Bill as Introduced

HB 380 – AS INTRODUCED

2003 SESSION

03-0236
06/10

HOUSE BILL ***380***

AN ACT requiring legislative approval of any settlement of certain lawsuits against the state.

SPONSORS: Rep. Kurk, Hills 48

COMMITTEE: Finance

ANALYSIS

This bill requires legislative approval for any settlement of a court claim against the state that requires at least one recurring state payment or service.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 380 – AS INTRODUCED

03-0236
06/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT requiring legislative approval of any settlement of certain lawsuits against the state.

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

1 Settlements of Court Claims Against the State; Recurring Payments or Services. Amend RSA 14:35-b, I to read as follows:

I. Any settlement of a claim against the state in which the state through its attorneys agrees to ***either*** a commitment with financial consequences, ***relating to any state source whatsoever,*** in excess of [~~1/4~~] ***1/8*** of one percent or more of total reported general fund unrestricted revenues for the previous fiscal year, ***excluding revenues required to pay for a constitutionally adequate education,*** as reported by the legislative budget assistant pursuant to paragraph II, ***or a commitment that requires at least one recurring state payment or service regardless of the value of the payment or service, or both,*** shall be subject to the approval of the legislature.

2 Effective Date. This act shall take effect January 1, 2004.

Committee Minutes

HOUSE FINANCE COMMITTEE
Legislative Office Building, Room 210
Concord, New Hampshire
Thursday, February 6, 2003

HOUSE BILL 380, AN ACT, requiring legislative approval of any settlement of certain lawsuits against the state.

Testimony of:
Stephen Judge 1
Ann Larney 7

VICE CHAIRMAN WEYLER: Next scheduled is House Bill 380. The sponsor is Rep. Kurk. He's asked that I open the hearing, take testimony from the Attorney General's Office, and I think we have -- we have both Steve Judge or Ann Larney here?

STEPHEN JUDGE, Acting Attorney General, Civil Bureau, Department of Justice, Attorney General's Office: Yes.

VICE CHAIRMAN WEYLER: And after that, we'll recess the hearing until Representative Kurk can make it. So, we'll call on Steve Judge and Ann Larney.

House Bill 380, requiring legislative approval of any settlement of certain lawsuits against the state.

MR. JUDGE: Good afternoon, my name is Steve Judge. I'm a Deputy Attorney General. At the moment, I'm Acting Attorney General, and with me is Ann Larney, who is an Associate Attorney General and Chief of the Civil Bureau. I've been with the office for 18 years; Ann's been with the office for 13 years. So, for a very good passage of time, we are the ones who have been responsible for settling cases at the Attorney General's Office.

Let me take a minute to talk about the nature of the suits and -- and courts, our current settlement authority, our history, and then our -- the problems that we have with this particular piece of legislation; one, of which, at least, I think is probably unintended.

Any time that we settle a lawsuit, obviously, it's because someone has alleged that there is a common law, statutory, or constitutional issue that's being violated. And, obviously, again, when we're -- when we're in the lawsuit, we're in front of a Court, frequently, a federal court; and that Court has the ability to order us to pay damages, or to perform services, and often, that's coupled with payment of attorney's fees.

A settlement reflects the best judgment of the parties about where is the right place for this suit to end up, but the alternative is for to have a Court make that decision.

Examples of Courts making that decision are the -- the Laaman case, which is a condition of confining the case out of the state prison. A Court, a Federal Court, decided that case in 1970, and that matter is still going on. We are recently reaching the end of it.

But I think we can probably all agree that the issue that's being presented today is between the Legislative Branch and the Executive Branch, sort of where is the right place to draw the line? Both of us, I think, would rather not have the Courts drawing the line. So, let's keep it between the Legislative and the Executive Branch.

My point is that when we're talking about settlement authority, it's not a choice between the Executive Branch making a decision about how the -- how something should be worked out; and if they didn't make that decision, we wouldn't have to do anything. It's a choice between the Executive Branch making the decision or the Judicial Branch making the decision, and not necessarily the State

Judicial Branch.

Currently, our settlement authority is $2.8 million. That is in terms of funds not otherwise appropriated. Let's talk about the facts for a moment.

Over the last ten years, the Attorney General's Office has between 5 and 600 civil cases going at any one time or over any one-year period.

We settle somewhere less than 30 out of each year. We are settling a tiny fraction of the cases that we are handling. Most of the cases that we handle, Abraham Lincoln would not be proud of us. I was here for the last hearing. I -- I think that the -- the reference that was being made at that hearing was a business reference. We are not a business. We do not calculate how many hours the lawyers in the Attorney General's Office need to work in order to take the case to court. Most of the cases that are resolved by the Attorney General's Office are tried to a victory by the Attorney General's Office, either through a dispositive motion or by going through a hearing. We lose very few cases. You can probably think of a couple that we've lost that we wished we hadn't; but, we've settled very few cases.

In looking at the -- the bill that's been proposed here, it would cut the nonappropriated funds settlement authority from 2.8 million to 1.4 million. Over the last ten years, we have had one case that would have exceeded that count, and that by $20,000. And that one case was a federal lawsuit in federal court seeking money damages for an individual who had been committed to the State Hospital because he was mentally ill, ran a temperature of 106 degrees, the State doctor was called numerous times to come attend to him and didn't come, couldn't be bothered. The State nurse ended up giving him a tepid bath. He lost part of his leg, part of his nose, most of

his teeth, and his mental injury was affected badly by it. We settled that case for $1.46 million.

Let me add to the mix there that because of the way the case played out, we had to hire outside counsel to defend the doctor, the nurse, and the hospital; so, we were paying an exorbitant amount of money to private counsel in order to prosecute the case. So that when we had an opportunity to settle it, we struck what, I believe, was a reasonable settlement. I believe that because I was the one who was handling it for -- for the state's side.

In terms of funds not appropriated, then, I think the old adage: There's nothing broken about the system. Let's -- let's not fix it.

Any time we got anywhere near the cap that we have now, if we got anywhere near the -- the cap that's being proposed in this legislation, we talk to the legislature, believe me. We let legislative leadership know about any kind of case that's going to get up to that level.

