State of New Hampshire
HOUSE RECORD

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

Vol. 34	Concord, N. H.	Wednesday, May 16, 2012	No. 44

HOUSE JOURNAL No. 20 (cont.)

Tuesday, May 15, 2012

Rep. Daniels moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 21

Wednesday, May 16, 2012

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

Prayer was offered by House Chaplain, Reverend Roger Boucher.
Almighty God, we know that from Your delightful stream You give us to drink. I pray You give us rivers of wisdom that we may, this day, be legitimate children of Your household. There is no marvelous family that does not turn to You for strength to be wise in cultivating the social fabric of life. We are but farmers of grace in human fields beside a generous brook of Your good judgment. Help us not to undo the immemorial ways of our forebears which guaranteed the sources of life, liberty and a happiness not to be undone by a spirit other than generosity in the portion You have allotted to us. Provide Your healing love upon those who need uplift and healing. Protect those in uniform who defend our nation. Help us in our new springtime with a spirit of civility and comportment, of friendship and loyalty. Let our competence be displayed in ways that inspire our constituents and let our work be done within the perspective of our State's great history that we may be servants of the public with the obligations of honor, duty and charity. Under Your watch, we know this is our greatest protection against prisons of the mind and the decay of a good democracy. Keep us wise, Lord, that we may have faith in the future of our people's safety and wellbeing. We ask this in Your Holy name. Amen.

Representative Mary Griffin, member from Windham, led the Pledge of Allegiance.

Representative James Garrity, member from Atkinson, led the singing of the National Anthem.

LEAVES OF ABSENCE

Reps. Beattie, Ronald Belanger, Case, Charron, Emerson, Erickson, Hofemann, Jeudy, Luther, Panek and Williams, the day, illness.
Reps. Aguiar, Byrnes, Domingo, Hinch, Janvrin, Kyle Jones, Larsen Schultz, Lefebvre, Leonard, Lerandeau, Lundgren, Bruce MacMahon, Millham, Brian Murphy, Oligny, Perry, Rokas, Scala, Molly Smith, Spainhower, Stepanek, Tasker and Webb, the day, important business.
Reps. Andolina, Proulx and Wall, the day, illness in the family.
Reps. Cloutier and Comerford, the day, death in the family.

INTRODUCTION OF GUESTS

Herbert Salmon, guest of Rep. Ginsburg. Marilyn Lieto, guest of Rep. Suzanne Smith. William Connery, guest of Rep. Moody. Scott Nadeau, guest of Rep. Summers. George Mauro, husband of Rep. Mauro. Kat McGee, guest of Rep. Wallner. Pat McCarty, guest of Rep. Belvin. Carol Day, guest of Rep. Day. Donald Batsford, Jr., guest of Rep. Munck. Kelly Moran, Amanda Sebert and John-Michael Leach, guests of Rep. Owen. Fourth graders from Mast Way School in Lee, guests of the Strafford District 7 delegation.

SENATE MESSAGES

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 1635, relative to motor vehicle inspections. (Amendment printed SJ 5-2-12)
Rep. Packard moved that the House concur and spoke in favor.
Adopted.

HB 388-FN, establishing the amount of the enhanced 911 services surcharge and requiring providers of Voice over Internet Protocol services to pay surcharges for deposit in the enhanced 911 system fund. (Amendment printed SJ 5-2-12)
Rep. James Garrity moved that the House nonconcur and request a Committee of Conference.
Adopted.
The Speaker appointed Reps. James Garrity, Holden, Cataldo and Parison.

HB 1487, relative to low carbon fuel standards programs. (Amendment printed SJ 5-2-12)
Rep. James Garrity moved that the House nonconcur and request a Committee of Conference.
Adopted.
The Speaker appointed Reps. James Garrity, Holden, William O'Connor and Levasseur.

HB 1490-FN, relative to New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions. (Amendment printed SJ 5-2-12)
Rep. James Garrity moved that the House nonconcur and request a Committee of Conference.
Adopted.
The Speaker appointed Reps. James Garrity, Holden, William O'Connor and Levasseur.

REGULAR CALENDAR (CONT'D FROM MAY 15, 2012)

SB 348-FN, relative to the pulse oximetry test for newborns. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard W. Barry for the Majority of Finance: This bill adds pulse oximetry testing to the medical diagnostic screenings required for newborns. There is no additional cost to the state for this test. The potential savings involved, while not quantifiable, are substantial. Vote 17-9.
Rep. Cindy Rosenwald for the Minority of Finance: The minority, while taking no position on the value of newborn pulse oximetry screening, is opposed to the legislature determining clinical standards of medical practice. The newborn screening advisory panel, comprised of the appropriate health professionals and stakeholders, is the statutory process to determine what screenings should be included for all New Hampshire newborns. The American Academy of Pediatrics recommended universal pulse oximetry screening for newborns only six months ago, and the Newborn Screening Advisory Panel has already taken the subject up at a recent meeting. The Newborn Screening Advisory Panel is better qualified than the legislature to set policy for how newborns should be screened. In addition, licensed health care providers are expected to adhere to the clinical guidelines of their professional associations (in this case, the American Academy of Pediatrics) since these guidelines represent the current standards of care.

SPECIAL ORDERED

Without objection, the Speaker made ***SB 348-FN,*** relative to the pulse oximetry test for newborns, a Special Order to the end of today's Calendar.

REGULAR CALENDAR (CONT'D)

SB 366-FN, relative to use of certain OHRVs on snowmobile trails, and relative to authorization for snowmobiles and OHRVs registered in Vermont and Maine to operate in this state. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Colette Worsman for Finance: Finance is the second committee for this bill, which allows OHRVs that are modified to be operated on the state's snowmobile trails as long as they meet the requirements. The policy committee removed the senate provision that allowed residents of Maine and Vermont to operate snowmobiles in New Hampshire without giving reciprocity to New Hampshire residents in their respective states, thus costing New Hampshire revenue without benefit to New Hampshire snowmobilers and reducing the funding for trail maintenance. DRED stated that this bill may increase restricted revenue, but it was impossible to tell the amount. They offered the following analysis: The Department of Resources and Economic Development (DRED) states this bill provides a snowmobile endorsement for OHRVs which use tracks, cleats or skis. The cost for this endorsement is $16.00 of which $12.56 shall be appropriated to the Department and $3.44 shall be appropriated to the Department of Fish and Game. DRED states it does not have accurate numbers to calculate the increase to restricted revenue as there is no registration category for all-terrain vehicles with tracks. However DRED assumes there are 18,000 all-terrain vehicles in NH with approximately two percent having track conversion kits. This would result in approximately 360 vehicles requesting this endorsement, increasing restricted revenue to DRED by approximately $4,522 (360 vehicles * $12.56 portion appropriated to DRED). It is assumed Department of Fish and Game restricted revenue will increase by $1,238 (360 vehicles * $3.44). The Department of Fish and Game has no information to determine how many vehicles will be converted to tracked vehicles to estimate any increase in revenue. The department states the $16 is expected to cover the cost of the endorsement sticker. This bill is citizen, sportsmen, and business friendly. Vote 26-0.

Amendment (2196h)

Amend the bill by replacing sections 1 and 2 with the following:

1 New Paragraph; Snowmobiles. Amend RSA 215-C:36 by inserting after paragraph XI the following new paragraph:

XII. A properly registered OHRV under RSA 215-A:21 and RSA 215-A:23, that has had the wheels or tires removed and replaced with tracks, cleats, skis, or a combination thereof, and complies with the restrictions set forth in RSA 215-C:1, XV, and has procured and affixed a snowmobile endorsement sticker as provided in RSA 215-C:39, I-a, shall be authorized to operate as a snowmobile as prescribed in this chapter.

2 New Paragraph; Snowmobile Endorsement. Amend RSA 215-C:39 by inserting after paragraph I the following new paragraph:

I-a. Snowmobile endorsement -- $16.00 for each OHRV in compliance with RSA 215-C:36, XII upon presentation of a valid driver's license issued to a person 18 years of age or older. The endorsement shall not be transferable. From each endorsement collected pursuant to this paragraph:

(a) The first $9.12 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VII.

(b) From the balance, $3.44 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VIII, and $3.44 shall be appropriated to the department of fish and game for the purposes listed in paragraph IX.

Amendment adopted.

Committee report adopted and ordered to third reading.

SB 375-FN, relative to a prepaid health plan for Medicaid services and relative to the Medicaid management information system. **OUGHT TO PASS.**

Rep. Neal M. Kurk for Finance: This bill repeals the requirement that the department of health and human services apply for a waiver to deliver and pay for Medicaid services to Medicaid-eligible persons with severe mental disabilities through a prepaid health plan. This waiver was mad unnecessary through the inclusion of these services in the state's Medicaid managed care system. The bill also repeals as unnecessary the requirement that the state hire an information systems consultant to help implement the Medicaid management information system. The committee found no fiscal impact on state finances from passage of this bill and a potentially negative impact if it does not. Vote 26-0.

Rep. Kurk offered floor amendment (2242h).

Floor Amendment (2242h)

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

AN ACT relative to a prepaid health plan for Medicaid services, the Medicaid management information system, and the moratorium on nursing home beds and rehabilitation beds.

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

3 New Paragraph; Moratorium. Amend RSA 151:2 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding any other provision of law to the contrary, no license shall be granted that causes an increase in the number of licensed beds in this state in any category of facility license authorizing the provision of nursing home, skilled nursing, intermediate care, inpatient comprehensive rehabilitation, or long-term acute care services through the period ending June 30, 2014. However, a license shall be issued for replacement or renovation of existing beds as necessary to meet life safety code requirements or to remedy deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act. In addition, a license may be issued for construction or renovation as necessary to repair or refurbish an existing facility or to accommodate additional beds obtained by transfer to an existing facility.

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

AMENDED ANALYSIS

This bill:

I. Repeals the requirement that the department of health and human services apply for a waiver to deliver and pay for Medicaid services to Medicaid-eligible persons with severe mental disabilities through a prepaid health plan.

II. Repeals the requirement that the commissioner of information technology shall engage the services of an information systems consultant for the purposes of the Medicaid management information system.

III. Extends the moratorium on nursing home beds and rehabilitation beds.

Reps. Kurk and Weyler spoke in favor.

Rep. Dan McGuire spoke against and requested a roll call; sufficiently seconded.

YEAS 157 NAYS 162

YEAS 157

BELKNAP

Bolster, Peter	Flanders, Donald	Pilliod, James	Russell, David
Tobin, William			

CARROLL

Babson, David Jr	McCarthy, Frank	Patten, Betsey	

CHESHIRE

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

COOS

Coulombe, Gary	Hatch, William	Rappaport, Laurence	Remick, William
Richardson, Herbert	Theberge, Robert	Thomas, Yvonne	

GRAFTON

Almy, Susan	Benn, Bernard	Bradley, Lester	Cooney, Mary
Gould, Franklin	Harding, Laurie	Nordgren, Sharon	Pastor, Beatriz
Pierce, David	Simard, Paul	Smith, Suzanne	Townsend, Charles
White, Andrew			

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Baroody, Benjamin	Barry, Richard
Belvin, William	Boehm, Ralph	Buxton, Michael	Campbell, David
Champagne, Norma	Christiansen, Lars	Cote, David	Cusson-Cail, Kathleen
Daler, Jennifer	Daniels, Gary	Gimas, John	Goley, Jeffrey
Gorman, Mary	Graham, John	Hogan, Edith	Hutchinson, Winfred
Kurk, Neal	Levasseur, Nickolas	Long, Patrick	McClarren, Donald
Palmer, Barry	Pellegrino, Tony	Pepino, Leo	Pilotte, Maurice
Porter, Marjorie	Reed, Michael	Renzullo, Andrew	Rhodes, Brian
Robbins, David	Rosenwald, Cindy	Rowe, Robert	Seidel, Carl
Sullivan, Daniel	Sullivan, Peter	Summers, James	Terrio, Ross

Thomas, Joseph
Twombly, Timothy
Vaillancourt, Steve
Whitehead, Randall

MERRIMACK

Bouchard, Candace
Deloge, Helen
DeStefano, Stephen
Foose, Robert
Frazer, June
Gile, Mary
Hamm, Christine
Kidder, David
Lindsley, Mark
Lockwood, Priscilla
MacKay, James
McDonnell, John
Owen, Derek
Patten, Dick
Potter, Frances
Reed, Dennis
Rice, Chip
Richardson, Gary
Wallner, Mary Jane
Watrous, Rick
Winter, Steven

ROCKINGHAM

Abrami, Patrick
Allen, Mary
Azarian, Gary
Chirichiello, Brian
Devine, James
DiPentima, Rich
Elliott, Robert
Ferrante, Beverly
Fesh, Robert
Griffin, Mary
Headd, James
Katsakiores, Phyllis
Lovejoy, Patricia
Mauro, Donna
McKinney, Betsy
Moody, Marcia
Nevins, Chris
Norelli, Terie
Pantelakos, Laura
Peckham, Michele
Quandt, Marshall
Read, Robin Jr
Rice, Frederick
Sanders, Elisabeth
Schlachman, Donna
Sedensky, John
Serlin, Christopher
Shuler, Wyman III
Weyler, Kenneth

STRAFFORD

Berube, Roger
Browne, Brendon
Cataldo, Sam
Ginsburg, Philip
Grassie, Anne
Hooper, Dorothea
Horrigan, Timothy
Roberts, Jenna
Schmidt, Peter
Spang, Judith
Watters, David

SULLIVAN

Gagnon, Raymond
Laware, Thomas
Lovett, Charlene
Osgood, Joe
Rodeschin, Beverly
Smith, Steven

NAYS 162

BELKNAP

Accornero, Harry
Comtois, Guy
Fields, Dennis
Greemore, Robert
Kingsbury, Robert
Malone, Robert
Simpson, Tyler
St. Cyr, Jeffrey
Swinford, Elaine
Tilton, Franklin
Worsman, Colette

CARROLL

Chandler, Gene
Fleck, Joseph
Knox, J. David
Merrow, Harry
Pettengill, Laurie
Schmidt, Stephen
Tregenza, Norman
Umberger, Karen

CHESHIRE

Cartwright, Anne
Moore, Charles

COOS

Daugherty, Duffy
Merrick, Evalyn
Tholl, John Jr
Tremblay, Marc

GRAFTON

Brosseau, Charles
Bulis, Lyle
Gionet, Edmond
Ingbretson, Paul
Ladd, Rick Jr
Mirski, Paul
Reilly, Harold Sr
Shackett, Jeffrey
Sorg, Gregory
Sova, Charles

HILLSBOROUGH

Ball, J. Michael	Barry, J. Gail	Belanger, James	Bergevin, Jerry
Brownrigg, Randall Jr	Burt, John	Cebrowski, John	Christensen, D.L. Chris
Condra, William	Coughlin, Sean	Day, Russell	DeJong, Cameron
Doherty, Shaun	Donovan, Daniel	Drisko, Richard	Flanagan, Jack
Fredette, Robert	Gagne, Larry	Gandia, Laura	Gargasz, Carolyn
Greazzo, Phil	Hansen, Peter	Hardwick, Harry	Hawkins, Kenneth
Hikel, John	Holden, Frank	Hopper, Gary	Jasper, Shawn
Krasucki, Joseph	LeBrun, Donald	Maltz, Jonathan	McCarthy, Michael
McGuinness, Sean	Mecheski, Holly	Messier, Irene	Moran, Edward
Notter, Jeanine	Ober, Lynne	Ober, Russell III	Ohm, Bill
Palmer, Stephen	Parison, James	Peterson, Lenette	Pratt, Calvin
Scontsas, Lisa	Simmons, Tammy	Soucy, Connie	Souza, Kathleen
Stroud, Kathleen	Swank, Matthew	Ulery, Jordan	Villeneuve, Moe
Warden, Mark	Willette, Robert		

MERRIMACK

Blankenbeker, Lynne	Coffey, Jennifer	Cohn, Seth	Giuda, J. Brandon
Hess, David	Hill, Gregory	Hoell, J.R.	Keane, Thomas
Kotowski, Frank	Kreis, Kenneth Sr	Lauer-Rago, Kathleen	McGuire, Carol
McGuire, Dan	Palfrey, David	Sanborn, Laurie	Seaworth, G. Brian
Smith, Todd			

ROCKINGHAM

Antosz, Jason	Baldasaro, Alfred	Bates, David	Bettencourt, David
Birdsell, Regina	Brown, Paul	Cali-Pitts, Jacqueline	Copeland, Timothy
Davenport, Joshua	DeSimone, Debra	Dowling, Patricia	Duarte, Joe
Garcia, Marilinda	Garrity, James	Hagan, Joseph	Hoelzel, Kathleen
Introne, Robert	Kappler, Lawrence	Kolodziej, Walter	Major, Norman
Manuse, Andrew	McMahon, Charles	O'Connor, John	Okerman, Richard
Packard, Sherman	Quandt, Matt	Reagan, John	Reichard, Kevin
Ritter, Glenn	Sapareto, Frank	Smith, William	Sullivan, James
Sytek, John	Tamburello, Daniel	Tremblay, Stella	Tucker, Pamela
Waddell, James	Ward, Joanne	Waterhouse, Kevin	Welch, David

STRAFFORD

Brown, Julie	DeLemus, Susan	Groen, Warren	Jones, Laura
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Schmidt, Andrew			

and floor amendment (2242h) failed.

Committee report of Ought to Pass adopted and ordered to third reading.

SENATE MESSAGES

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 222-FN, relative to the specificity of certain statutory provisions granting rulemaking authority. (Amendment printed SJ 5-2-12)

Rep. Carol McGuire moved that the House concur and spoke in favor.
Adopted.

REMOVED FROM THE TABLE

Rep. Hikel moved that ***SB 317,*** relative to towable devices permitted to be towed by a motorboat, be removed from the table.
Adopted and ***SB 317*** was ordered to third reading.

REMOVED FROM THE TABLE

Rep. Packard moved that ***SB 315,*** requiring motorists to give wide berth to highway maintenance vehicles, be removed from the table.
On a division vote, 265 members having voted in the affirmative and 43 in the negative, the motion was adopted and ***SB 315*** was ordered to third reading.

REMOVED FROM THE TABLE

Rep. Lynne Ober moved that ***SB 323,*** authorizing accounting transfers by the department of corrections, be removed from the table.
On a division vote, 311 members having voted in the affirmative and 12 in the negative, the motion was adopted and ***SB 323*** was ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Rep. Weed moved that ***SB 308,*** proclaiming January 24, 2013 as Granny D. Day, be removed from the table.
Rep. Weed requested a roll call; sufficiently seconded.

YEAS 118 NAYS 211

YEAS 118

BELKNAP

Flanders, Donald	Pilliod, James	St. Cyr, Jeffrey	

CARROLL

Knox, J. David	Tregenza, Norman		

CHESHIRE

Butynski, William	Chase, Cynthia	Dwinell, Richard	Hawkes, Samuel
Hunt, John	Johnsen, Gladys	Lindsey, Steven	Meader, David
Parkhurst, Henry	Roberts, Kris	Sad, Tara	Smith, Edwin
Tatro, Bruce	Weber, Lucy	Weed, Charles	

COOS

Coulombe, Gary	Hatch, William	Merrick, Evalyn	Remick, William
Theberge, Robert	Thomas, Yvonne		

GRAFTON

Almy, Susan	Benn, Bernard	Bradley, Lester	Cooney, Mary
Gould, Franklin	Harding, Laurie	Nordgren, Sharon	Pastor, Beatriz
Pierce, David	Smith, Suzanne	Townsend, Charles	White, Andrew

HILLSBOROUGH

Baroody, Benjamin
Brown, Kevin
Campbell, David
Christiansen, Lars
Cote, David
Daler, Jennifer
DeJong, Cameron
Fredette, Robert
Garrity, Patrick
Gimas, John
Goley, Jeffrey
Graham, John
Hawkins, Kenneth
Leishman, Peter
Levasseur, Nickolas
Long, Patrick
Messier, Irene
Pilotte, Maurice
Porter, Marjorie
Ramsey, Peter
Rhodes, Brian
Rosenwald, Cindy
Shaw, Barbara
Sullivan, Daniel
Sullivan, Peter
Terrio, Ross
Vaillancourt, Steve

MERRIMACK

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

ROCKINGHAM

Antosz, Jason
Birdsell, Regina
Cali-Pitts, Jacqueline
Copeland, Timothy
DiPentima, Rich
Dowling, Patricia
Hoelzel, Kathleen
Katsakiores, Phyllis
Lovejoy, Patricia
McKinney, Betsy
Moody, Marcia
Norelli, Terie
Pantelakos, Laura
Perkins, Amy
Perkins, Lawrence
Quandt, Matt
Read, Robin Jr
Sapareto, Frank
Schlachman, Donna
Sedensky, John
Serlin, Christopher
Tamburello, Daniel

STRAFFORD

Berube, Roger
Brown, Julie
Browne, Brendon
Ginsburg, Philip
Grassie, Anne
Hooper, Dorothea
Horrigan, Timothy
Roberts, Jenna
Schmidt, Peter
Spang, Judith
Watters, David

SULLIVAN

Gagnon, Raymond
Schmidt, Andrew

NAYS 211

BELKNAP

Accornero, Harry
Bolster, Peter
Comtois, Guy
Fields, Dennis
Greemore, Robert
Kingsbury, Robert
Malone, Robert
Russell, David
Simpson, Tyler
Swinford, Elaine
Tilton, Franklin
Tobin, William
Worsman, Colette

CARROLL

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

CHESHIRE

Cartwright, Anne
Johnson, Jane
Moore, Charles
Moore, Robert Jr
Sterling, Franklin Jr

COOS

Daugherty, Duffy
Rappaport, Laurence
Richardson, Herbert
Tholl, John Jr
Tremblay, Marc

GRAFTON

Brosseau, Charles
Bulis, Lyle
Gionet, Edmond
Ingbretson, Paul
Ladd, Rick Jr
Mirski, Paul
Reilly, Harold Sr
Shackett, Jeffrey
Simard, Paul
Sorg, Gregory
Sova, Charles

