, psd 178, 200, H conc 779, enr 882 (Chapter 51)
- SB 331-FN**, relative to the offset of workers' compensation lump sum payments against retirement system disability allowances and death benefits. (Sen. Flanders, Dist 7; Zolla, Rock 77: Insurance)
 5, Finance 113-117, K 386-387
- SB 332-FN**, relative to tolls for disabled veterans. (Sen. O'Hearn, Dist 12 et al: Transportation)
 5, psd 78, 89, H nonconc 780
- SB 333-FN**, establishing a unique pupil identification system. (Sen. O'Hearn, Dist 12 et al: Education)
 5, Finance 172, psd 443-444, 471, conc H am 1108, enr 1179 (Chapter 147)
- SB 334**, relative to the dredging of Hampton-Seabrook harbor. (Sen. Prescott, Dist 23 et al: Capital Budget)
 5, K 382
- SB 335**, relative to access to birth records. (Sen. D'Allesandro, Dist 20: Public Institutions, Health and Human Services)
 5, am 428-433, psd 471, H conc & enr 943, remarks 1306-1307 (Chapter 99)
- SB 336-LOCAL**, relative to certain costs in the development of a high school in the town of Bedford. (Sen. Roberge, Dist 9 et al: Public Affairs)
 6, am 261-262, psd 279, conc H am 720-721, recon rej 774, enr 781 (Chapter 27)
- SB 337**, relative to the regulation of traps by the fish and game department and relative to the liability of trappers for certain injuries to domestic animals. (Sen. Gallus, Dist 1 et al: Wildlife and Recreation)
 6, am 159-160, psd 167, H conc 779, enr 882 (Chapter 65)
- SB 338-FN**, relative to the purchase of prior service credit by certain political subdivision employee members. (Sen. Roberge, Dist 9: Insurance)

- New title:** relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.
6, psd 179-180, 200, nonconc H am, conf 1133-1134, rep adop 1217, 1267-1268, enr 1339 (Chapter 216)
- SB 339-FN**, relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses. (Sen. Peterson, Dist 11: Judiciary)
6, Finance 74, psd 178-179, 200, H nonconc 780
- SB 340**, repealing the restriction on the fish and game department related to release of information on fish stocking. (Sen. Gallus, Dist 1 et al: Wildlife and Recreation)
First new title: relative to the release of information by the fish and game department on the stocking of fish.
Second new title: relative to the release of information on fish stocking by the executive director of fish and game.
6, LT 80, am 375-377, psd 377, H conc 779, enr 778 (Chapter 37)
- SB 341-FN**, relative to prohibited methods of taking wildlife in certain fish and game laws. (Sen. Gallus, Dist 1 et al: Wildlife and Recreation)
6, am 160-161, psd 168, H nonconc 942
- SB 342-FN**, relative to payment of utility assessments and relative to regulation of electric generation companies. (Sen. Odell, Dist 8 et al: Energy and Economic Development)
New title: relative to payment of utility assessments, relative to regulation of electric generation companies, and relative to violations of gas pipeline and liquefied petroleum gas system regulation.
6, psd 58-59, 89, conc H am 1108-1109, enr 1179 (Chapter 148)
- SB 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways. (Sen. Odell, Dist 8 et al: Wildlife and Recreation)
6, psd 571-572, 628, nonconc H am 1074-1081
- SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees. (Sen. Odell, Dist 8 et al: Wildlife and Recreation)
6, psd 80-81, 89, conc H am 930, enr am 1160-1161, enr 1179 (Chapter 149)
- SB 345**, exempting payroll accounts from trustee process. (Sen. Gallus, Dist 1 et al: Banks)
6, psd 169-170, 200, H conc 779, enr 882 (Chapter 52)
- SB 346**, relative to prohibiting the operation of snowmobiles on open water. (Sen. Flanders, Dist 7 et al: Wildlife and Recreation)
6, SO 128, am 140, psd 168, H conc 779, enr 882 (Chapter 53)
- SB 347-FN**, relative to financial responsibility and conduct after an OHRV accident. (Sen. Flanders, Dist 7 et al: Transportation)
6, Finance 198-199, psd 387, 471, H conc 779, enr 882 (Chapter 54)
- SB 348**, relative to prohibited practices of owners or operators of manufactured housing parks. (Sen. Flanders, Dist 7 et al: Public Affairs)
New title: relative to the sale of manufactured housing and the management of manufactured housing parks.
7, am 335-337, psd 377, conc H am 1109, enr 1179 (Chapter 150)
- SB 349**, relative to criteria for trail construction on state-owned property for all-terrain vehicles and trail bikes. (Sen. Flanders, Dist 7 et al: Transportation)
7, study 463-464
- SB 350**, relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. (Sen. Barnes, Dist 17 et al: Executive Departments and Administration)
7, psd 147, 168, H study 682
- SB 351-FN**, relative to concurrent enrollment at regional vocational education centers. (Sen. O'Hearn, Dist 12; S. L'Heureux, Mer 37: Education)
7, Finance 104, psd 179, 200, conc H am 930-931, enr am 1161, enr 1179 (Chapter 151)

- SB 352-FN-LOCAL**, relative to computing school building aid grant amounts. (Sen. O'Hearn, Dist 12; Alger, Graf 14: Education)
7, Finance 57-58, psd 179, 200, H conc 938, enr 1178 (Chapter 124)
- SB 353-FN**, relative to the regulation and servicing of fire sprinkler systems. (Sen. Prescott, Dist 23: Public Affairs)
7, K 191
- SB 354**, relative to the regulation and servicing of fire alarm and detection systems. (Sen. Prescott, Dist 23: Public Affairs)
7, K 191
- SB 355**, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems. (Sen. Prescott, Dist 23: Public Affairs)
New title: relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems.
7, am 191-193, psd 200, conc H am 931, enr am 1161-1162, enr 1179 (Chapter 152)
- SB 356**, relative to the authority of the community development finance authority. (Sen. Green, Dist 6: Energy and Economic Development)
New title: relative to the powers and duties of the community development finance authority.
7, am 382-383, psd 471, H conc 943, enr 1128 (Chapter 104)
- SB 357**, authorizing municipalities to adopt quarterly billing of taxes. (Sen. Odell, Dist 8 et al: Ways and Means)
7, am 563-565, psd 628, conc H am 1109, enr 1179 (Chapter 153)
- SB 358**, relative to incompatibility of municipal offices. (Sen. Odell, Dist 8 et al: Internal Affairs)
7, SO 127, psd 133, 168, H conc 779, enr 882 (Chapter 55)
- SB 359**, relative to construction of buildings on certain pre-existing streets. (Sen. Green, Dist 6: Public Affairs)
7, am 193-194, psd 200, conc H am 1109, enr 1179 (Chapter 154)
- SB 360**, requiring written notification concerning certain offenders against children. (Sen. Foster, Dist 13: Judiciary)
7, psd 74-75, 89, H nonconc 780
- SB 361-FN-A**, relative to fees of the postsecondary education commission for preserving certain academic records and relative to the responsibilities of the postsecondary education commission. (Sen. Green, Dist 6 et al: Finance)
New title: relative to fees of the postsecondary education commission for preserving certain academic records.
7, am 387-388, psd 471, conc H am 931, enr 1128 (Chapter 105)
- SB 362**, changing the name of the college for lifelong learning to Granite state college. (Sen. Green, Dist 6 et al: Executive Departments and Administration)
8, psd 217-218, 279, H study 939
- SB 363**, relative to notification of cancellation of insurance coverage. (Sen. Cohen, Dist 24: Insurance)
8, K 393
- SB 364**, increasing the penalties for littering. (Sen. Sapareto, Dist 19 et al: Public Affairs)
8, psd 158, 168, H nonconc 780
- SB 365-FN**, requiring courts to use gender neutral terms in documents used in divorce and custody proceedings. (Sen. Sapareto, Dist 19; Bickford, Str 68: Judiciary)
8, study 312
- SB 366-FN**, relative to the Interstate Insurance Product Compact. (Sen. Flanders, Dist 7 et al: Insurance)
8, am 180-182, psd 200, conc H am 1109-1110, enr am 1162, enr 1308 (Chapter 196)
- SB 367**, relative to the New Hampshire Insurance Guaranty Association Act. (Sen. Flanders, Dist 7; Hunt, Ches 28: Insurance)
New title: relative to the New Hampshire Insurance Guaranty Association Act of 2004.
8, am 297-301, psd 378, conc H am 1110, enr am 1162-1165, enr 1308 (Chapter 197)