Let's talk about, perhaps, a more difficult area, and that's appropriated funds cases. I can tell you, I -- I spent a long time representing the prison and the inmates, there are 2,000 inmates in the State of New Hampshire, not one of them has a sense of humor, and they sue us all the time. And they sue us in federal court, and they sue us on a host of -- of causes of action. And let me tell you one other thing. They are not truthful.

And one of the ways that you can get out of the litigation is you file a motion for summary judgment, and we say, "This -- these are the facts. This is what happened." All that the other side has to do to get out of that motion for summary judgment is file an affidavit saying something else happened. And when you're dealing with a pro se inmate, who is not, perhaps, as familiar with the truth

as one would like, you can't get out of the case without going to trial. That being the case, we still try a lot of those cases.

But, let me tell you, one of the things that I have done over the years is found something that the inmate wants, that we would give him, anyway. I trust that none of you will repeat this to the inmates. For example, he's -- an inmate that was suing us about a whole host of situations, many of which arise out of medical issues, "We will give you physical therapy once a week for the next three months. You dismiss your lawsuit with prejudice. You can't bring it again." Well, we would give him the physical therapy, anyway; but, that's a service that the State is providing under appropriated funds. Under this bill, we would not be able to do that short of the Legislature approving it.

There are two problems that we see with the bill. One is a constitutional problem. As a matter of separation of powers, once the Legislature has enacted a statute, has appropriated funds, has given them to the Executive Branch, you cannot come back under Part I, Article 37 of the Constitution and tell us -- and -- and have an approval authority over the Executive Branch.

So, let me go back to my inmate case for a moment. Once you have said to the Department of Corrections, "Here's a line item. You can hire a physical therapist." Here is an obligation to have a medical department and to run and to provide medical services. When the Executive Branch in the Attorney General's Office settles the case and says, "We're going to use those appropriation funds and that statutory authority to provide physical therapy to this inmate," the Legislature can't come back and approve that settlement, because that would violate separation of powers.

So, that is one of the problems with the bill as it's proposed. I -- I don't particularly think that Chairman Kurk was intending to

catch that. So, perhaps, the -- the net is just cast too wide, but that's as wide as the net is cast. That's in terms of both appropriated funds and services.

But the bigger problem is the practical problem that's presented by -- by this legislation. When we get to settling a case, what we have done is determined: What are the strengths of the plaintiff's case, and what are the weaknesses of our case? We also find out the weaknesses of the plaintiff's case and the strengths of our case. But the -- the thing that drives the settlement is the recognition that there's something to what the plaintiff is trying to say, and there's some problem with what we're doing. And, again, we don't do this in very many cases.

I think that it is unfair and unrealistic to say to a group of legislators, maybe, 424 legislators, "Here is confidential information. We're going to tell you the strength of the plaintiff's case that the plaintiff hasn't figured out, yet, which is causing us concern. We're going to tell you the weaknesses in our case that the plaintiff hasn't figured out, yet. The facts that we're concerned are going to come out at trial, because they didn't ask the witness the right question, yet, in discovery, but they are likely to ask that question when we get to the trial. We're going to tell you about the difficult legal theories that we are presenting. We have put a good face on with the plaintiff; and we have told them, 'We've got this theory. This is going to win for us, but let's talk about the problems that we see with this.'"

And then to have the Legislature say, "Well, thanks for explaining it to us, but we will not let you settle this case," I -- I think it's unrealistic that that information will not become public.

That would leave this, my office, in the position of the only safe, public discussion of a case is to talk about the strengths of the

plaintiff's case -- excuse me, the weaknesses of the plaintiff's case and the strengths of our case, and that is the last way that you would ever settle a case. You would -- you would be asking me, "Why on earth are you here to settle? All I hear from you is the good things you've got going on and the bad things they've got going."

The other, and -- and final point I will make, is -- is a timing issue. The way that the court system works these days, both the federal docket and the state docket, they are incredibly intensive on moving their docket along. As a practical matter, this body is not able to pass legislation for six months out of every year, and I perceive incredible difficulty in my office saying to a federal judge, who's got the Circuit Court riding on him or her that he's got to get his cases moved, "It's July 1st. We've reached an agreement with the plaintiff, and we will get back to you in six or seven months to tell you whether or not that agreement will hold."

Now, there may be ways to work out the timing problem, but I don't see any way around the confidentiality problem. And our inability to share with a large group of people attorney-client privileged information, information that is detrimental to the state.

In -- in sum, I think the system is not broken. Let's not fix it.

And we'd be happy to answer any questions.

VICE CHAIRMAN WEYLER: Miss Larney, do you have anything to add?

ANN LARNEY, Chief of Civil Bureau, Department of Justice, Attorney General's Office: No. I think Steve covered it. Thanks.

MR. JUDGE: We've -- we've settled most of the cases that have been involved. I settled all the ones you don't have a problem

with. She settled the ones you have problems with.

MS. LARNEY: That's why I'm saying nothing.

VICE CHAIRMAN WEYLER: Rep. Wheeler for a question.

REP. WHEELER: Thank you, Mr. Chairman.

I caught your testimony about the bill. One thing I didn't hear in your testimony, and I wonder if you could share with us, what the normal course of action or procedure is if you're the attorney and you've worked through a case and you think it ought to be settled, to whom do you present it to to get some authority? Who's your client?

MR. JUDGE: The -- the client is the People of the State of New Hampshire, and the process is the -- the line attorneys are assigned cases by the Bureau Chief, and Ann is the Chief of the Civil Bureau. They work the cases. They consult with the -- the Bureau Chief and the senior lawyers to make sure that they're putting the right defenses out there. They go through the discovery process. They file dispositive motions. If the opportunity is there, they file a motion to dismiss. That may be the end of the case. If the opportunity is there, they file the motion for summary judgment. That, again, may be the end of the case.

Eventually, we -- we may get to a trial schedule. Frequently, in almost every case that's settled, there's a mediation; and before you go to the mediation, you have a meeting with the Bureau Chief, most of the time this is based on the memorandum that is prepared that lays out all of the -- the warts in the case and the strengths in the case; the good things about the plaintiff's side, the bad things about the plaintiff's side. There's a meeting with the Bureau Chief. Depending on what level of authority you're looking for, the Bureau

Chief has a certain level of authority; but, if we're talking about significant money, it goes to the Attorney General and it works its way up from the Bureau Chief, to the Associate Attorney General, who's responsible for that division, to the Deputy Attorney General, the position that I hold, to the Attorney General, and there's a sign-off on, "This is the amount of money that we're going to spend on the case."