HILLSBOROUGH

Avard, Kevin
Balboni, Michael
Ball, J. Michael
Barry, J. Gail
Barry, Richard
Belanger, James
Belvin, William
Bergevin, Jerry
Boehm, Ralph
Brownrigg, Randall Jr
Burt, John
Buxton, Michael
Cebrowski, John
Champagne, Norma
Christensen, D.L. Chris
Condra, William
Coughlin, Sean
Cusson-Cail, Kathleen
Daniels, Gary
Day, Russell
Doherty, Shaun
Donovan, Daniel
Drisko, Richard
Flanagan, Jack
Gagne, Larry
Gandia, Laura
Gargasz, Carolyn
Greazzo, Phil
Hansen, Peter
Hardwick, Harry
Hikel, John
Hogan, Edith
Holden, Frank
Hutchinson, Winfred
Jasper, Shawn
Krasucki, Joseph
Kurk, Neal
LeBrun, Donald
Maltz, Jonathan
McCarthy, Michael
McClarren, Donald
McGuinness, Sean
Mecheski, Holly
Moran, Edward
Murphy, Keith
Notter, Jeanine
Ober, Lynne
Ober, Russell III
Ohm, Bill
Palmer, Barry
Palmer, Stephen
Parison, James
Pellegrino, Tony
Pepino, Leo
Peterson, Lenette
Pratt, Calvin
Reed, Michael
Renzullo, Andrew
Robbins, David
Rowe, Robert
Scontsas, Lisa
Seidel, Carl
Silva, Peter
Simmons, Tammy
Soucy, Connie
Souza, Kathleen
Stroud, Kathleen
Summers, James
Swank, Matthew
Thomas, Joseph
Twombly, Timothy
Ulery, Jordan
Villeneuve, Moe
Warden, Mark
Whitehead, Randall
Willette, Robert

MERRIMACK

Blankenbeker, Lynne
Coffey, Jennifer
Giuda, J. Brandon
Hess, David
Hill, Gregory
Hoell, J.R.
Keane, Thomas
Kidder, David
Kotowski, Frank
Kreis, Kenneth Sr
Lauer-Rago, Kathleen
Lindsley, Mark
McDonnell, John
McGuire, Carol
McGuire, Dan
Palfrey, David
Reed, Dennis
Richardson, Jon
Sanborn, Laurie
Seaworth, G. Brian
Winter, Steven

ROCKINGHAM

Abrami, Patrick
Allen, Mary
Azarian, Gary
Baldasaro, Alfred
Bates, David
Bettencourt, David
Brown, Paul
Chirichiello, Brian
Davenport, Joshua
DeSimone, Debra
Devine, James
Duarte, Joe
Elliott, Robert
Ferrante, Beverly
Fesh, Robert
Garcia, Marilinda
Garrity, James
Griffin, Mary
Hagan, Joseph
Headd, James
Introne, Robert
Kappler, Lawrence
Kolodziej, Walter
Major, Norman
Manuse, Andrew
Mauro, Donna
McMahon, Charles
O'Connor, John
Okerman, Richard
Packard, Sherman
Peckham, Michele
Quandt, Marshall
Reagan, John
Reichard, Kevin
Rice, Frederick
Ritter, Glenn
Sanders, Elisabeth
Sheffert, Kenneth
Shuler, Wyman III
Smith, William
Sullivan, James
Sullivan, Kevin
Sytek, John
Tremblay, Stella
Tucker, Pamela
Waddell, James
Ward, Joanne
Waterhouse, Kevin
Welch, David
Weyler, Kenneth

STRAFFORD

Cataldo, Sam	DeLemus, Susan	Groen, Warren	Jones, Laura
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

and the motion failed.

REGULAR CALENDAR (CONT'D)

SB 376, extending the committee to develop a plan for privatizing the department of corrections. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Dan McGuire for the Majority of Finance: This bill, as amended, extends the term of the prison privatization study committee created by HB 2 (Chapter 224, Laws of 2011) to Nov 1, 2012. HB 2 directed the dept. of corrections to issue RFPs to privatize NH's prisons, and also set up the committee to review the process. Due to delays in creating the RFPs, the original deadline was inadequate. The amendment also allows the committee to confidentially examine the vendor submissions and summarize their findings without revealing any vendor-specific information. The efficient and effective operation of the state's prison system is of great concern to the citizens of New Hampshire. The legislature needs the best information available to decide what type and degree of privatization is desirable. Vote 14-7.

Rep. Robert A. Foose for the Minority of Finance: The minority can not agree with the process that is directed by the bill for two reasons. First, the risk that this bill creates is that future contract deliberations that should be conducted by administrative units will be subjected to unnecessary legislative interruption. Second, the kind of inquiry that the committee is seeking should be redirected to consideration of the experiences of other states instead of attempting to review material that has always been held to be a confidential part of the actual bid process.

Majority Amendment (2194h)

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

1 Committee to Develop a Plan to Privatize the Department of Corrections; Duties. Amend 2011, 224:346, IV to read as follows:

IV. The committee shall develop a plan for privatizing the department of corrections and shall review the results of the request for proposals issued by the commissioner of administrative services under section 347 of this act. ***As part of its study and notwithstanding RSA 21-I:13-a or any other provision of law to the contrary, the committee shall review the vendor submissions confidentially and may include a summary of such submissions in its report required under paragraph VI. The summary of such submissions shall not include references or information which identifies the vendors making such submissions.***

2 Committee to Develop a Plan to Privatize the Department of Corrections; Report Date Extended. Amend 2011, 224:346, VI to read as follows:

VI. 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 [~~December 1, 2011~~] ***November 1, 2012***.

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

Rep. Dan McGuire spoke in favor.
Rep. Foose spoke against.
On a division vote, 220 members having voted in the affirmative and 101 in the negative, the majority committee amendment was adopted.
Majority committee report adopted and ordered to third reading.

SENATE MESSAGES

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 1636, relative to the extension of fill and dredge in wetlands permits. (Amendment printed SJ 4-25-12)
Rep. Renzullo moved that the House concur and spoke in favor.
Adopted.

REMOVED FROM THE TABLE

Rep. Rosenwald moved that ***SB 369-FN-L,*** relative to aid to assisted persons, be removed from the table.
On a division vote, 310 members having voted in the affirmative and 8 in the negative, the motion was adopted and ***SB 369-FN-L*** was ordered to third reading.

REMOVED FROM THE TABLE

Rep. Lynne Ober moved that ***SB 389-L,*** relative to sewer commission costs, be removed from the table.
Adopted and ***SB 389-L*** was ordered to third reading.

REGULAR CALENDAR (CONT'D)

SB 401-FN, relative to reporting the average daily membership of pupils in the public schools and relative to adjustments to adequate education grants. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Dan McGuire for Finance: Adequate education payments to school districts are currently based on three-year-old attendance figures. This bill shortens the process so that one-year-old data is used. State aid is thus more accurately allocated to where it is needed. Under the bill, schools budget for aid based on estimated attendance for the current year. They may adjust these estimates by up to 5% to ensure that they will never overspend their revenue. The amendment makes it clear that districts' own estimates are to be used and provides for reconciliation of payments to cooperative school districts. Vote 20-3.

Amendment (2120h)

Amend the bill by replacing all after section 5 with the following:

6 New Paragraph; School Money; Cost of an Opportunity for an Adequate Education. Amend RSA 198:40-a by inserting after paragraph V the following new paragraph:

VI. The commissioner of the department of education shall adjust the April adequate education grant disbursement as provided in RSA 198:42 to the extent necessary to ensure that the total education grant for each school district is within 5 percent of the school district's estimated total education grant amount, as provided in the report prepared by the department of education pursuant to RSA 198:40-a, V, for the school year for which the calculation is made.

7 District Taxes; Reports Required. Amend RSA 198:4-d, II to read as follows:

II. A report filed by the governing body of each city and school district shall revise all the estimated revenues for the year. This report shall be filed by September 1 of each year. ***The revised estimates by school districts for the adequate education grants***

calculated under RSA 198:41 shall be considered the most accurate within 5 percent of the amount estimated pursuant to RSA 198:40-a, V.

8 New Paragraph; Cooperative School Districts; District Taxes. Amend RSA 195:14 by inserting after paragraph II the following new paragraph:

III.(a) The adequate education grant used in subparagraph I(d) shall be based on the revised estimated revenues contained in the report required in RSA 198:4-d, II.

(b) If the commissioner finds that the actual adequacy grant used in the prior year was inaccurate or inappropriate, the commissioner shall perform a town-specific reconciliation adjustment for each town's estimates in question against the apportionment. The difference between the recomputed apportionment and the apportionment determined under subparagraph (a), and the difference between the actual adequate education grant provided under RSA 198:42 for the prior year and the grant amount estimated in the prior year under subparagraph (a), shall be the basis for the town-specific reconciliation adjustment.

9 Applicability. The provisions of this act shall apply beginning with the 2013-2014 school year.

10 Effective Date. This act shall take effect July 1, 2012.

Amendment adopted.

Committee report adopted and ordered to third reading.

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

Rep. Paul H. Simard for Finance: This bill establishes a procedure for the medicinal use of marijuana. The committee reviewed the bill for fiscal impact and removed all fees, so that the program will be self-sustaining through gifts and donations. The amendment also makes technical clarifications and corrections that are supported by the sponsors and policy committee. Vote 18-8.

Amendment (2143h)

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

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

CHAPTER 126-V

USE OF MARIJUANA FOR MEDICINAL PURPOSES

126-V:1 Definitions. In this chapter:

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

(a) Taking a medical history;

(b) Performing a relevant physical examination;

(c) Reviewing prior treatment and treatment response;

(d) Obtaining and reviewing relevant diagnostic test results;

(e) The provider being available for and offering follow-up care and treatment to the patient, including but not limited to patient examinations;

(f) Creating and maintaining patient records; and

(g) Notifying the patient's primary care provider when appropriate.

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

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

(1) A chronic or terminal disease; and

(2) Symptoms or treatment results that include at least one of the following: wasting syndrome, severe pain that has not responded to previously prescribed medication or

surgical measures for more than 3 months, elevated intraocular pressure, severe nausea, severe vomiting, seizures, or severe, persistent muscle spasms.

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

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

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

V. "Designated caregiver" means an individual:

(a) Who is at least 21 years of age; and

(b) Who has agreed to assist with a qualifying patient's medical use of marijuana; and

(c) Who has never been convicted of any drug-related offense; and

(d) Who possesses a valid registry identification card issued pursuant to RSA 126-V:4

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Six ounces of usable marijuana; and

(2) Any amount of unusable marijuana; and

(3) Four mature marijuana plants and 12 seedlings, with a total canopy of no more than 100 square feet.

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

(1) Two ounces of usable marijuana; and

(2) Any amount of unusable marijuana.

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

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

(1) Six ounces of usable marijuana; and

(2) Any amount of unusable marijuana; and

(3) Four mature marijuana plants and 12 seedlings, with a total canopy of no more than 100 square feet.

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

(1) Two ounces of usable marijuana; and

(2) Any amount of unusable marijuana.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Being under the influence of marijuana while:

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

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

(3) Operating heavy machinery or handling a dangerous instrumentality.

(b) The use or possession of marijuana by a qualified patient or designated caregiver for purposes other than for medical use as permitted by this chapter.

(c) The smoking of marijuana in any public place, including:

(1) A school bus, public bus, or other public vehicle; or

(2) A place of employment, without the written permission of the employer; or

(3) The grounds of any preschool, elementary, or secondary school; or

(4) Any correctional facility; or

(5) Any public park, public beach, public recreation center, public field, or youth center.

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

(a) Any health insurance provider, health care plan, or medical assistance program to be liable for any claim for reimbursement for the medical use of marijuana; or

(b) Any individual or entity in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property. This chapter shall not limit an individual or entity in lawful possession of property, or an agent of such individual or entity, from expelling an individual who uses marijuana without permission from their property and from seeking civil and criminal penalties for the unauthorized use of marijuana on their property; or

(c) Any accommodation of the medical use of marijuana on the property or premises of any place of employment or on the property or premises of any jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained. This chapter shall in no way limit an employer's ability to discipline an employee for ingesting marijuana in the workplace or for working while under the influence of marijuana;

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

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

126-V:4 Departmental Administration.

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

(a) Written certification as defined in RSA 126-V:1.

(b) An application or renewal application.

(c) Name, residential and mailing address, and date of birth of the applicant, except that if the applicant is homeless, no residential address is required.

(d) Name, address, and telephone number of the applicant's provider.

(e) Name, address, and date of birth of the applicant's designated caregiver, if any. A qualifying patient shall have only one designated caregiver.

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

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

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

(1) An application or renewal application.

(2) Name, residential and mailing address, and date of birth of the applicant.

(3) Name, residential and mailing address, and date of birth of the qualifying patient for whom the applicant will act as designated caregiver, except that if the qualifying patient is homeless, no residential address is required. A designated caregiver shall act on behalf of only one qualifying patient.

(4) A complete set of fingerprints.

(5) Street address of the cultivation location.

(6) A statement indicating the applicant's preference as to whether the applicant requests the department to retain his or her fingerprints on file for any renewal application or whether the applicant requests the department to destroy his or her fingerprints and acknowledges that the applicant shall resubmit fingerprints if the applicant applies for renewal as a designated caregiver.

(7) A signed statement from the applicant agreeing to act as the designated caregiver for the qualifying patient named in the application and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter and acknowledging that the diversion of marijuana is punishable as a class B felony and revocation of one's registry identification card, in addition to other penalties for the illegal sale of marijuana.

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

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

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

(a) Name, mailing address, and date of birth of the qualifying patient or designated caregiver.

(b) The date of issuance and expiration date of the registry identification card.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) If a qualifying patient or designated caregiver loses his or her registry identification card, he or she shall notify the department within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random 10-digit identification number.

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

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

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

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

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

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

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

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

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

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

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

(d) The number of registry identification cards revoked.

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

126-V:5 Affirmative Defense.

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

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

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

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

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

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

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

(2) If the marijuana is on the person's property, the person does not possess more than 6 ounces of usable marijuana and any amount of unusable marijuana and is not cultivating more than 4 mature marijuana plants and 12 seedlings, which shall be in a locked and enclosed location on the person's property.

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

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

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

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

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

(2) If the marijuana is on the person's property, the person does not possess more than 6 ounces of usable marijuana and any amount of unusable marijuana, and does not possess or is not cultivating more than 4 mature marijuana plants and 12 seedlings which shall be in a locked and enclosed location.

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

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

126-V:6 Rulemaking.

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

II. The department may accept gifts, grants, donations, or other funds from private sources without the approval of the governor and council.

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

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

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

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

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

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

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

5 Repeal. The following are repealed:

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

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

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

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

6 Applicability. The provisions of RSA 126-V:1-4 as inserted by section 1 of this act shall take effect upon certification by the commissioner of the department of health and human services to the secretary of state and the director of the office of legislative services that sufficient funds are available in the registry identification card fund established in RSA 126-V:7 to meet the expenses of the use of marijuana for medicinal purposes program established in RSA 126-V.

7 Effective Date.

I. RSA 126-V:1-4 as inserted by section 1 of this act shall take effect as provided in section 6 of this act.

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

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

Amendment adopted.

On a division vote, 228 members having voted in the affirmative and 91 in the negative, the committee report was adopted and ordered to third reading.

SB 17, relative to evidence of admissions in medical injury actions. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Brian J. X. Murphy for the Majority of Judiciary: This bill expands the "I'm sorry law" in medical injury cases to cover a broader scope of expressions made by medical care providers - such expressions themselves to be inadmissible as evidence in any medical injury action. The committee amended this bill to remove admissions of fault from the list of expanded expressions. It is important to note that all underlying information, documents and records remain discoverable through the judicial process. The bill was also amended to include a House Bill on tort reform that passed the House earlier this session with a 247 to 85 vote. Vote 10-4.

Rep. Lucy M. Weber for the Minority of Judiciary: Members of the minority believe that the existing “I’m Sorry” law, enacted in 2005 after considerable discussion with all stakeholders, is a better formulation then that proposed in the current bill as amended. In particular, the current statute makes it clear that actual statements of fault, negligence, or culpable conduct are not covered by the protections of the “I’m Sorry” law, while the new law is silent on the treatment of those statements. In addition, although the attachment to the bill of an unrelated matter passed earlier by this House is allowable under our rules, the minority thinks this maneuver does not further good government.

Majority Amendment (2138h)

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

AN ACT relative to evidence of admissions in medical injury actions and relative to offers of judgments.

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

1 Medical Injury Actions; Evidence of Admissions. RSA 507-E:4 is repealed and reenacted to read as follows:

507-E:4 Evidence of Admissions.

I. In this section:

(a) “Relative” means a victim’s spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister, or spouse’s parents. The term includes said relationships that are created as a result of adoption. In addition, “relative” includes any person who has a family-type relationship with a victim.

(b) “Representative” means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient’s agent.

(c) “Unanticipated outcome” means the outcome of a medical treatment or procedure that differs from an expected result.

II. In any medical injury action brought by an alleged victim of an unanticipated outcome of medical care, or in any arbitration proceeding related to such medical injury action, any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a medical care provider to the alleged victim, a relative of the alleged victim, or a representative of the alleged victim and which relate to the discomfort, pain, suffering, injury, or death of the alleged victim as the result of the unanticipated outcome of medical care shall be inadmissible as evidence of an admission liability or as evidence of an admission against interest; provided, however, that such communication complies with state and federal law governing the privacy of patient information.

III. Information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any matter solely because they were described or discussed by a medical care provider in accordance with paragraph II.

2 New Subdivision; Offers of Judgments in Civil Cases. Amend RSA 507 by inserting after section 17 the following new subdivision:

Offers of Judgments in Civil Cases

507:18 Offers of Judgment in Civil Cases.

I. More than 10 days before the trial begins, either party to a claim may serve on an opposing party an offer to allow judgment on specified terms, with the costs then accrued. If, within 10 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service. The clerk shall then enter judgment.

II. An unaccepted offer shall be considered withdrawn, but does not preclude a later offer. Evidence of an unaccepted offer shall not be admissible except after judgment in a proceeding to determine costs.

III. When one party's liability to another has been determined, but the extent of liability remains to be determined by further proceedings, the party held liable may make an offer of judgment. This offer shall be served within a reasonable time, but at least 10 days, before a hearing to determine the extent of liability.

IV. If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer and the court finds that the offeree was unreasonable in rejecting the offer, the offeree shall pay the costs incurred, including reasonable attorney's fees, after the offer was made.

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

AMENDED ANALYSIS

This bill makes certain statements by medical care providers to an alleged victim and the alleged victim's relatives and representatives inadmissible as evidence in any medical injury action.

The bill also establishes procedures for offers of judgments in civil cases based on Rule 68 of the Federal Rules of Civil Procedure.

Majority committee amendment adopted.

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

Reps. Gary Richardson and Soltani spoke against.

Rep. Rowe spoke in favor.

Rep. Bettencourt requested a roll call; sufficiently seconded.

YEAS 226 NAYS 93

YEAS 226

BELKNAP

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

CARROLL

Babson, David Jr	Chandler, Gene	Fleck, Joseph	Knox, J. David
McCarthy, Frank	McConkey, Mark	Merrow, Harry	Patten, Betsey
Pettengill, Laurie	Schmidt, Stephen	Tregenza, Norman	Umberger, Karen

CHESHIRE

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

COOS

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

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Gould, Franklin	Harding, Laurie	Ingbretson, Paul	Mirski, Paul
Pastor, Beatriz	Reilly, Harold Sr	Shackett, Jeffrey	Simard, Paul
Sorg, Gregory	Sova, Charles		

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Ball, J. Michael	Barry, J. Gail
Barry, Richard	Belanger, James	Belvin, William	Bergevin, Jerry
Boehm, Ralph	Brown, Kevin	Brownrigg, Randall Jr	Burt, John
Buxton, Michael	Cebrowski, John	Christensen, D.L. Chris	Christiansen, Lars
Coffey, James	Condra, William	Coughlin, Sean	Cusson-Cail, Kathleen
Daniels, Gary	Day, Russell	DeJong, Cameron	Doherty, Shaun
Donovan, Daniel	Drisko, Richard	Fredette, Robert	Gagne, Larry
Gandia, Laura	Gargasz, Carolyn	Gonzalez, Carlos	Graham, John
Greazzo, Phil	Hansen, Peter	Hardwick, Harry	Hawkins, Kenneth
Hogan, Edith	Holden, Frank	Hutchinson, Winfred	Jasper, Shawn
Krasucki, Joseph	Kurk, Neal	LeBrun, Donald	Maltz, Jonathan
McClarren, Donald	McGuinness, Sean	Mecheski, Holly	Messier, Irene
Moran, Edward	Murphy, Keith	Notter, Jeanine	Ober, Lynne
Ober, Russell III	Ohm, Bill	Palmer, Barry	Palmer, Stephen
Parison, James	Pellegrino, Tony	Peterson, Lenette	Pratt, Calvin
Reed, Michael	Renzullo, Andrew	Rowe, Robert	Seidel, Carl
Silva, Peter	Simmons, Tammy	Soucy, Connie	Stroud, Kathleen
Summers, James	Swank, Matthew	Terrio, Ross	Thomas, Joseph
Twombly, Timothy	Ulery, Jordan	Villeneuve, Moe	Warden, Mark
Whitehead, Randall	Willette, Robert		

MERRIMACK

Blankenbeker, Lynne	Coffey, Jennifer	Giuda, J. Brandon	Hill, Gregory
Hoell, J.R.	Keane, Thomas	Kidder, David	Kotowski, Frank
Kreis, Kenneth Sr	Lauer-Rago, Kathleen	Lindsley, Mark	McDonnell, John
McGuire, Carol	McGuire, Dan	Palfrey, David	Reed, Dennis
Richardson, Jon	Sanborn, Laurie	Seaworth, G. Brian	Smith, Todd
Winter, Steven			

ROCKINGHAM

Abrami, Patrick	Antosz, Jason	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Brown, Paul
Chirichiello, Brian	Davenport, Joshua	DeSimone, Debra	Devine, James
Duarte, Joe	Elliott, Robert	Ferrante, Beverly	Fesh, Robert
Garrity, James	Griffin, Mary	Hagan, Joseph	Headd, James
Hoelzel, Kathleen	Introne, Robert	Itse, Daniel	Kappler, Lawrence
Katsakiores, Phyllis	Kolodziej, Walter	Major, Norman	Manuse, Andrew
Mauro, Donna	McKinney, Betsy	Nevins, Chris	O'Connor, John
Okerman, Richard	Packard, Sherman	Peckham, Michele	Reagan, John
Reichard, Kevin	Rice, Frederick	Ritter, Glenn	Sanders, Elisabeth
Schroadter, Adam	Sedensky, John	Sheffert, Kenneth	Shuler, Wyman III

Smith, William	Sullivan, James	Sullivan, Kevin	Tamburello, Daniel
Tremblay, Stella	Tucker, Pamela	Waddell, James	Ward, Joanne
Waterhouse, Kevin	Welch, David	Weyler, Kenneth	

STRAFFORD

Cataldo, Sam	Groen, Warren	Jones, Laura	Munck, Philip
Newton, Clifford	O'Connor, William	Parsons, Robbie	Pitre, Joseph
Vita, Carol	Vita, Lucien		

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

NAYS 93

BELKNAP

Bolster, Peter

CARROLL

None

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Hunt, John
Johnsen, Gladys	Lindsey, Steven	Meader, David	Parkhurst, Henry
Sad, Tara	Tatro, Bruce	Weber, Lucy	Weed, Charles

COOS

Coulombe, Gary	Theberge, Robert	Thomas, Yvonne

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Ladd, Rick Jr
Nordgren, Sharon	Pierce, David	Smith, Suzanne	Townsend, Charles
White, Andrew			

HILLSBOROUGH

Baroody, Benjamin	Campbell, David	Cote, David	Daler, Jennifer
Garrity, Patrick	Goley, Jeffrey	Gorman, Mary	Hopper, Gary
Leishman, Peter	Levasseur, Nickolas	Pilotte, Maurice	Porter, Marjorie
Ramsey, Peter	Rhodes, Brian	Robbins, David	Rosenwald, Cindy
Scontsas, Lisa	Shaw, Barbara	Sullivan, Daniel	Sullivan, Peter
Vaillancourt, Steve			

MERRIMACK

Bouchard, Candace	Cohn, Seth	Deloge, Helen	DeStefano, Stephen
Foose, Robert	Frazer, June	Gile, Mary	Hamm, Christine
Hess, David	MacKay, James	Owen, Derek	Patten, Dick
Potter, Frances	Rice, Chip	Richardson, Gary	Shurtleff, Stephen
Soltani, Tony	Wallner, Mary Jane	Watrous, Rick	

ROCKINGHAM

Allen, Mary	DiPentima, Rich	Dowling, Patricia	Lovejoy, Patricia
Moody, Marcia	Norelli, Terie	Pantelakos, Laura	Perkins, Amy
Perkins, Lawrence	Read, Robin Jr	Schlachman, Donna	Serlin, Christopher
Sytek, John			

STRAFFORD

Berube, Roger	Brown, Julie	Browne, Brendon	DeLemus, Susan
Ginsburg, Philip	Grassie, Anne	Hooper, Dorothea	Horrigan, Timothy
Roberts, Jenna	Schmidt, Peter	Spang, Judith	Sprague, Dale
Watters, David			

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew

and the majority committee report was adopted and ordered to third reading.
Rep. Hikel did not vote and notified the Clerk that he wished to be recorded in favor.
Rep. Gimas did not vote and notified the Clerk that he wished to be recorded against.