- SB 368**, relative to reinsurance. (Sen. Flanders, Dist 7; Hunt, Ches 28: Insurance)
8, am 393-396, psd 471, conc H am 1110, enr am 1165, enr 1181 (Chapter 186)
- SB 369**, relative to examinations of insurance companies by the insurance department. (Sen. Flanders, Dist 7; Hunt, Ches 28: Insurance)
8, psd 118, recon notice 127, psd 128, recon rej 200, H conc 882, enr am 1165-1166, enr 1179 (Chapter 155)
- SB 370**, relative to the insurance rating law. (Sen. Flanders, Dist 7; Hunt, Ches 28: Insurance)
8, am 396-397, psd 471, conc H am 1110, enr 1179 (Chapter 156)
- SB 371**, relative to certain technical changes in the insurance laws. (Sen. Flanders, Dist 7; Hunt, Ches 28: Insurance)
8, am (RC) 397-409, psd 471, conc H am 1110, enr am 1166, enr 1181 (Chapter 187)
- SB 372**, relative to the definition of necessary shelter for dogs. (Sen. Roberge, Dist 9: Wildlife and Recreation)
8, SO 128, am 141-142, psd 168, H nonconc 883
- SB 373-L**, relative to the disposal of mercury-added products. (Sen. Cohen, Dist 24; Phinizy, Sul 23: Interstate Cooperation)
8, study 155-157
- SB 374**, relative to emissions requirements for municipal waste combustion units. (Sen. Cohen, Dist 24; Phinizy, Sul 23: Energy and Economic Development)
8, study (RC) 487-489
- SB 375**, relative to the regulation of physician assistants. (Sen. D'Allesandro, Dist 20: Public Institutions, Health and Human Services)
8, psd 194, 200, conc H am 1111, enr am 1166-1167, enr 1308 (Chapter 198)
- SB 376-FN-A**, making an appropriation to the department of health and human services for mental health services. (Sen. D'Allesandro, Dist 20 et al: Finance)
First new title: relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.
Second new title: relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals.
8, am 507-509, psd 628, nonconc H am, conf 1134, rep adop 1217, (RC) 1268-1278, enr am 1318, enr 1338 (Chapter 260)
- SB 377**, relative to damage to land by certain recreational uses. (Sen. Johnson, Dist 2 et al: Wildlife and Recreation)
9, SO 128, am 142-143, psd 168, conc H am 931, enr 1128 (Chapter 122)
- SB 378-FN-LOCAL**, relative to property tax procedures and contingency funds of village districts. (Sen. Johnson, Dist 2; Philbrick, Car 5: Ways and Means)
9, study 357
- SB 379**, relative to safety inspection and certification of certain equipment of vehicles. (Sen. Clegg, Dist 14 et al: Transportation)
9, am 268-269, psd 279, H conc 779, enr 882 (Chapter 56)
- SB 380**, establishing a statewide incident command system. (Sen. Clegg, Dist 14 et al: Executive Departments and Administration)
9, psd 60, 89, conc H am 932, enr 1128 (Chapter 106)
- SB 381**, relative to the transfer of certain capital appropriations within the department of safety. (Sen. Clegg, Dist 14 et al: Capital Budget)
New title: relative to the authorization for and transfer of certain capital appropriations within the department of safety.
9, psd 206, 279, nonconc H am, conf 1134-1135, rep adop 1217, 1278-1279, enr 1339 (Chapter 217)
- SB 382-FN-LOCAL**, relative to medical service rates for state prisoners. (Sen. Clegg, Dist 14 et al: Public Institutions, Health and Human Services)
9, Finance 265, psd 388, 471, nonconc H am, conf 1135, rep adop 1217, 1279-1280, enr 1339 (Chapter 218)

- SB 383-FN**, relative to pharmacy benefit management. (Sen. Clegg, Dist 14: Public Institutions, Health and Human Services)
9, am 340-349, psd 378, conc H am (RC) 1111-1115, enr am 1167, enr 1181 (Chapter 188)
- SB 384-FN**, relative to drugs paid for by the state. (Sen. Clegg, Dist 14 et al: Public Institutions, Health and Human Services)
9, am & Finance 265-267, psd 388, 471, H nonconc 780
- SB 385**, relative to challengers appointed by party committee. (Sen. Roberge, Dist 9: Internal Affairs)
9, K 516-517
- SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem. (Sen. Foster, Dist 13; Bickford, Str 68: Judiciary)
9, am 452-453, psd 472, conc H am 1115, enr am 1167-1168, enr 1181 (Chapter 189)
- SB 387-FN**, relative to the taxation of manufactured housing. (Sen. Morse, Dist 22: Public Affairs)
9, K 262
- SB 388-FN**, relative to proof of successful completion of an impaired driver intervention program. (Sen. Flanders, Dist 7 et al: Judiciary)
9, am 312-313, psd 378, H conc 882, enr am 1168, enr 1179 (Chapter 157)
- SB 389**, relative to health carrier and provider contract disputes. (Sen. Flanders, Dist 7 et al: Insurance)
New title: relative to certain insurance contracts.
9, am 513-514, psd 628, H nonconc 942
- SB 390**, relative to liability of third person under workers' compensation. (Sen. Flanders, Dist 7 et al: Insurance)
10, am (RC) 63-70, psd 89, H LT 942, 1366
- SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures. (Sen. Clegg, Dist 14 et al: Internal Affairs)
First new title: relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections.
Second new title: relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene.
10, am 152-153, psd 168, nonconc H am, conf 1135-1136, rep adop 1217, 1280, enr am 1318-1319, enr 1338 (Chapter 254)
- SB 392**, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older. (Sen. Foster, Dist 13 et al: Judiciary)
10, am 453-454, psd 472, conc H am 1115, enr 1179 (Chapter 158)
- SB 393**, establishing a commission to study the appointment of a drug czar as a means of curtailing illegal drug use in the state. (Sen. Martel, Dist 18 et al: Executive Departments and Administration)
10, K 177
- SB 394-FN**, relative to children's product safety. (Martel, Dist 18: Interstate Cooperation)
10, LT 231, 1366
- SB 395**, relative to wireless communications equipment insurance. (Sen. Clegg, Dist 14 et al: Insurance)
10, K 70-71
- SB 396-FN**, relative to farm tractor registrations. (Sen. Johnson, Dist 2; Alger, Graf 14: Transportation)
10, LT 269-270, 1366
- SB 397**, requiring the department of environmental services to adopt certain rules and to opt out of the reformulated gasoline program. (Sen. Prescott, Dist 23 et al: Environment)
New title: requiring the department of environmental services to adopt certain rules and to eliminate certain substances from gasoline supplies.
10, psd 292, 378, conc H am 1115-1116, enr 1179 (Chapter 175)

- SB 398**, relative to residency requirements for Medicaid recipients in nursing homes. (Sen. Clegg, Dist 14: Public Institutions, Health and Human Services)
10, LT 613, 1366
- SB 399-FN**, relative to the sale of animals. (Sen. Roberge, Dist 9 et al: Wildlife and Recreation)
10, SO 128, am & Finance 143, psd 388, 472, conc H am 932, enr 1128 (Chapter 107)
- SB 400**, relative to real estate appraisals conducted for mortgage loan applicants. (Sen. D'Allesandro, Dist 20; Emerton, Hil 48: Public Affairs)
10, am 262-263, psd 279, H nonconc 780
- SB 401-FN**, relative to funeral processions using the New Hampshire turnpike system. (Sen. D'Allesandro, Dist 20; Emerton, Hil 48: Transportation)
New title: relative to funeral processions to the state veterans cemetery using the New Hampshire turnpike system.
10, am 270-272, psd 280, H nonconc 780
- SB 402**, relative to an optional retirement annuity benefit for members of the Manchester retirement system. (Sen. D'Allesandro, Dist 20; Sen. Martel, Dist. 18: Insurance)
10, am 118-119, psd 128, conc H am 1116, enr 1179 (Chapter 159)
- SB 403**, relative to the board of medicine. (Sen. D'Allesandro, Dist 20: Executive Departments and Administration)
11, psd 108, 128, H conc 943, enr 1128 (Chapter 108)
- SB 404**, establishing a committee to study the feasibility of providing statewide access to "Newline for the Blind." (Sen. D'Allesandro, Dist 20: Public Institutions, Health and Human Services)
11, psd 194-195, 200, H nonconc 682
- SB 405-FN**, relative to standards for comprehensive physical rehabilitation service areas. (Sen. Green, Dist 6 et al: Public Institutions, Health and Human Services)
11, LT 349, 1366
- SB 406**, relative to adoption procedures. (Sen. Peterson, Dist 11 et al: Judiciary)
11, psd 454-455, 472, conc H am 1116, enr am 1319, enr 1338 (Chapter 255)
- SB 407-FN-LOCAL**, relative to default budgets. (Sen. Roberge, Dist 9 et al: Public Affairs)
New title: relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.
11, LT 338-339, am 624-627, psd 628, nonconc H am, conf 1136, rep adop 1218, 1280-1281, enr 1339 (Chapter 219)
- SB 408**, relative to a civil liability exemption for claims resulting from weight gain and obesity. (Sen. Odell, Dist 8 et al: Judiciary)
11, psd 455, 472, H nonconc 780
- SB 409-FN**, revising the vocational school licensing statutes. (Sen. Peterson, Dist 11: Executive Departments and Administration)
11, psd 218, 280, conc H am 1116, enr am 1168-1169, enr 1181 (Chapter 190)
- SB 410-FN-A-LOCAL**, relative to funding for the statewide education improvement and assessment program. (Sen. O'Hearn, Dist 12 et al: Ways and Means)
130, K 357
- SB 411-FN-LOCAL**, relative to liability for special education transportation costs. (Sen. O'Hearn, Dist 12 et al: Finance)
11, am 509-510, psd 628, H study 939
- SB 412**, extending a public trust grant for the Gunstock Area ski resort's snowmaking. (Johnson, Dist 2 et al: Environment)
11, am 59-60, psd 89, H conc 779, enr 882 (Chapter 57)
- SB 413-FN**, relative to financing federally aided highway projects. (Sen. Morse, Dist 22 et al: Transportation)
New title: establishing a commission to study the construction time frame and financing for the expansion of Interstate Route 93.
11, Finance 273-274, psd 388-389, 472, nonconc H am, conf 1136-1137, rep adop 1218, 1282, enr 1340 (Chapter 220)

