Bill as Introduced

1999 SESSION

99-0612
08/02

SENATE BILL ***89-LOCAL***

AN ACT relative to library trustees.

SPONSORS: Sen. Hollingworth, Dist 23; J. King, Dist 18

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires town treasurers to pay out funds appropriated for public library purposes only upon order of the library trustees.

This bill prevents the lapse of unexpended, appropriated funds.

This bill also allows the appointment of alternate library trustees.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

99-0612
08/02

STATE OF NEW HAMPSHIRE

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

AN ACT relative to library trustees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Surety Bond Required; Library Trustees. Amend the introductory paragraph of RSA 41:6, I to read as follows:

I. Town treasurers, trustees as provided in RSA 31:22 and 23, trustees as provided in RSA 53-B:8-a, I, library trustees [~~investing funds as provided in RSA 202-A:23~~] ***including alternate library trustees, if any***, town clerks, tax collectors and their deputies, and agents authorized to collect the boat fee shall be bonded by position under a blanket bond from a surety company authorized to do business in this state. The bond shall indemnify against losses through:

2 Library Trustees; Duties. Amend RSA 41:29, I to read as follows:

I. The town treasurer shall have custody of all moneys belonging to the town, and shall pay out the same only upon orders of the selectmen, or, in the case of a conservation fund established pursuant to RSA 36-A:5, upon the order of the conservation commission, or in the case of a heritage commission fund established pursuant to RSA 674:44-a upon the order of the heritage commission, or in the case of fees held pursuant to RSA 673:16, II, upon the order of the local land use board or its designated agent, or in the case of a recreation revolving fund established pursuant to RSA 35-B:2, upon the order of the recreation or park commission, ***or in the case of funds appropriated for public library purposes pursuant to RSA 202-A:4, upon order of the library trustees*** or other board or body designated by the town to expend such a fund.

3 Public Libraries; Library Trustees; Custody and Management of Appropriations. Amend RSA 202-A:6 to read as follows:

202-A:6 Library Trustees; Election. The library trustees shall have the entire custody and management of the public library and of all the property of the town relating thereto, [~~except~~] ***including appropriations held pursuant to RSA 202-A:11, III, but excepting*** trust funds held by the town. Any town having a public library shall, at a duly warned town meeting, elect a board of library trustees consisting of any odd number of persons which the town may decide to elect. Such trustees shall serve staggered 3-year terms or until their successors are elected and qualified.

4 Library Trustees; Vacancies; ***Alternates***. Amend RSA 202-A:10 to read as follows:

202-A:10 Library Trustees; Vacancies. Vacancies occurring on any board of library trustees in a town shall be filled as provided in RSA 669:75. A vacancy occurring among the publicly elected members of the board of library trustees of a city library shall be filled by the city council or other appropriate appointing authority within 2 months of the notice by the remaining members of the

board of trustees. The board of library trustees may recommend to the appointing authority names of persons for appointment to vacancies on expired terms. ***The board of library trustees may appoint up to 3 alternate members to 3-year terms.***

5 Library Trustees; Powers and Duties. Amend RSA 202-A:11, III to read as follows:

III. Expend all moneys raised and appropriated by the town or city for library purposes ***and may hold the same, or may direct that such moneys be paid over by the town treasurer pursuant to a payment schedule as agreed to by the library trustees and the selectmen or city council. The whole or any part of moneys so appropriated in any year shall not be part of the general fund nor shall any unexpended funds from the library appropriation be included in the general fund surplus.*** All money received from fines and payments for lost or damaged books or for the support of a library in another city or town under contract to furnish library service to such town or city, shall be used for general repairs and upgrading, and for the purchase of books, supplies and income-generating equipment, shall be held in a nonlapsing separate fund and shall be in addition to the appropriation;

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

Committee Minutes

Date: March 2, 1999
Time: 2:22 to 2:35 PM
Room: LOB 101

The Senate Committee on Executive Departments Administration held a hearing on the following:

SB 89-L relative to library trustees.