SB 273, relative to vexatious litigants. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Brian J. X. Murphy for Judiciary: This bill addresses litigants who use the judicial process as a tool of harassment. If a court finds, by clear and convincing evidence, that a litigant has filed three (3) or more suits that were initiated for the purpose of harassment, then the court may require such litigant to retain an attorney (or other person of good character) or post a surety bond sufficient to cover attorney fees and anticipated damages. The committee felt the bill properly balanced the need to limit abusive behavior with the right to judicial access. Vote 12-3.

Amendment (2115h)

Amend RSA 507:15-a, I and II as inserted by section 1 of the bill by replacing them with the following:

I. In this section, "vexatious litigant" means an individual who has been found by a judge to have filed 3 or more frivolous lawsuits which have had a final disposition and which the judge finds, by clear and convincing evidence, were initiated for the primary purpose of harassment.

II. The court may require a vexatious litigant to:

(a) Retain an attorney or other person of good character to represent him or her in all actions; or

(b) Post a cash or surety bond sufficient to cover all attorney fees and anticipated damages.

Amendment adopted.
Rep. Giuda offered floor amendment 2281h.

Floor Amendment (2281h)

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

AN ACT relative to vexatious litigants and relative to confidentiality of police personnel files.

Amend the bill by replacing all after section 1 with the following:

2 Confidentiality of Police Personnel Files. Amend RSA 105:13-b to read as follows:

105:13-b Confidentiality of Personnel Files. [~~No personnel file on a police officer who is serving as a witness or prosecutor in a criminal case shall be opened for the purposes of that criminal case, unless~~] ***All exculpatory evidence in a personnel file on a police officer who is serving as a witness or prosecutor shall be provided to the prosecutor by the***

police department employing the officer and shall be released by the prosecutor to be used as evidence in accordance with all applicable rules regarding evidence in criminal cases. Non-exculpatory evidence shall only be released in that criminal case if the sitting judge makes a specific ruling that probable cause exists to believe that the file contains evidence relevant to that criminal case. If the judge rules that probable cause exists, the judge shall order the police department employing the officer to deliver the file to the judge. The judge shall examine the file in camera and make a determination whether it contains evidence relevant to the criminal case. Only those portions of the file which the judge determines to be relevant in the case shall be released to be used as evidence in accordance with all applicable rules regarding evidence in criminal cases. The remainder of the file shall be treated as confidential and shall be returned to the police department employing the officer.

3 Effective Date.

14 Section 1 of this act shall take effect January 1, 2013.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes certain requirements for persons who are determined by the court to be vexatious litigants.

This bill also clarifies the confidentiality provisions regarding use of police personnel files as evidence in criminal cases.

Rep. Giuda spoke in favor.

Floor amendment (2281h) adopted.

Committee report of Ought to Pass with Amendment adopted and ordered to third reading.

SB 354, relative to the escrow fund for court facility improvements. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Robert H. Rowe for the Majority of Judiciary: This bill and amendments make three changes in the law for the Judicial Branch. First, the bill includes a technical correction to RSA 490:26-c which currently provides for a portion of the court entry fees that are retained and allocated to court facility improvements. The bill amends the reference to district court and changes it to circuit court. Second, this increases the capitol budget for improvements to the electronic court system that is in the development stage. The resulting program will result in substantial judicial branch savings in the future. The funding is conditional on the fiscal committee and the governor and council accepting specified process reports from the judicial branch by May 30, 2012. Third, the bill makes an important amendment to the new circuit court to insure the citizens and communities are well served. The amendment insures that the legislatively established 32 local court districts and court house locations in each of our communities are preserved until changed by the legislature. Further it provides additional authority to the presiding judge in each court district to have greater authority for personnel and services management in his/her court. A unified court system is important for consistency of adjudication, but total centralized management in judicial system in Concord overlooks the fact that each of our 32 court districts is different and the local presiding justice knows the district. Common sense dictates that the rural, small town Colebrook Court District differs greatly from the urban, border city, Nashua Court District. The law is the same throughout the state but court management necessary to serve the needs of specific districts are greatly different. The local presiding judge is aware of the requirements to serve the local community. Vote 13-2.

Rep. Lucy M. Weber for the Minority of Judiciary: The minority fully supported the underlying bill relative to the escrow fund for the court facilities improvements when it was execed several weeks ago. The concerns are with the last minute attachments to the bill. With to the circuit court modifications, the minority is extremely concerned that the reorganization will significantly impact the savings to be realized by the implementation, as originally passed, of the circuit court. We heard testimony that the reason for the modification is that different judges have different ways of doing things, and that a locally assigned judge is necessary to ensure that local customs ways of doing things are preserved. The concern is that in preserving local differences, not only are the economies of scale achieved by consistent procedures lost, but even substantive matters like plea agreements are less standard from judge to judge. We believe that more uniformity, not less, is the desirable goal. We also believe the better way to address the current concerns is to fill all currently vacant judicial vacancies, and to fund additional judges and staff as necessary through the budget process. The minority fully supports the policy underlying the funding of the E-Court initiative, and applauds this important innovation. However, this is another last-minute addition, and the funding sources for this additional $1.7 million expenditure are unclear. One witness indicated the funding would come from the anticipated MET payment, while another indicated the appropriation would be bonded, and would thus increase the state's debt. In the absence of solid information about the sources of funding and the implications for the overall budget, the minority was unable to support this very important initiative.

Majority Amendment (2213h)

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

AN ACT relative to the escrow fund for court facility improvements, the circuit court, and funding of the E-Court initiative for the judicial branch.

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

3 Circuit Court; Purpose. RSA 490-F:1 is repealed and reenacted to read as follows:

490-F:1 Purpose. The general court hereby organizes, constitutes, and establishes the New Hampshire circuit court. The goals of the circuit court are:

I. To enhance and hasten the judicial services brought to citizens in the local community courts, but also to preserve the local court districts;

II. The respectful treatment of all individuals;

III. The prompt and fair resolution of all issues within its jurisdiction;

IV. The use of alternative dispute resolution to reduce the adversarial nature of proceedings; V. The effective use of technology; and

VI. The assignment of judicial and nonjudicial staff specially selected for their commitment to these goals.

4 Circuit Court; General. Amend RSA 490-F:2 to read as follows:

490-F:2 Circuit Court; General. The circuit court shall be a court of record with statewide jurisdiction. Each circuit court location shall have the authority to hear all cases within the subject matter jurisdiction of the circuit court. Subject to part 1, article 17 of the New Hampshire constitution, nothing in this chapter shall prohibit the reassignment of cases within the circuit court as justice or efficiency requires in the discretion of the [~~administrative judge of the circuit~~] ***chief justice of the supreme*** court ***or his or her designee***.

5 Circuit Court Locations. RSA 490-F:4 is repealed and reenacted to read as follows:

490-F:4 Circuit Court Locations. The judicial districts for the district and family divisions shall be known as circuit court districts and be as set forth in RSA 502-A:1 as follows:

"502-A:1 Judicial Districts. A comprehensive system of judicial districts, each with a district court, is hereby organized, constituted and established as follows:

Rockingham County

I. PORTSMOUTH DISTRICT. The Portsmouth district shall consist of the city of Portsmouth and the towns of Newington, Greenland, Rye, and New Castle. The district court for the district shall be located in Portsmouth, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Portsmouth District Court.

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.

II-a. [Repealed.]

III. DERRY DISTRICT. The Derry district shall consist of the towns of Derry, Londonderry, Chester, and Sandown. The district court for the district shall be located in Derry, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Derry District Court.

IV. AUBURN-CANDIA-RAYMOND DISTRICT. The Auburn-Candia-Raymond district shall consist of the towns of Auburn, Candia, Deerfield, Nottingham, Raymond, and Northwood. The court shall be located in Auburn, Candia, or Raymond. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. The court shall bear the name of the town in which it is located.

V. SALEM DISTRICT. The Salem district shall consist of the towns of Salem and Windham in Rockingham county and the town of Pelham in Hillsborough county. The district court for the district shall be located in Salem, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Salem District Court.

VI. PLAISTOW DISTRICT. The Plaistow district shall consist of the towns of Plaistow, Hampstead, Kingston, Newton, Atkinson, and Danville. The district court for the district shall be located in Plaistow, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Plaistow District Court.

Strafford County

VII. DOVER-SOMERSWORTH-DURHAM DISTRICT. The Dover-Somersworth-Durham district shall consist of the cities of Dover and Somersworth and the towns of Rollinsford, Durham, Lee, and Madbury. 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.

VIII. ROCHESTER DISTRICT. The Rochester district court shall consist of the city of Rochester and the towns of Barrington, Milton, New Durham, Farmington, Strafford, and Middleton. The district court for the district shall be located in Rochester, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Rochester District Court.

Belknap County

IX. LACONIA DISTRICT. The Laconia district shall consist of the city of Laconia and the towns of Meredith, New Hampton, Gilford, Belmont, Alton, Gilmanton, Center Harbor, and Barnstead. The district court for the district shall be located in Laconia, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Laconia District Court.

Carroll County

X. CONWAY DISTRICT. The district for northern Carroll county shall consist of the towns of Conway, Bartlett, Jackson, Eaton, Chatham, Hart's Location, Albany, Madison and the unincorporated places of Hale's Location, Cutt's Grant, Hadley's Purchase, and those portions of the towns of Waterville and Livermore within the watershed of the Saco River and its tributaries. The district court for the district shall be located in Conway, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be the Conway District Court.

XI. OSSIPEE DISTRICT. The district for southern Carroll county shall consist of the towns of Ossipee, Tamworth, Freedom, Effingham, Wakefield, Wolfeboro, Brookfield, Tuftonboro, Moultonborough, and Sandwich. The court shall be located in Ossipee, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be the Ossipee District Court.

Merrimack County

XII. CONCORD DISTRICT. The Concord district shall consist of the city of Concord, and the towns of Loudon, Canterbury, Dunbarton, Bow, Hopkinton, Pittsfield, Chichester, and Epsom. The district court for the district shall be located in Concord, holding sessions regularly there and elsewhere in the district as justice may require. The name of the court shall be Concord District Court.

XIII. HOOKSETT DISTRICT. The Hooksett district shall consist of the towns of Allenstown, Pembroke, and Hooksett. The district court for the district shall be located in Hooksett, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be the Hooksett District Court.

XIV. FRANKLIN DISTRICT. The Franklin district shall consist of the city of Franklin and the towns of Northfield, Danbury, Andover, Boscawen, Salisbury, Hill, and Webster in Merrimack county and the towns of Sanbornton and Tilton in Belknap county. The district court for the district shall be located in Franklin, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Franklin District Court.

XV. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, Sutton, 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. The court shall bear the name of the city or town in which it is located.

Hillsborough County

XVI. MANCHESTER DISTRICT. The Manchester district shall consist of the city of Manchester. The district court for the district shall be located in Manchester, holding sessions regularly therein as justice may require. The name of the court shall be Manchester District Court.

XVII. NASHUA DISTRICT. The Nashua district shall consist of the city of Nashua and the towns of Hudson and Hollis. The district court for the district shall be located in Nashua, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Nashua District Court.

XVIII. MERRIMACK DISTRICT. The Merrimack district shall consist of the towns of Merrimack, Litchfield, and Bedford. The district court for the district shall be located in Merrimack, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be the Merrimack District Court.

XIX. MILFORD DISTRICT. The Milford district shall consist of the towns of Milford, Brookline, Amherst, Mason, Wilton, Lyndeborough, and Mont Vernon. The district court for the district shall be located in Milford, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Milford District Court.

XX. JAFFREY-PETERBOROUGH DISTRICT. The Jaffrey-Peterborough district shall consist of the towns of Peterborough, Hancock, Greenville, Greenfield, New Ipswich, Temple, and Sharon in Hillsborough county and the towns of Jaffrey, Dublin, Fitzwilliam, and Rindge in Cheshire county. The district court for the district shall be located in Jaffrey or Peterborough, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Jaffrey-Peterborough District Court.

XXI. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, Sutton, 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. The court shall bear the name of the city or town in which it is located.

XXII. GOFFSTOWN DISTRICT. The Goffstown district shall consist of the towns of Goffstown, Weare, New Boston, and Francestown. The district court for the district shall be located in Goffstown, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Goffstown District Court.

Cheshire County

XXIII. KEENE DISTRICT. The Keene district shall consist of the city of Keene and the towns of Stoddard, Westmoreland, Surry, Gilsum, Sullivan, Nelson, Roxbury, Marlow, Swanzey, Marlborough, Winchester, Richmond, Hinsdale, Harrisville, Walpole, Alstead, Troy, and Chesterfield. The district court for the district shall be located in Keene, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Keene District Court.

XXIV. JAFFREY-PETERBOROUGH DISTRICT. The Jaffrey-Peterborough district shall consist of the towns of Jaffrey, Dublin, Fitzwilliam, and Rindge in Cheshire county and the towns of Peterborough, Hancock, Greenville, Greenfield, New Ipswich, Temple, and Sharon in Hillsborough county. The district court for the district shall be located in Jaffrey or Peterborough, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Jaffrey-Peterborough District Court.

Sullivan County

XXV. CLAREMONT-NEWPORT DISTRICT. The Claremont-Newport district shall consist of the city of Claremont and the towns of Cornish, Unity, Charlestown, Acworth, Langdon, Plainfield, Newport, Grantham, Croydon, Springfield, Sunapee, Goshen, Lempster, and Washington in Sullivan county and the towns of New London, Newbury, and Wilmot in Merrimack 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.

Grafton County

XXVI. HANOVER-LEBANON DISTRICT. The Hanover-Lebanon district shall consist of the towns of Hanover, Orford, Lyme, Lebanon, Enfield, Canaan, Grafton, Dorchester, and Orange. 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.

XXVII. HAVERHILL DISTRICT. The Haverhill district shall consist of the towns of Haverhill, Bath, Landaff, Benton, Piermont, and Warren. The district court for the district shall be located in Haverhill, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Haverhill District Court.

XXVIII. LITTLETON DISTRICT. The Littleton district shall consist of the towns of Littleton, Monroe, Lyman, Lisbon, Franconia, Bethlehem, Sugar Hill, and Easton. The district court for the district shall be located in Littleton, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Littleton District Court.

XXIX. PLYMOUTH-LINCOLN DISTRICT. The Plymouth-Lincoln district shall consist of the towns of Plymouth, Bristol, Groton, Wentworth, Rumney, Ellsworth, Thornton, Campton, Ashland, Hebron, Holderness, Bridgewater, Alexandria, Lincoln, Woodstock and those portions of the towns of Livermore and Waterville not within the watershed of the Saco River and its tributaries. The district court for the district shall be located in Plymouth, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Plymouth District Court.

Coos County

XXX. BERLIN-GORHAM DISTRICT. The Berlin-Gorham district shall consist of the city of Berlin and the towns of Gorham, Milan, Dummer, Shelburne, and Randolph and the unincorporated places of Cambridge, Success, Bean's Purchase, Martin's Location, Green's Grant, Pinkham's Grant, Sargent's Purchase, Thompson and Meserve's Purchase and Low and Burbank's Grant. 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.

XXXI. COLEBROOK DISTRICT. The Colebrook district shall consist of the towns of Colebrook, Pittsburg, Clarksville, Wentworth's Location, Errol, Millsfield, Columbia, Stewartstown, and Stratford and the unincorporated places of Dix's Grant, Atkinson and Gilmanton Academy Grant, Second College Grant, Dixville, Erving's Location, and Odell. The district court for the district shall be located in Colebrook, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Colebrook District Court.

XXXII. LANCASTER DISTRICT. The Lancaster district shall consist of the towns of Lancaster, Stark, Northumberland, Carroll, Whitefield, Dalton and Jefferson, and the unincorporated places of Kilkenny, Bean's Grant, Chandler's Purchase, and Crawford's Purchase. The district court for the district shall be located in Lancaster, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Lancaster District Court."

The judicial district for the probate division shall be the county seat in each county. The legislature may, from time to time, establish other districts and courthouse locations for each of the divisions. The probate court records shall be maintained at the circuit court site at each county seat.

6 Circuit Court Judges. Amend RSA 490-F:5 to read as follows:

490-F:5 Circuit Court Judges [~~and Masters~~]***, Clerks, and Staff***; Appointment; Tenure.

I. ***The chief justice of the supreme court shall be the administrative head of the circuit court. The chief justice may appoint an administrator of the circuit court, who shall not be a judicial officer, who shall assist the chief justice with administrative duties.***

I-a. The chief justice of the supreme court or his or her designee shall appoint a clerk with responsibility for each circuit court site and other staff upon the recommendation and approval of the presiding judge of the district. To insure

that personnel and services are provided to the citizens of the district with efficiency and courtesy, the presiding judge shall be the primary supervisor of all staff assigned to the district.

I-b. On the effective date of this chapter, the circuit court shall consist of those justices and masters previously appointed and commissioned by the governor and council as prescribed by the constitution and the laws of the state of New Hampshire. The tenure of office of persons serving as justices or special justices of the district and probate courts or marital masters in the judicial branch family division and superior court shall not be affected hereby, and they shall continue in office as judges or masters respectively of the circuit court. ***Marital masters sitting as of the effective date of this chapter shall remain in office until the end of the master's current term or appointment. No marital master contract or appointment shall be renewed, extended or modified after the effective date of this chapter. No marital master shall be appointed after the effective date of this chapter.***

II. [~~Judicial and master appointments to fill vacancies which exist on the effective date of this chapter in the former probate and district courts and in the former judicial branch family division shall be to the New Hampshire circuit court. No judicial officer appointed to the circuit court shall be appointed to a particular location; however, the assignment of a circuit court judge to a particular location shall be within the discretion of the administrative judge of the circuit court who shall take into account the weighted caseload and judicial need of that location.~~]

(a) Judges appointed to the circuit court by the governor and council shall be as follows:

(1) A presiding circuit court judge for each circuit court district; and

(2) Circuit court judges.

(b) The chief justice may, if necessary, make temporary and emergency assignments of the presiding judge to other locations.

(c) Appointments of circuit court judges by the governor and council shall not be made to specific circuit court districts or locations. The chief justice of the supreme court or his or her designee shall have the authority to assign circuit court judges to locations as necessary.

7 Circuit Court Judges and Masters; Assignment. Amend RSA 490-F:6 to read as follows:

490-F:6 Circuit Court Judges and Masters; Assignment; Certification.

I. Circuit court judges and masters [~~shall~~] ***may*** be assigned to one or more [~~circuits~~] ***circuit districts*** or locations [~~in~~] ***within a district in*** the discretion of the [~~administrative judge of the circuit~~] ***chief justice of the supreme court or his or her designee*** after considering population, judicial time and efficiency, available judicial resources, and the needs of the public. ***Presiding judges may be temporarily assigned to another district in order to fill a specific and immediate need, but not on a permanent basis.***

II. The assignment of a circuit court judge to a division within the circuit court shall be based upon the judge's knowledge of, commitment to, and expertise in the subject matter of the division.

III. For purposes of part 2, articles 80 and 81 of the New Hampshire constitution, a judge of probate shall be any circuit court judge assigned to the probate division.