- SB 414-FN**, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations. (Sen. Green, Dist 6 et al: Public Affairs)
11, am 339-340, psd 378, conc H am 1116-1117, enr am 1169, enr 1308 (Chapter 199)
- SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings. (Sen. Roberge, Dist 9 et al: Judiciary)
New title: relative to the expansion of the Grafton county court pilot project relative to abuse and neglect hearings.
11, psd 75, 89, nonconc H am, conf 1137, rep adop 1218, 1282, enr 1339 (Chapter 221)
- SB 416**, relative to membership of the advisory committee on child care. (Sen. Estabrook, Dist 21 et al: Education)
New title: relative to membership of the advisory council on child care.
11, psd 172, 200, H conc 779, enr am 881, enr 944 (Chapter 92)
- SB 417**, relative to vicious dog assaults. (Sen. Estabrook, Dist 21: Wildlife and Recreation)
12, am 161-162, psd 168, H nonconc 883
- SB 418**, relative to voting procedures in the Hanover school district. (Sen. Below, Dist 5; Nordgren, Graf 17: Internal Affairs)
12, SO 127, am 133-134, psd 168, conc H am 1117, enr 1179 (Chapter 160)
- SB 419**, relative to the use of standardized health statements. (Sen. Flanders, Dist 7; Hunt, Ches 28: Insurance)
New title: relative to the use of standardized health statements and relative to renewals of certain policies.
12, LT 301-302, am 409-414, recon & am (RC) 426-428, psd 472, H nonconc 938
- SB 420-FN**, relative to the payment of medical benefits costs for certain group II permanent firemen members injured in the performance of duty. (Sen. Larsen, Dist 15 et al: Insurance)
12, K 302
- SB 421**, relative to charter schools. (Sen. Estabrook, Dist 21 et al: Education)
12, am (2 RCs) 478-485, psd 628, nonconc H am, conf 1137-1138, rep adop 1218, 1282-1283, enr 1339 (Chapter 222)
- SB 422-FN**, relative to the use of Route 28 in Derry and establishing a penalty for violating weight control designations made by the commissioner of the department of transportation. (Sen. Sapareto, Dist 19 et al: Transportation)
12, LT 274, 1366
- SB 423**, relative to confidentiality and workers' compensation. (Sen. Flanders, Dist 7 et al: Insurance)
12, am 119-120, psd 128, nonconc H am, conf 1138, rep adop 1218, 1283, enr 1339 (Chapter 223)
- SB 424-FN**, relative to boating and carnival-amusement regulation by the department of safety. (Sen. Flanders, Dist 7 et al: Transportation)
12, am 274-277, psd 280, H conc 779, enr 882 (Chapter 58)
- SB 425-FN**, relative to payment of medical benefits costs for certain group I retirement system members. (Sen. Gallus, Dist 1 et al: Insurance)
12, K 302
- SB 426**, allowing municipalities to adopt a property tax exemption for certain public utility property. (Sen. Green, Dist 6; Stone, Rock 73: Energy and Economic Development)
12, K 284
- SB 427**, relative to the definition of marriage. (Sen. Prescott, Dist 23 et al: Public Institutions, Health and Human Services)
New title: relative to legal recognition of out-of-state marriages and establishing a commission to examine all aspects of same sex civil marriage and its legal equivalents.
12, remarks 280, psd (RC) 433-440, 472, conc H am 1117, enr 1178 (Chapter 100)
- SB 428**, relative to protection of consumers from unfair lending practices. (Sen. Cohen, Dist 24: Banks)
New title: establishing a committee to study the protection of consumers from unfair lending practices.
12, am 170-171, psd 200, H nonconc 780

- SB 429**, relative to state and municipal contracting practices for public works. (Sen. Clegg, Dist 14 et al: Executive Departments and Administration)
12, am (RC) 414-426, psd 472, H study 938
- SB 430-FN**, relative to mandated insurance benefits. (Sen. Flanders, Dist 7 et al: Insurance)
New title: relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers.
12, am 302-304, psd 378, conc H am 1117, enr 1179 (Chapter 161)
- SB 431**, prohibiting the waiver of workers' compensation subrogation rights. (Sen. Clegg, Dist 14; et al: Insurance)
New Title: prohibiting the waiver of workers' compensation subrogation rights and prohibiting certain indemnification provisions in construction-related contracts.
13, am (RC) 122-127, psd 129, H conc 280-281, enr 281 (Chapter 3)
- SB 432-FN**, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in the department of safety. (Sen. Clegg, Dist 14 et al: Executive Departments and Administration)
13, am 218-220, psd 280, conc H am 932-933, enr am 1169-1170, enr 1180 (Chapter 171)
- SB 433-FN**, requiring the public utilities commission to conduct a comprehensive study of utility rates every 5 years. (Sen. Green, Dist 6 et al: Energy and Economic Development)
New title: establishing a committee to study utility rate review by the public utilities commission.
13, rcmt 284-287, am 489-490, psd 628, H nonconc 942
- SB 434**, relative to importing prescription drugs from Canada. (Sen. Martel, Dist 18 et al: Public Institutions, Health and Human Services)
13, am 440-443, psd 472, nonconc H am, conf 1138-1139, not signed off 1366
- SB 435-FN**, relative to accessible housing for persons of all abilities. (Sen. D'Allesandro, Dist 20: Executive Departments and Administration)
13, LT 177, 1366
- SB 436-FN-LOCAL**, relative to the Claremont and Newport district courts. (Sen. Odell, Dist 8 et al: Energy and Economic Development)
13, am 173-174, psd 200, conc H am 1117-1118, enr 1180 (Chapter 176)
- SB 437**, relative to unemployment compensation. (Sen. Odell, Dist 8 et al: Insurance)
13, K 514
- SB 438**, relative to immunization practices for hospitals, nursing homes, adult day care facilities, home health providers, and assisted living facilities. (Sen. Martel, Dist 18 et al: Public Institutions, Health and Human Services)
New title: relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities.
13, am & Finance 195-197, psd 389, 472, H conc 779, enr 882 (Chapter 66)
- SB 439**, relative to probationary drivers' licenses. (Sen. Estabrook, Dist 21 et al: Transportation)
New title: relative to probationary drivers' licenses and amending the effective date for establishing a criminal penalty for facilitating a drug or underage alcohol house party.
13, psd 277-278, 280, conc H am 1118, enr 1180 (Chapter 162)
- SB 440**, relative to statutory bumping rights by state employees. (Sen. Clegg, Dist 14: Executive Departments and Administration)
13, study 558
- SB 441**, relative to the operation of dental clinics by health care charitable trusts. (Sen. Clegg, Dist 14 et al: Public Institutions, Health and Human Services)
13, am 614-616, psd 628, conc H am 1118, enr 1180 (Chapter 163)
- SB 442**, relative to manufactured housing installation standards. (Sen. Clegg, Dist 14 et al: Public Affairs)
14, am 458-461, psd 472, conc H am 1118, enr am 1170-1171, enr 1181 (Chapter 191)

- SB 443**, relative to rural electric cooperatives. (Sen. Odell, Dist 8 et al: Energy and Economic Development)
New title: relative to rural electric cooperatives and establishing an energy planning advisory board.
 14, am 384-385, psd 472, conc H am 1118, enr 1180 (Chapter 164)
- SB 444**, relative to the age at which a person remains under the juvenile court's jurisdiction under RSA 169-B, the juvenile delinquency statute. (Sen. Foster, Dist 13 et al: Judiciary)
 14, am & Finance 314, K 510-511
- SB 445**, relative to the regulation of dietitians by the board of licensed dietitians. (Sen. Below, Dist 5: Executive Departments and Administration)
 14, psd 147, 168, conc H am 1119, enr 1180 (Chapter 165)
- SB 446-FN**, relative to a park and ride multi-modal facility in the city of Nashua. (Sen. Foster, Dist 13 et al: Capital Budget)
 14, study 282-284
- SB 447**, relative to corporate names. (Sen. Foster, Dist 13: Executive Departments and Administration)
 14, K 294
- SB 448-FN**, relative to consumer guaranty contracts. (Sen. Foster, Dist 13 et al: Banks)
 14, Finance 171-172, am 511-512, psd 628, conc H am 1119, enr am 1320, enr 1340 (Chapter 224)
- SB 449**, relative to fluoridation of municipally-owned public water systems. (Sen. D'Allesandro, Dist 20; Beaton, Hil 49: Environment)
 14, am 598-605, psd 628, nonconc H am, conf 1139, rep adop 1218, 1284, enr 1339 (Chapter 225)
- SB 450-FN**, relative to pari-mutuel licenses. (Sen. Morse, Dist 22 et al: Ways and Means)
New title: relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs.
 14, remt 127, LT 357-362, am 470-471, psd 472, recon & am 476-478, psd 628, H conc 779, enr 879 (Chapter 59)
- SB 451**, giving degree-granting authority to the Hellenic American University. (Sen. D'Allesandro, Dist 20 et al: Education)
First new title: giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing.
Second new title: giving degree-granting authority to the Hellenic American University and the St. Joseph School of Nursing.
 14, am 485-486, psd 628, conc H am 933, enr 943 (Chapter 94)
- SB 452**, relative to qualifications of expert witnesses in medical injury actions. (Sen. Boyce, Dist 4 et al: Judiciary)
New title: relative to testimony of expert witnesses.
 14, am 455-457, psd 472, H conc 943, enr 1128 (Chapter 118)
- SB 453**, changing a requirement for tobacco manufacturers not participating in the tobacco Master Settlement Agreement. (Sen. Johnson, Dist 2: Interstate Cooperation)
First new title: establishing a committee to study the tobacco master settlement agreement revenue stream to the state.
Second new title: establishing a committee to study the tobacco master settlement agreement revenue stream to the state, and changing requirements for tobacco manufacturers not participating in the tobacco Master Settlement Agreement.
 14, am 451-452, psd 472, nonconc H am, conf 1139-1140, rep adop 1218, 1284, enr 1340 (Chapter 226)
- SB 454-FN**, relative to carrying a concealed weapon without a license. (Sen. Prescott, Dist 23 et al: Judiciary)
 14, psd (2 RCs) 232-245, 280, H nonconc 942
- SB 455**, removing the requirement that district courts be open on Saturdays for arraignments. (Sen. Morse, Dist 22; Rausch, Rock 77: Judiciary)
 15, psd 457, 472, conc H am 933, enr 1128 (Chapter 119)