Members of Committee present:

Senator Cohen
Senator Francoeur
Senator Brown
Senator D'Allesandro
Senator Larsen
Senator Roberge
Senator Trombly

The Chair, Senator Burt Cohen, opened the hearing.

Senator Burton J. Cohen, D. 24: I open the hearing on SB 89. I recognize first the Sponsor of SB 89, Senator Beverly Hollingworth.

Senator Beverly A. Hollingworth, D. 23: Good afternoon, for the record my names is Senator Beverly Hollingworth, District 23. I was asked to put this bill in by one of the libraries in my district. I was hoping that they would be here. I will briefly tell you that this is meant to clarify and codify long standing interpretation of the laws regarding library financing and the provisions for appointing alternate trustees so that small voids can be effective in the absence of more elected trustees. I hope that you would let some of the people who are very knowledgeable on this subject answer the questions. I am unfortunately not expertise in this area.

Senator Burton J. Cohen, D. 24: Thank you. Any questions for Senator Hollingworth? Thank you very much. Representative Turner is in favor of this bill, not wishing to speak. Peter Parker.

Peter J. Parker, North Hampton Trustees: If I may defer to Representative of the Trustees Association, who is also here. I will follow up later.

Senator Burton J. Cohen, D. 24: Is that Edna Hansen?

Peter J. Parker, North Hampton Trustees: Yes.

Senator Burton J. Cohen, D. 24: Okay, thank you.

Edna Hansen, New Hampshire Library Trustees Association: Mr. Chairman. Committee members. I have with me for your perusal the proposed statutory amendments that were put together with a little written in segment as to the rational of each amendment. The New Hampshire Library Trustees Association is, I guess, the most important reason for it's existence would be that we believe in education for trustees and we hope to provide for them a supporting resource for any member seeking help. With this in mind, we had asked to be part of the conference that the New Hampshire Municipal Association had the later part of 1997. We went in to discuss many things as we have done other years, as the other board in town. At that meeting we were very much amazed that, although we had librarians and trustees, we also had many auditors and members of the New Hampshire Municipal Association, who pointed out that there were some inconsistencies and that possibly we should look into some amendments so that it would be easier for the auditors and make it definitely known for those small communities who seem not to have a perfect report so that if things weren't spelled out exactly they were having trouble getting their release on money that should come to the librarian trustees, who are solely responsible for the library. I guess our founding fathers decided education and libraries went right along with that and so they should take care of the money.

I would like to draw your attention to the fact that when we decided to follow through and look into some of these changes that were suggested that we didn't just take on members of the New Hampshire Library Trustees Association at the time. We looked a little bit further. We had a representative from the Attorney General's office. We had someone from the...Would you like their names? I could give them to you. I think that it is more important to give you just their positions. Someone from the Municipal Auditing Department, from Department of Revenue and Administration. We had the Legal Counsel of New Hampshire Municipal Association. We had the legal counsel for our own organization and a representative from the state library and then we had the President and two Vice Presidents of the New Hampshire Library Trustees Association, delegates and Mr. Parker, who I believe will speak to you. He was on the board at one time and is at present a trustee. I, of course, am definitely speaking for it.

Senator Burton J. Cohen, D. 24: Thank you.

Edna Hansen, New Hampshire Library Trustees Association: Thank you.

Senator Burton J. Cohen, D. 24: Excuse me Ms. Hansen are you available for questions?

Edna Hansen, New Hampshire Library Trustees Association: Yes.

Senator Burton J. Cohen, D. 24: Thank you. It appears that the amendments that you have passed out is the bill. Is that right?

Edna Hansen, New Hampshire Library Trustees Association: Yes.

Senator Burton J. Cohen, D. 24: I just wanted to be sure.

Edna Hansen, New Hampshire Library Trustees Association: I thought it would help you and save time if you saw the rational right there.

Senator Burton J. Cohen, D. 24: Other questions? Senator Trombly.