REP. WHEELER: Follow-up?

VICE CHAIRMAN WEYLER: Follow-up question.

REP. WHEELER: Tell me what's wrong with my picture, then, if you would, sir.

MR. JUDGE: Sure.

REP. WHEELER: I'm picturing you as being the attorney for the State. If it's my attorney and there's an issue, in the end, he presents to me and he says, "Now, you decide." Okay? What's missing to me in the ingredient is that relationship. I agree you're representing the State, but -- but do you also call yourself, not only the attorney, but the representative of the State and you make all the decisions?

MR. JUDGE: Let me see if I can get at what you're asking this way. I -- I think this is not quite what you're asking; but, in the case, there is a client who is the -- the putative, the named defendant in the case, Health and Human Services. There is certainly a relationship there, and there is a discussion on that level. But the -- the money that we're talking about, particularly, under the funds not otherwise appropriated is not the client's money.

REP. WHEELER: That's true.

MR. JUDGE: So, we -- you know, it's -- that's -- that's an interesting conversation to have, because the -- that's the first question they ask. "All right, you're -- you're recommending to us that this case settle at a certain level. Is it coming out of my budget?" "No, it's not." "Okay, fine."

So, it's not just because the client thinks it's a good idea. We don't settle cases without the client agreeing that that's the right way to go, 'cause there's -- there's another level to these cases besides money, but it's -- it's the People's money. It's the State's money that we're talking about here. It's not HHS' money; and, depending on the level of it, there may -- there'll be conversations with the Governor's Office, there will be conversations with legislative leadership if we're getting up into the area that -- that this bill is talking about.

REP. WHEELER: Can I make one more try?

VICE CHAIRMAN WEYLER: Certainly.

REP. WHEELER: Is there a point where somebody outside of the AG's Office listens to your proposed settlement and, someone outside of that office representing the State has to sign off? Yes or no?

MR. JUDGE: Well, sometimes.

REP. WHEELER: Okay.

MR. JUDGE: There -- there might -- The -- the state court cases have a cap on them of $200,000. We don't take those cases outside of the office. If we're going above that, then, yes, usually, it's the Governor's Office; depending on how high we get, then

legislative leadership, as well.

REP. WHEELER: Thank you.

VICE CHAIRMAN WEYLER: Rep. Smith?

REP. SMITH: Thank you very much.

Mr. Judge, do you ever confess error once you look at the facts of the case and the law?

MR. JUDGE: Rarely.

REP. SMITH: Could I just follow up?

VICE CHAIRMAN WEYLER: Follow-up.

REP. SMITH: Thank you.

In the example that you gave about the physical therapy that you would have given, anyway, can you explain to me why you wouldn't have just given it; and, if you were, in fact, obliged to give it on the assumption that you wouldn't be giving him physical therapy if you weren't obliged?

MR. JUDGE: Because he wouldn't take it. That -- that's part of the nature of settling cases. The plaintiffs sail in these cases believing they're going to win everything. It takes a certain amount of effort on the part of the Attorney General's Office to convince them that it's not going to be that easy, and they're not going to win everything. And that's the -- sort of the nature of the beast.

In an insurance company, the case comes in the door and you would calculate how many hours is it going to take us to resolve this

case? How much do we have to pay the attorney to do that? That's a number. How much are they asking for? Compare the numbers. And let's just settle it right now, depending on how those numbers compare.

We don't go through that analysis, because we're not -- we're paying salaries to the employees. They're working a lot of hours. We have to take that into consideration. But -- but one of the things that -- that happens is that we are perceived to be a deep pocket. We do not want -- And I don't know if everyone knows what that means. That means that we're an easy mark; that we're somebody who's got a lot of money and you can sue us easily. We do not want to be perceived that way.

I -- I think that if you talk to members of the plaintiff's bar and -- and I've got copies of my testimony, which I will pass out to you when we're done here, and they see us as stingy and dogged in our defense, and that's how we want to be perceived. And it takes a certain amount of bludgeoning the plaintiffs to get them to understand that they're not -- this is not a deep pocket; this is not an easy case; and they better be grateful for what we're willing to give them.

So, the illustration that I gave you, that person was deposed; that person lost some of the causes of action by a motion to dismiss; recognized that he was in over his head, and that was why he took what we offered him.

REP. SMITH: Thank you.

VICE CHAIRMAN WEYLER: Rep. Densmore.

REP. DENSMORE: Thank you, Mr. Chair.

Could you tell me how long you've been living under the one-quarter percent of $2.8 million?

MR. JUDGE: 1997, I think.

REP. DENSMORE: Further question?

VICE CHAIRMAN WEYLER: Further question.

REP. DENSMORE: And during that time, has there been any -- You've mentioned one case at 1.4 million. In the aggregate in any year, have you seen as much as that --

MR. JUDGE: No.

REP. DENSMORE: -- in your settlements?

MR. JUDGE: The one case that we settled that was more than half of that was before the cap went into effect.

It's not -- I'm not suggesting that the cap as a concept as an absolute dollar is a problem. What I'm suggesting is that if we ever got a case that was in that range, this bill would be unworkable. We wouldn't be able to settle the case. And then -- then, we would be in a situation where, if we're not settling it, that means the Court is imposing its will on the State, and that's not, I think, a good idea.

REP. DENSMORE: Thank you.

VICE CHAIRMAN WEYLER: Thank you. Rep. King.

REP. KING: Thank you, Mr. Chairman.

Perhaps, I missed this, but is the bill, as drafted, how would

the approval of the Legislature take place?

MR. JUDGE: In the -- the full statute, which is being amended, it's through a bill.

REP. KING: Through a piece of legislation?

MR. JUDGE: Yes.

REP. KING: It's not the Fiscal Committee?

MR. JUDGE: It's not.

REP. KING: Follow-up?

VICE CHAIRMAN WEYLER: Further question.

REP. KING: So, the fact is that -- that you would find yourself in the -- either in special session or the legislature if it were a major issue or waiting until the Legislature is here in January?

MR. JUDGE: That's my interpretation of it, yes.

REP. KING: Thank you.

VICE CHAIRMAN WEYLER: Further questions from the Committee? Seeing none, thank you, folks.