IV. Judges and marital masters appointed prior to the effective date of this chapter shall be initially assigned within the circuit court as follows:

(a) Judges of the former probate court shall be initially assigned to the probate division of the circuit court;

(b) Judges of the former district court shall be initially assigned to the district division of the circuit court;

(c) Judges certified in the former judicial branch family division shall be initially assigned to the division that corresponds with their initial appointment and to the family division of the circuit court; and

(d) Masters appointed to the former judicial branch family division or superior court shall be permanently assigned to the family division of the circuit court.

V. The assignment of a circuit court judge to a division following initial assignment shall be within the discretion of the [~~administrative judge~~] ***chief justice of the supreme court or his or her designee***; provided, however, the circuit court judge shall be certified by the supreme court to hear cases coming within the newly assigned division prior to such assignment. A judge initially assigned to a division within the circuit court pursuant to paragraph I shall be deemed certified in the division of initial assignment.

VI. [~~Thereafter, judges appointed to the circuit court shall be assigned to a division at the discretion of the administrative judge subject to the following considerations:~~

~~(a) The knowledge, commitment to, and expertise of the judge in the subject matter of the particular division to which the judge is to be assigned;~~

~~(b) The division in which the judicial vacancy resulting in the new appointment exists, and~~

~~(c) The judicial needs of a particular circuit court location as determined by the administrative judge.~~

~~VII.~~] Judges may be certified in all divisions of the circuit court pursuant to rules adopted by the supreme court.

[~~VIII.~~] ***VII.*** Nothing in this section shall prohibit the [~~administrative judge~~] ***chief justice of the supreme court or his or her designee*** from assigning judges to a division as justice and efficiency require.

[~~IX.~~] ***VIII.*** The judges and masters shall be entitled to receive their actual personal expenses when absent from their assigned court in the performance of their official duties. The judges and masters shall not be reimbursed for mileage to commute from the judge's residence to his or her assigned court except for any mileage in excess of 50 miles each way.

8 Circuit Court Clerks; Appointment. Amend RSA 490-F:13 to read as follows:

490-F:13 Circuit Court Clerks; [~~Appointment~~] ***Duties***. [~~The administrative judge of the circuit court shall appoint a clerk with responsibility for each circuit court site.~~] In the interest of the effective administration of justice, any [~~such~~] ***circuit court*** clerk may have responsibility for one or more circuit court locations. Circuit court clerks shall have the same duties as clerks of the former district court and judicial branch family division and as registers of probate with the exception of RSA 15-B, RSA 456-B, RSA 548, RSA 653, RSA 655, and RSA 661 which shall remain as duties of the registers of probate. Circuit court clerks shall hold office at the pleasure of the [~~administrative judge of the circuit~~] ***chief justice of the supreme*** court.

9 Staff. Amend RSA 490-F:14 to read as follows:

490-F:14 Staff. [~~The administrative judge of the circuit court shall identify a mechanism by which to assign and transfer existing staff in the probate and district courts and in the judicial branch family division to operate the circuit court.~~] The number of circuit court staff shall be based upon a review of anticipated caseload, population, available staff resources, and other relevant criteria, including information from any weighted caseload system.

10 Repeal. RSA 490-F:19, relative to the implementation plan for the circuit court, is repealed.

11 Capital Budget; Judicial Branch; E-Court. Amend 2011, 253:1, IX to read as follows:

IX. Judicial Branch

A. Prisoner Video Conference	$541,085
B. Call Center *	57,500
C. E-Court Initiative **	[~~1,951,000~~] ***<u>3,651,000</u>***
Total state appropriation paragraph IX	[$~~2,549,585~~] ***<u>$4,249,585</u>***

* The judicial branch shall work in consultation with the department of information technology on completion of the call center project under subparagraph IX, B. To the extent necessary, the department of information technology shall assign the highest priority to the completion of the judicial branch call center to ensure completion of the project by September 1, 2011.

***** The appropriation on subparagraph IX, C shall not be expended, obligated, or encumbered until the fiscal committee and governor and council accept the following reports from the judicial branch: statute and rules analysis report and recommendations due to the judicial branch by May 30, 2012, and the E-Court rule development report due to the judicial branch by June 30, 2012. The information technology requirements for the E-Court initiative shall be included as part of the E-Court rule development report.***

12 Capital Budget; Total Adjusted. Amend 2011, 253:1, Total state appropriation section 1, to read as follows:

Total state appropriation section 1 [~~$88,365,294~~] ***$90,065,294***

13 Capital Budget; Bonds Authorized. Amend 2011, 253:5 to read as follows:

253:5 Bonds Authorized.

[~~I.~~] To provide funds for the total of the appropriations of state funds made in sections 1 and 2 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~$97,778,481~~] ***$99,478,481*** and for said purposes may issue bonds and notes in the [~~names~~] ***name*** and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The source of funds shall be as follows: general fund [~~$88,365,294~~] ***$90,065,294*** and highway funds $9,423,187; with other funds $77,887,482.

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

AMENDED ANALYSIS

This bill makes technical corrections regarding the escrow fund for court facility improvements, including changing the name of the fund to the escrow fund for judicial branch facility improvements. The bill also makes certain changes in the administration of the circuit court.

The bill also increases the capital appropriation for the E-Court initiative for the judicial branch.

Majority committee amendment adopted.

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

Rep. Weber spoke against.

Rep. Rowe spoke in favor.

MOTION TO DIVIDE

Rep. Weber moved that Sections 3 through 10 be divided from ***SB 354,*** relative to the escrow fund for court facility improvements.

Reps. Weber and Davenport spoke in favor.

Rep. Giuda spoke against and requested a roll call; sufficiently seconded.

YEAS 114 NAYS 224

YEAS 114

BELKNAP

Pilliod, James

CARROLL

None

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Lindsey, Steven	Meader, David	Moore, Robert Jr	Parkhurst, Henry
Roberts, Kris	Sad, Tara	Tatro, Bruce	Weber, Lucy
Weed, Charles			

COOS

Coulombe, Gary	Hatch, William	Theberge, Robert	Thomas, Yvonne
Tremblay, Marc			

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Gould, Franklin
Harding, Laurie	Nordgren, Sharon	Pastor, Beatriz	Pierce, David
Smith, Suzanne	Taylor, Kathleen	Townsend, Charles	White, Andrew

HILLSBOROUGH

Baroody, Benjamin	Campbell, David	Christensen, D.L. Chris	Cote, David
Daler, Jennifer	Fredette, Robert	Gargasz, Carolyn	Gidge, Kenneth
Gimas, John	Goley, Jeffrey	Gorman, Mary	Graham, John
Kurk, Neal	Leishman, Peter	Levasseur, Nickolas	Long, Patrick
Messier, Irene	Moran, Edward	Murphy, Keith	Pilotte, Maurice
Porter, Marjorie	Ramsey, Peter	Rhodes, Brian	Rosenwald, Cindy
Shaw, Barbara	Sullivan, Daniel	Sullivan, Peter	Terrio, Ross
Thomas, Joseph	Vaillancourt, Steve	Warden, Mark	

MERRIMACK

Bouchard, Candace	Cohn, Seth	Deloge, Helen	DeStefano, Stephen
Foose, Robert	Frazer, June	Gile, Mary	Hamm, Christine
Hess, David	Keane, Thomas	Kidder, David	Lockwood, Priscilla
MacKay, James	McGuire, Dan	Owen, Derek	Patten, Dick
Potter, Frances	Rice, Chip	Richardson, Gary	Richardson, Jon
Seaworth, G. Brian	Shurtleff, Stephen	Soltani, Tony	Wallner, Mary Jane
Watrous, Rick			

ROCKINGHAM

Cali-Pitts, Jacqueline	Davenport, Joshua	DiPentima, Rich	Lovejoy, Patricia
Moody, Marcia	Norelli, Terie	Pantelakos, Laura	Peckham, Michele
Read, Robin Jr	Schlachman, Donna	Schroadter, Adam	Serlin, Christopher
Sytek, John			

STRAFFORD

Berube, Roger	Brown, Julie	Browne, Brendon	Ginsburg, Philip
Grassie, Anne	Hooper, Dorothea	Horrigan, Timothy	Roberts, Jenna
Schmidt, Peter	Spang, Judith	Sprague, Dale	Watters, David

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew		

NAYS 224

BELKNAP

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

CARROLL

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

CHESHIRE

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

COOS

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

GRAFTON

Bradley, Lester
Brosseau, Charles
Bulis, Lyle
Gionet, Edmond
Ingbretson, Paul
Ladd, Rick Jr
Mirski, Paul
Reilly, Harold Sr
Shackett, Jeffrey
Simard, Paul
Sorg, Gregory
Sova, Charles

HILLSBOROUGH

Avard, Kevin
Balboni, Michael
Ball, J. Michael
Barry, J. Gail
Barry, Richard
Belanger, James
Belvin, William
Bergevin, Jerry
Boehm, Ralph
Brown, Kevin
Brownrigg, Randall Jr
Burt, John
Buxton, Michael
Cebrowski, John
Christiansen, Lars
Coffey, James
Condra, William
Coughlin, Sean
Cusson-Cail, Kathleen
Daniels, Gary
Day, Russell
DeJong, Cameron
Doherty, Shaun
Donovan, Daniel
Drisko, Richard
Flanagan, Jack
Gagne, Larry
Gandia, Laura
Gonzalez, Carlos
Greazzo, Phil
Hansen, Peter
Hardwick, Harry
Hawkins, Kenneth
Hikel, John
Hogan, Edith
Holden, Frank
Hopper, Gary
Hutchinson, Winfred
Infantine, William
Jasper, Shawn
Krasucki, Joseph
Lambert, George
LeBrun, Donald
Maltz, Jonathan
McCarthy, Michael
McClarren, Donald
McGuinness, Sean
Mecheski, Holly
Notter, Jeanine
Ober, Lynne
Ober, Russell III
Ohm, Bill
Palmer, Barry
Palmer, Stephen
Parison, James
Pellegrino, Tony
Pepino, Leo
Peterson, Lenette
Pratt, Calvin
Reed, Michael
Renzullo, Andrew
Robbins, David
Rowe, Robert
Scontsas, Lisa
Seidel, Carl
Silva, Peter
Simmons, Tammy
Soucy, Connie
Souza, Kathleen
Stroud, Kathleen
Summers, James
Swank, Matthew
Twombly, Timothy
Ulery, Jordan
Villeneuve, Moe
Whitehead, Randall
Willette, Robert

MERRIMACK

Blankenbeker, Lynne	Coffey, Jennifer	Giuda, J. Brandon	Hill, Gregory
Hoell, J.R.	Kotowski, Frank	Kreis, Kenneth Sr	Lauer-Rago, Kathleen
Lindsley, Mark	McDonnell, John	McGuire, Carol	Palfrey, David
Reed, Dennis	Sanborn, Laurie	Winter, Steven	

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Antosz, Jason	Azarian, Gary
Baldasaro, Alfred	Bates, David	Bettencourt, David	Birdsell, Regina
Brown, Paul	Chirichiello, Brian	Copeland, Timothy	DeSimone, Debra
Devine, James	Dowling, Patricia	Duarte, Joe	Elliott, Robert
Ferrante, Beverly	Fesh, Robert	Garrity, James	Griffin, Mary
Hagan, Joseph	Headd, James	Hoelzel, Kathleen	Introne, Robert
Itse, Daniel	Kappler, Lawrence	Katsakiores, Phyllis	Kolodziej, Walter
Major, Norman	Manuse, Andrew	Mauro, Donna	McKinney, Betsy
Nevins, Chris	O'Connor, John	Okerman, Richard	Packard, Sherman
Perkins, Amy	Perkins, Lawrence	Quandt, Marshall	Quandt, Matt
Reagan, John	Reichard, Kevin	Rice, Frederick	Ritter, Glenn
Sanders, Elisabeth	Sapareto, Frank	Sedensky, John	Sheffert, Kenneth
Shuler, Wyman III	Smith, William	Sullivan, James	Sullivan, Kevin
Tamburello, Daniel	Tremblay, Stella	Tucker, Pamela	Waddell, James
Ward, Joanne	Waterhouse, Kevin	Welch, David	Weyler, Kenneth

STRAFFORD

Cataldo, Sam	DeLemus, Susan	Groen, Warren	Jones, Laura
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

and the motion failed.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Rep. Belvin spoke in favor and yielded to questions.
On a division vote, 235 members having voted in the affirmative and 95 in the negative, the majority committee report was adopted and ordered to third reading.

The House recessed at 12:20 p.m.

RECESS

The House reconvened at 1:30 p.m.

(Speaker O'Brien in the Chair)

MOTION TO REMOVE FROM THE TABLE

Rep. Baldasaro moved that ***SB 308,*** proclaiming January 24, 2013 as Granny D. Day, be removed from the table.
Rep. Tamburello requested a roll call; sufficiently seconded.

YEAS 146 NAYS 166

YEAS 146

BELKNAP

Comtois, Guy
Fields, Dennis
Flanders, Donald
Greemore, Robert
Kingsbury, Robert
Malone, Robert
Pilliod, James
Simpson, Tyler
Swinford, Elaine
Tilton, Franklin
Tobin, William

CARROLL

Ahlgren, Christopher
Knox, J. David
McCarthy, Frank
Pettengill, Laurie
Schmidt, Stephen
Tregenza, Norman

CHESHIRE

Cartwright, Anne
Dwinell, Richard
Hunt, John
Lindsey, Steven
Moore, Charles
Smith, Edwin
Sterling, Franklin Jr

COOS

Daugherty, Duffy
Rappaport, Laurence
Richardson, Herbert
Tholl, John Jr

GRAFTON

Brosseau, Charles
Mirski, Paul
Sova, Charles

HILLSBOROUGH

Avard, Kevin
Balboni, Michael
Ball, J. Michael
Barry, Richard
Burt, John
Cebrowski, John
Christiansen, Lars
Coffey, James
Condra, William
Coughlin, Sean
Daniels, Gary
DeJong, Cameron
Doherty, Shaun
Donovan, Daniel
Flanagan, Jack
Fredette, Robert
Gagne, Larry
Gonzalez, Carlos
Greazzo, Phil
Hansen, Peter
Hardwick, Harry
Hikel, John
Hogan, Edith
Krasucki, Joseph
Lambert, George
Maltz, Jonathan
McClarren, Donald
Murphy, Keith
Palmer, Stephen
Parison, James
Pellegrino, Tony
Peterson, Lenette
Reed, Michael
Renzullo, Andrew
Rowe, Robert
Seidel, Carl
Silva, Peter
Simmons, Tammy
Soucy, Connie
Souza, Kathleen
Summers, James
Swank, Matthew
Terrio, Ross
Twombly, Timothy
Warden, Mark
Whitehead, Randall

MERRIMACK

Blankenbeker, Lynne
Coffey, Jennifer
Cohn, Seth
Hill, Gregory
Hoell, J.R.
Keane, Thomas
Kreis, Kenneth Sr
Lindsley, Mark
McDonnell, John
McGuire, Carol
McGuire, Dan
Palfrey, David
Seaworth, G. Brian
Soltani, Tony

ROCKINGHAM

Abrami, Patrick
Antosz, Jason
Baldasaro, Alfred
Bettencourt, David
Birdsell, Regina
Brown, Paul
Chirichiello, Brian
Davenport, Joshua
Devine, James
Duarte, Joe
Ferrante, Beverly
Fesh, Robert
Griffin, Mary
Hagan, Joseph
Hoelzel, Kathleen
Itse, Daniel
Kappler, Lawrence
Katsakiores, Phyllis
Kolodziej, Walter
Manuse, Andrew
Mauro, Donna
Nevins, Chris
Okerman, Richard
Peckham, Michele
Quandt, Matt
Reichard, Kevin
Rice, Frederick
Sapareto, Frank
Schroadter, Adam
Sedensky, John
Sheffert, Kenneth
Shuler, Wyman III
Smith, William
Tamburello, Daniel
Tremblay, Stella
Waterhouse, Kevin
Welch, David
Weyler, Kenneth

STRAFFORD

Berube, Roger	Cataldo, Sam	DeLemus, Susan	Groen, Warren
Jones, Laura	O'Connor, William	Pitre, Joseph	Roberts, Jenna
Vita, Carol	Vita, Lucien		

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	

NAYS 166

BELKNAP

Accornero, Harry	Bolster, Peter	Russell, David	Worsman, Colette

CARROLL

Babson, David Jr	Chandler, Gene	Fleck, Joseph	McConkey, Mark
Merrow, Harry	Patten, Betsey	Umberger, Karen	

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Johnson, Jane	Meader, David	Moore, Robert Jr	Parkhurst, Henry
Roberts, Kris	Sad, Tara	Tatro, Bruce	Weber, Lucy
Weed, Charles			

COOS

Coulombe, Gary	Hatch, William	Remick, William	Theberge, Robert
Tremblay, Marc			

GRAFTON

Almy, Susan	Benn, Bernard	Bradley, Lester	Cooney, Mary
Gionet, Edmond	Gould, Franklin	Harding, Laurie	Ladd, Rick Jr
Nordgren, Sharon	Pierce, David	Reilly, Harold Sr	Shackett, Jeffrey
Simard, Paul	Smith, Suzanne	Taylor, Kathleen	Townsend, Charles
White, Andrew			

HILLSBOROUGH

Baroody, Benjamin	Barry, J. Gail	Belanger, James	Belvin, William
Bergevin, Jerry	Boehm, Ralph	Brownrigg, Randall Jr	Buxton, Michael
Campbell, David	Cote, David	Cusson-Cail, Kathleen	Daler, Jennifer
Drisko, Richard	Gandia, Laura	Garrity, Patrick	Gidge, Kenneth
Gimas, John	Gorman, Mary	Graham, John	Hawkins, Kenneth
Holden, Frank	Hopper, Gary	Hutchinson, Winfred	Infantine, William
Jasper, Shawn	Kurk, Neal	LeBrun, Donald	Leishman, Peter
Levasseur, Nickolas	Long, Patrick	McGuinness, Sean	Mecheski, Holly
Messier, Irene	Notter, Jeanine	Ober, Lynne	Ober, Russell III
Ohm, Bill	Palmer, Barry	Pilotte, Maurice	Porter, Marjorie
Rhodes, Brian	Robbins, David	Rosenwald, Cindy	Scontsas, Lisa
Shaw, Barbara	Stroud, Kathleen	Sullivan, Daniel	Sullivan, Peter
Thomas, Joseph	Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Moe
Willette, Robert			

MERRIMACK

Bouchard, Candace	Deloge, Helen	Foose, Robert	Frazer, June
Gile, Mary	Giuda, J. Brandon	Hess, David	Kidder, David
Kotowski, Frank	Lauer-Rago, Kathleen	Lockwood, Priscilla	MacKay, James
Owen, Derek	Potter, Frances	Reed, Dennis	Rice, Chip
Richardson, Gary	Shurtleff, Stephen	Watrous, Rick	Winter, Steven

ROCKINGHAM

Allen, Mary	Azarian, Gary	Bates, David	Cali-Pitts, Jacqueline
Copeland, Timothy	DeSimone, Debra	DiPentima, Rich	Elliott, Robert
Garrity, James	Headd, James	Introne, Robert	Lovejoy, Patricia
Major, Norman	McKinney, Betsy	Moody, Marcia	Norelli, Terie
O'Connor, John	Packard, Sherman	Pantelakos, Laura	Perkins, Amy
Perkins, Lawrence	Quandt, Marshall	Read, Robin Jr	Ritter, Glenn
Sanders, Elisabeth	Schlachman, Donna	Serlin, Christopher	Sullivan, James
Sytek, John	Waddell, James	Ward, Joanne	

STRAFFORD

Brown, Julie	Browne, Brendon	Ginsburg, Philip	Grassie, Anne
Hooper, Dorothea	Horrigan, Timothy	Kaen, Naida	Munck, Philip
Parsons, Robbie	Schmidt, Peter	Spang, Judith	Watters, David

SULLIVAN

Gagnon, Raymond	Rodeschin, Beverly	Schmidt, Andrew	Smith, Steven

and the motion failed.

REGULAR CALENDAR (CONT'D)

SB 359, relative to civil actions involving accessibility standards for public buildings.
MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Brian J. X. Murphy for the Majority of Judiciary: This bill that provides that in an action to enforce accessibility standards for public buildings the court may award attorney fees to the prevailing party. The bill provides enforcement authority for the New Hampshire protection and advocacy system. If probable cause exists that a public building violates accessibility standards, then the owner shall have 30 days to respond to a compliance letter and then 270 days to bring the building into compliance. If the owner does not bring the building into compliance, then an action may be brought in superior court to compel compliance. The court may award reasonable attorney's fees and costs to the prevailing party. Vote 8-1.

Rep. Lucy M. Weber for the Minority of Judiciary: Currently, disabled citizens who are unable to access a building have two avenues open to them. They may proceed either under federal law or state law. If they choose to proceed under state law, the landlord has a period of up to nine (9) months to take corrective measures. The adoption of the changes, results in greater risk that the disabled person may be responsible for the landlord's attorney's fees. As a result, more disabled persons will bring suit under the federal system, where the landlord may have immediate liability for damages without the nine months to work out reasonable accommodations.

Majority Amendment (2183h)

Amend the bill by replacing section 1 with the following:

1 Accessibility Standards for Public Buildings; Enforcement Actions. Amend RSA 155-A:5-a, V to read as follows:

V. In addition to other enforcement authority granted in this chapter, the protection and advocacy system for New Hampshire, as designated by the governor pursuant to 42 U.S.C. section 15043, shall have standing to enforce the accessibility standards required by this section. If the protection and advocacy system determines that probable cause exists that a public building violates the accessibility certification or inspection requirements of this section, it shall issue a letter to the owner of the building specifically identifying the deficiencies and requesting that the building be brought into compliance. The owner shall have 30 days to respond to the letter and 270 days to bring the building into compliance. If the owner does not respond, does not agree that there are some or all of the deficiencies asserted, ***or*** does not agree to bring the building into compliance within the specified time periods, or any other dispute remains as to compliance, either the owner or the protection and advocacy system may file an action in the superior court to determine compliance with this section. The protection and advocacy system may bring the action in its name or in the name of any individual with a physical impairment who is adversely affected by the alleged failure to adhere to the accessibility standards of the state building code, or both. If it is determined by the superior court that the building is not in compliance with the accessibility standards in the state building code, the court shall order that the [~~owner~~] ***responsible party*** bring the building into compliance. [~~If the protection and advocacy system prevails in such action, it shall be awarded court costs and reasonable attorney's fees from the owner. For purposes of this section, "prevailing" is defined to include a judgment by the court, a consent decree, or instances where the owner agrees to make or makes some or all of the requested changes after the filing date of the action.~~] ***The court may award reasonable attorney's fees and costs to the prevailing party. For purposes of this section, a party prevails only if it receives either an enforceable judgment on the merits or a consent decree.***

AMENDED ANALYSIS

This bill provides that, in an action to enforce accessibility standards for public buildings, the court may award attorneys fees to the prevailing party. The bill also defines prevailing party in such cases.