- SB 456**, relative to record books maintained by registers of deeds. (Sen. Roberge, Dist 9 et al: Public Affairs)
15, psd 194, 200, H conc 779, enr 882 (Chapter 60)
- SB 457**, relative to animal population control. (Sen. Roberge, Dist 9 et al: Wildlife and Recreation)
15, psd 162, 168, H conc 779, enr 882 (Chapter 61)
- SB 458**, relative to private driving instruction and exhibition facilities. (Sen. Gallus, Dist 1 et al: Transportation)
15, psd 78-79, 89, H conc 280-281, enr 281 (Chapter 4)
- SB 459**, making certain changes to the real estate practice act. (Sen. Gallus, Dist 1 et al: Public Affairs)
15, am & LT 263-265, psd 269, 280, nonconc H am, conf 1140, rep adop 1218, 1285, enr 1340 (Chapter 227)
- SB 460**, relative to insurance compliance self-audits. (Sen. Gallus, Dist 1: Insurance)
15, K 304
- SB 461**, relative to the regulation of gift certificates under the consumer protection act. (Sen. Gallus, Dist 1 et al: Public Affairs)
15, am 527-528, psd 628, nonconc H am, conf 1141, rep adop 1218, 1285, enr 1340 (Chapter 228)
- SB 462**, relative to limits on non-economic damages in medical injury actions. (Sen. Gallus, Dist 1: Judiciary)
15, study 524
- SB 463**, relative to limits on attorney contingency fees in civil actions for medical injury. (Sen. Gallus, Dist 1: Judiciary)
15, study 524-525
- SB 464**, relative to periodic payments of future damages in medical injury actions. (Sen. Gallus, Dist 1: Judiciary)
15, study 525
- SB 465**, relative to the statute of limitations in an action for injury or death against a medical care provider. (Sen. Gallus, Dist 1: Judiciary)
New title: relative to testimony of witnesses about confidential settlements.
15, am 525-526, psd 628, conc H am 934, enr 1178 (Chapter 125)
- SB 466**, relative to the records management services of the city of Keene. (Sen. Eaton, Dist 10 et al: Energy and Economic Development)
New title: relative to records management services of a municipality.
15, am 144-146, psd 168, H conc 779, enr 882 (Chapter 62)
- SB 467**, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry. (Sen. Sapareto, Dist 19 et al: Environment)
15, am 292-293, psd 378, conc H am 934, enr 943 (Chapter 95)
- SB 468**, relative to solid waste management. (Sen. Gallus, Dist 1 et al: Environment)
15, LT 490-491, 1366
- SB 469**, relative to licensing of boiler inspectors. (Sen. Gallus, Dist 1 et al: Executive Departments and Administration)
16, am 109, psd 129, conc H am 934, enr 1128 (Chapter 120)
- SB 470-FN**, relative to funding for the physician effectiveness program. (Sen. Martel, Dist 18 et al: Public Institutions, Health and Human Services)
New title: relative to funding for the physician effectiveness program, and establishing a dedicated fund.
16, psd 197, 201, conc H am 1119, enr 1180, veto overridden (RC) 1341-1343, H overrode veto 1365 (Chapter 263)
- SB 471-FN-LOCAL**, relative to the administration and operation of Manchester Airport. (Sen. Martel, Dist 18 et al: Judiciary)
16, study 314-315
- SB 472**, relative to updating the terminology in statutes affecting children with special health care needs. (Sen. Martel, Dist 18 et al: Public Institutions, Health and Human Services)
16, psd 197-198, 201, H conc 631, enr 634 (Chapter 21)

- SB 473-FN-LOCAL**, relative to services provided by community mental health centers. (Sen. Martel, Dist 18 et al: Public Institutions, Health and Human Services)
16, K 198
- SB 474-LOCAL**, exempting property owned by a private secondary or postsecondary educational institution from the education property tax. (Sen. Clegg, Dist 14 et al: Ways and Means)
16, LT 565-566, 1366
- SB 475**, relative to employee leasing companies. (Sen. Clegg, Dist 14 et al: Insurance)
16, study 450
- SB 476**, extending the period for completing work under the Skyhaven airport wetlands permit. (Sen. Kenney, Dist 3: Transportation)
16, K 199
- SB 477**, relative to ski craft operation on Pine River Pond in the town of Wakefield. (Sen. Kenney, Dist 3: Wildlife and Recreation)
16, K 162-167
- SB 478-FN**, relative to penalties for DWI offenses and relative to prohibited alcohol sales to intoxicated individuals. (Sen. Barnes, Dist 17 et al: Judiciary)
New title: relative to penalties for DWI offenses.
16, am (2 RCs) 315-330, psd 378, nonconc H am, conf 1141, rep adop 1218, (RC) 1286, enr am 1320-1321, enr 1338 (Chapter 256)
- SB 479**, commemorating the anniversary of the founding of the United States Marine Corps. (Sen. Kenney, Dist 3; Thomas, Bel 31: Internal Affairs)
16, psd 184-185, 201, H conc 631, enr 634 (Chapter 22)
- SB 480-FN-A**, making an appropriation to the tobacco use prevention fund for the purpose of smoking cessation programs. (Sen. Martel, Dist 18 et al: Finance)
16, K (RC) 389-391
- SB 481-FN-LOCAL**, establishing the Great Bay sewer district. (Sen. Prescott, Dist 23 et al: Environment)
New title: establishing a sewer and other water-related purposes district for Great Bay.
17, am & Finance 209-214, psd 512, 628, nonconc H am, conf 1142, rep adop 1218, 1286-1287, enr am 1321, enr 1338 (Chapter 258)
- SB 482-FN**, relative to captive insurance companies and reciprocal insurers. (Sen. Flanders, Dist 7: Insurance)
17, am 304-305, psd 378, H study 939
- SB 483**, relative to a landlord's obligation to store personal property of a tenant after the tenant has vacated the premises. (Sen. Sapareto, Dist 19; Sen. Gallus, Dist 1: Public Affairs)
17, K 265
- SB 484**, establishing the Collaborative Practice for Emergency Contraception Act. (Sen. D'Allesandro, Dist 20; Norelli, Rock 86: Public Institutions, Health and Human Services)
17, psd (RC) 616-623, 628, H conc 938, enr 1127, veto sustained (RC) 1343-1349
- SB 485-FN**, relative to video stalking. (Sen. Johnson, Dist 2; Keans, Str 67: Judiciary)
17, LT 190, 1366
- SB 486**, prohibiting floatplanes on Pickerel Pond. (Sen. Johnson, Dist 2: Environment)
17, LT 146, 1366
- SB 487**, relative to lead sinkers. (Sen. Johnson, Dist 2: Environment)
17, am 214-215, psd 280, conc H am 1119, enr 1180 (Chapter 172)
- SB 488**, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams. (Sen. Johnson, Dist 2 et al: Energy and Economic Development)
17, am 174-175, psd 201, conc H am 935, enr 1128 (Chapter 121)
- SB 489**, relative to requests for special elections. (Sen. Martel, Dist 18 et al: Internal Affairs)
17, psd 517, 628, H nonconc 780

- SB 490-FN**, relative to the Help America Vote Act. (Sen. Martel, Dist 18 et al: Internal Affairs)
New title: relative to voting procedures and relative to ward boundaries in Manchester.
17, am (RC) & Finance 222-230, psd 391-392, 472, nonconc H am, conf 1142-1143, rep adop 1218, 1287-1288, enr 1340 (Chapter 229)
- SB 491-FN**, relative to reimbursement for certain unpaid tobacco taxes and relative to refunds for stolen tobacco tax stamps. (Sen. Martel, Dist 18 et al: Interstate Cooperation)
17, K 157-158
- SB 492**, relative to registration requirements for home inspectors. (Sen. Barnes, Dist 17: Public Affairs)
17, psd 528-529, 628, H nonconc 942
- SB 493**, repealing examination standards for certified public accountants. (Sen. Prescott, Dist 23: Executive Departments and Administration)
New title: relative to examination standards for certified public accountants.
17, am 177-178, psd 201, conc H am 597, enr 634 (Chapter 23)
- SB 494**, repealing the prohibition on taking conch and winkles. (Sen. Cohen, Dist 24: Environment)
First new title: relative to the prohibition on taking conch and winkles and relative to licensing requirements for taking lobsters and crabs.
Second new title: relative to the prohibition on taking conch and winkles; licensing requirements for taking lobsters and crabs; and changing the name of the advisory committee on shore fisheries to the advisory committee on marine fisheries.
17, am 215-217, psd 280, conc H am 1119-1120, enr 1180 (Chapter 166)
- SB 495-FN**, relative to original and youth operators' licenses. (Sen. Flanders, Dist 7 et al: Transportation)
17, rcmt 349-352, am 572-573, psd 628, conc H am 1120, enr 1180 (Chapter 173)
- SB 496**, relative to the definition of snow traveling vehicle. (Sen. Flanders, Dist 7; Sen. Kenney, Dist 3: Transportation)
18, SO 128, am 139-140, psd 168, conc H am 1120, enr 1180 (Chapter 174)
- SB 497-FN**, relative to renewal of electrician's licenses. (Sen. Flanders, Dist 7; Infantine, Hil 54: Executive Departments and Administration)
18, psd 61, 89, H conc 779, enr 882 (Chapter 63)
- SB 498-FN**, relative to the regulation of debt adjustment services. (Sen. Flanders, Dist 7; Hunt, Ches 28: Banks)
18, am 48-51, psd 89, conc H am 1120, enr am 1321-1322, enr 1340 (Chapter 230)
- SB 499**, making a change to the electrician licensing exemption. (Sen. Flanders, Dist 7; Infantine, Hil 54: Executive Departments and Administration)
18, am 182-184, psd 201, H conc 779, enr 882 (Chapter 64)
- SB 500-FN**, relative to certain procedures of financial institutions. (Sen. Flanders, Dist 7; Hunt, Ches 28: Banks)
18, am 51-57, psd 89, nonconc H am, conf 1122, 1146, rep adop 1218, 1289-1290, enr 1340 (Chapter 231)
- SB 501**, establishing a committee to study a certain parcel of land along the Baker river. (Sen. Johnson, Dist 2 et al: Environment)
18, LT 147, 1366
- SB 502**, establishing a committee to study the feasibility of allowing certain groups to join together for purposes of small group insurance. (Sen. Prescott, Dist 23: Insurance)
18, K 514
- SB 503-FN-LOCAL**, relative to bonds for construction, development, improvement, and acquisition of broadband facilities. (Sen. D'Allesandro, Dist 20; Sen. Eaton, Dist 10: Energy and Economic Development)
New title: establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities.
18, am 175-176, psd 201, conc H am 1120-1121, enr am 1171, enr 1181 (Chapter 192)