My intent is to recess the bill 'til the sponsor is able to come and present.

Are there any other people that are here for House Bill 380?

Seeing none, we'll recess the hearing on House Bill 380 'til some other point until probably the next week.

[Adjournment]

HOUSE FINANCE COMMITTEE
Legislative Office Building, Room 210
Concord, New Hampshire
Wednesday, March 5, 2003

HOUSE BILL 380, AN ACT, requiring legislative approval of any settlement of certain lawsuits against the state.

Testimony of:

Rep. Neal Kurk..... 1

VICE CHAIRMAN WEYLER: Good afternoon. This is the Finance Committee. We'll now open the recessed hearing or reopen the recessed hearing on House Bill 380 and call on Rep. Neal Kurk.

NEAL KURK, Representative, Hillsborough, District 48: Thank you, Mr. Chairman. For the record, my name is Neal Kurk, Hillsborough, District 48, representing the Towns of Goffstown and Weare.

I want to thank you for recessing the hearing and allowing me to testify. Due to a conflict at the time of the original hearing, I was unable to do so.

It's my understanding that the Committee has heard already from the Attorney General's Office, which it's both in written and oral testimony, has indicated some of the problems they have with the bill.

I understand those issues and feel that a -- that they can

be resolved with a variety of statutory language, and I have some of that prepared, which I -- I think could best be discussed before Division.

What I'd like to do is just take a moment to explain the reasoning behind the lawsuit -- behind this lawsuit bill, and then ask that some of the detailed work on it be done in Division.

Right now, the statute provides that the settlement of a claim -- And this doesn't mean the court decision, we're only speaking about settlements, not the court decisions. -- the settlement of a claim against the state which is settled by our attorneys can only be valid if it is less than one-quarter of one percent of total general fund revenues, roughly, $2.4 million, I believe.

Settlements in excess of that amount require the approval of the Legislature. That seemed to work so far, because, except in one case, we really haven't had settlements of that magnitude.

My concern is as a result of the Eric L suit and the general litigious nature of our society, that there will be, in the future, a increasing number of lawsuits that require significant amounts of money, but not necessarily in lump sum payments, but in terms of additional services provided by the state and funded through the appropriations process.

My concern is that the Attorney General should not be making policy through settling lawsuits and expecting the Legislature to fund the results of that policy; rather, the

Legislature should make the policy and the settlement be acceptable to the Legislature as a result of that policy decision.

Hence, the bill before us says that if there's going to be an ongoing commitment, a commitment or a payment as part of the settlement that takes place over more than one year, then the Legislature must be involved.

That language caused the Attorney General some consternation, and, I believe, there are ways that we can work around it and still make sure that the Legislature is involved in cases -- settlements, rather, that would significantly change state policy.

So, Mr. Chairman, although, I'd be pleased to answer any questions the Committee may have, I think that the appropriate way to work on this bill is on the technical aspects in Division.

With that, I'd be pleased to answer any questions. Thank you, Mr. Chairman.

VICE CHAIRMAN WEYLER: Thank you, Rep. Kurk.

Any questions from the Committee relative to House Bill 380? Seeing none, thank you very much.

REP. KURK: Thank you, Mr. Chairman.

VICE CHAIRMAN WEYLER: Is there anyone else who'd like to testify on House Bill 380? Division I, I believe would get this. II? Could be I or II. It hasn't been determined, yet.

Seeing nobody else to speak for House Bill 380, I'll close the hearing on House Bill 380.

[Hearing closed]

MINUTES
HOUSE COMMITTEE ON FINANCE
DIVISION I - WORK & EXECUTIVE SESSION
March 7, 2003 – Room 209, Legislative Office Building

Division Members Present: Reps. Stone, Holbrook, Wheeler, Anderson, Blanchard, Coes, Johnson, King, Mitchell

Rep. Stone, chairman, called the work session to order at

*****HB 164 increasing the gross premiums tax on insurance provided by certain unlicensed companies.**
Commissioner Rogers, reviewed the situation of unlicensed companies, other states 1.8% to 6%, NH would be 3%. **Rep. Major**, fireworks or by companies not licensed, tax would apply. **Rep. Coes**, out of country companies, not licensed pay rate if provider insurers users are in the country. **Rep. King** moved and **Rep Blanchard** seconded the motion. Roll call vote, OTP, 6-0.

*****HB 647 relative to payment of autopsy expenses.**
Rep. Piliod, prime sponsor, explained in detail the problems involved in autopsy. Whoever orders the autopsy, pays for the autopsy.
Recessed at 9:45Re-opened at 10:00.

Attorney General Judge - Toxicology costs have increased as well as the incidence of utilization.
2001 $12,500, 2002 $105,000, 2003 $45,000
2001 $90,000 from counties 2002 $120,000 from counties 2003 $122,00
As county declines cases both the number of cases and costs of cases increases. Discussion followed as to how. **Rep. Wheeler** moved ITL, **Rep. Blanchard** seconded the motion. Roll call vote, ILT, 7-0 – this should be in the budget.

*****HB380 requiring legislative approval of any settlement of certain lawsuits against the state.**
(1:00 p.m.)
Prime Sponsor explained both the difficulty involved in the issue constitutionally and the financial line. **Attorney General Judge** explained the difficulties. **Rep. Holbrook** moved to ITL, **Rep. Blanchard** seconded the motion. Roll call vote, ILT, 9-0.

*****HB167 relative to complaints against judges.**
Rep. Rowe explained that there was a Judicial Conduct Commission ($250,000), and there was a court rule created committee which did not pre-impeachment get financial support according to Howard Zibel from the court. They both responded to questions. Courts – 48 complaints; legislative – 31 complaints. They both state that they didn't know what prompted citizens to go one way or another. **Mr. Zibel** presented his view and three exhibits. $119,841 was spent for the court committee. To date $56,659 has been spent this year. **Rep. Wheeler** moved and **Rep. Holbrook** seconded without recommendation. Roll call vote 8-0. (Note: division chair has more info. & will raise at next meeting)

***HB 519 relative to the conservation number plate trust fund.**
Chairman (judicial) Rep. Henry Mock, explained the creation of a dedicated fund up to a maximum of $50,000. **Johanne Lyon** from **Department of Resources and Economic Development,** explained the conservation plate program and the type of programs it supports (lilacs, ect.) **Rep. Coes** moved OTP, **Rep Blanchard** seconded this motion. Roll call vote, OTP, 9-0.