Majority committee amendment adopted.

Majority committee report adopted and ordered to third reading.

SB 406, establishing an early offer alternative in medical injury claims. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. J. Brandon Giuda for the Majority of Judiciary: This bill, as amended, establishes a voluntary evenhanded process for parties involved in a medical injury claim to quickly and efficiently settle the claim. The process provides an incentive for injured claimants as it reduces uncertainty and allows them to quickly receive past, present and future economic damages without having to hire an attorney and without having to wade through years of litigation. In return for a quick and full settlement of economic damages, the claimant gives up the right to non-economic damages. The process provides an incentive for medical providers because it reduces uncertainty and liability exposure, reduces the possibility of years of litigation, and allows the medical care provider to focus on providing medical care. In return, the medical care provider pays for the administration of the early offer system and promptly pays the meritorious claimant full and fair economic damages. The bill provides safeguards for claimants who are unrepresented such as a legal advisor and a neutral hearing officer who is not affiliated in any way with the medical providers. It is expected that this voluntary program will provide more consistent results, will eliminate long waits and burdensome litigation costs, and will reduce the practice of defensive medicine. Attached to this bill are two bills passed by the House earlier this year by significant majorities. HB 1438 fixes an unconstitutional law that has contributed to imprisoning innocent citizens. Although HB 1438 passed the House with only 23 dissenting votes, it was not given due consideration in the Senate. HB 1725 which also relates to the medical community passed the House on the consent calendar and also was not given due consideration in the Senate. Vote 9-4.

Rep. Lucy M. Weber for the Minority of Judiciary: The minority appreciates the time and effort put into this bill by the committee as a whole and by individual members. However we are concerned that, due to the pressures of time, this bill has not had the benefit of the thorough subcommittee consideration necessary for a new and untested procedure. The early offer alternative has not been adopted by any other jurisdiction, so there is no available track record. The minority notes many areas of concern, only a few of which are listed here. First, the process simply does not adequately compensate a person who has been injured through the negligence or worse of the medical provider. The settlement schedule is relatively low, and the injured party waives any right to non-economic damages. Second, although the bill provides for independent hearings officers and independent advisors for injured persons who are unrepresented by counsel, how truly independent will these hearings officers and advisors be, considering they are paid by the medical care provider, and are thus dependent on the goodwill of the medical care provider for their livelihood? Third, the time frame of the process is such that the injured party may settle the claim before the full extent of the injury has become apparent. If the injured person agrees to have all their future medical expenses and lost earnings reduced to present value and paid as one lump sum, there will be no possibility of compensation for further complications. Fourth, not only is the bill potentially harmful to the injured party, it is opposed by some of the major insurers in the state, who say they are not set up to pay wages and medical bills on a weekly basis for an undetermined time into the future. An insurance company representative testified that, at best, her company would never make a settlement offer under this bill (thus raising the possibility that four more months could be added to the existing process) or at worst, insurance companies would leave the state. In addition to more difficulty in obtaining coverage, increased medical malpractice premiums are also a risk. Fifth, a representative from the court system has also warned of the difficulty of obtaining qualified hearings officers and advisors because of conflicts with the current definitions, and of the inappropriateness of court involvement in the process. Sixth, members of the minority believe that the best way to ensure justice required by the NH Constitution for injured persons is to fully fund the court system to provide adequate judges and staffers to ensure cases are heard in a timely manner. Finally, although the attachment to the bill of two unrelated matters is allowable under our rules, the minority thinks this maneuver does not further good government.

Majority Amendment 1980

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

AN ACT relative to establishing an early offer alternative in medical injury claims, relative to confidentiality of police personnel files, and relative to prohibiting health care practitioner self-referrals for medical devices.

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

1 Findings and Purpose.

I. The general court finds that the legal system for resolving claims for medical injury requires reform to encourage the fast and efficient payment of meritorious claims. Under the current system individuals with meritorious claims are either unable to litigate their claims or wait for an uncertain recovery while medical providers are often deprived of a fair and reasonable opportunity to address and resolve claims in a timely manner. In addition, the general public is adversely affected because significant resources are spent on litigation costs and defensive medicine or on coverage for those unable to litigate claims. The result is a system that has higher than necessary health care costs, higher liability insurance premiums, and higher health insurance premiums.

II. These overarching conclusions are based upon the following factual findings:

(a) Inconsistent results: Recent data presented to the general court by the New Hampshire insurance department pursuant to RSA 519-B:14, II shows that the current medical injury liability system produces inconsistent results with average indemnity payments on similar claims varying substantially from year to year.

(b) Long waits for the parties: The testimony before the general court demonstrates that medical injury cases are highly complex, requiring specialized medical evidence and testimony. This complex medical evidence and testimony requires additional discovery and case preparation that results in a particularly lengthy process for resolving cases.

(c) Costly litigation: Recent data presented to the general court by the New Hampshire insurance department pursuant to RSA 519-B:14, II shows that the aggregate administrative and litigation costs for all claims for medical injury nearly exceed the amount that claimants receive for their injuries.

(d) Defensive medicine: Data from the American Medical Association, Gallup, Harvard School of Public Health, Health Affairs Magazine, and other reliable sources estimate that defensive medicine, practiced in response to the current medical injury system, increases the annual health care expenditures in the United States by billions of dollars. These organizations consider defensive medicine to be diagnostic tests or treatments that have little or no expected benefit to the patient, ordered primarily as a means to guard against claims of liability.

III. The legislature further finds that the slow, inconsistent, and costly nature of the existing medical injury litigation system has a detrimental impact upon injured claimants, whose medical and economic needs require rapid resolution of their claims with less uncertainty, risk, and costs, as well as upon medical providers whose provision of patient care is disrupted by lengthy and costly litigation of medical injury claims.

IV. Therefore, the important governmental objective of this act is to supplement the existing medical injury compensation system with an alternative system that will provide fast and certain results for those who use it, while preserving access to the court system and medical injury screening panels for parties that choose to resolve claims under the current system. The general court further finds that the early offer process set forth in RSA 519-C as inserted by this act to resolve medical injury claims is substantially related to this important governmental objective.

V. The general court further finds that medical injury claimants will benefit from the early offer process set forth in RSA 519-C as inserted by this act as it provides the option of a simple, clear process defined in statute that provides prompt and sure recovery of all economic losses associated with meritorious claims settled pursuant to RSA 519-C. The early offer process, if elected, would be more efficient and cost effective in many cases than the high risk, high cost traditional litigation process.

VI. In exchange for the benefits of the early offer process established in this act, the claimant agrees to participate fully in the process, which may affect the damages the claimant can recover, the fees the claimant's attorney may receive, and other important rights or claims that may exist under the existing system.

VII. The general court finds that the benefits to the public and to the parties to medical injury claims from the process established in this act far exceed the burdens imposed on the general public and medical injury claimants.

2 New Chapter; Early Offers for Medical Injury Claims. Amend RSA by inserting after chapter 519-B the following new chapter:

CHAPTER 519-C

EARLY OFFERS FOR MEDICAL INJURY CLAIMS

519-C:1 Definitions. In this chapter:

I. "Claim for medical injury" means any claim against a medical care provider, whether based in tort, contract, or otherwise, to recover damages on account of a medical injury.

II. “Claimant” means an individual who, in his or her own right, or on behalf of another as otherwise permitted by law, is seeking compensation for a medical injury, due to alleged sub-standard medical care or treatment.

III. “Early offer” means an offer to pay an injured person’s economic loss related to a medical injury, and reasonable attorney’s fees and costs incurred in representing the injured person under this chapter. No other damages of any kind shall be included in an early offer under this chapter.

IV. “Economic loss” means monetary expenses incurred by or on behalf of a claimant reasonably related to a medical injury and its consequences, including actual out-of-pocket medical expenses, replacement services, additional payment to the claimant pursuant to RSA 519-C:7, and 100 percent of the claimant’s salary, wages or income from self-employment or contract work lost as a result of the medical injury. Economic loss does not include: pain and suffering, punitive damages, enhanced compensatory damages, exemplary damages, damages for loss of enjoyment of life (hedonic damages), inconvenience, physical impairment, mental anguish, emotional pain and suffering, and loss of the following: earning capacity, consortium, society, companionship, comfort, protection, marital care, parental care, attention, advice, counsel, training, guidance or education, and all other non-economic damages of any kind.

V. “Hearing officer” means a person of judicial and/or legal training, common sense, and a respect for the law, including retired New Hampshire judges, judicial referees, and masters, assigned by the New Hampshire supreme court, who shall be paid by the medical care provider for presiding at hearings under this chapter at the rate applicable to such officers of the court when presiding at hearings and court related matters. No hearing officer shall be employed by the insurance department or shall serve if such service would constitute a conflict under the New Hampshire Rules of Professional Conduct, or would require disqualification under the Code of Judicial Conduct.

VI. “Medical care provider” means a physician, physician’s assistant, registered or licensed practical nurse, hospital, clinic, or other health care provider or agency licensed by the state, or otherwise lawfully providing medical care or services, or an officer, employee, or agent thereof acting in the course of and scope of employment.

VII. “Medical injury” or “injury” means any adverse, untoward, or undesired consequences caused by professional services rendered by a medical care provider, whether resulting from negligence, error, or omission in the performance of such services; from rendition of such services without informed consent or in breach of warranty or in violation of contract; from failure to diagnose; from premature abandonment of a patient or of a course of treatment; from failure properly to maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services.

VIII. “Notice of injury” means written notice by certified mail provided to the medical care provider alleged to have caused a medical injury, and containing:

(a) The name, address, and telephone number of the claimant;

(b) The believed date and place of the alleged medical injury;

(c) The nature of the alleged injury;

(d) An explanation, if known, as to how the alleged injury was caused;

(e) A description of the severity of the alleged injury, including the claimant’s opinion of where the injury is located on the National Practitioner Data Bank severity scale;

(f) Medical records and medical bills associated with the alleged injury or a limited authorization allowing the medical care provider to obtain medical records and medical bills associated with the alleged injury;

(g) Evidence of lost wages or income from self-employment or contract work for the individual suffering from an alleged medical injury, which may be supplied through income tax returns or paycheck stubs for the year prior to the alleged injury and any subsequent records up to the date of the notice of alleged injury, or a limited authorization allowing the medical care provider to obtain such records;

(h) A demand for economic loss resulting from the alleged injury, that includes only medical expenses, replacement services, reasonable attorney fees, and lost wages, or income from self-employment or contract work;

(i) The name, address and telephone number of claimant's attorney; and

(j) A request that the medical care provider extend an early offer of settlement of the claim.

IX. "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

X. "Reasonable attorney fee" means 20 percent of the present value of the claimant's economic loss and the reasonable costs incurred in representing the injured person under this chapter.

XI. "Replacement services" means expenses reasonably incurred in obtaining ordinary and necessary services from others, who are not members of the injured person's household, in lieu of those the injured person would have performed for the benefit of the household, but could not because of the injury.

XII. "Wages" means monetary payment for services rendered, and the reasonable value of board, rent, housing, lodging, fuel, or a similar advantage received from the employer and gratuities received in the course of employment from others than the employer; but "wages" shall not include any sum paid by the employer to the employee to cover any special expenses incurred by the employee because of the nature of the employment. For individuals receiving unemployment benefits pursuant to RSA 282-A:25 at the time of the injury, wages shall equal the wage rate used to determine the unemployed individual's unemployment benefit pursuant to RSA 282-A:25. For a minor who is injured prior to reaching the age of 18 and who is unable to perform any gainful work as a result of the medical injury, upon reaching the age of 18 wages shall equal the mean New Hampshire per capita income as shown by the American Community Survey's 1-year Estimate (inflation adjusted), produced by the United States Census Bureau.

519-C:2 Procedure.

I. After a medical injury, the claimant may:

(a) Pursue resolution of a claim for medical injury pursuant to this chapter; or

(b) Pursue an action for medical injury as provided in RSA 507-E and RSA 519-B.

II. For so long as the claimant and medical provider are proceeding under this chapter, this section shall govern the procedure for resolving the medical injury claim at issue between the 2 parties, notwithstanding any other provision of law.

III. If the claimant elects to pursue a remedy under this chapter, the claimant shall serve a notice of injury to the medical care provider alleged to be responsible for the injury and an executed notification and waiver of rights in the form set forth in RSA 519-C:13, by certified mail, return receipt requested.

IV. Upon the receipt by the medical care provider of a notice of injury and an executed notification and waiver of rights, the medical care provider may elect to:

(a) Extend an early offer of settlement; or

(b) Decline to extend an early offer of settlement.

V. A claimant's failure to submit a notice of injury requesting an early offer, or a provider's failure to extend an early offer, shall not be subject to review in any hearing, court, or other proceeding of any kind.

VI. The medical care provider shall respond to the claimant's notice of injury in writing, within 90 days, setting forth the details of its early offer, or indicating that the medical care provider has decided not to extend an early offer of settlement. The medical care provider's written response shall be sent by certified mail, return receipt requested, to the address provided in the claimant's notice of injury.

VII. The medical care provider may request in writing that the individual alleging a medical injury submit to an independent medical examination by a qualified and board certified physician chosen by the medical care provider and agreed to by the claimant at a time and place reasonably convenient for the claimant. If the parties cannot agree on a physician to conduct the examination within 30 days of the request, the hearing officer shall select the physician. The physician conducting the examination shall not be affiliated directly or indirectly in any way, with the medical care provider alleged to have caused the injury. The cost of the examination, including reasonable travel expenses for the claimant, shall be paid by the medical care provider's professional liability insurance company. Within 5 days of receipt, the medical provider or its insurer shall, at no cost to the claimant, provide the claimant with all reports and documents originating from the examination. The claimant shall also be entitled to obtain a transcript and/or audio-video recording of the examination at the claimant's expense. Any physician conducting medical examinations under this section shall be certified by the appropriate specialty board as recognized by the American Board of Medical Specialties and in good standing with the New Hampshire board of medicine.

VIII. If the medical care provider requests that the claimant submit to a physical examination as set forth in paragraph VII, the time allowed for a medical care provider to respond to the claimant's notice of injury shall be extended by 30 days.

IX. If the medical care provider extends an early offer, the claimant shall accept or reject the medical care provider's written offer in writing within 60 days of receipt of the offer. If the claimant requests a hearing pursuant to RSA 519-C:10, to resolve any dispute with respect to the content of an early offer, the timeframe within which the claimant may accept or reject the early offer shall be extended until 10 days after the decision on the disputed issue is issued by the hearing officer.

X. If the claimant accepts the medical care provider's early offer, the claimant shall notify the medical care provider in writing by certified mail, return receipt requested, and thereafter, the claimant is barred from pursuing any claim for the same medical injury against any medical care provider.

XI. If the claimant rejects the medical care provider's early offer or does not accept the medical care provider's early offer within the time constraints provided by paragraph IX, the early offer shall be considered rejected. A claimant who rejects an early offer may pursue an action for medical injury against the medical care provider pursuant to RSA 507-E, however such claimant shall be exempt from the requirements of RSA 519-B.

XII. A claimant who rejects an early offer and who does not prevail in an action for medical injury against the medical care provider that made the early offer, shall be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in the proceedings under this chapter. A claimant who rejects an early offer and who is awarded economic damages equal to or less than the amount of the early offer may be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in proceedings under this chapter, if the court hearing the medical injury action finds that the claimant's decision to reject the early offer and pursue the medical injury action was unreasonable.

519-C:3 Unrepresented Claimant.

I. If the claimant is not represented by legal counsel, upon receiving a notice of injury, the medical care provider shall provide a neutral advisor who is a member of the New Hampshire Bar or a retired judge, at the medical care provider's expense, to offer assistance to the claimant and medical care provider under this chapter. Among other things, the neutral advisor shall encourage the claimant to consider retaining an attorney, and shall ensure the claimant is aware of the differences between proceeding under this chapter or as provided in RSA 507-E and RSA 519-B.

II. A claimant who was unrepresented at the time the claimant submitted the notice and waiver of rights shall have the right to withdraw the notice of injury and the notice and waiver of rights within 5 business days after the claimant's first meeting with the neutral advisor, which shall occur no later than 10 business days from claimant's notification of the identity of the neutral advisor. In the event the claimant withdraws the notice of injury, the early offer process shall be terminated and both parties shall proceed as if the notice of injury was never filed.

III. No medical care provider or insurer shall extend an early offer prior to the expiration of 15 business days after the claimant receives notification of the appointment of the neutral advisor.

519-C:4 Confidentiality.

I. Proceedings, records, and communications during negotiation of an early offer shall be treated as private and confidential by the claimant and the medical care provider, except if such information would normally be discoverable pursuant to the Rules of Evidence. The outcome and any other writings, evidence, or statements made or offered by a party or a party's representative during negotiation of an early offer and relevant only to the early offer process are not admissible in court or in a screening panel hearing under RSA 519-B, shall not be submitted or used for any purpose in a subsequent trial, and shall not be publicly disclosed.

II. A notice of injury provided pursuant to RSA 519-C:2, III, and subsequent actions taken pursuant to this chapter shall be exempt from the reporting requirements of RSA 329:17 and administrative rules adopted thereunder, unless the parties reach a settlement under this chapter. Settlements reached pursuant to this chapter are not exempt from the reporting requirements of RSA 329:17 and said administrative rules.

519-C:5 Payment of Early Offer.

I. If an early offer is accepted, economic losses previously incurred by the claimant as a result of the medical injury and the reasonable attorney fee shall be paid by the medical care provider to the claimant within 15 days of the claimant accepting an early offer.

II. If an early offer is accepted, the medical care provider shall pay future economic losses incurred by the claimant to the claimant as such losses accrue. If any requested payment is denied, the medical provider shall notify the claimant in writing of the denial and the basis for denial, and inform the claimant that any request for a hearing under RSA 519-C:10 regarding the denial must be made within 30 days of the date of denial.

(a) Payments for medical bills arising after the early offer settlement is reached shall be made within 15 days after the medical care provider receives reasonable proof of the fact and the amount of loss sustained. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof shall be paid within 15 days after such proof is received. Any part or all of the remainder of the claim that is later supported by reasonable proof shall be paid within 15 days after such proof is received by the medical care provider. The medical care provider shall pay any and all fees and charges incurred by the claimant resulting from failure to make timely payment of medical bills.

(b) Payment of lost wages shall be made weekly. At a minimum, such payments shall be adjusted annually on July 1 by a factor equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for Boston-Brockton-Nashua, MA-NH-ME-CT for the prior 12 months established by the Federal Bureau of Labor Statistics.

(c) Payment of any other amounts due under an early offer shall be paid within 30 days of the date that the provider receives notice and proof of the fact and amount that is due.

(d) When necessary for the medical care provider or its insurer to evaluate whether medical expenses are reasonably related to the medical injury, the medical care provider may request in writing that the claimant submit to an independent medical evaluation as provided by section C:2, VII.

III. Interest shall accrue at the rate of 1-1/2 percent per month on any amounts due under an early offer that are not paid as prescribed by this section.

IV. In lieu of periodic payments, the claimant and medical care provider may agree upon a lump sum payment for any and all potential future economic losses suffered by the claimant, provided that the lump sum agreement is reviewed and approved by a hearing officer after a hearing.

519-C:6 Compensation for Death. If death results from a medical injury, the amount of an early offer pursuant to this chapter shall include:

I. Any economic loss incurred by the decedent prior to death;

II. The value at the time of death of what would have been the net earnings of the deceased, less living expenses during the period of his or her life expectance, but for the medical injury;

III. The value of replacement services during the period of the decedent's life expectance, but for the medical injury;

IV. The additional payment determined pursuant to RSA 519-C:7; and

V. A reasonable attorney fee.

519-C:7 Additional Payment to the Claimant.

I. In addition to the lost wages, medical expenses, and replacement services, economic loss included in any early offer under this chapter shall include an additional payment to the claimant.

II. The additional payment, as adjusted under paragraph V, that must be included in an early offer shall be:

(a) For a temporary injury involving only emotional harm, without physical injury: $5,500.

(b) For a temporary injury involving insignificant harm: $5,500.

(c) For a temporary injury involving minor harm: $11,000.

(d) For a temporary injury involving major harm: $40,000.

(e) For a permanent injury involving minor harm: $50,000.

(f) For a permanent injury involving significant harm: $100,000.

(g) For a permanent injury involving major harm: $150,000.

(h) For a permanent injury involving grave harm, or an injury resulting in death: $235,000.

III. Classification of injuries under paragraph II shall be determined using the National Practitioner Data Bank severity scale.

IV. Either party may request a hearing pursuant to RSA 519-C:10 to resolve a dispute regarding classification of injury severity under this section.

V. The additional payment amounts in paragraph II shall be adjusted annually on July 1 beginning in 2013 by a factor equal to the percentage change in the CPI-U index for medical care for the Northeast Region for the prior 12 months established by the Federal Bureau of Labor Statistics.

519-C:8 Assignments; Certain Claims of Creditors.

I. Payments for economic loss under this chapter shall not be assignable.

II. Claims for child support, spousal support, or combination child and spousal support payments, pursuant to RSA 458-B, may be enforced against economic loss settlements.

519-C:9 Multiple Parties Alleged to have Contributed to Causing Medical Injury.