- SB 504-FN**, relative to disbursements from the alcohol abuse prevention and treatment fund. (Sen. Odell, Dist 8; Sen. Below, Dist 5; Finance)
18, psd 392-393, 472, H conc 938, enr 1178 (Chapter 126)
- SB 505-FN-A-LOCAL**, authorizing CROP zone tax credits for taxpayers within the town of Whitefield. (Sen. Gallus, Dist 1 et al: Energy and Economic Development)
18, am 287-292, psd 378, H nonconc 883
- SB 506**, relative to site plan review by planning boards in mining and reclamation projects. (Sen. Odell, Dist 8; Phinizy, Sul 23: Environment)
18, K 293-294
- SB 507**, establishing a committee to study the application of advanced information technology in certain state agencies. (Sen. Boyce, Dist 4 et al: Internal Affairs)
18, LT 153-155, 1366
- SB 508-FN**, relative to grant-funded programs. (Sen. Clegg, Dist 14; Francoeur, Rock 85: Internal Affairs)
18, Finance 230, psd 393, 472, nonconc H am, conf 1143, rep adop 1218, 1291, enr 1340 (Chapter 232)
- SB 509-FN**, relative to civil recoveries for false claims paid or approved by the department of health and human services. (Sen. Clegg, Dist 14 et al: Judiciary)
18, am 330-333, psd 378, conc H am 1121, enr 1180 (Chapter 167)
- SB 510-FN**, relative to unprivileged physical contact without the intent to harm. (Sen. Sapareto, Dist 19 et al: Judiciary)
New title: relative to simple assault.
19, am (RC) 333-335, psd 378, H nonconc 780
- SB 511-FN**, relative to the penalties for rioting. (Sen. Estabrook, Dist 21 et al: Judiciary)
19, SO 128, am 136-139, psd 168, conc H am 1121, enr 1180 (Chapter 168)
- SB 512-FN**, relative to improving public boat access to Lake Sunapee. (Sen. Below, Dist 5 et al: Wildlife and Recreation)
New title: establishing a Lake Sunapee public access commission.
19, am 362-365, psd 378, H nonconc 780
- SB 513**, relative to the death penalty. (Sen. Below, Dist 5 et al: Judiciary)
19, psd (RC) 245-255, 280, H conc 882, enr 944, veto sustained (RC) 1349-1350
- SB 514**, changing the staffing requirements of the joint legislative committee on administrative rules. (Sen. Below, Dist 5 et al: Internal Affairs)
19, K 230-231
- SB 515-FN**, relative to benefit options for surviving spouses and designated beneficiaries of deceased members of the retirement system. (Sen. Below, et al: Insurance)
19, K 305-312
- SB 516-FN**, relative to special needs trusts. (Sen. Below, Dist 5 et al: Judiciary)
19, LT 335, 1366
- SB 517**, relative to authorizing a 2-year program to use certain OHRV fees for publications and promotions. (Sen. Flanders, Dist 7; Alger, Graf 14: Wildlife and Recreation)
19, psd 469, 472, H nonconc 780
- SB 518**, establishing a commission to study railroad matching funds. (Sen. Flanders, Dist 7 et al: Transportation)
New title: establishing a commission to study railroad matching funds and authorizing an expenditure for a certain feasibility study.
19, am 352-354, psd 378, H nonconc 884
- SB 519**, establishing a committee to study the establishment of a farm viability program. (Sen. Odell, Dist 8 et al: Environment)
19, am 108, psd 129, H conc 631, enr 634 (Chapter 24)
- SB 520**, relative to modification of child support obligation. (Sen. Sapareto, Dist 19 et al: Judiciary)
New title: relative to child support modification and service of divorce petitions.
19, am 190-191, psd 201, conc H am 1121, enr 1180 (Chapter 169)
- SB 521-FN**, increasing the penalty for identity fraud. (Sen. Larsen, Dist 15 et al: Judiciary)
19, am 75-76, psd 89, nonconc H am, conf 1143-1144, rep adop 1218, 1291, enr 1340 (Chapter 233)

- SB 522-FN-LOCAL**, decreasing the rate of interest charged on overdue land use change taxes assessed on property removed from current use. (Sen. Larsen, Dist 15 et al: Ways and Means)
20, K 362
- SB 523-FN**, prohibiting the use of government property for electioneering. (Sen. Larsen, Dist 15 et al: Internal Affairs)
20, remarks 185-189, K (RC) 199-200
- SB 524**, relative to the incineration of construction or demolition debris. (Sen. Larsen, Dist 15 et al: Environment)
20, study (RC) 491-495
- SB 525-FN-A**, relative to the deposit of a portion of real estate transfer tax revenue in the land and community heritage investment program trust fund. (Sen. Larsen, Dist 15 et al: Finance)
New title: relative to land and community heritage investment program administration.
20, am 444-450, psd 472, H study 883
- SB 526**, relative to sexual harassment complaint procedures for public employees. (Sen. Larsen, Dist 15 et al: Internal Affairs)
New title: relative to sexual harassment complaint procedures.
20, am 517-518, psd 628, nonconc H am, conf 1144, rep adop 1218, 1291-1292, enr 1340 (Chapter 234)
- SB 527**, relative to sessions for correction of checklists. (Sen. Larsen, Dist 15 et al: Internal Affairs)
20, am 189-190, psd 201, H nonconc 780
- SB 528**, establishing a right to work act which provides for freedom of choice on whether to join a labor union. (Sen. Prescott, Dist 23 et al: Insurance)
130, study (RC) 559-562
- SB 529**, making a technical correction to the eminent domain procedure act. (Sen. Flanders, Dist 7 et al: Finance)
130, am 296, psd 378, H conc 882, enr 944 (Chapter 93)
- SB 530**, relative to the duties of public safety responders and the expeditious clearance of a roadway. (Sen. Kenney, Dist 3 et al: Transportation)
130, am 278-279, psd 280, conc H am 1121, enr am 1171-1172, enr 1181 (Chapter 193)
- SB 531**, permitting the state veterans' advisory committee to adopt bylaws. (Sen. Kenney, Dist 3 et al: Public Affairs)
First new title: permitting the state veterans' advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit.
Second new title: permitting the state veterans advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit, and relative to other optional tax credits.
168, am 461-462, psd 472, conc H am 1122, enr 1180 (Chapter 170)
- SB 532-FN**, exempting biodiesel from the road toll. (Sen. Flanders, Dist 7 et al: Transportation)
201, am & Finance 354-357, am 512-513, psd 628, H nonconc 884
- SB 533**, relative to licensing requirements for certain recreation and child care programs. (Sen. Johnson, Dist 2 et al: Public Affairs)
201, am 529-530, psd 628, nonconc H am, conf 1144-1145, rep adop 1218, 1292, enr 1340 (Chapter 235)
- SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies. (Sen. Clegg, Dist 14 et al: Executive Departments and Administration)
281, am 531-558, psd 628, nonconc H am, conf 1145, rep adop 1218, 1292-1300, enr am 1322-1325, enr 1338 (Chapter 257)

SENATE JOINT RESOLUTIONS

- SJR 2** designating a Purple Heart Trail in New Hampshire. (Sen. Kenney, Dist 3 et al: Transportation)
20, psd 79-80, 89, H conc 938, enr 1178 (Chapter 123)

SJR 3, urging the United States Supreme Court to retain the words “under God” in the pledge of allegiance.
rules suspended, intro, referral to com, hearing & report 928, psd (RC) 928-929, 936, H study 1218

2004 SENATE CONCURRENT RESOLUTIONS

SCR 5, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans. (Sen. Sapareto, Dist 19: Executive Departments and Administration)

New title: commending the United States Congress for supporting concurrent receipt of disability and retirement benefits by disabled veterans.
20, adop (RC) 558-559, 628, conc H am 935

SCR 6, designating January as stalking awareness month. (Sen. Clegg, Dist 14 et al: Internal Affairs)

20, adop 231, 280, H conc 779

SENATE RESOLUTIONS

SR 5, urging an Independent Safety Assessment for Vermont Yankee. (Sen. Below, Dist 5 et al.

intro & adop 774-776

SR 6, urging the Department of Housing and Urban Development to rescind the limitation on rental assistance under the Section 8 Housing Choice Voucher Program.

intro & adop 1104-1106

HOUSE BILLS

2003 HOUSE BILLS REREFERRED TO COMMITTEE

HB 53, relative to the sale of salvage and rebuilt vehicles. (Transportation)

New title: relative to the sale of salvage and rebuilt vehicles and relative to abandoned vehicles.

131, am 725-727, psd 777, H conc 883, enr am 941-942, enr 943 (Chapter 96)

HB 65, relative to educational assistance for national guard members. (Executive Departments and Administration)

131, am 294-296, psd 378, H conc 473, enr am 630, enr 633 (Chapter 6)

HB 72, granting authority to impose administrative fines for the violation of certain laws or rules of the department of agriculture, markets and food. (Executive Departments and Administration)

131, psd 385, 472, enr 634 (Chapter 7)

HB 85-FN-L, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting. (Internal Affairs)

131, com changed to Public Affairs 282, LT 859-861, am 927-928, psd 935, H nonconc 1146

HB 107, relative to bingo. (Ways and Means)

LT 41-44, 81-88, 1367

HB 108, relative to the adoption of an optional veterans' property tax credit. (Ways and Means)

LT 44-45, 1367

HB 121, relative to grounds for modification of a permanent child custody order. (Judiciary)

am 30, psd 45, H conc 473, enr 634 (Chapter 8)

HB 133-L, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district. (Education)

131, am 486-487, psd 628, H conc 780, enr 881 (Chapter 39)

HB 134-FN, relative to recommendations, appointments, and qualifications of marital masters and procedures for cases heard by marital masters. (Judiciary)

study 30

HB 158, allowing the voter to deposit the ballot into the ballot box. (Internal Affairs)