Senator Rick A. Trombly, D. 7: I just have one question and you may answer yes or no. On page 2 it says that the board of library trustees may appoint the alternate members for a three year term. Is that provision simply to designate the number of people who are authorized to appoint and not to designate who will do the appointing. Because if the answer to that question is yes then that is fine. If the answer to that is no then I can't make that sentence jive with line 26 all the way through to line 3 on the next page. If it is purely numerical to say that library trustees are 6 or 5? Purely numerical?

Edna Hansen, New Hampshire Library Trustees Association: Yes.

Senator Rick A. Trombly, D. 7: Okay.

Edna Hansen, New Hampshire Library Trustees Association: Thank you.

Senator Burton J. Cohen, D. 24: Thank you very much. Representative Cooney, did you wish to speak on this also?

Representative Richard Cooney, Rockingham County, District 26: Thank you Mr. Chairman. My name is Richard Cooney, Representative from Rockingham County, District 26, town of Salem. I also serve as Kelly Library

Trustee. I serve as Chairman of that board at the moment. I just want to comment, in our town we don't have any problem, with our relationship with the selectmen or anything else. We are doing fine and we just hope that nothing changes. I would like to comment on page 2 line 9 where it is says the whole or any part of moneys so appropriated in any year shall not be part of the general fund nor shall nay unexpended funds from the library appropriation be included in the general fund surplus. I don't think that that is the proper thing to do if we raise more money than we needed in the library it should go back to the surplus and lower the tax rate in the following year just like any other surplus does in the town.

Senator Burton J. Cohen, D. 24: Thank you. Questions?

Senator Gary R. Francoeur, D. 14: I am lost a little bit here. On top of page 2, the board of library trustees may appoint up to 3 alternate member to 3-year terms. Library trustees, are they elected, is that correct?

Representative Richard Cooney, Rockingham County, District 26: They are elected.

Senator Gary R. Francoeur, D. 14: So, if you have a vacancy does the board appoint them or do you have to have another election?

Representative Richard Cooney, Rockingham County, District 26: The selectmen appoint someone to fill in until the next election. But the library trustees who have come in are suggested by the trustees and the selectmen usually follow their recommendation.

Senator Gary R. Francoeur, D. 14: So, they would make three recommendations?

Representative Richard Cooney, Rockingham County, District 26: The alternate members, we don't have any alternate members. I don't know any town that has alternate members. I don't know what the rational is for alternate members.

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Senator Burton J. Cohen, D. 24: Mr. Parker?

Peter Parker, No. Hampton Trustees: Thank you Mr. Chairman, Members of the Committee. My name is Peter Parker. I come from North Hampton and my library is one of the libraries that was, shall we say the sacrificial goat that provoked the controversy that eventually got the Library Trustees

Association and the Municipal Association and attorneys and whatever to look at the way 202A and other statutes are written. Essentially what happened in North Hampton, and I will be as brief as I possible can, after the meeting of the Municipal Association, our selectmen came home and said that we are responsible for all of the moneys voted/gathered by the taxes in this town and so, therefore, we will release to you only the amount money necessary to meet your current months bills. In other words, the appropriation, the budget line that was voted by the taxpayers or approved by the (Noise) bore little relationship to the actual month to month expenditures and it also impeded the process of planning. As you probably all know you can't get everything done in one year and two years ago had a roof that had to be done and so some of it was paid for out of one years appropriation and the rest of it was paid out of the following years appropriation. When the selectmen informed us that we would have to submit vouchers, I went online with other libraries statewide to determine what the practice was elsewhere and I discovered that in, now mind you not every library replied, only 31 libraries replied online to my request. Of this 31, 11 libraries stated that they were given either quarterly or monthly or in some cases an annual lump sum appropriation. They kept their own accounts, they were audited and they have their own books. Only one library responded that the town did everything for them. There are many accommodations in between but, the long and the short of it is that when we were faced with this problem in North Hampton, we realized that we were unable to plan for long term changes in the way were delivered services. For example, we are undergoing automation like all libraries are right now. We know some of those costs but there are unintended consequences which we have to be able to adjust to. Unless there was a budgeted line when the appropriation that the selectmen had from us we would be sucking air. So, the long and short of it is, that mine is a war story told to tell you why I approached the Trustees Association, who apparently heard my plea from many other sources as well and why all of us approached Senator Hollingworth and asked her for her gracious sponsorship of this legislation. Thank you.