No other bills before the Committee, Rep. Stone adjourned the work session.

Respectfully submitted:

Robert L. Wheeler
Clerk for Division I

IMPORTANT MESSAGE

FOR Div. I

DATE _____ TIME _____ A.M. P.M.

WHILE YOU WERE OUT

M Rep. Peter Goyette (Hook

OF _____

PHONE NO. _____

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

MESSAGE In favor of HB 380

SIGNED _____

HighMark™
P3-AN2334

Paper contains 50% recycled fibers, of which 20% is post-consumer waste.

IMPORTANT MESSAGE

FOR Div. I.

DATE _____ TIME _____ A.M. P.M.

WHILE YOU WERE OUT

M Rep. McElroy (Nashua)

OF _____

PHONE NO. _____

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

MESSAGE in favor of HB 380

SIGNED _____

HighMark™
P3-AN2334

Paper contains 50% recycled fibers, of which 20% is post-consumer waste.

DIVISION I

2003 SESSION

H B # 380, Holbrook ETL Blanchard 2nd

UBLIC HEARING:

XECUTIVE SESSION:

Amendment # -- proposed/adopted

	YEAS	NAYS	OTHER	ABSENT
STONE, JOSEPH E., CHM.	9			
HOLBROOK, ROBERT G., V. CHM.	1			
WHEELER, ROBERT L., CLERK	2			
JOHNSON, ROBERT A.	3			
ANDERSON, ERIC	4			
KING, FREDERICK	5			
BLANCHARD, MARYANN N.	6			
COES, BETSY A.	7			
MITCHELL, MCKIM W.	8			
KURK, NEAL M.				

COMMITTEE REPORT: 9 - 0

Copy

MINUTES
HOUSE COMMITTEE ON FINANCE
EXECUTIVE SESSION – March 13, 2003
Room 210-211, Legislative Office Building

Rep. Kurk, chairman of the committee, called the executive session to order at 4:35 p.m..

Members Present: Reps. Kurk, Weyler, Holbrook, Robert Johnson, Stone, Anderson, Wendelboe, Mercer, Emerton, Wheeler, Rodeschin, Rogers Johnson, Elliott, Dodge, King, Wallner, Smith, Blanchard, Coes, Mitchell, Densmore, Eaton

****HB 164-FN-A, increasing the gross premiums tax on insurance provided by certain unlicensed companies.**

Rep. King moved, seconded by **Rep. Blanchard** to recommend **ought to pass.** The motion passed on a **21-1** Roll Call Vote, to be placed on the **Regular Calendar.**

$760,000 in 2004 and $320,000 in 2005 in new revenue generated from this tax.

****HB 647-FN-L, relative to payment of autopsy expenses.**

Rep. Wheeler moved, seconded by **Rep. Blanchard** to recommend **inexpedient to legislate.** The motion passed on a **22-0** Roll Call Vote, to be placed on the **Consent Calendar.**

This issue should be dealt with in the budget.

****HB 380, requiring legislative approval of any settlement of certain lawsuits against the state.**

Rep. Holbrook moved, seconded by **Rep. Blanchard** to recommend **inexpedient to legislate.** The motion passed on a **22-0** Roll Call Vote, to be placed on the **Consent Calendar.**

****HB 519-FN-A, relative to the conservation number plate trust fund.**

Rep. Coes moved, seconded by **Rep. Blanchard** to recommend **ought to pass.** The motion passed on a **21-0** Roll Call Vote, to be placed on the **Regular Calendar.**

****HB 210-FN-A, making an appropriation for the purpose of hiring a recreational ride and lift inspector.**

Rep. Wheeler moved, seconded by **Rep. King** to recommend **ought to pass with amendment (amendment number 0702).** The motion passed on a **22-0** Roll Call Vote, to be placed on the **Regular Calendar.**

****HB 360-FN-A-L, relative to a New Hampshire Legal Assistance office in Nashua and making an appropriation therefor.**

Rep. Blanchard moved, seconded by **Rep. King** to recommend **ought to pass with amendment (amendment number 0612).** The motion passed on a **19-3** Roll Call Vote, to be placed on the **Regular Calendar.**

Rep. Blanchard explained the expansion of legal services to the Nashua Office and the new program on serving of the near-poor. There was extensive discussion.

****HB 793-FN-A, relative to reimbursement rates for home health services and making an appropriation therefor.**

Rep. Rogers Johnson moved, seconded by **Rep. Rodeschin** to recommend **retaining** the bill. The motion passed on a **22-0** Roll Call Vote.

****HB 566-FN-A, making an appropriation for Welfare-to-Work state matching grants.**

Rep. Wendelboe moved, seconded by **Rep. Rodeschin** to recommend **inexpedient to legislate.** The motion passed on a **22-0** Roll Call Vote, to be placed on the **Regular Calendar.**

Rep. Kurk, chairman of the committee, adjourned the executive session.

Respectfully submitted,

Rep. Robert L. Wheeler
Clerk for the Committee

OFFICE OF THE HOUSE CLERK 2003 SESSION

FINANCE

Bill #: HB 380 **Title:** requiring legislative approval of any settlement of certain lawsuits against the state

PH Date: ____/____/____ **Exec Session Date:** 3/13/03

Motion: ITL **Amendment #:**

MEMBER	YEAS	NAYS
Kurk, Neal M. Chairman	22	
Wevler, Kenneth L. V Chairman	1	
Holbrook, Robert G	2	
Johnson, Robert A	3	
Stone, Joseph E	4	
Anderson, Eric	5	
Wendelboe, Fran	6	
Hager, Elizabeth S		
Mercer, Robert S	7	
Emerton, Larry A	8	
Wheeler, Robert L	9	
Rodeschin, Beverly T	10	
Johnson, Rogers J	11	
Elliott, Larry G	12	
Dodge, Robert K	13	
Hunter, Bruce F		
King, Frederick W	14	
Wallner, Mary Jane	15	
Smith, Mariorie K	16	
Blanchard, MarvAnn N	17	
Coes, Betsy A	18	
Mitchell, McKim W	19	
Densmore, Edward D	20	
Eaton, Daniel A	21	
TOTAL VOTE:	22	0

Printed: 1/6/2003

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 380 Date FEBRUARY 6 2003

Committee FINANCE

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Governor's Office					✓

Fill in *ONLY* if *SPEAKING* on Bill

Bill # 380 Date 3/5/03

Committee Finance

I support the bill ✓

I oppose the bill ____

I have written testimony ____

(Number of copies) ____

Time needed to speak: 1 min

Name Rep. Kurk

Address ____

Phone ____

Representing Dist 18

Fill in *ONLY* if *SPEAKING* on Bill

Bill # HB 380 Date 2/6/03

Committee Finance

I support the bill ____

I oppose the bill ✓

I have written testimony ____

(Number of copies) ____

Time needed to speak: 5 min.