131, K 450

- HB 167**, relative to complaints against judges. (Judiciary)
K 30-31
- HB 176**, relative to listing candidates on ballots. (Internal Affairs)
New title: relative to listing candidates on ballots and relative to instructions to voters.
637, am (RC) 816-821, psd 876, H nonconc, conf 1146-1147, rep adop 1182, 1300, enr 1339 (Chapter 201)
- HB 230**, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act. (Internal Affairs)
132, am 822-823, psd 876, H conc 939, enr am 1159-1160, enr 1180 (Chapter 180)
- HB 236**, relative to recount application deadlines. (Internal Affairs)
132, K 823-824
- HB 243**, relative to motor vehicle exhaust noise standards. (Transportation)
132, am 727-728, psd 777, H nonconc, conf 1147, rep adop (RC) 1182-1185, 1300, enr am 1315-1316, enr 1337 (Chapter 259)
- HB 258**, relative to the community-technical college system. (Executive Departments and Administration)
New title: relative to the regional community-technical college system and relative to the bonding of a Cannon Mountain capital appropriation.
am 109-113, psd 129, H conc 473, enr am 630-631, enr 633 (Chapter 9)
- HB 264**, establishing state representative districts. (Internal Affairs)
New title: relative to state senate districts.
683, am (RC) 1034-1045, psd 1129, H conc 1146, enr 1180 (Chapter 178)
- HB 265**, relative to the health care delivery system. (Insurance)
632, K 717
- HB 285**, relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting. (Internal Affairs)
132, psd 824-825, 876, enr 943 (Chapter 68)
- HB 299**, removing judicial discretion to order a divorced parent to contribute to an adult child's college expenses. (Judiciary)
psd (RC) 31-32, 45, enr am 47, enr 88 (Chapter 1)
- HB 304-A**, relative to state acquisition of certain acreage in the Connecticut Lakes headwaters tract and making an appropriation therefor. (Finance)
K 61-62
- HB 326**, relative to establishing a 6-year capital budget. (Capital Budget)
am 26-27, psd 45, H conc 942, enr am 1160, enr 1178 (Chapter 138)
- HB 366**, relative to mercury reduction. (Interstate Cooperation)
132, K (RC) 837-840
- HB 369**, relative to the Henniker and Hillsborough district courts. (Judiciary)
New title: relative to the Henniker and Hillsborough district courts and to the Hampton and Exeter district courts.
474, am & Finance 661-663, LT 992-994, am & LT 1094-1104, am 1125-1127, psd 1129, H nonconc, conf 1147, rep adop 1185-1188, 1300, enr am 1318, enr 1337 (Chapter 236)
- HB 384**, relative to financial affidavits in domestic relations cases. (Judiciary)
am 32-33, psd 45, H nonconc, conf 1148, rep adop 1188-1189, 1300, enr 1339 (Chapter 202)
- HB 403**, requiring a person found not guilty of certain sexual offenses by reason of insanity to register as a criminal offender. (Judiciary)
New title: requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual offenders.
204, am 663-664, psd 682, H conc 780, enr am 880, enr 944 (Chapter 69)
- HB 422**, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases. (Judiciary)
204, am 845-847, psd 876, H conc 942, enr 1127 (Chapter 112)

- HB 426**, relative to the monitoring and approval of appraisers by the commissioner of revenue administration. (Public Affairs)
New title: relative to the certification of property assessors and assessing officials, the updating of tax maps by municipalities, the form for abatement applications, the enforcement of discretionary preservation easements, the annual appraisal of real estate, and reports on the status of monthly tax refunds.
 132, am 1045-1064, psd 1129, H nonconc, conf 1148, rep adop 1189-1190, 1300, enr 1339 (Chapter 203)
- HB 440**, relative to the discharge of firearms on or across highways in pursuit of wild birds or animals. (Wildlife and Recreation)
New title: relative to prohibited methods of taking wildlife in certain fish and game laws.
 132, am 672-673, psd 682, H conc 780, enr 881 (Chapter 40)
- HB 444**, relative to summoning witnesses from another state in certain actions involving children. (Judiciary)
 205, am 664-665, psd 682, H conc 780, enr 881 (Chapter 41)
- HB 459**, relative to the taxation of manufactured housing. (Ways and Means)
 132, psd 466-467, 472, enr 634 (Chapter 10)
- HB 464-FN**, establishing a criminal penalty for facilitating a drug or underage alcohol house party. (Judiciary)
 LT 33-34, am 99-101, psd 129, H conc 473, enr am 635, enr 706 (Chapter 25)
- HB 465**, relative to the rulemaking authority of the department of health and human services and relative to licensing rules for health facilities. (Executive Departments and Administration)
 132, psd 296, 378, enr 475 (Chapter 5)
- HB 493**, relative to the municipal budget act. (Public Affairs)
 132, psd 915, 936, enr 1127 (Chapter 113)
- HB 499**, expanding opportunities for teacher certification. (Education)
 LT 58, 1367
- HB 503**, relative to septic system construction permits. (Environment)
 132, LT 385, psd (RC) 676-681, 682, enr am 705-706, enr 778, H overrode veto 1350, veto sustained (RC) 1350-1351
- HB 516-L**, relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth. (Environment)
New title: relative to the standard of review for requests for excavating and dredging permits, relative to an appropriation for the expansion of the Port of Portsmouth, and relative to additional powers and duties of the Pease development authority.
 132, com changed to Capital Budget 169, am & psd (RC) 206-209, H conc 280, enr 281 (Chapter 2)
- HB 520-FN**, relative to maintaining records of greyhounds-FN used in pari-mutuel racing. (Ways and Means)
 132, am (3 RCs) 605-613, psd 628, H conc 780, enr am 941, enr 1128, H overrode veto 1353, veto overridden (RC) 1353-1354 (Chapter 261)
- HB 532**, relative to notice and filing of divorce petitions. (Judiciary)
 205, am 665, psd 682, H conc 883, enr am 940-941, enr 1128 (Chapter 114)
- HB 551**, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools. (Public Institutions, Health and Human Services)
First new title: establishing a committee to study the use of prescription psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.
Second new title: relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.
 132, am 666-667, psd 682, H nonconc, conf 1148-1149, rep adop 1190-1191, 1300, enr am 1325, enr 1337 (Chapter 237)

- HB 559**, relative to grounds for termination of employment. (Internal Affairs)
637, K 825-826
- HB 618-FN-A**, making technical corrections to certain local property tax laws. (Ways and Means)
New title: making technical corrections to certain local property tax laws, relative to posting of municipal budgets, relative to claims for low and moderate income homeowners property tax relief, allowing the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities, and authorizing Manchester Airport to tow and impound abandoned vehicles.
132, am & Finance 566-571, am 994-995, psd 1129, H nonconc, conf 1149, rep adop (RC) 1191-1193, 1300, enr am 1325-1326, enr 1337 (Chapter 238)
- HB 620-FN**, providing a right to counsel for indigent parents and other protections in cases involving the guardianship of minors. (Judiciary)
New title: providing various protections for parents in cases involving the guardianship of minors.
am 34-37, psd 45, H conc 473, enr am 631, enr 633 (Chapter 11)
- HB 622-FN**, clarifying certain exemptions from the right-to-know law. (Judiciary)
205, am 665-666, psd 682, H conc 780, enr 881 (Chapter 42)
- HB 630-FN**, relative to enhanced penalties for assault on law enforcement officers, firefighters, emergency medical care providers, and national guard members. (Judiciary)
study 37-38
- HB 640-FN**, relative to post-conviction DNA testing. (Judiciary)
637, am & Finance 847, psd 995, 1129, H nonconc, conf 1149-1150, rep adop 1193, 1300, enr am 1326-1327, enr 1337 (Chapter 239)
- HB 643-FN**, relative to the family division of the courts. (Judiciary)
First new title: relative to the family division of the courts and reducing the number of superior court justices.
Second new title: relative to the family division of the courts, reducing the number of superior court justices, and relative to marital masters.
205, am 847-851, psd 876, H nonconc, conf 1123, rep adop 1193-1195, 1300, enr am 1327, enr 1337 (Chapter 240)
- HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions. (Insurance)
474, LT 822, am 1081-1082, psd 1129, H nonconc, conf 1150, rep adop 1195, 1300 (unable to agree)
- HB 652-FN**, relative to qualified wellness or disease management programs. (Insurance)
637, am 658-659, psd 682, H conc 780, enr 881 (Chapter 43)
- HB 656-FN**, establishing a commission to study the operations of the family division court in Grafton county. (Judiciary)
205, K 851-852
- HB 664-FN**, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks. (Public Affairs)
132, LT 530, rcmt 681-682, am (RC) 718-720, psd 777, H nonconc 942
- HB 697-FN**, relative to the sale of motor fuel. (Transportation)
132, am & Finance 691-692, psd 995-996, 1129, H conc 1146, enr am 1172, enr 1308 (Chapter 194)
- HB 698-FN**, relative to electronic toll collection. (Transportation)
637, am & Finance 871-873, psd 996, 1129, H nonconc, conf 1150-1151, rep adop 1196, 1300, enr am 1327-1328, enr 1337 (Chapter 241)
- HB 712-FN**, establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services. (Public Institutions, Health and Human Services)
632, psd 869-870, 877, enr 879 (Chapter 44)
- HB 713-FN**, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings. (Public Affairs)
First new title: relative to the penalty for violating a zoning ordinance.

- Second new title:** relative to the penalty for violating a zoning ordinance and relative to residences in industrial or commercial zones.
132, am 861, psd 877, H nonconc, conf 1151, rep adop 1196-1197, 1300, enr am 1328, enr 1337 (Chapter 242)
- HB 727-FN-L**, establishing a legislative oversight committee for the school administrative unit system. (Education.)
New title: establishing a committee to study the issue of school choice in New Hampshire.
132, am (RC) & Finance 782-807, am (3 RCs) 996-1022, psd 1129, H nonconc, conf 1151-1152, rep adop 1197, 1301, enr 1340 (Chapter 204)
- HB 729-FN**, relative to the regulation of tanning facilities. (Internal Affairs)
203, am 826-828, psd 877, H conc 942, enr am 1172-1173, enr 1178 (Chapter 177)
- HB 730-FN-L**, establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases. (Insurance)
203, am 659, psd 682, H conc 1127, enr 1178 (Chapter 128)
- HB 736**, relative to duties of the fish and game commission and complaints against fish and game commissioners. (Wildlife and Recreation)
203, am 469-470, psd 472, H conc 780, enr am 879, enr 944 (Chapter 70)
- HB 749**, relative to the description in a criminal complaint of the party accused. (Judiciary)
am 38-39, psd 45, H conc 473, enr 634 (Chapter 12)
- HB 761**, enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions. (Public Affairs)
New title: enabling municipalities to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.
380, am 721-722, psd 777, H conc 883, enr 943 (Chapter 71)
- HB 767-FN**, relative to political advertising not authorized by the candidate. (Internal Affairs)
203, psd 828-832, 877, enr 943 (Chapter 72)
- HB 803-FN-A-L**, relative to the establishment of municipal economic development and revitalization districts by municipalities. (Energy and Economic Development)
203, am & Finance 708, psd 1022, 1129, H conc 1146, enr 1180 (Chapter 181)
- HB 812**, relative to state acquisition of privately-owned airports. (Transportation)
380, psd 692, 704, enr am 704-705, enr 778 (Chapter 28)
- HB 829**, relative to ward boundaries in Manchester and Nashua to be used in state elections. (Internal Affairs)
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- HB 1130**, relative to certain insurance agents. (Insurance)
474, psd 659-660, 682, enr 705 (Chapter 29)
- HB 1131**, establishing a committee to study exotic aquatic weeds and species. (Environment)
474, am 712, psd 777, H conc 942, enr 1128 (Chapter 115)
- HB 1133**, relative to disclosures required prior to a condominium sale. (Public Affairs)
474, am 722-723, psd 777, H conc 883, enr 943 (Chapter 73)
- HB 1134**, relative to appointment of the chief justice of the supreme court. (Executive Departments and Administration)
637, psd 810-813, 877, enr 943, H sustained veto 1365
- HB 1135**, relative to appointment of the chief justice of the superior court. (Executive Departments and Administration)
380, psd 813, 877, enr 943 (Chapter 74)