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Representative Turner wishing to testify on SB 89.

Representative Turner: I don't really need to testify. I am represent the NH Library Association. The librarians in the state. We are in support of the bill.

Senator Burton J. Cohen, D. 24: Anyone else wish to speak? We will close the hearing on SB 89.

Date:	March 2, 1999
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Room:	LOB 101

The Senate Committee on Executive Departments Administration held a hearing on the following:

SB 89-L relative to library trustees.

Members of Committee present:

Senator Cohen
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Senator Larsen
Senator Roberge
Senator Trombly

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Association and the Municipal Association and attorneys and whatever to look at the way 202A and other statutes are written. Essentially what happened in North Hampton, and I will be as brief as I possible can, after the meeting of the Municipal Association, our selectmen came home and said that we are responsible for all of the moneys voted/gathered by the taxes in this town and so, therefore, we will release to you only the amount money necessary to meet your current months bills. In other words, the appropriation, the budget line that was voted by the taxpayers or approved by the (Noise) bore little relationship to the actual month to month expenditures and it also impeded the process of planning. As you probably all know you can't get everything done in one year and two years ago had a roof that had to be done and so some of it was paid for out of one years appropriation and the rest of it was paid out of the following years appropriation. When the selectmen informed us that we would have to submit vouchers, I went online with other libraries statewide to determine what the practice was elsewhere and I discovered that in, now mind you not every library replied, only 31 libraries replied online to my request. Of this 31, 11 libraries stated that they were given either quarterly or monthly or in some cases an annual lump sum appropriation. They kept their own accounts, they were audited and they have their own books. Only one library responded that the town did everything for them. There are many accommodations in between but, the long and the short of it is that when we were faced with this problem in North Hampton, we realized that we were unable to plan for long term changes in the way were delivered services. For example, we are undergoing automation like all libraries are right now. We know some of those costs but there are unintended consequences which we have to be able to adjust to. Unless there was a budgeted line when the appropriation that the selectmen had from us we would be sucking air. So, the long and short of it is, that mine is a war story told to tell you why I approached the Trustees Association, who apparently heard my plea from many other sources as well and why all of us approached Senator Hollingworth and asked her for her gracious sponsorship of this legislation. Thank you.

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Representative Turner wishing to testify on SB 89.

Representative Turner: I don't really need to testify. I am represent the NH Library Association. The librarians in the state. We are in support of the bill.

Senator Burton J. Cohen, D. 24: Anyone else wish to speak? We will close the hearing on SB 89.

Respectfully submitted,
Cyndy Wescott

NEW HAMPSHIRE SENATE
107 North Main Street
Concord, NH 03301-4951
(603) 271-2111
TDD Access: 1-800-735-2964

March 5, 1999

TO: Members of the Senate Executive Departments and Administration Committee
FROM: Jonathan Page
RE: Hearing report on Senate Bill 89, relative to library trustees. (Senate ED&A, 3/2/99)

Sponsor: Sen. Hollingworth, Sen. J. King.

What the bill does: This bill requires town treasurers to pay out funds appropriated for public library purposes only upon order of the library trustees.

Who supports the bill: NH Library Association, NH Library Trustees Association.

Who opposes the bill: No opposition at the hearing.

Testimony report: This bill clarifies that library trustees have control over funds that are designated to be expended on public libraries. The trustees may direct the town treasurer to disburse the funds in whole, in part, or, on a specified schedule. The bill also allows trustees to hold funds over and above payments until such funds are needed for other payments, preventing the possibility that such unexpended funds would lapse. The bill also allows trustees to appoint alternative library trustees.