Name Ann Larney Stephen Judge

Address 33 Capitol St Concord NH

Phone 271-3658

Representing Attorney General

Fill in *ONLY* if *SPEAKING* on Bill

Bill # HB 380 Date 2/12/03

Committee Finance Apr

I support the bill ✓

I oppose the bill ____

I have written testimony ____

(Number of copies) ____

Time needed to speak: 8

Name Rep Christine Rousseau

Address 1 Stonewood Road

Hamilton, N.H.

Phone 889-0483

Representing Self Hudson, Nelson

Hearing Minutes

2/6/03

HB360 Copy

MINUTES
HOUSE COMMITTEE ON FINANCE
PUBLIC HEARINGS – February 6, 2003
Legislative Office Building, Room 210-211

Committee Members Present: Reps. Kurk, Weyler, Holbrook, Robert Johnson, Stone, Anderson, Wendelboe, Hager, Mercer, Emerton, Wheeler, Rodeschin, Elliott, Dodge, Hunter, King, Wallner, Smith, Blanchard, Coes, Mitchell, Densmore, Eaton

Recessed hearing on **HB 210-FN-A, making an appropriation for the purpose of hiring a recreational ride and lift inspector.

Bill Sponsors: Rep O'Neil, Rep. Dexter, Rep. Schulze

The hearing was called to order by Rep. Kurk, chairman, at 1:30 p.m.

Rep. Michael O'Neil, prime sponsor of the bill reported that the bill was the result of a study committee.

DOS Assistant Commissioner John Stephen testified in favor of the bill as to how the department of safety dealt with this issue.

Liz Murphy spoke in favor of the bill. She sponsored the original inspection bill.

Bruce Burke spoke on behalf of SKI NH. He stated that his clients are in support of the legislation.

No one else wishing to testify for or against the bill, the chairman adjourned the public hearing.

For a list of those persons did not testify, but wished to express an opinion, see **ATTACHMENT A.**

Recessed hearing on **CACR 4, relating to use of revenues for educational purposes. Providing that all moneys from the education trust fund be used exclusively for state aid to education.

Bill Sponsors: Rep. McCormick

Rep. Tom McCormick, prime sponsor explained his CACR and its relationship to other bills.

No one else wishing to testify for or against the bill, the chairman adjourned the public hearing.

For a list of those persons did not testify, but wished to express an opinion, see **ATTACHMENT A.**

****HB 360-FN-A-L, relative to a New Hampshire Legal Assistance office in Nashua and making an appropriation therefor.**

Bill Sponsors: Rep. Konys, Rep. Rowe, Rep. Drisko, Rep. D. Cote, Sen. Foster

Rep. Christine Konys, Hillsboro District 65, prime sponsor, spoke to her bill. She is responding and urges attentiveness to the individuals who will be giving testimony. She presented attachment #5).

Nina Gardner, representing the Judicial Council spoke in favor of the bill. She wrote the Fiscal Note and explained to the committee how it worked.

Judge Philip Howorth, Nashua District Court, spoke in favor of the bill. He talked about the caseload Nashua District Court dealt with and the lack of representation. He did indicate that there was no backlog.

John Tobin, NH Legal Assistance spoke in favor of the bill and presented written testimony (see attachment 1). He explained the urgency of opening a Nashua office. Most cases are resolved and the results are that the funds spent are more than returned. Priority is established on a survival basis. They generally turn away two – three thousand cases. **Bryan Christiansen** spoke on behalf of the **City of Nashua** in favor of the legislation. He presented the committee with a letter from Nashua Mayor, Bernard Streeter (see attachment 2), that reflected his support of HB 360.

Eileen Brady, representing the Nashua Soup Kitchen and Shelter spoke in favor of the bill. She also presented the committee with letters supporting the legislation (see attachment 3).

No one else wishing to testify for or against the bill, the chairman adjourned the public hearing.

For a list of those persons who did not testify, but wished to express an opinion, see **ATTACHMENT A.**

**** HB 380, requiring legislative approval of any settlement of certain lawsuits against the state.**

Bill Sponsors: Rep. Kurk

Prime Sponsor, Rep. Kurk was not present so the committee moved on to **Acting Attorney General Stephen Judge and Attorney Ann Larney** from the **Attorney General's Office.** They spoke in opposition to the bill. The settlement authority is currently 2.8 million. This bill would reduce the settlement authority to 1.4 million. They presented written testimony, (see attachment 1).

The hearing was recessed at 3:35pm until the call of the chair.

For a list of those persons who did not testify, but wished to express an opinion, see **ATTACHMENT A.**

****HB 386, establishing a committee to study individual development accounts.**

Bill Sponsors: Rep. P. Sullivan

Prime Sponsor, **Rep. P. Sullivan** introduced his bill. Rep. Emerton asked him what prompted this legislation? **Rep. Sullivan** said that when reading about it, he felt it was a good idea. It is an effective tool in helping low income people in Manchester with their housing.

IDA – saving accounts matched with public and private money dedicated to housing down payments, education, job training or capitalizing a small business. He also submitted an article on the subject (see attachment 1).

Next to speak was **Sharon Drake** from **NH Comm. Loan Fund**. She is in favor of the bill.

No one else wishing to testify for or against the bill, the chairman adjourned the public hearing.

For a list of those persons who did not testify, but wished to express an opinion, see **ATTACHMENT A.**

****HB 421-FN-A, relative to the waiting list for services for people with developmental disabilities and making an appropriation therefor.**

Bill Sponsors: Rep. Holland

Rep. Holland, prime sponsor began the hearing by introducing the bill. He then turned the floor over to others who would be testifying.