- HB 1136**, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist. (Environment)
New title: relative to homeowner exemptions from certain environmental permitting, relative to certification as a wetland scientist, and making certain technical corrections.
475, am 712-715, psd 777, H conc 942, enr 1128 (Chapter 116)
- HB 1138**, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases. (Wildlife and Recreation)
475, LT 673-675, psd 776-777, 777, enr 881 (Chapter 45)
- HB 1141**, relative to dioxin emissions reduction and medical waste incinerators. (Environment)
203, psd 385, 472, enr 634 (Chapter 13)
- HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning. (Environment)
New title: defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to Smith Pond in Enfield, and relative to site plan review of certain trails.
633, LT 715, am 1082-1090, psd 1129, H nonconc, conf 1152, rep adop 1197-1198, 1301, enr am 1328-1329, enr 1337 (Chapter 243)
- HB 1154**, relative to the Hanover-Lebanon district court and the Plymouth-Lincoln district court. (Executive Departments and Administration)
203, psd 385-386, 473, enr 634 (Chapter 14)
- HB 1155**, clarifying alternative budget adoption procedures in school administrative units. (Public Affairs)
380, am 723-725, psd 777, H conc 883, enr 944 (Chapter 75)
- HB 1159**, relative to prohibited employment for state liquor commission employees. (Executive Departments and Administration)
633, psd 813-814, 877, enr 944 (Chapter 76)
- HB 1160**, relative to the membership of the board of professional geologists. (Public Affairs)
203, psd 463, 473, enr 634 (Chapter 15)
- HB 1161**, relative to solicitation and marketing of insurance products. (Insurance)
475, am 660-661, psd 683, H conc 780, enr 881 (Chapter 46)
- HB 1162**, relative to school district policies on bullying. (Education)
633, am 807-808, psd 877, H nonconc, conf 1152, rep adop 1198-1199, 1301, enr 1339 (Chapter 205)
- HB 1165**, relative to extending domestic violence protection orders. (Judiciary)
380, am 852-853, psd 877, H nonconc, conf 1123, rep adop 1199-1200, 1301, enr 1339 (Chapter 206)
- HB 1166**, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads. (Wildlife and Recreation)
380, psd 728, 777, enr 882 (Chapter 47)
- HB 1169**, relative to child support calculations based on one-time or irregular income. (Judiciary)
203, psd 853, 877, enr 944 (Chapter 77)
- HB 1170**, establishing a committee to study access to medical records of persons with highly communicable diseases. (Public Institutions, Health and Human Services)
203, K 668
- HB 1172-L**, relative to compensation of county convention members for county business. (Public Affairs)
475, K 915
- HB 1179-FN**, relative to driver education training reimbursement. (Public Affairs)
380, com changed to Transportation 478, K 692-694
- HB 1183**, relative to transporting manufactured housing or modular buildings. (Transportation)
380, am 873-875, psd 877, H conc 939, enr am 1173-1174, enr 1180 (Chapter 182)

- HB 1188**, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan. (Education)
633, am & Finance 808-809, LT 945-954, am (RC), rules suspended, & psd 983-992, H nonconc 1146
- HB 1202**, relative to third-party payment of covered services ordered by the juvenile court. (Insurance)
633, am 814-816, psd 877, H conc 942, enr 1128 (Chapter 117)
- HB 1207-FN-A**, relative to a Global War on Terrorism operations service bonus payment. (Interstate Cooperation)
637, Finance 691, am 1022-1023, psd 1129, H conc 1146, enr am 1329, enr 1340 (Chapter 207)
- HB 1210**, relative to self-service storage facility liens. (Public Affairs)
475, psd 861-862, 877, enr 944 (Chapter 78)
- HB 1212**, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18. (Judiciary)
203, am 526-527, psd 629, H conc 883, enr 944 (Chapter 79)
- HB 1221**, urging the oversight committee on telecommunications to study aspects of federal universal service funding. (Energy and Economic Development)
New title: relative to the universal service fund.
633, LT 709, am 925-927, psd 936, H conc 939, enr 1178 (Chapter 129)
- HB 1224**, establishing the Uniform Trust Code in New Hampshire. (Judiciary)
475, am 909-911, psd 936, H conc 939, enr 1178 (Chapter 130)
- HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program. (Public Affairs)
475, psd 725, 777, enr am 880-881, enr 944 (Chapter 80)
- HB 1226-L**, establishing a debt retirement fund in the Governor Wentworth regional school district. (Education)
637, am 809-810, psd 877, H conc 939, enr 1177 (Chapter 131)
- HB 1227**, relative to land assessed for current use which is taken by eminent domain. (Ways and Means)
380, am 695-696, psd 704, H nonconc, conf 1123-1124, not signed off 1367
- HB 1228**, relative to changes to the uniform fine schedule. (Finance)
New title: relative to changes to the uniform fine schedule.
475, am (RC) 1023-1026, psd 1129, H conc 1146, enr 1180 (Chapter 183)
- HB 1230-FN**, relative to abandoned deposits held by telephone utilities and relative to public interest payphones. (Ways and Means)
637, am 875-876, psd 877, H conc 942, enr am 1174, enr 1177 (Chapter 132)
- HB 1241**, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care. (Public Institutions, Health and Human Services)
633, K 870
- HB 1243**, prohibiting the collection of biometric data. (Transportation)
380, am 875, psd 877, H conc 939, enr 1178 (Chapter 133)
- HB 1248-FN**, relative to the state board of nursing. (Executive Departments and Administration)
203, psd 386, 473, enr 634 (Chapter 16)
- HB 1254-FN**, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program. (Ways and Means)
New title: relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program, and authorizing the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook.
203, am 467-468, psd 473, H conc & enr am 878, enr 879 (Chapter 38)
- HB 1257-FN**, relative to penalties for driving under the influence with a minor in the vehicle. (Judiciary)
637, am 853-854, psd 877, H conc 942, enr 1128 (Chapter 109)

- HB 1259**, relative to the medical certification required for a walking disability plate or placard. (Public Affairs)
203, psd 530-531, 629, enr am 634-635, enr 706 (Chapter 26)
- HB 1260**, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Seabees Bridge. (Transportation)
203, psd 464-465, 473, enr 634 (Chapter 17)
- HB 1261**, establishing a committee to study alternative uses for a certain rest area on the F. E. Everett turnpike. (Transportation)
380, psd 671-672, 683, enr 705 (Chapter 30)
- HB 1262**, establishing a commission to study ways to encourage municipal recycling efforts. (Environment)
First new title: establishing a commission to study ways to encourage municipal recycling efforts and making certain changes to the tax exemption for water and air pollution control facilities.
Second new title: establishing a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities.
475, am 736-740, psd 777, H nonconc, conf 1153, rep adop 1200-1201, 1301, enr am 1329-1330, enr 1339 (Chapter 208)
- HB 1263**, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program. (Public Affairs)
380, K 915-916
- HB 1266**, relative to the long-term care ombudsman. (Public Institutions, Health and Human Services)
475, am 870-871, psd 877, H conc 943, enr 1128 (Chapter 110)
- HB 1275-FN-A**, relative to the role of the department of health and human services in juvenile proceedings. (Public Institutions, Health and Human Services)
203, psd 669, 683, enr 705 (Chapter 31)
- HB 1276-FN**, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star. (Transportation)
New title: relative to special number plates for veterans, establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star, authorizing rules relating to certain commemorative license plates, and requiring an additional fee for certain motor vehicle registrations.
475, LT 694-695, am 701-704, psd 704, H nonconc, conf 1124, rep adop 1201-1202, 1301, enr 1339 (Chapter 209)
- HB 1281**, permitting the adoption of an alternative cost apportionment method in a cooperative school district. (Education)
New title: permitting the adoption of an alternative cost apportionment method in a cooperative school district, establishing a legislative oversight committee for the school administrative unit system, and relative to notification of education grant amounts to municipalities.
203, am (RC) 966-983, psd 1129, H nonconc, conf 1153, rep adop 1202-1203, 1301, enr am 1330, enr 1338 (Chapter 244)
- HB 1282**, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees. (Insurance)
633, am 902-903, psd 936, H nonconc, conf 1153-1154, rep adop 1203-1204, 1301, enr 1339 (Chapter 210)
- HB 1290**, establishing a study committee to examine time limits on eligibility for Temporary Assistance for Needy Families. (Public Institutions, Health and Human Services)
204, LT 669, 1367
- HB 1292**, apportioning state representative districts. (Internal Affairs)
377, psd 518-524, 629, enr 633 (Chapter 18)