I. Every early offer to settle a claim under this chapter shall include all of the economic loss, plus a reasonable attorney fee as set forth herein, and shall not be reduced or apportioned based on comparative fault of multiple providers. Any medical care provider, or combination of providers alleged to have contributed to causing an injury may extend an early offer as provided in this chapter, and acceptance of that offer by the claimant shall bar any further lawsuit or other claims for compensation by the claimant against all medical care providers arising as a result of the same medical injury. However, any medical care provider that extends an early offer to a claimant may seek contribution in a separate action against any medical care provider or other party that contributed to causing the medical injury. The injured individual shall not be a party to any action for contribution between medical care providers, however, the injured individual shall reasonably cooperate with the proceedings and provide such reasonable information and testimony as may be necessary to resolve the contribution claim. The parties to the action shall pay the injured individual all reasonable costs associated with such reasonable cooperation and testimony, including travel expenses and reasonable loss of earnings or a witness fee of $100 per day, whichever is greater.

II. Nothing in this section shall be regarded as exempting contribution claims from any applicable provisions of RSA 519-B.

III. Nothing in this section shall limit claims by the claimant against any party other than medical care providers who participated in providing medical care which gave rise to the medical injury.

519-C:10 Dispute Resolution.

I. Upon the request of either party, the New Hampshire supreme court shall appoint a qualified hearing officer to resolve a dispute regarding an early offer made under this chapter.

II. Dispute resolution under this chapter shall be limited to the following issues:

(a) Whether an early offer includes all of the economic loss related to the injury that is required by this chapter;

(b) Whether economic loss of any kind, past or future, asserted by the claimant, is reasonably related to an injury that is the subject of an early offer;

(c) Which severity level, pursuant to RSA 519-C:7, most closely describes the injury that is the subject of an early offer; or

(d) What the net present value of an early offer is, for the purposes of calculating the appropriate payment for reasonable attorney fees.

III. No other disputes arising under this chapter may be the subject of, or resolved through a hearing under, this section.

IV. Any request for a hearing pursuant to this section shall contain a reasonably complete statement of the issue or issues to be resolved in the hearing shall fully identify all parties to the dispute. Any issue not listed in paragraph II shall not be considered. Hearings concerning economic loss that arises after a settlement under this chapter shall be requested within 30 days of the date payment for such economic loss is denied under RSA 519-C:5, II.

V. The medical care provider or, if applicable, the medical care provider's insurer shall pay all reasonable costs associated with a hearing under this section.

VI. Hearings conducted under this chapter shall be governed by this section and by the New Hampshire Rules of Evidence, except that in the discretion of the hearing officer and in the interest of justice, strict compliance with said rules may not be required.

VII. Any hearing conducted under this chapter shall be conducted within 45 days of the request and a decision shall be issued within 10 days of completion of the hearing. Hearings may be conducted in person or telephonically.

VIII. On a motion from any party, or on his or her own motion, a hearing officer may summarily determine any issue in dispute without a hearing if it appears from the record that there are no material issues of fact in dispute. By agreement of the parties, any dispute may be determined by the hearing officer on the written record without a hearing.

IX. Hearings conducted pursuant to this chapter shall be limited to a reasonable amount of time as determined by the hearing officer, shall not require the presence or testimony of expert witnesses, and shall be recorded by an accurate audio or stenographic recording of all testimony, available to both parties at the non-prevailing parties' expense.

X. Parties to a hearing under this section shall exchange exhibits and witness lists at least 10 days prior to the hearing. No exhibit may be introduced or witness called in a hearing unless exchanged with the opposing party pursuant to this paragraph.

XI. The hearing officer shall issue a written decision resolving the issues in dispute. If the hearing officer finds against the medical provider on any issue, the decision shall modify the terms of the early offer. The early offer, as modified by the decision of the hearing officer, shall be binding on the parties.

XII. In a hearing conducted pursuant to subparagraph II(b) of this section, if the hearing officer determines the claimant's position to be frivolous, the claimant shall reimburse the medical care provider for its costs related to presenting the dispute to the hearing officer, up to a maximum of $1,000.

XIII. In a hearing conducted pursuant to subparagraph II(b) of this section, if the hearing officer determines the medical care provider's position to be frivolous, the medical care provider shall reimburse the claimant for its costs related to presenting the dispute to the hearing officer, up to a maximum of $1,000, or if the claimant is unrepresented, pay the claimant double the amount that was frivolously disputed or denied.

519-C:11 Limitations of Claims.

I. Except for claims on behalf of deceased individuals, claims for medical injury to a competent adult under this chapter shall be subject to the limitation set forth in RSA 508:4.

II. Except for claims on behalf of deceased individuals, claims for medical injury to a minor or incompetent under this chapter shall be subject to the limitation set forth in RSA 508:8.

III. Claims for medical injuries on behalf of deceased individuals shall be subject to the limitations set forth in RSA 556:7.

IV. Providing a notice of injury to a medical care provider as provided in this chapter shall operate to toll the applicable statute of limitation with respect to that injury from the time such notice is provided to a medical care provider until the expiration of time for a medical care provider to extend an early offer, or if an early offer is extended, until the acceptance or rejection of an early offer by the claimant, whichever occurs later.

519-C:12 Subrogation. Any insurer or third party who has paid or reimbursed economic losses to or for the benefit of the claimant, shall have the right of subrogation against the medical provider entering into an early offer of settlement under this chapter.

519-C:13 Notice and Waiver of Rights.

I. Claimants electing to pursue resolution of a medical injury under this chapter shall execute a notice and waiver of rights which contains the following wording:

WAIVER OF RIGHTS

By agreeing to submit a notice of injury to the medical care provider, I understand that my rights to seek legal remedies and a jury trial for my injuries guaranteed by Part I, Articles 14 and 20 of the New Hampshire Constitution may be affected.

I understand that I have the right to consult and retain an attorney to represent me regarding this matter, and that if an early offer settlement is reached, my attorney will be paid pursuant to RSA 519-C:6, V by the health care provider, in addition to any amount that is paid for my economic loss.

If I do not have an attorney when I sign this waiver form, the medical provider will appoint a neutral advisor to assist me in the early offer process and to explain, among other things, the differences between proceeding under this chapter or as provided in RSA 507-E and RSA 519-B. I HAVE THE RIGHT TO WITHDRAW THIS WAIVER AND THE NOTICE OF INJURY ANY TIME PRIOR TO MIDNIGHT OF THE FIFTH BUSINESS DAY AFTER MY FIRST MEETING WITH THE ADVISOR, WHICH MUST OCCUR NO LATER THAN 10 BUSINESS DAYS FROM MY NOTIFICATION OF THE IDENTITY OF THE NEUTRAL ADVISOR.

If after submitting a notice of injury, the medical care provider does NOT extend an early offer (RSA 519-C:1 III), I am free to pursue my legal remedies as defined in New Hampshire law without restriction.

If after submitting a notice of injury, the medical care provider does extend an early offer (RSA 519-C:1, III), I may either:

(1) Accept the early offer;

(2) Request a hearing before a hearing officer appointed by the New Hampshire Supreme Court to determine whether the early offer includes all of the economic loss I am entitled to under the statute, and if necessary, the hearing officer may order the medical care provider to increase the early offer to meet the requirements of the early offer law; or

(3) Reject the early offer and seek legal remedies.

I understand that if I reject the early offer and do not prevail in an action for medical injury against the medical care provider that made the early offer, I will be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in the proceedings under this chapter and under the action for medical injury against the medical care provider. I further understand that if I reject an early offer and am later awarded economic damages equal to or less than the amount of the early offer, I will be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in proceedings under this chapter.

I understand that if an early offer is made by the medical care provider and I accept that offer, disputes regarding the early offer can be resolved only in accordance with RSA 519-C:10 by a hearing officer appointed by the New Hampshire Supreme Court at my request or the request of the medical care provider. If either party believes that the decision of the hearing officer is unlawful, that party may seek discretionary review in the New Hampshire court system; however, there is no assurance that the courts will undertake such review.

Date ________________ Signature ___________________________

II. A properly executed waiver form by a claimant who is competent at the time the waiver is executed shall be conclusively presumed to be a sufficient, knowing, and voluntary waiver if the waiver form complies with this section.

519-C:14 Other Action for Injury. Except as set forth in RSA 519-C:2, IX, a claimant may only pursue an action for medical injury as provided in RSA 507-E and RSA 519-B when:

I. The claimant elects not to submit a notice of injury pursuant to this chapter;

II. The medical care provider elects not to extend an early offer pursuant to this chapter in response to the notice of injury; or

III. The claimant withdraws the notice of injury and the notice and waiver of rights pursuant to RSA 519-C:3.

519-C:15 Rulemaking. The New Hampshire supreme court shall adopt rules in the minimum number necessary to implement the hearings process under this chapter.

519-C:16 Reports.

I. The insurance commissioner shall report to the general court annually, on or before November 1, on the effects of the early offer process established in this chapter. Such reports shall include, but not be limited to, statistics of each time the early offer process was initiated, including the number of claimants requesting early offers, the number of claimants receiving early offers, a record of the amount of each demand for economic loss, the corresponding early offer from the medical provider and the ultimate amount received by the claimant, if any, the severity of injuries, the time from initial notice to final resolution of claims, and the amount paid on claims.

II. The insurance commissioner may adopt rules under RSA 541-A to collect the data from insurers or any self-insured entity necessary to prepare the report required by this section. 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.

3 Prospective Repeal. RSA 519-C, relative to early offers for medical injury claims, is repealed.

4 Confidentiality of Police Personnel Files. Amend RSA 105:13-b to read as follows:

105:13-b Confidentiality of Personnel Files. [~~No personnel file on a police officer who is serving as a witness or prosecutor in a criminal case shall be opened for the purposes of that criminal case, unless~~] ***All exculpatory evidence in a personnel file on a police officer who is serving as a witness or prosecutor shall be provided to the prosecutor by the police department employing the officer and shall be released by the prosecutor to be used as evidence in accordance with all applicable rules regarding evidence in criminal cases. Non-exculpatory evidence shall only be released in that criminal case if*** the sitting judge makes a specific ruling that probable cause exists to believe that the file contains evidence relevant to that criminal case. If the judge rules that probable cause exists, the judge shall order the police department employing the officer to deliver the file to the judge. The judge shall examine the file in camera and make a determination whether it contains evidence relevant to the criminal case. Only those portions of the file which the judge determines to be relevant in the case shall be released to be used as evidence in accordance with all applicable rules regarding evidence in criminal cases. The remainder of the file shall be treated as confidential and shall be returned to the police department employing the officer.

5 New Subdivision; Prohibited Self-Referrals. Amend RSA 125 by inserting after section 25-c the following new subdivision:

Prohibited Self-Referrals

125:25-d Prohibited Self-Referrals.

I. In this subdivision:

(a) "Health care practitioner" means "health care practitioner" as defined in RSA 125:25-a.

(b) "Medical device" means any Food and Drug Administration class II or III implantable medical device.

(c) "Ownership interest" means "ownership interest" as defined in RSA 125:25-a.

(d) "Referral" means a health care practitioner's request for, ordering of, or certifying or recertifying the need for, any medical device, or a health care practitioner's request that includes the provision of any medical device, the establishment of a plan of care that includes the provision of a medical device, or the certifying or recertifying of the need for a medical device. A health care practitioner refers a person to a supplier for a medical device when the health care practitioner directly or indirectly chooses or directs or requests another to choose the supplier of the medical device.

(e) "Supplier" means an entity that sells, or arranges for or negotiates contracts for purchase or sale of, medical devices, including a manufacturer, distributor, group purchasing organization, sales agent, or other medical device supplier. The term supplier does not include the health care facility or medical office where the implant procedure is performed.

II. Notwithstanding any provision of law to the contrary, a health care practitioner, including an immediate family member, shall not:

(a) Profit indirectly or directly from the sale of a medical device by any supplier in which the health care practitioner has a direct or indirect ownership interest.

(b) Make a referral of a person to a supplier for a medical device if the health care practitioner has a direct or indirect ownership interest in the supplier.

(c) Enter into a contract or business arrangement with another entity where the purpose or effect of the contract or business arrangement is to accomplish prohibited self-referrals indirectly, such as through the use of a third party, or through the use of a cross-referral agreement. Such prohibited contracts or business arrangements shall include any arrangement that requires or has the purpose or effect of causing the purchase of such medical devices from a specific supplier as a condition of, or incident to the provision of medical care by the health care practitioner.

III. No claim for payment shall be presented to any individual, third party payer, or other entity, for any medical device provided incident to the provision of a medical device furnished in violation of this subdivision.

IV. Failure to comply with this subdivision shall constitute an unfair or deceptive act or practice in violation of RSA 358-A.

V. In addition to penalties pursuant to paragraph IV, violators of this subdivision may be fined up to $5,000 per procedure for a first offense and a second offense may result in suspension or loss of professional licensure and up to a $10,000 fine.

6 Effective Date.

I. Section 3 of this act shall take effect November 1, 2017.

II. Section 1 and 2 of this act shall take effect 120 days after its passage.

III. Section 5 of this act shall take effect 90 days after its passage.

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

AMENDED ANALYSIS

This bill establishes a system of early offers for medical injury claims as an alternative to litigation or screening panels under RSA 519-B.

This bill clarifies the confidentiality provisions regarding use of police personnel files as evidence in criminal cases.

This bill also prohibits health care practitioners, including physicians, from referring, recommending, ordering, or arranging for the acquisition of medical devices for patients under their care if the medical device is supplied directly or indirectly by an entity in which the referring practitioner has a direct or indirect ownership interest.

MOTION TO DIVIDE

Rep. Vaillancourt moved that Sections 4 and 5 be divided from majority committee amendment (1980h) to ***SB 406,*** establishing an early offer alternative in medical injury claims.

The Speaker declared that the amendment was not divisible, as requested.

Majority committee amendment adopted.

Rep. Giuda offered floor amendment (2280h).

Floor Amendment (2280h)

Amend RSA 519-C:13 as inserted by section 2 of the bill by replacing it with the following:

519-C:13 Notice and Waiver of Rights.

I. Claimants electing to pursue resolution of a medical injury under this chapter shall execute a notice and waiver of rights which contains the following wording:

WAIVER OF RIGHTS

By agreeing to submit a notice of injury to the medical care provider, I understand that my rights to seek legal remedies and a jury trial for my injuries guaranteed by Part I, Articles 14 and 20 of the New Hampshire Constitution may be affected.

I understand that I have the right to consult and retain an attorney to represent me regarding this matter, and that if an early offer settlement is reached, my attorney will be paid pursuant to RSA 519-C:6, V by the health care provider, in addition to any amount that is paid for my economic loss.

If I do not have an attorney when I sign this waiver form, the medical provider will appoint a neutral advisor to assist me in the early offer process and to explain, among other things, the differences between proceeding under this chapter or as provided in RSA 507-E and RSA 519-B. I HAVE THE RIGHT TO WITHDRAW THIS WAIVER AND THE NOTICE OF INJURY ANY TIME PRIOR TO MIDNIGHT OF THE FIFTH BUSINESS DAY AFTER MY FIRST MEETING WITH THE ADVISOR, WHICH MUST OCCUR NO LATER THAN 10 BUSINESS DAYS FROM MY NOTIFICATION OF THE IDENTITY OF THE NEUTRAL ADVISOR.

If after submitting a notice of injury, the medical care provider does NOT extend an early offer (RSA 519-C:1 III), I am free to pursue my legal remedies as defined in New Hampshire law without restriction.

If after submitting a notice of injury, the medical care provider does extend an early offer (RSA 519-C:1, III), I may either:

(1) Accept the early offer;

(2) Request a hearing before a hearing officer appointed by the New Hampshire Supreme Court to determine whether the early offer includes all of the economic loss I am entitled to under the statute, and if necessary, the hearing officer may order the medical care provider to increase the early offer to meet the requirements of the early offer law; or

(3) Reject the early offer and seek legal remedies.

I understand that if I reject the early offer and do not prevail in an action for medical injury against the medical care provider that made the early offer, I will be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in the proceedings under this chapter.

I understand that if an early offer is made by the medical care provider and I accept that offer, disputes regarding the early offer can be resolved only in accordance with RSA 519-C:10 by a hearing officer appointed by the New Hampshire Supreme Court at my request or the request of the medical care provider. If either party believes that the decision of the hearing officer is unlawful, that party may seek discretionary review in the New Hampshire court system; however, there is no assurance that the courts will undertake such review.

Date ________________ Signature __________________________

II. A properly executed waiver form by a claimant who is competent at the time the waiver is executed shall be conclusively presumed to be a sufficient, knowing, and voluntary waiver if the waiver form complies with this section.

Rep. Giuda spoke in favor.

On a division vote, 254 members having voted in the affirmative and 68 in the negative, floor amendment (2280h) was adopted.

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

Reps. Weber and Dan McGuire spoke against.

Rep. Giuda spoke in favor and yielded to questions.

Reps. Bowers and Soltani spoke in favor.

MOTION TO LAY ON THE TABLE

Rep. Jennifer Coffey moved that ***SB 406,*** establishing an early offer alternative in medical injury claims, be laid on the table.

Rep. Graham requested a roll call; sufficiently seconded.

YEAS 117 NAYS 222

YEAS 117

BELKNAP

Pilliod, James Tilton, Franklin

CARROLL

None

CHESHIRE

Butynski, William	Chase, Cynthia	Johnsen, Gladys	Lindsey, Steven
Meader, David	Parkhurst, Henry	Roberts, Kris	Sad, Tara
Tatro, Bruce	Weber, Lucy	Weed, Charles	

COOS

Coulombe, Gary	Hatch, William	Remick, William	Richardson, Herbert
Theberge, Robert	Thomas, Yvonne		

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Gould, Franklin
Harding, Laurie	Nordgren, Sharon	Pierce, David	Smith, Suzanne
Taylor, Kathleen	Townsend, Charles	White, Andrew	

HILLSBOROUGH

Ball, J. Michael	Baroody, Benjamin	Burt, John	Campbell, David
Christensen, D.L. Chris	Cote, David	Cusson-Cail, Kathleen	Daler, Jennifer
DeJong, Cameron	Gandia, Laura	Gargasz, Carolyn	Garrity, Patrick
Hopper, Gary	Leishman, Peter	Long, Patrick	Ober, Lynne
Ober, Russell III	Pilotte, Maurice	Porter, Marjorie	Renzullo, Andrew
Rosenwald, Cindy	Scontsas, Lisa	Shaw, Barbara	Simmons, Tammy
Sullivan, Daniel	Sullivan, Peter	Warden, Mark	

MERRIMACK

Bouchard, Candace	Coffey, Jennifer	Cohn, Seth	Deloge, Helen
DeStefano, Stephen	Foose, Robert	Frazer, June	Gile, Mary
Hamm, Christine	Hess, David	Kidder, David	Lockwood, Priscilla
MacKay, James	Owen, Derek	Patten, Dick	Potter, Frances
Rice, Chip	Richardson, Gary	Shurtleff, Stephen	Wallner, Mary Jane
Watrous, Rick			

ROCKINGHAM

Allen, Mary	Brown, Paul	Cali-Pitts, Jacqueline	Chirichiello, Brian
Copeland, Timothy	DiPentima, Rich	Elliott, Robert	Itse, Daniel
Katsakiores, Phyllis	Lovejoy, Patricia	Manuse, Andrew	McKinney, Betsy
Moody, Marcia	Norelli, Terie	O'Connor, John	Pantelakos, Laura
Perkins, Lawrence	Quandt, Marshall	Quandt, Matt	Read, Robin Jr
Schlachman, Donna	Serlin, Christopher	Sullivan, James	Waddell, James

STRAFFORD

Berube, Roger	Browne, Brendon	Cataldo, Sam	Ginsburg, Philip
Grassie, Anne	Hooper, Dorothea	Jones, Laura	Kaen, Naida
Pelletier, Marsha	Roberts, Jenna	Schmidt, Peter	Spang, Judith
Watters, David			

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew		

NAYS 222

BELKNAP

Accornero, Harry	Bolster, Peter	Comtois, Guy	Fields, Dennis
Flanders, Donald	Greemore, Robert	Kingsbury, Robert	Malone, Robert
Russell, David	Simpson, Tyler	St. Cyr, Jeffrey	Swinford, Elaine
Tobin, William	Worsman, Colette		

CARROLL

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

CHESHIRE

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

COOS

Daugherty, Duffy	Rappaport, Laurence	Tholl, John Jr	Tremblay, Marc

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Sorg, Gregory	Sova, Charles

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Barry, J. Gail	Barry, Richard
Belanger, James	Belvin, William	Bergevin, Jerry	Boehm, Ralph
Brown, Kevin	Brownrigg, Randall Jr	Buxton, Michael	Cebrowski, John
Champagne, Norma	Christiansen, Lars	Coffey, James	Condra, William
Coughlin, Sean	Daniels, Gary	Day, Russell	Doherty, Shaun
Donovan, Daniel	Drisko, Richard	Flanagan, Jack	Fredette, Robert
Gagne, Larry	Gidge, Kenneth	Gimas, John	Gonzalez, Carlos
Gorman, Mary	Graham, John	Greazzo, Phil	Hansen, Peter
Hardwick, Harry	Hawkins, Kenneth	Hikel, John	Hogan, Edith
Holden, Frank	Hutchinson, Winfred	Infantine, William	Jasper, Shawn
Krasucki, Joseph	Kurk, Neal	Lambert, George	LeBrun, Donald
Levasseur, Nickolas	Maltz, Jonathan	McCarthy, Michael	McClarren, Donald
McGuinness, Sean	Mecheski, Holly	Messier, Irene	Moran, Edward
Murphy, Keith	Notter, Jeanine	Ohm, Bill	Palmer, Barry
Palmer, Stephen	Parison, James	Pellegrino, Tony	Pepino, Leo
Peterson, Lenette	Pratt, Calvin	Reed, Michael	Rhodes, Brian
Robbins, David	Rowe, Robert	Seidel, Carl	Silva, Peter
Soucy, Connie	Souza, Kathleen	Stroud, Kathleen	Summers, James
Swank, Matthew	Terrio, Ross	Thomas, Joseph	Twombly, Timothy
Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Moe	Whitehead, Randall
Willette, Robert			

MERRIMACK

Blankenbeker, Lynne	Giuda, J. Brandon	Hill, Gregory	Hoell, J.R.
Keane, Thomas	Kotowski, Frank	Kreis, Kenneth Sr	Lauer-Rago, Kathleen
Lindsley, Mark	McDonnell, John	McGuire, Carol	McGuire, Dan
Palfrey, David	Reed, Dennis	Richardson, Jon	Sanborn, Laurie

Seaworth, G. Brian	Smith, Todd	Soltani, Tony	Winter, Steven

ROCKINGHAM

Abrami, Patrick	Antosz, Jason	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Davenport, Joshua
DeSimone, Debra	Devine, James	Dowling, Patricia	Duarte, Joe
Ferrante, Beverly	Fesh, Robert	Garcia, Marilinda	Garrity, James
Griffin, Mary	Hagan, Joseph	Headd, James	Hoelzel, Kathleen
Introne, Robert	Kappler, Lawrence	Kolodziej, Walter	Major, Norman
Mauro, Donna	Nevins, Chris	Okerman, Richard	Packard, Sherman
Peckham, Michele	Perkins, Amy	Reagan, John	Reichard, Kevin
Rice, Frederick	Ritter, Glenn	Sanders, Elisabeth	Sapareto, Frank
Schroadter, Adam	Sedensky, John	Sheffert, Kenneth	Shuler, Wyman III
Smith, William	Sytek, John	Tamburello, Daniel	Tremblay, Stella
Tucker, Pamela	Ward, Joanne	Waterhouse, Kevin	Welch, David
Weyler, Kenneth			

STRAFFORD

Brown, Julie	DeLemus, Susan	Groen, Warren	Horrigan, Timothy
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

and the motion failed.