Funding: n/a

Future Action: The committee recommends this bill Ought to Pass.

Speakers

SENATE EXECUTIVE DEPTS. & ADMIN. COMMITTEE

Date 3/2/99 Time 1:20 Public Hearing On SB89-L

Appearing in FAVOR: (Please print) **Please check box at left to speak.**

Speaking?	Name	Address	Representing
☑	Rep Tamas	44 Winnicook St Lebanon	Self
☑	PETER J. PARKER	19 Hobbs Rd	NO HAMPTON NH Hampton Taxpayers
☑	Edna M Hansen	PO Box 76 Sanbornton NH	NHHTA
☑	REP RICHARD COONEY	DIST 2C ROCK SALEM	
☑	Sen Ben Hollingworth	Hampton	
☐	Senator E John King		
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Appearing in OPPOSITION: (Please Print) **Please check box at left to speak.**

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SENATE EXECUTIVE DEPTS. & ADMIN. COMMITTEE

Date	Time	Public Hearing On

Appearing in **FAVOR**: *(Please print)* *Please check box at left to speak.*

Speaking?	*Name*	*Address*	*Representing*
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Appearing in **OPPOSITION**: *(Please Print)* *Please check box at left to speak.*

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Testimony

Proposed Statutory Amendments re: Public Libraries - Final Form

A special committee of the New Hampshire Board of Library Trustees met on February 12, 1998 to review proposed statutory amendments submitted by Richard Theriault and Melissa Martin. After thorough discussion, it was agreed that the following sections should be amended as indicated. (Proposed additional language is in bold face and underlined. Deletions are in italics. Note: the sections have been reordered by statute number.)

1. RSA 41:6, Paragraph I, is sought to be amended as follows:

I. Town treasurers, trustees as provided in RSA 32:22 and 23, trustees as provided in RSA 53-B:8-a, I, library trustees **including alternate library trustees, if any,** *as provided in RSA 202-A:23*, town clerks, tax collectors and their deputies, and agents authorized to collect the boat fee shall be bonded by position under a blanket bond from a surety company authorized to business in this state. The bond shall indemnify against losses through:

* * *

This amendment intends to correct what appears to be an oversight in the statute regarding the bonding of all library trustees regardless of whether the trustees administer privately donated trust funds.

2. RSA 41:29, Paragraph I, should be amended as follows:

I. The town treasurer shall have custody of all moneys belonging to the town, and shall pay out the same only upon orders of the selectmen, or, in the case of a conservation fund established pursuant to RSA 36-A:4, upon the order of the conservation commission, or in the case of a heritage commission fund established pursuant to RSA 674:44-a upon the order of the heritage commission, or in the case of fees held pursuant to RSA 673:16, II, upon the order of the local land use board or its designated agent, or in the case of a recreation revolving fund established pursuant to RSA 35-B:2, upon the order of the recreation or park commission, **or in the case of funds appropriated for public library purposes pursuant to RSA 202-A:4, upon order of the library trustees pursuant to RSA 202-A:11, II**, or other board or body designated by the town to expend such a fund.

Amendment of this section intends to make it clear that the town treasurer is required to pay over funds appropriated for library purposes to the library without specific approval from the selectboard where the library enabling statute states that the library trustees shall expend funds raised for the library.

3. RSA 202-A:6, should be amended as follows:

The library trustees shall have the entire custody and management of the public library and of all the property of the town relating thereto, **including appropriations held pursuant to RSA 202-A:11, III, but excepting** *except* trust funds held by the town. Any town having a public library shall, at a duly warned town meeting, elect a board of library trustees consisting of any odd number of persons which the town may decide to elect. Such trustees shall serve staggered 3-year terms or until their successors are elected and qualified.

The proposed amendment intends again to make the statutes both clear and consistent on the point that the library trustees have exclusive authority to spend and hold any funds that may be raised through appropriations for library purposes.