- HB 1293**, relative to emission control equipment for certain vehicles. (Transportation)
New title: relative to emission control equipment for certain vehicles and relative to unfair motor vehicle insurance trade practices.
 475, LT 695, am 700-701, psd 704, H nonconc, conf 1124-1125, rep adop 1204-1205, 1301, enr am 1331, enr 1338 (Chapter 245)
- HB 1295**, relative to certain court records. (Judiciary)
New title: relative to certain court records and exempting certain documents from the right-to-know law.
 475, am 854-857, psd 877, H nonconc, conf 1154, rep adop 1205-1206, 1301, enr am 1331, enr 1338 (Chapter 246)
- HB 1296**, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food. (Executive Departments and Administration)
New title: establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food, and relative to food service licensure.
 475, am 715-717, psd 777, H nonconc, conf 1154-1155, rep adop 1206, 1301, enr 1339 (Chapter 211)
- HB 1298**, establishing a committee to study local dispute resolution for public employee labor relations. (Executive Departments and Administration)
 380, am 687, psd 704, H conc 1127, enr 1178 (Chapter 134)
- HB 1299**, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. (Internal Affairs)
 380, am 832-833, psd 877, H conc 1127, enr am 1174-1175, enr 1181 (Chapter 184)
- HB 1301**, relative to extensions to the intent to cut. (Energy & Economic Development)
New title: relative to extensions to the intent to cut and relative to the care, maintenance, and repair of the law enforcement memorial.
 475, am 709-711, psd 777, H conc 883, enr 944 (Chapter 81)
- HB 1302**, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces. (Public Affairs)
 633, am 916-917, psd 936, H conc 939, enr 1177 (Chapter 135)
- HB 1308-FN**, relative to lobbying activities by state employees. (Internal Affairs)
 380, psd 833-836, 877, enr 944 (Chapter 82)
- HB 1309**, relative to noise pollution from shooting ranges. (Wildlife and Recreation)
 629, am 729-736, psd 777, H conc 883, enr 944 (Chapter 83)
- HB 1311-FN**, establishing a committee to study decreasing the insurance premium tax. (Ways and Means)
 204, am 571, psd 629, H conc 883, enr 944 (Chapter 84)
- HB 1312**, relative to the court's discretion to extend child support obligations. (Judiciary)
 637, am 857-858, psd 877, H conc 943, enr am 1175, enr 1178 (Chapter 136)
- HB 1316-FN-A**, relative to the computation of tax on certain telecommunications services under the communications services tax, and establishing a committee to study the feasibility of unbundling communications services charges. (Ways and Means)
 637, psd 925, 936, enr 1128 (Chapter 111)
- HB 1320**, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans. (Banks)
 633, psd 782, 877, enr am 1175-1177, enr 1178 (Chapter 139)
- HB 1325-FN-A**, relative to additional uses of the E-Z Pass system. (Transportation)
 204, psd 465-466, 473, enr 634 (Chapter 19)
- HB 1326**, establishing a study committee to examine the classification of consumer and display fireworks. (Public Affairs)
First new title: relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

- Second new title:** relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks and establishing a study committee to examine the classification of consumer and display fireworks.
633, LT 862, am 865-869, psd 877, H nonconc, conf 1155, rep adop 1206-1208, 1301, enr am 1332, enr 1338 (Chapter 247)
- HB 1329**, relative to the length of time consumer credit reporting agencies retain individual credit information. (Banks)
633, psd 782, 877, enr 944 (Chapter 85)
- HB 1334**, relative to retention of records of fish and game law violations by the fish and game department. (Wildlife and Recreation)
204, psd 675, 683, enr 705 (Chapter 32)
- HB 1335-L**, establishing a commission to examine the workers' compensation system in New Hampshire. (Insurance)
633, LT 903-904, am 1090-1094, psd 1129, H nonconc, conf 1155-1156, not signed off 1367
- HB 1336**, relative to the procedures for the legislative ethics committee. (Internal Affairs)
204, psd 836, 877, enr 944 (Chapter 86)
- HB 1348-FN**, relative to registration of business organizations. (Executive Departments and Administration)
637, am 740-774, psd 777, H nonconc, conf 1156, rep adop 1208-1209, 1301, enr am 1332-1334, enr 1338 (Chapter 248)
- HB 1352-FN**, requiring school districts to recommend daily physical activity to pupils. (Education)
380, psd 685-686, 704, enr 781 (Chapter 33)
- HB 1355**, changing the name of the sweepstakes commission to the lottery commission. (Executive Departments and Administration)
380, am 687-688, psd 704, H conc 883, enr am 940, enr 943 (Chapter 97)
- HB 1361**, relative to sentences for certain offenses committed on or near a public college or university campus. (Judiciary)
683, psd 858-859, 878, enr 944 (Chapter 87)
- HB 1363**, establishing a policy for naming state highways, bridges, and buildings. (Transportation)
204, am 498-500, psd 629, H nonconc 884
- HB 1364-FN**, establishing a statutory joint committee to review and propose changes to state unclassified officers' salaries. (Internal Affairs)
637, K 837
- HB 1367**, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. (Judiciary)
637, am (RC) 911-915, psd 936, H nonconc, conf 1156-1157, rep adop 1209-1210, 1301 (unable to agree)
- HB 1370**, establishing a committee to study property tax relief. (Ways and Means)
204, am 468-469, psd 473, H conc 883, enr 944 (Chapter 88)
- HB 1372**, defining certain terms relating to military service. (Public Affairs)
630, psd 862-863, 878, enr 944 (Chapter 89)
- HB 1374**, relative to lightning protection systems. (Public Affairs)
630, psd 863, 878, enr 944 (Chapter 90)
- HB 1376**, relative to agency fees assessed pursuant to public employer collective bargaining agreements. (Public Affairs)
380, LT 917, 1104, 1367
- HB 1378-FN-A**, relative to New Hampshire service medals for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor. (Finance)
New title: relative to New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor; and relative to tuition waivers and room and board scholarships at state educational institutions for children of certain firefighters and police officers who died while in performance of their duties.
204, am 1026-1034, psd 1129, H conc 1146, enr am 1334-1335, enr 1338 (Chapter 249)

- HB 1380-FN**, relative to unauthorized video surveillance. (Public Affairs)
637, am 863-864, psd 878, H nonconc, conf 1125, rep adop 1210-1211, 1301, enr 1339 (Chapter 212)
- HB 1393**, relative to the appeal of the lower court's decision in a child protection case. (Judiciary)
637, K 717-718
- HB 1394**, relative to de novo appeals in certain criminal proceedings. (Judiciary)
637, K 915
- HB 1397**, relative to youth suicide prevention. (Public Institutions, Health and Human Services)
380, psd 669, 683, enr 705 (Chapter 34)
- HB 1399-FN-A**, establishing the telecommunications planning and development fund. (Energy & Economic Development)
637, am & Finance 711-712, psd 1034, 1129, H conc 1146, enr 1181 (Chapter 185)
- HB 1401-FN**, limiting the use of traffic signal preemption devices. (Transportation)
New title: limiting the use of traffic signal preemption devices, establishing a commission to study railroad matching funds, authorizing an expenditure for a certain feasibility study, and relative to landowner permission for OHRV operation and loading and unloading OHRVs on highways.
380, am 918-925, psd 936, H nonconc, conf 1157, rep adop 1211, 1301, enr am 1336, enr 1338 (Chapter 250)
- HB 1403**, extending the reporting dates of certain study committees. (Internal Affairs)
204, psd 451, 473, enr 634 (Chapter 20)
- HB 1408-FN**, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts. (Insurance)
637, LT 661, am 675-676, psd 683, H nonconc, conf 1157, rep adop 1211-1212, 1301, enr 1339 (Chapter 213)
- HB 1410**, relative to the release of information to persons receiving a child for placement. (Public Institutions, Health and Human Services)
New title: relative to the release of information to persons receiving a child for placement and relative to the department of health and human service's disclosure of information regarding the death of a child from abuse and neglect.
381, am 669-671, psd 683, H conc 883, enr am 939, enr 943 (Chapter 98)
- HB 1411-FN-A**, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system. (Ways and Means)
637, am 696-700, psd 704, H nonconc, conf 1157-1158, rep adop 1212-1215, H rej rep 1302
- HB 1413**, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims. (Judiciary)
637, am (RC) 884-902, psd 936, H nonconc, conf 1158, not signed off 1367
- HB 1414**, establishing a commission to study issues regarding the women's prison facility. (Executive Departments and Administration)
381, am 688-691, psd 704, H conc 780, enr 882 (Chapter 67)
- HB 1416-FN**, extending the property tax exemption for wooden poles and conduits and establishing a committee to study issues related to the exemption. (Energy & Economic Development)
638, psd (RC) 638-658, 683, enr 705 (Chapter 35)
- HB 1417**, relative to examination of persons called as jurors in civil cases. (Judiciary)
638, psd 718, 777, enr 882 (Chapter 48)
- HB 1419**, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services. (Public Institutions, Health and Human Services)
638, psd 725, 778, enr 882 (Chapter 49)

- HB 1422**, relative to qualifications for persons who negotiate on behalf of the state. (Internal Affairs)
630, am 907-909, recon rej 911, psd 936, H conc 939, enr 1178 (Chapter 137)
- HB 1423-FN**, relative to reimbursement of travel expenses for judges. (Executive Departments and Administration)
633, psd 717, 778, enr am 880, enr 944 (Chapter 91)
- HB 1424-FN-A**, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state. (Interstate Cooperation)
633, LT (RC) 840-845, 1367
- HB 1426-FN**, relative to testing for the human immunodeficiency virus. (Public Institutions, Health and Human Services)
638, psd 671, 683, enr 705 (Chapter 36)
- HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. (Public Affairs)
New title: relative to the administration of the medical assistance program for home care for children with severe disabilities; establishing a commission to review the medical assistance program for home care for children with severe disabilities; and relative to the use of standardized health statements and renewals of certain insurance policies.
778, am (2 RCs) 1064-1074, psd 1129, H nonconc, conf 1158-1159, rep adop 1215-1216, 1301, enr am 1336, enr 1338 (Chapter 251)
- HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds. (Transportation)
630, com changed to Capital Budget 684-685, am (2 RCs) 954-966, psd 1129, H nonconc, conf 1159, rep adop 1216-1217, H rej rep, new conf req, rules suspended (RC), new conf 1302-1304, rules suspended, rep adop (RC) 1307-1308, enr am 1337, enr 1338, H overrode veto 1354, veto overridden (RC) 1354-1356 (Chapter 262)

HOUSE JOINT RESOLUTIONS

- HJR 25**, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation. (Transportation)
779, psd 1074, 1130, enr am 1177, enr 1181 (Chapter 179)
- HJR 26**, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3). (Executive Departments and Administration)
779, 992, 1130, enr 1178 (Chapter 127)

HOUSE CONCURRENT RESOLUTIONS

- HCR 17**, urging the posthumous promotion of Colonel Edward Ephraim Cross to brigadier general. (Public Affairs)
381, adop 667-668, 683

CONSTITUTIONAL AMENDMENT

CONCURRENT RESOLUTIONS

2003 CACR REREFERRED TO COMMITTEE

- CACR 5**, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule. (Internal Affairs)
381, psd (2 RCs) 904-907, 936, enr 1128

2004 CACR

- CACR 27**, relating to elective franchises. Providing that the right to vote in elections shall be limited to citizens of the United States. (Sen. Morse, Dist 22; Flanagan, Rock 78; Internal Affairs)
20, SO 127, adop (RC) 134-135, 167, H nonconc 883

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