Sen. Morse testified in favor of the bill.

Chris Schwabe from Keene spoke in favor of the bill and submitted written testimony (see exhibit A).

Rep. Stone asked if this bill requests $8 million in '04 and $10 million in '05 of general fund dollars. He asked why the request wasn't part of the department's budget request? **Mr. Schwabe** answered that he could not answer for the department but that probably because of the Governor's request for a 5% decrease in budgets they did not feel they should request the funds.

Theresa Cadorette of Nashua submitted written testimony on behalf of **Cathy Spinney** (see exhibit B).

Kelley Teunessen spoke in favor of the bill as a parent from Gilmanton.

Kathy Bates spoke in favor of the bill as the **Chair of the Developmental Disabilities Council.** She submitted written testimony (see exhibit C).

Rep. Anne-Marie Irwin, district 44, spoke in favor of the bill.

Jay Morgan, a student from the Pinkerton Academy ACT Program spoke with teacher **Paula Mareni**. The ACT program is the Alternative Comprehensive Training program at Pinkerton. See written testimony (exhibit D).

Laura McCarthy of Salem spoke as a parent of a disabled child. She submitted written testimony (see exhibit E).

Executive Director of the Disabilities Rights Center, Richard Cohen spoke in favor of the legislation. Submitted written testimony (see exhibit F). New Hampshire is currently ranked 47th or 48th nationally in our efforts to aid the disabled.

Maggie Wood Hassan spoke in favor of the bill and submitted written testimony (see exhibit G).

Rep. Holland spoke one last time to thank the committee for hearing the testimony.

No one else wishing to testify for or against the bill, the chairman adjourned the public hearing.

For a list of those persons did not testify, but wished to express an opinion, see **ATTACHMENT A.**

No further bills before the Committee, the public hearings were adjourned at 5:40 p.m.

Respectfully Submitted:

Rep. Robert L. Wheeler
Clerk for the Committee

MINUTES
HOUSE COMMITTEE ON FINANCE
PUBLIC HEARINGS – March 5, 2003
Legislative Office Building, Room 210-211

Committee Members Present: Reps. Kurk, Weyler, Holbrook, Robert Johnson, Stone, Anderson, Hager, Emerton, Wheeler, Rodeschin, Elliott, Dodge, Hunter, King, Smith, Blanchard, Coes, Mitchell, Densmore, Eaton, Mercer

Chairman Weyler opened the hearing at 2:45 a.m.

******HB 380 requiring legislative approval of any settlement of certain lawsuits against the state.**

Rep. Kurk, the prime sponsor, spoke in favor of the bill

At 2:55:

******HB 575 relative to students at state colleges and universities who are registered to vote in New Hampshire.**

Rep. Chris Malloy, opposes the bill and gave several reasons as to why. He also repsonded to a variety of question. **Rep. Lars Christiansen** supports the bill and will get further info. **Mona Perreault** supports the bill, testifies and responded to questions. **Charles McLean** supports the bill; he is a retired marine. Commented on his voting history and what happened in the Durham elections. **Kathy Salisbury, USNH** opposed to bill. **Claire Ebel, NHCLU,** submitted Exhibit #1; she neither supports nor opposes the bill.

At 3:50:

******HB 610 relative to reimbursement of public safety expenditures made by the town of Plymouth on behalf of Plymouth state college.**

Debra Naro, prime sponsor, submitted Exhibit #1, petition in support of HB 610 received. **Rep. Robert Guida** presented an amendment and explained it as well as responding to questions, submitted testimony. **Rep. M. Cooney, co-sponsor,** testified in favor of the bill. Submitted testimony. **John Tucker, chairman of Board of Selectmen and Elizabeth Corrow,** favored the bill and responded to questions. Submitted testimony. **Richard Piper, selectman and fireman,** supports bill, submitted testimony. **Paul San Soucie, selectman and Plymouth College Graduate,** supports the bill and submitted testimony. **Chief Tony Raymond** favors the bill and submitted testimony and explained charts and demographics. **Voce Chancellor and Treasurer, Edward R. MacKay,** submitted testimony, opposed to bill. **Richard Hage, Vice President of Students** submitted testimony and is in opposition of bill. **Tony Horgan, NH College and University Council** is opposed to bill. **Tom Morrison, Plymouth Fire Department,** favors bill and submitted testimony. **Patrice Scott,** supports the bill, submitted testimony and addressed growth of the school and impact on the community.

No further bills before the Committee, the public hearings were adjourned at 6:05 p.m.

Respectfully Submitted:

Robert T. Wheeler

Rep. Robert L. Wheeler
Clerk for the Committee

Testimony

ATTORNEY GENERAL
STATE OF NEW HAMPSHIRE
33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

~~PHILIP T. McLAUGHLIN~~
ATTORNEY GENERAL

STEPHEN J. JUDGE
DEPUTY ATTORNEY GENERAL

February 6, 2003

Honorable Neal M. Kurk, Chairman
and Members of the House Finance Committee
Legislative Office Building, Room 210
Concord, New Hampshire 03301

Re: HB 380

Dear Chairman Kurk and Members of the Committee:

Thank you for the opportunity to speak in opposition to HB 380, legislation which, if enacted, I believe will prove unworkable and, in part, unconstitutional.

Introduction

Any suit that is being settled involves a common law or constitutional or legislative enactment, frequently federal, that has allegedly been violated. In addition, the suit arises before a court, frequently a federal court, that has the ability to order us to pay damages and/or perform services, often coupled with a payment of attorney's fees. A settlement reflects the best judgment of both parties on the dollar value of the case or on the services that are sufficient to meet the constitutional or legislative requirement. On many occasions the parties' judgment is informed by a neutral mediator and by the trial court's denial of the State's dispositive motions. We settle cases based on a judgment that the court will impose a more difficult and onerous result for the State.

Under current law, RSA 99-D and RSA 14:35-b, the Attorney General has authority to settle civil cases from funds not otherwise appropriated up to a cap of ¼ of one percent of general fund unrestricted revenues or $2,880,733. The cap was placed in effect in 1997 in legislation that we supported. As originally enacted, the statute was ambiguous between two amounts and we supported legislation in the past session that eliminated the ambiguity by identifying the lower amount. We will actively seek to work with the Legislature in any settlement that involves an expenditure of funds that has not otherwise been appropriated that comes anywhere near the statutory cap.