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

YEAS 236 NAYS 103

YEAS 236

BELKNAP

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

CARROLL

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

CHESHIRE

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

COOS

Daugherty, Duffy	Rappaport, Laurence	Remick, William	Tholl, John Jr
Tremblay, Marc			

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Sorg, Gregory	Sova, Charles

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Ball, J. Michael	Barry, J. Gail
Barry, Richard	Belanger, James	Belvin, William	Bergevin, Jerry
Boehm, Ralph	Brown, Kevin	Brownrigg, Randall Jr	Buxton, Michael
Cebrowski, John	Champagne, Norma	Christensen, D.L. Chris	Christiansen, Lars
Coffey, James	Condra, William	Coughlin, Sean	Cusson-Cail, Kathleen
Daniels, Gary	Day, Russell	Doherty, Shaun	Donovan, Daniel
Drisko, Richard	Flanagan, Jack	Fredette, Robert	Gagne, Larry
Gandia, Laura	Gargasz, Carolyn	Gimas, John	Gonzalez, Carlos
Graham, John	Greazzo, Phil	Hansen, Peter	Hardwick, Harry
Hawkins, Kenneth	Hikel, John	Hogan, Edith	Holden, Frank
Hutchinson, Winfred	Infantine, William	Jasper, Shawn	Krasucki, Joseph
Kurk, Neal	Lambert, George	LeBrun, Donald	Levasseur, Nickolas
Maltz, Jonathan	McCarthy, Michael	McClarren, Donald	McGuinness, Sean
Mecheski, Holly	Messier, Irene	Moran, Edward	Murphy, Keith
Notter, Jeanine	Ober, Lynne	Ober, Russell III	Ohm, Bill
Palmer, Barry	Palmer, Stephen	Parison, James	Pellegrino, Tony
Pepino, Leo	Peterson, Lenette	Pratt, Calvin	Reed, Michael
Rhodes, Brian	Robbins, David	Rowe, Robert	Seidel, Carl
Silva, Peter	Soucy, Connie	Souza, Kathleen	Stroud, Kathleen
Summers, James	Swank, Matthew	Terrio, Ross	Thomas, Joseph
Twombly, Timothy	Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Moe
Whitehead, Randall	Willette, Robert		

MERRIMACK

Blankenbeker, Lynne	Giuda, J. Brandon	Hill, Gregory	Hoell, J.R.
Keane, Thomas	Kotowski, Frank	Kreis, Kenneth Sr	Lauer-Rago, Kathleen
Lindsley, Mark	McDonnell, John	McGuire, Carol	Palfrey, David
Reed, Dennis	Richardson, Jon	Sanborn, Laurie	Seaworth, G. Brian
Smith, Todd	Soltani, Tony	Winter, Steven	

ROCKINGHAM

Abrami, Patrick	Antosz, Jason	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Copeland, Timothy
Davenport, Joshua	DeSimone, Debra	Devine, James	Dowling, Patricia
Duarte, Joe	Elliott, Robert	Ferrante, Beverly	Fesh, Robert
Garcia, Marilinda	Garrity, James	Griffin, Mary	Hagan, Joseph
Headd, James	Hoelzel, Kathleen	Introne, Robert	Itse, Daniel
Kappler, Lawrence	Kolodziej, Walter	Major, Norman	Manuse, Andrew
Mauro, Donna	McKinney, Betsy	Nevins, Chris	Okerman, Richard
Packard, Sherman	Peckham, Michele	Perkins, Amy	Quandt, Marshall
Quandt, Matt	Reagan, John	Reichard, Kevin	Rice, Frederick

Ritter, Glenn	Sanders, Elisabeth	Sapareto, Frank	Schroadter, Adam
Sedensky, John	Sheffert, Kenneth	Shuler, Wyman III	Smith, William
Sytek, John	Tamburello, Daniel	Tremblay, Stella	Tucker, Pamela
Waddell, James	Ward, Joanne	Waterhouse, Kevin	Welch, David
Weyler, Kenneth			

STRAFFORD

Brown, Julie	Cataldo, Sam	DeLemus, Susan	Groen, Warren
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

NAYS 103

BELKNAP

Tilton, Franklin

CARROLL

None

CHESHIRE

Butynski, William	Chase, Cynthia	Johnsen, Gladys	Lindsey, Steven
Meader, David	Parkhurst, Henry	Roberts, Kris	Sad, Tara
Tatro, Bruce	Weber, Lucy	Weed, Charles	

COOS

Coulombe, Gary	Hatch, William	Richardson, Herbert	Theberge, Robert
Thomas, Yvonne			

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Gould, Franklin
Harding, Laurie	Nordgren, Sharon	Pierce, David	Smith, Suzanne
Taylor, Kathleen	Townsend, Charles	White, Andrew	

HILLSBOROUGH

Baroody, Benjamin	Burt, John	Campbell, David	Cote, David
Daler, Jennifer	DeJong, Cameron	Garrity, Patrick	Gidge, Kenneth
Gorman, Mary	Hopper, Gary	Leishman, Peter	Long, Patrick
Pilotte, Maurice	Porter, Marjorie	Renzullo, Andrew	Rosenwald, Cindy
Scontsas, Lisa	Shaw, Barbara	Simmons, Tammy	Sullivan, Daniel
Sullivan, Peter	Warden, Mark		

MERRIMACK

Bouchard, Candace	Coffey, Jennifer	Cohn, Seth	Deloge, Helen
DeStefano, Stephen	Foose, Robert	Frazer, June	Gile, Mary
Hamm, Christine	Hess, David	Kidder, David	Lockwood, Priscilla

MacKay, James	McGuire, Dan	Owen, Derek	Patten, Dick
Potter, Frances	Rice, Chip	Richardson, Gary	Shurtleff, Stephen
Wallner, Mary Jane	Watrous, Rick		

ROCKINGHAM

Allen, Mary	Brown, Paul	Cali-Pitts, Jacqueline	Chirichiello, Brian
DiPentima, Rich	Katsakiores, Phyllis	Lovejoy, Patricia	Moody, Marcia
Norelli, Terie	O'Connor, John	Pantelakos, Laura	Perkins, Lawrence
Read, Robin Jr	Schlachman, Donna	Serlin, Christopher	Sullivan, James

STRAFFORD

Berube, Roger	Browne, Brendon	Ginsburg, Philip	Grassie, Anne
Hooper, Dorothea	Horrigan, Timothy	Jones, Laura	Kaen, Naida
Pelletier, Marsha	Roberts, Jenna	Schmidt, Peter	Spang, Judith
Watters, David			

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew

and the majority committee report was adopted and ordered to third reading.

SENATE MESSAGE
REQUESTS CONCURRENCE WITH AMENDMENT

HB 1241, relative to table wines. (Amendment printed SJ 5-9-12)
Rep. Groen moved that the House concur and spoke in favor.
Adopted.

REGULAR CALENDAR (CONT'D)

SB 231, relative to municipal liens. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Philip L. Munck for Municipal and County Government: This bill limits the amount of money that a municipal utility can bill for mutually agreed upon work performed on a customer's property to $250 without a written contract. The bill arises out of a situation where a customer agreed to have a utility work on a water service for about $2,000 and subsequently was billed approximately $20,000. The language is similar to provisions imposed by the Public Utilities Commission on investor owned utilities for these situations. Vote 16-0.

Amendment (1563h)

Amend RSA 38:22, I as inserted by section 1 of the bill by replacing it with the following:

I. ***Except as provided in paragraph III,*** all charges for services furnished to patrons by a municipally owned electric, gas, ***water,*** or [~~water works~~] ***wastewater utility*** shall create a lien upon the real estate where such services are furnished.

Amend RSA 38:22, III as inserted by section 1 of the bill by replacing it with the following:

III. No municipally owned electric, gas, water, or wastewater utility shall perform non-emergency work with a total cost in excess of $250 per project on facilities on customer property beyond the utility's final shutoff point or the point at which the property owner is responsible for construction or maintenance, or both, unless a written contract has been executed and signed between the owner or an authorized representative of the property and an authorized representative of the utility. The contract shall include the terms of the work to be performed, the name and address of the property owner, the location of the work to be performed, the estimated price of the work, the time of completion, and any other agreed upon

stipulations relating to the project. No lien shall be placed on the property for such work in the absence of such a contract.

AMENDED ANALYSIS

This bill requires a written contract between a property owner and a municipally owned electric, gas, water, or wastewater utility for the performance of work beyond the utility's final shutoff point located on customer property, in order for a lien to be placed on the property by the municipality.

Amendment adopted.

Committee report adopted and ordered to third reading.

SB 243, relative to the management of trust funds and capital reserve funds. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Franklin W. Sterling for Municipal and County Government: This bill was submitted with language that would add investment advisors to the list of institutions that maybe hired by the trustees of the trust funds to assist in the management of funds under their control and direction; the manner in which the advisors are remunerated for their services is unchanged from existing statue. This bill also adds a new section to RSA 34 that would put capital reserve funds under the same management rules as trust funds. The option to hire investment or management advisors for either trust funds or for capital reserve funds is a decision made at the local level and is not mandated by this legislation. Vote 15-2.

Amendment (2071h)

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

Amend the bill by replacing section 3 with the following:

3 Trust Funds; Professional Banking and Brokerage Assistance. Amend RSA 31:38-a, III to read as follows:

III. Any trustee or trustees of trust funds authorized by this chapter may hire or employ the trust department or departments of a bank or banks or a brokerage firm ***or an investment advisor*** to assist in the management and investment of trust fund resources or to provide bookkeeping services in connection therewith or to do both. [~~They may also place securities in the nominee name of a trust department or departments or a brokerage firm to facilitate transfers for such securities.~~] Trust fund records maintained by any bank or brokerage firm [~~must~~] ***or investment advisor shall*** be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such trust funds to those departments subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees.

Amend RSA 35:19, II-III as inserted by section 5 of the bill by replacing them with the following:

II. Any trustee or trustees of capital reserve funds authorized by this chapter may hire or employ the trust department or departments of a bank or banks or a brokerage firm or investment advisor to assist in the management and investment of capital reserve fund resources or to provide bookkeeping services in connection therewith or to do both. [~~They may also place securities in the nominee name of a trust department or departments or a brokerage firm or investment advisor to facilitate transfers for such securities.~~] Capital reserve fund records maintained by any bank or brokerage firm or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees.

III. Any expenses incurred pursuant to paragraph II of this section by a trustee or trustees of trust funds authorized by this chapter may, with the annual approval of the governing body, be charged against the income of the capital reserve funds involved and shall be identified and reported in the annual report of the trustee or trustees as expenditures out of capital reserve funds made pursuant to paragraph II.

Amend RSA 34:16, II-III as inserted by section 7 of the bill by replacing them with the following:

II. Any trustee or trustees of capital reserve funds authorized by this chapter may hire or employ the trust department or departments of a bank or banks or a brokerage firm or investment advisor to assist in the management and investment of capital reserve fund resources or to provide bookkeeping services in connection therewith or to do both. [~~They may also place securities in the nominee name of a trust department or departments or a brokerage firm or investment advisor to facilitate transfers for such securities.~~] Capital reserve fund records maintained by any bank or brokerage firm or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees.

III. Any expenses incurred pursuant to paragraph II of this section by a trustee or trustees of trust funds authorized by this chapter may, with the annual approval of the governing body, be charged against the income of the capital reserve funds involved and shall be identified and reported in the annual report of the trustee or trustees as expenditures out of capital reserve funds made pursuant to paragraph II.

Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Lynne Ober spoke in favor.
Committee report adopted and ordered to third reading.

SB 324-FN, relative to the use of funds generated by the Hampton Beach parking facilities.
OUGHT TO PASS WITH AMENDMENT.
Rep. John A. Graham for Public Works and Highways: The committee amendment replaces the entire bill, while preserving the original intent to provide additional revenues to the state park fund. As amended, $200,000 a year will be transferred from the Hampton Beach meter fund to the Hampton Beach capital improvement fund. This is a reduction from the current formula, and will allow additional funds to be placed in the state park fund for use not only at Hampton Beach, but also at other state parks. The second major change to the bill made by the committee is to have 50 percent of the bond approved in the last Capital Budget for rehabilitation of the seawall in Hampton be paid for from the parking meter fund as required by RSA 216:6. Currently 100 percent of the bond would be paid for out of general funds. The committee was unanimous in support of this bill as amended. Vote 15-0.

Amendment (2111h)

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

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

II. The state treasurer shall establish a special nonlapsing fund, which shall only lapse pursuant to paragraph III, for the revenues from the ***state*** parking facilities at Hampton Beach. Fifty percent of the payments for principal and interest of bonds and notes that are issued for the project of replacing the [~~steel seawall with a concrete~~] seawall in the Hampton Beach area shall be paid from this fund. [~~If the revenues from the parking facilities at Hampton Beach exceed $1,025,000 for the fiscal year, all revenues in excess of $1,025,000 shall be transferred prior to the close of the fiscal year from this fund to the Hampton Beach capital improvement fund established in paragraph IV.~~] ***Each fiscal year, the sum of $200,000 shall be transferred from this fund to the Hampton Beach capital improvement fund established in paragraph IV.***

2 Capital Budget; Resources and Economic Development; Hampton Beach Seawall. Amend 2011, 253:1, XII to read as follows:

XII. Department of Resources and Economic Development

A. Fire Tower Maintenance	$170,000
B. State Park Repairs*	1,500,000
C. Mt. Washington State Park-Sherman Adams Bldg. Concrete Repair	180,000
D. North Hampton State Beach Redevelopment	450,000
E. Hampton Beach North Seawall Repair**	1,000,000
Less Other Funds****	***(500,000)***
Net state appropriation subparagraph E	***500,000***
F. Cannon Upgrades/Snowmaking	500,000
Less Other Funds***	(500,000)
Net state appropriation subparagraph F	0
Total state appropriation paragraph XII	[~~$3,300,000~~] ***$2,800,000***

* No funds appropriated in subparagraph XII, B shall be used for the Nansen Wayside ski jump and officials tower.

** The appropriation made in subparagraph XII, E, may be used as matching money for eligible federal funds to build further sections of the Hampton Beach Seawall.

*** To provide funds for the appropriations made in subparagraph XII, F, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of $500,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the Cannon Mountain capital improvement fund established in RSA 12-A:29-c.

******* To provide funds for the appropriation made in subparagraph XII, E, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of $500,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the Hampton Beach parking meter fund under RSA 216:3, II.***

3 Capital Budget; Total Adjusted. Amend 2011, 253:1, Total state appropriation section 1, to read as follows:

Total state appropriation section 1 [~~$88,365,294~~] ***$87,865,294***

4 Capital Budget; Bonds Authorized. Amend 2011, 253:5 to read as follows:

253:5 Bonds Authorized.

[~~I.~~] To provide funds for the total of the appropriations of state funds made in sections 1 and 2 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~$97,778,481~~] ***$97,278,481*** and for said purposes may issue bonds and notes in the [~~names~~] ***name*** and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The source of funds shall be as follows: general fund [~~$88,365,294~~] ***$87,865,294*** and highway funds $9,423,187; with other funds [~~$77,887,482~~] ***$78,387,482***.

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

AMENDED ANALYSIS

This bill revises the allocation of funds between the Hampton Beach parking meter fund and the Hampton Beach capital improvement fund. The bill also changes the funding for the Hampton Beach north seawall repair under the state capital budget.

Amendment adopted.

Committee report adopted and ordered to third reading.

SPECIAL ORDERED

Without objection, the Speaker made ***SB 372-FN-L,*** establishing an education tax credit, a Special Order as the next order of business.

SPECIAL ORDER

SB 372-FN-L, establishing an education tax credit. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Bill Ohm for the Majority of Ways and Means: This bill, with the amendment recommended by the committee, promotes school choices for those that might not otherwise be able to afford it. The bill implements a scholarship program for New Hampshire similar to those that are successful in 8 other states, and was created here by melding the best practices of all the other programs. This legislation is similar to HB 1607, establishing an education tax credit, which passed the House 173-127, and it remains revenue neutral. The school choice scholarships, managed by non-profit scholarship organizations, are funded by donations from businesses who receive tax credits when they donate. The program works as follows: if parents of limited means wish to send their kids to a non-public school, or a different public school that agrees to accept them, they may apply for a scholarship from an approved non-profit scholarship organization. The average scholarship would be $2,500. Home schoolers would also qualify, but their scholarship amount would only cover materials and is limited to $625. Businesses who choose to donate to such scholarship organizations would receive a tax credit of 85% of their donation. This tax credit would apply to their BET or BPT tax liability. The program is designed to ramp up more slowly during the first fifteen years and is structured to mitigate local fiscal impacts. To address the concerns that local school districts may be unfairly hit by a sudden reduction in state aid, the committee amendment provides for a "Scholarship Stabilization Grant" that holds the districts harmless above a certain threshold, yet is revenue neutral for the state for the next biennium, and most likely the distant future. If the reduction in state aid exceeds 0.25% of the school district's total appropriation, then the state will make up the difference with a "State Scholarship Stabilization Grant." For example, if a district's total appropriation is $30 million, then the reduction in state aid would be limited to $75,000, which is the cap when 30 students leave the school district. Adjustments in the program were made to provide for savings to fund the stabilization grants such as: reducing the cap on home schoolers and not counting them in the average calculation; ensuring that at least 70% of scholarships are awarded to students in public school districts that currently receive a state education grant (called "switchers") for the first 2 years of the program; and reducing the 70% minimum by 5% a year through year 15. At the same time there will be a reduction in school district expenses due to these students choosing to leave public schools. To further assist low income families, the bill requires that a minimum of 40% of the scholarships go to students eligible for free and reduced lunches. The bill as amended will be revenue neutral or positive over the next biennium. Vote 14-6.

Rep. Christine C. Hamm for the Minority of Ways and Means: This bill offers tax credits to businesses, thus excusing them from paying business taxes to the state in exchange for using those same dollars to provide scholarships for students enrolled in private or religious schools or as stipends for home-schooled students. While proponents argue that it evens the playing field by providing an opportunity for families of all income levels to opt for alternatives to public school education, because these subsidies are capped at a level significantly below the actual cost of private school education, the beneficiaries would be limited to families who home-school their children or to students who live near a private school willing and able to provide additional subsidies. Since many of the children receiving scholarships would have attended private school anyway, this seems a poor use of public resources. In order to benefit this small demographic, the loss of business tax revenues would have an increasingly negative impact upon the state's and local school districts' budgets, thus resulting in an overall increase in local property taxes. The department of education projects that the immediate loss to a school district would be $4,267 per pupil and that the net loss to school districts statewide would increase from $3.7 million the first year to $6.3 million in Year Three. While DOE estimates show no loss to the state budget in the first two years, after that, losses would mount continuously as the bill's highly complex formulas change. If the program grows at the projected rate of 50% the first two years and 25% beyond that, in 10 years the state, and by extension local school districts, will have sacrificed more than $130 million in unearned tax revenue. Since this is money no longer available to be passed along to local school districts, the loss will become an increasingly difficult pill for local property taxpayers to swallow. Such a budgetary hit becomes even harder for the minority to accept when we realize the stipulations included in the bill---upon both donors and recipients---are difficult, if not impossible to enforce, thus leaving the law open to abuse. In addition, despite the large shift in state resources, this bill fails to provide for the same kind of academic accountability required of the state's public schools. It should also be noted that in 1967, 1969 and 1992, the state Supreme Court issued opinions that could be used as precedents in cases against this legislation. Part I, Article 6 of our state constitution states in part, "No person shall ever be compelled to pay towards the support of the schools of any sect or denomination," while Part II, Article 83 states in part, "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." As the 1969 case dealt specifically with tax credits and as our state constitution is quite explicit on this issue, the success of a legal challenge arguing that businesses are being used only as an intermediary to deny a direct, unconstitutional, connection between the taxpayer and a religious school, is a real possibility--- the recent case of Arizona v Wynn notwithstanding since this decision affected only the federal level. The minority believes that this complex, constantly-amended, bill undermines our state's highly-regarded public education system, while providing little meaningful benefit to the majority of New Hampshire's citizens and ever more significant stress to the pocketbooks of local property taxpayers.

Majority Amendment (2190h)

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

1 Purpose.

I. The general court finds that:

(a) It has the inherent power to determine subjects of taxation for general or particular public purposes.

(b) Expanding educational opportunities and improving the quality of educational services within the state are valid public purposes that the general court may cherish using its sovereign power to determine subjects of taxation and exemptions from taxation.

(c) Ensuring that all parents may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the general court may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

(d) Expanding educational opportunities and thereby promoting healthy competition is critical to improving the quality of education in the state and ensuring that all children have the opportunity to receive a high quality education.

II. The purpose of this act is to:

(a) Allow maximum freedom to parents and nonpublic schools to respond to and, without governmental control, provide for the educational needs of children, and this act shall be liberally construed to achieve that purpose.

(b) Promote the general welfare by expanding educational opportunities for children.