4. RSA 202-A:10 should be amended as follows:

202-A:10 Library Trustees; Vacancies; **Alternates** Vacancies occurring on any board of library trustees in a town shall be filled as provided in RSA 669:75. A vacancy occurring among the publicly elected members of the board of library trustees of a city library shall be filled by the city council or other appropriate appointing authority within 2 months of he notice by the remaining members of the board of trustees. The board of library trustees may recommend to the appointing authority names of persons for appointment to vacancies on expired terms. **The board of library trustees may appoint up to 3 alternate members for a term of 3 years each.**

The proposed amendment intends to authorize the appointment of alternate library trustees by the duly ~~elected board~~. Planning boards have analogous power pursuant ~~to~~ RSA 673:6, II. (Note: this was ~~initially~~ proposed as an amendment to 202-A:6, but the group agreed it properly fits in this section.)

5. RSA 202-A:11, Paragraph III, should be amended as follows:

III. Expend all moneys raised and appropriated by the town or city for library purposes, **and may hold the same, or may direct that such moneys be paid over by the town treasurer pursuant to a payment schedule as agreed to by the library trustees and the selectmen or city council. The whole or any part of moneys so appropriated in any year shall not be part of the general fund nor shall any unexpended funds from the library appropriation be included in the general fund surplus.** All money received from fines and payments for lost or damaged books or for the support of a library in another city or town under contract to furnish library

service to such town or city, shall be used for general repairs and upgrading, and for the purchase of books, supplies and income-generating equipment, shall be held in a nonlapsing separate fund and shall be in addition to the appropriation;

The purpose of amending this section is to make it clear that the library trustees are authorized to hold appropriated funds in excess of vouchered expenses. The permissive language is intended to give libraries and towns sufficient flexibility to allow the town to act as bookkeeper for the library or to make any other arrangement for the timing of disbursement of library funds as may be mutually agreed upon by the library and the town or city government. The inclusion of the language proposed by Dick Theriault - that library funds shall not be part of the general fund - bolsters the intent that funds appropriated by the town for the library are distinct from other town funds, whether held by the library trustees, or by the town for the convenience of the library by agreement of its trustees. In addition, it seems to adequately address the concerns raised in earlier discussions of RSA 32:10 regarding transfer of appropriations.

[redacted]

4/98

Voting Sheets

Senate Executive Depts. & Admin. Committee
EXECUTIVE SESSION

SB 89-L

Hearing date: 3/2/99 Room: LOB 101
Motion of:

Made by Senator:		*Seconded by Senator:*	
Cohen	☑	Cohen	☐
Francoeur	☐	Francoeur	☐
M. Brown	☐	M. Brown	☑
D'Allesandro	☐	D'Allesandro	☐
S. Larsen	☐	S. Larsen	☑
S. Roberge	☐	S. Roberge	☐
Trombly	☑	Trombly	☐

Committee Member	*Present*	*Vote*	*Reported out by*
Senator Burton J. Cohen, Chairman	☑		
Senator Gary Francoeur, Vice-Chair	☑	Against	
Senator Mary E. Brown	☑		
Senator Lou D. Allesandro	☑		
Senator Sylvia B. Larsen	☑		
Senator Sheila Roberge	☑		
Senator Rick A. Trombly	☑	Take Out	✓

OTP

*Amendments:

NOTES: Vote 6-1

Committee Report

Date: March 2, 1999 Time: 2:22 pm

The Senate Committee on Executive Departments Administration held its hearing in Room 101 LOB, Concord, New Hampshire.

BILL NO.: SB 89-L TITLE: relative to library trustees.

Members of the Committee present:

Senator Cohen
Senator Francoeur
Senator Brown
Senator D'Allesandro
Senator Larsen
Senator Roberge
Senator Trombly

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☒ Ought to Pass
- ☐ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☐ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: March 2, 1999

THE COMMITTEE ON Executive Departments Administration

to which was referred Senate Bill 89-L

AN ACT relative to library trustees.

VOTE: 6-1

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Rick A. Trombly
For the Committee