(1)

The proposed legislation would halve the cap to $1,440,366.50 and seek to control the expenditure of appropriated funds. For the reasons that follow, I believe this proposal would be unconstitutional in part and unworkable, in total.

Settlement History

Over the past 10 years, we have handled about 500-600 civil cases a year. Most cases are resolved judicially with dispositive motions or trials. We settle very few cases, averaging about 20 settlements a year. We have settled only one case, in FY 1994, that exceeded the new cap proposed by HB 380 and it only exceeded the cap by $20,000.

Separation of Powers

As previously stated, the current law restricts settlements that involve funds not otherwise appropriated. HB 380 seeks to restrict any recurring payment or state service. To the extent that the bill would impose legislative approval on an executive branch decision to expend funds that have been appropriated, or provide a service within the existing statutory authority, it would be unconstitutional. Part 1, Article 37 of the N.H. Constitution provides for the separation of executive, legislative and judicial powers. In this arena, the Legislature exercises its power by making an appropriation or creating statutory authority. The Executive Branch exercises its power by expending the appropriated funds or performing its duty within its existing statutory authority. The Legislature cannot constitutionally require that it be allowed to approve the expenditure of appropriated funds or approve the performance of an Executive Branch function within existing statutory authority. *See Opinion of the Justices*, 129 N.H. 714 (1987)(once the Legislature has made an appropriation, the requirement of Fiscal Committee approval of contracts made with the appropriation is an unconstitutional infringement into the Executive Branch of government).

Practical Concerns

The practical implications of the proposed legislation present the greatest difficulties. Time and again plaintiffs' counsel complain that we are stingy and dogged in our defense of state agencies. We do not settle until we have exposed the weaknesses in a plaintiff's case and protected the flaws in our case so that the settlement is set at the best value for the State. The opportunity to achieve an advantageous settlement principally arises during a mediation or on the eve of trial. Both the state and federal courts have requirements that cases be resolved in a speedy fashion. The bill would require the passage of legislation to ratify the settlement. The Legislature is typically not in session to pass legislation from July 1 to January 1 each year. Given the courts' desire to avoid delay and resolve cases, the State would lose the ability to strike while the iron is hot for at least six months out of every year.

Even if the timing problem could be resolved, the bill would make it necessary to explain to a large group of legislators, perhaps 424 individuals, the strengths and more pointedly, the weaknesses of the State's case. A reasonable settlement discussion consists of a candid review of the plaintiff's case, including its strengths and an equally candid

discussion of the weaknesses of state witnesses, the difficult legal issues, the risks of trial strategy and the troubling facts that have not yet been discovered by the plaintiff. It would be unfair and unrealistic to have such a discussion with a legislative body and expect that every detail would remain confidential.

The only safe public discussion would catalogue the weaknesses of the plaintiff's case and the strengths of our case, a discussion woefully inadequate for explaining why the case should settle.

Conclusion

For all of the above reasons, we oppose the enactment of HB 380.

Very truly yours,

Stephen J. Judge
Acting Attorney General

SJJ/p

#204993

CIVIL SETTLEMENT DATA

	TOTAL ACTIVE CASES	TOTAL CASES SETTLED
FY 1993	500-600*	30
FY 1994	500-600	38
FY 1995	500-600	30
FY 1996	500-600	17
FY 1997	500-600	20
FY 1998	500-600	16
FY 1999	500-600	19
FY 2000	500-600	25
FY 2001	500-600	23
FY 2002	500-600	28
TOTALS	5,000 – 6,000	246

*This number remains fairly constant throughout the referenced time period.

205008

Committee Report

COMMITTEE REPORT

COMMITTEE: Finance

BILL NUMBER: **HB 380**

TITLE: requiring legislative approval of any settlement of certain lawsuits against the state.

DATE: March 14, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The Committee heard detailed and extensive comments on the question of settlements of suits against the state of New Hampshire and appreciated the possible future growth of the number and size of settlements. The issue is so complicated that a constitutional restriction on the amount of settlements through legislative approval or financial limits was not practical at this time.

Vote 22-0.

Rep. Robert G. Holbrook
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Finance

HB 380, requiring legislative approval of any settlement of certain lawsuits against the state. **INEXPEDIENT TO LEGISLATE**

Rep. Robert G. Holbrook for Finance: The Committee heard detailed and extensive comments on the question of settlements of suits against the state of New Hampshire and appreciated the possible future growth of the number and size of settlements. The issue is so complicated that a constitutional restriction on the amount of settlements through legislative approval or financial limits was not practical at this time. **Vote 22-0.**

COMMITTEE REPORT

COMMITTEE: Finance

BILL NUMBER: **HB 380**

TITLE: requiring legislative approval of any settlement of certain lawsuits against the state.

DATE: March 14, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The Finance ~~Division I~~ Committee heard detailed and extensive comments on the question of settlements of suits against the state of New Hampshire and appreciated the possible future growth of the number and size of settlements. ~~It was moved inexpedient to legislate as~~ the issue is so complicated that a ~~clear writing of a future statute to accomplish~~ constitutional~~ity and~~ restrict~~ion~~ on the amount of settlements through legislative approval or financial limits was not practical at this time.

Vote 22-0.

Rep. Robert G. Holbrook
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

AB380

The Division I heard detailed and extensive comments on the question of settlements of suits against the State of N.H. and appreciated the possible future growth of number and size of settlements. It was moved IT Law the issue is so complicated that a clear writing of a future statute to accomplish constitutionality and restrict the amount of settlements through legislative approval or financial limits was not practical at this time

Robert R Holbrook

3/5/03

HB 380

incl. appropriat

Any settlement of a claim against the state in which the state through its attorneys agrees to a commitment with total financial consequences relating to any state source whatsoever, in excess of 1/8 of one percent of total reported general fund unrestricted revenues for the previous fiscal, excluding revenues required to pay for a constitutionally adequate education, as reported by the legislative budget assist pursuant to paragraph II, shall be subject to the approval of the legislature.

3/5/03

HB 380

[Footnote to HB 1]

No appropriation or part thereof made in HB 1 may be used to settle a claim against the state except in accordance with RSA (HB 380).