(c) Enable children in this state to achieve a higher level of excellence in their education.

(d) Improve the quality of education in this state, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence.

2 New Paragraph; Business Profits Tax; Education Tax Credit. Amend RSA 77-A:5 by inserting after paragraph XIV the following new paragraph:

XV. The education tax credit as computed in RSA 77-G:4.

3 New Section; Business Enterprise Tax; Education Tax Credit. Amend RSA 77-E by inserting after section 3-c the following new section:

77-E:3-d Education Tax Credit. The education tax credit as computed in RSA 77-G:4 shall be allowed against the tax due under this chapter.

4 New Chapter; Education Tax Credit. Amend RSA by inserting after chapter 77-F the following new chapter:

CHAPTER 77-G

EDUCATION TAX CREDIT

77-G:1 Definitions. The following definitions shall apply in this chapter:

I. "Adequacy cost' means the total cost of the opportunity for an adequate education as defined in RSA 198:40-a, I-III.

II. "Adequacy grant" means the grant calculated under RSA 198:41, or for a chartered public school, the amount calculated under RSA 194-B:11.

III. "Business organization" shall be as defined in RSA 77-A:1, I.

IV. "Business enterprise" shall be as defined in RSA 77-E:1, III.

V. "Donation receipt" means a document submitted by a scholarship organization that contains at a minimum:

(a) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(b) The scholarship organization's name and address.

(c) The donation amount and date received.

VI. "Educational expenses" means the tuition cost of an eligible student to attend a public or nonpublic school, excluding students who were placed into a nonpublic school by their school district, and in the case of a home educated student, the academic expenses not to exceed 25 percent of the average scholarship as defined in RSA 77-G:2, I(b), incurred in a child's home schooling. Educational expenses shall not include fees or expenses related to participation in athletic programs, transportation expenses, or the cost of a parent's time expended in the home schooling of his or her child.

VII. "Education tax credit application" means a document developed by the department of revenue administration and submitted by a business organization or business enterprise that contains at a minimum:

(a) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(b) A contact person's name, title, and phone number.

(c) The requested donation amount.

(d) A signed statement certifying that the business organization or business enterprise agrees to make donations in accordance with the requirements established in this chapter.

VIII. "Eligible student" means a New Hampshire resident who is at least 5 years of age and no more than 20 years of age, has not graduated from high school, and

(a)(1) Who is currently attending a New Hampshire public school, including a chartered public school, and for whom the adequacy grant in the next school year would be reduced if the student were removed from the average daily membership calculation; or

(2) Who received a scholarship under subparagraph (1) or this subparagraph in the prior program year; or

(3) Who does not qualify under subparagraphs (1) or (2); and

(b) Whose annual household income is less than or equal to 300 percent of the federal poverty guidelines as updated annually 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 scholarship organization shall verify eligibility under this subparagraph.

IX. "Nonpublic school" shall be as defined in RSA 193-A:1.

X. "Owner or operator" means an owner, president, officer, or director of an eligible nonprofit scholarship organization or a person with equivalent decision making authority over an eligible nonprofit scholarship organization.

XI. "Parent" means the natural or adoptive parent or legal guardian of a child.

XII. "Program year" means the year beginning January 1 and ending December 31.

XIII. "Receipt" means a document developed by the department of revenue administration that is issued by the receiving school, or parent in the case of a home educated student, to the scholarship organization which makes payment for educational expenses on behalf of an eligible student and that contains, at a minimum and where applicable:

(a) The name and address of the school if a school is attended or, in the case of a home educated student, the name and address of a parent.

(b) The name and address of the eligible student for whom the expense has been paid.

(c) The name of the payer and the date and amount of the expense paid.

(d) Receipts for all specific, reimbursed educational expenses.

XIV. "Receiving school" means a public or nonpublic school which the eligible student seeks to attend.

XV. "Release of information form" means a document developed by a receiving school, signed by the parent or guardian of an eligible student, and which acknowledges the consent of the parent or guardian to release of information contained in the receipt.

XVI. "Scholarship impact survey" means a document developed by the department of education and given to the parents of students who have exited a public school under the provisions of RSA 77-G:8. The survey shall solicit the reasons for seeking the scholarship, and any suggested improvements desired in the public school they are leaving.

XVII. "Scholarship organization" means a charitable organization incorporated or qualified to do business in this state that:

(a) Is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code;

(b) Complies with applicable state and federal antidiscrimination and privacy laws;

(c) Is registered with the director of charitable trusts; and

(d) Has been approved by the department of revenue administration for the purpose of issuing scholarships as provided in this chapter.

XVIII. "Scholarship organization application" means a document developed by the department of revenue administration and submitted by a scholarship organization that contains at a minimum:

(a) The scholarship organization's name, address, and federal taxpayer identification number.

(b) A contact person's name, title, and phone number.

(c) A signed statement that the scholarship organization has met the eligibility requirements of paragraph XVII, and will comply with the provisions of this chapter.

XIX. "Scholarship organization report" means a document developed by the department of revenue administration and submitted by a scholarship organization to the department of revenue administration that shall be a public record, notwithstanding RSA 21-J:14, and contains at a minimum:

(a) The number of scholarships granted under subparagraph VIII(a)(1), and the percentage of these students who were eligible for the federal free and reduced-price meal program in the final year they were in public school

(b) The number of scholarships granted under subparagraph VIII(a)(2), and the percentage of these students who were eligible for the federal free and reduced-price meal program in the final year they were in public school.

(c) The number of scholarships granted under subparagraph VIII(a)(3), and the percentage of these students who were eligible for the federal free and reduced-price meal program in the prior year.

(d) The total dollar amount of all scholarships granted.

(e) The total dollar amount of donations spent on administrative expenses pursuant to RSA 77-G:5, I(f).

(f) The total dollar amount to be carried forward pursuant to RSA 77-G:5, I(g).

(g) The total dollar amount of donations used and not used for scholarships.

(h) The number of scholarships granted.

(i) The number of scholarships distributed by the organization, per school, and the dollar range of those scholarships. All home educated students shall be totaled together as a single school.

(j) An analysis, broken down by zip code, of the place of residence for each student receiving a scholarship under this program.

(k)(1) The aggregated results from a survey, designed by the department of revenue administration, and administered by the scholarship organization, which shall solicit and receive information from at least 90 percent of the parents or legal guardians of participating students, broken down by the number of years in the program. In each case, the respondent shall be asked to gauge their level of agreement with the statement as follows: "strongly agree," "agree," "no change," "disagree," "strongly disagree." The following statements shall be included in the survey:

(A) I am satisfied with the school my child is attending as compared to the school my child attended prior to the availability of the education tax credit program.

(B) My child has seen a measurable improvement in academic achievement.

(C) My child would have been unable to attend the school of his or her choice without the education tax credit program.

(2) The survey shall include the following question to the parent or legal guardian of a participating student: "Excluding the education tax credit scholarship, how much did you pay out of pocket for your child to attend school this year?"

(l) The aggregated results from a survey, designed by the department of education, and administered by the scholarship organization, which shall solicit and receive information from the parents or legal guardians of participating students who graduated or stopped attending 2 years prior. A parent's or legal guardian's response to the survey shall be optional. Results shall be aggregated by the scholarship organization and published by the department of education. The survey shall solicit the following information:

(1) Whether the student is attending a private, public, community, or vocational college, or otherwise employed or unemployed.

(2) Whether the student graduated or not.

(m) The number of participating students who graduated from high school in the previous year, and the number that dropped out of school.

(n) A signed statement that the scholarship organization acknowledges compliance with the provisions of this chapter.

(o) An explanation of information omitted from the report because it would reveal private data about an individual student.

(p) The name of any other scholarship organizations who have agreed to combine their data with the scholarship organization for the purposes set forth in RSA 77-G:2, II. The agreement shall only be considered valid if each scholarship organization lists the other scholarship organizations in the agreement.

XX. "Scholarship receipt" means a document developed by the department of revenue administration and submitted by a scholarship organization to the business organization or business enterprise and that contains at a minimum:

(a) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(b) The amount of the donations used or carried forward and the amount not used.

77-G:2 Scholarships.

I.(a) An eligible student may receive a scholarship to attend (1) a nonpublic school, except when the student has been placed by the local school district through the special education process; or (2) a public school located outside of the school district in which the student resides and for which the public school is not eligible to receive an adequate education grant payment for the student in the current fiscal year, in an amount not to exceed the tuition cost of the public or nonpublic school. A home education student may also receive a scholarship to cover educational expenses. A student shall not receive a scholarship from more than one scholarship organization.

(b) The average value of all scholarships awarded by a scholarship organization, excluding eligible students who received scholarships for educational expenses related to home education only, shall not exceed $2,500. Beginning in the second year of the program, the commissioner of the department of revenue administration shall annually adjust this amount based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the calendar year ending 12 months prior to the beginning of program year. In each of the first and second program years, a scholarship organization shall award a minimum of 70 percent of all scholarships issued to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) and, notwithstanding RSA 193-E:5, shall notify the department of education of the unique pupil identifier and date of birth for each of these students granted a scholarship by July 15. The required minimum percentage of all scholarships issued by a scholarship organization to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) shall be reduced by 5 percent each program year for years 3 through 15 of the program, and, at the beginning of the sixteenth program year and every program year thereafter, there shall be no required minimum percentage of scholarships.

(c) The minimum value of a scholarship granted to a student receiving special education programs or services pursuant to RSA 186-C shall be 175 percent of the maximum average scholarship size as defined in subparagraph (b).

(d) At least 40 percent of the scholarships awarded by the scholarship organization to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) shall be awarded to students who qualified for the federal free and reduced-price meal program in the final year they were in public school.

(e) A student shall reapply each year for a scholarship.

II. Scholarship organizations may meet the percentage requirements of subparagraphs I(b) and (d) if, pursuant to a mutual agreement, the organizations aggregate their scholarship data and the aggregated data shows compliance with the percentage requirements.

77-G:3 Contributions to Scholarship Organizations. For each contribution made to a scholarship organization, a business organization or business enterprise may claim a credit equal to 85 percent of the contribution against the business profits tax due pursuant to RSA 77-A, or against the business enterprise tax due pursuant to RSA 77-E, or apportioned against both provided the total credit granted against both shall not exceed the maximum education tax credit allowed. Credits provided under this chapter shall not be deemed taxes paid for the purposes of RSA 77-A:5, X. The department of revenue administration shall not grant the credit without a scholarship receipt. No business organization or business enterprise shall direct, assign, or restrict any contribution to a scholarship organization for the use of a particular student or nonpublic school. No business organization or business enterprise shall receive more than 10 percent of the aggregate amount of tax credits permitted in RSA 77-G:4.

77-G:4 Tax Credits.

I. The aggregate of tax credits issued by the commissioner of the department of revenue administration to all taxpayers claiming the credit shall not exceed $3,400,000 for the first program year and $5,100,000 for the second program year, subject to the provisions of paragraph III. In subsequent years, the aggregate of tax credits shall not exceed the amount allowed for the prior year, unless adjusted pursuant to paragraph II.

II. Beginning with the second program year, if the amount of the total donations used for scholarships exceeds 80 percent of the current program year's tax credits allowed, the aggregate of tax credits allowed for the next program year shall increase by 25 percent, subject to the provisions of paragraph III.

III. In each program year, the increase in the aggregate of tax credits allowed pursuant to paragraphs I and II shall be contingent upon the board of directors of the community development finance authority certifying in writing to the commissioner of the department of revenue administration by the December 1 preceding the program year that the community development finance authority has received $5,000,000 or more in contributions for the state fiscal year or that the authority has received contribution offers sufficient to meet its state fiscal year limit but did not meet its limit for other reasons.

77-G:5 Scholarship Organizations.

I. A scholarship organization shall:

(a) Provide scholarships from eligible contributions to eligible students to defray educational expenses.

(b) Not restrict or reserve scholarships for use at a single nonpublic school and not restrict or reserve a scholarship for a specific student or a specific person.

(c) Verify a student's eligibility to apply for and receive a scholarship through transcripts and attendance records.

(d) Not have an owner or operator who also owns or operates a nonpublic school that participates in the education tax credit program.

(e) Not have an owner or operator who in the last 7 years has filed for personal bankruptcy or corporate bankruptcy in a business organization or business enterprise of which he or she owned more than 20 percent.

(f) Not use more than 10 percent of eligible contributions used during the program year in which the contributions are collected, and for which scholarship receipts were issued for tax credit purposes, for administrative expenses. Administrative expenses shall be reasonable and necessary for the organization's management and distribution of eligible contributions pursuant to this chapter.

(g) In the first program year, there shall be no carry forward of unused eligible contributions. In each program year thereafter, not more than 10 percent of eligible contributions may be carried forward to the following program year. Any amount carried forward shall be expended for annual or partial year scholarships in the program year into which the amount is carried forward.

(h) Maintain separate accounts for scholarship funds, non-tax credit donations, and operating funds.

(i) (1) Not award a scholarship to any lineal descendent or equivalent step-person of any officer, director, or employee of any scholarship organization; and

(2) Not award a scholarship to any lineal descendant or equivalent step-person of any proprietor, partner, or member of any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against the business profits tax or business enterprise tax, nor any lineal descendant or equivalent step-person of any officer, director, or owner of more than a 5 percent interest in any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against the business profits tax or business enterprise tax, nor any employee who is among the highest-paid 20 percent of paid employees in any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against the business profits tax or business enterprise tax.

(j) Provide to each school district which receives a stabilization grant pursuant to RSA 77-G:8 a copy of the aggregated results of the scholarship impact survey, including total number of students who received scholarships from that school district under RSA 77-G:1, VIII(a)(1).

II.(a) An organization seeking approval as a scholarship organization under this chapter shall submit an application to the department of revenue administration each program year no later than June 15. The department of revenue administration shall approve or deny the application within 30 days of receipt. The department shall deny any application that fails to meet the statutory requirements and shall notify the scholarship organization of the reasons for denial.

(b) A business organization or business enterprise shall submit an education tax credit application to the department of revenue administration no earlier than January 1 and no later than June 15. The department shall approve these applications within 30 days on a first come-first served basis, up to the aggregate tax credit amount allowed under RSA 77-G:4. If multiple education tax credit applications are received on the same day, they shall be processed at random. No business organization or business enterprise shall be granted an education tax credit for more than 10 percent of the aggregate tax credit amount permitted in RSA 77-G:4. The department of revenue administration may approve only a portion of a request if required to prevent exceeding the aggregate tax credit amount allowed under RSA 77-G:4. The approval shall include the amount allowed and the date of approval.

(c) Once an education tax credit application is approved, the business organization or business enterprise shall donate within 60 days of the date of approval or the request shall expire. Donations may be made to multiple scholarship organizations provided the total amount donated by the business organization or business enterprise does not exceed the amount approved. Donations shall be made no later than July 15 of the program year.

(d) Upon receiving a donation, the scholarship organization shall send a donation receipt to the department of revenue administration and to the business organization or business enterprise within 15 days. The department of revenue administration shall notify the scholarship organization and the business organization or business enterprise within 15 days if the donations made by a business organization or business enterprise exceed the amount approved. If a business organization or business enterprise fails to donate the total amount approved within the time permitted, the department of revenue administration may grant credit requests in the order specified in subparagraph (b).

(e) Notwithstanding RSA 193-E:5, on or before July 15, a scholarship organization shall furnish the unique pupil identifier and date of birth for each student eligible pursuant to RSA 77-G:1, VIII(a)(1) and (2) who is receiving a scholarship, and the subparagraph under which he or she was eligible, to the department of education. The department of education shall notify the scholarship organization within 30 days of any students who are ineligible under RSA 77-G:1, VIII(a)(1). The scholarship organization shall notify the department of education within 30 days if any student eligible under RSA 77-G:1, VIII(a)(1) or (2) is not awarded a scholarship or is awarded a scholarship yet subsequently returns to public school. The department of education shall return such student to the calculation of the average daily membership in residence, as defined in RSA 189:1-d, IV, for the student's school district of residence, and add the amount calculated under RSA 198:40-a, I-III to the adequate education grant amount to the student's school district of residence, and include such amount in the next adequate education grant payment made under RSA 198:42.

(f) On or before December 1, the scholarship organization shall send a scholarship receipt to the business organization or business enterprise and to the department of revenue administration. The scholarship receipt shall include the amount of the donation that was used under this chapter which is eligible for the tax credit, and the amount that was not used. The scholarship organization shall return any unused funds to the business organization or business enterprise.

(g) On or prior to December 1, the scholarship organization shall submit a scholarship organization report to the department of revenue administration. The scholarship organization shall also include a scholarship organization application if it intends to issue scholarships under this chapter in the next program year. The department of revenue administration shall review the scholarship organization report and the scholarship receipts to ensure that the administrative expenses requirement set forth in subparagraph I(f) is not exceeded, that the number of scholarships issued under RSA 77-G:1, VIII(a)(1)and (2) meets the requirements of this chapter, and the average scholarship size does not exceed the amount allowed. If any of these requirements are not met, the department of revenue administration may deny a scholarship organization application for subsequent program years and shall notify the scholarship organization of the reasons for denial.

(h) A business organization or business enterprise may file for the tax credit after receiving the scholarship receipt, and may file a tax credit request for the subsequent program year up to the amount donated in the current program year.

(i) The provisions of this chapter regarding nonpublic schools and their relation to scholarship organizations shall apply only to nonpublic schools that choose to accept scholarship students.

77-G:6 Department of Revenue Administration; Requirements.

I. The department of revenue administration shall:

(a) Develop, and annually verify and update, by February 1, a list of eligible nonprofit scholarship funding organizations that meet the requirements of this chapter. The department shall post this list on the department's Internet website and update the list monthly until July 15. The department shall forward the list and any updates to the commissioner of the department of education who shall post the list on the department of education's Internet website.

(b) Conduct or require audits in response to any reasonable complaints made. The cost of an independent audit shall be paid by the scholarship organization, but this cost shall be excluded from the administrative expenses requirement set forth in RSA 77-G:5, I(f).

(c) Establish a process by which individuals may notify the department of revenue administration of any violation by a parent, business organization, business enterprise, scholarship organization, or nonpublic school of state laws relating to program participation. The department of revenue administration shall conduct an inquiry of any written complaint of a violation of this chapter, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it contains facts demonstrating a violation of this chapter or any rule adopted pursuant to this chapter. In order to determine legal sufficiency, the department of revenue administration may require supporting information or documentation from the complainant.

(d) Create, maintain, and post online the relevant forms and reports, and submit scholarship organization reports to the members of the house and senate education committees and to the department of education.

(e) Post to the department's website an up-to-date total of the amount of credits available.

(f) No later than January 1, 2013, adopt rules pursuant to RSA 541-A, relative to:

(1) The application procedure for a scholarship organization applying to accept scholarship donations under this chapter.

(2) The application procedure for a business organization or business enterprise applying for a tax credit under this chapter.

(3) Complaint procedures, including the filing of a complaint and investigations of complaints.

(4) The design and content of the forms and applications required to be filed with, or issued by, the department of revenue administration under this chapter.

77-G:7 Department of Education; Requirements.

I. The department of education shall determine the number of students receiving a scholarship under RSA 77-G:1, VIII(a)(1) and (2) who were counted in the calculation of the average daily membership in attendance, as defined in RSA 198:38, I, for schools, other than chartered public schools, for the student's school district of residence and for each such student, shall deduct the amount calculated under RSA 198:40-a, I-III from the total education grant amount disbursed to the student's school district of residence calculated pursuant to RSA 198:40-a, IV(b)-(c). This adjustment shall be completed prior to September 1 of the program year in which the scholarships are granted.

II. The department of education shall verify a student's eligibility under RSA 77-G:1, VIII(a)(1) upon request of a scholarship organization. The department of education shall assist the department of revenue administration, upon request, in the investigation of student eligibility complaints.

III. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to forms necessary for any surveys required and the procedures for determining and disbursing stabilization grants.

77-G:8 Scholarship Stabilization Grant.

I. For each school district, the department of education shall calculate the combined amount of reductions in adequacy cost pursuant to RSA 77-G:7 from students receiving scholarships under RSA 77-G:1, VIII(a)(1) and who were in attendance in that district in the year prior to receiving the scholarships. If this combined amount is greater than 1/4 of one percent of a school district's total voted appropriations for the year prior to the scholarship year, the commissioner of the department of education shall disburse a scholarship stabilization grant for the current and next 3 fiscal years to each such school district equal to the amount of the reductions in excess of 1/4 of one percent. This scholarship stabilization grant shall be included in the September 1 disbursement required pursuant to RSA 198:42.

II. The department of education shall order any scholarship organizations that provided scholarships to students from districts that were awarded stabilization grants pursuant to paragraph I to conduct a scholarship impact survey. The organization shall forward the results of this survey to the department of education and the school board of each district. The department of education shall post the results of this survey online.

77-G:9 Exceptions.

I. A receiving nonpublic school or home education program that accepts students benefiting from scholarships, grants, or tax credits shall not be considered an agent of the state or federal government as a result of participating in the program established in this chapter.

II. Except as provided in this chapter, or otherwise provided in law, no state department, agency, or board shall regulate the educational program of a receiving nonpublic school or home education program that accepts students pursuant to this chapter.

III. Donations made by a business organization or business enterprise to a scholarship organization that are not for the purpose of obtaining a tax credit under this chapter shall not be subject to the requirements in this chapter.

77-G:10 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.

5 Applicability. The first program year of the education tax credit pursuant to RSA 77-G as inserted by section 4 of this act shall begin on January 1, 2013.

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

AMENDED ANALYSIS

This bill establishes an education tax credit against the business profits tax and/or the business enterprise tax for business organizations and business enterprises that contribute to scholarship organizations which award scholarships to be used by students to defray the educational expenses.

Reps. Sanborn and Kurk spoke in favor.

Reps. Porter, Ladd and Hamm spoke against.

Rep. Hamm requested a roll call; sufficiently seconded.

YEAS 235 NAYS 99

YEAS 235

BELKNAP

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

CARROLL

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

CHESHIRE

Cartwright, Anne	Dwinell, Richard	Hunt, John	Johnson, Jane
Lindsey, Steven	Moore, Charles	Moore, Robert Jr	Roberts, Kris

COOS

Daugherty, Duffy	Rappaport, Laurence	Richardson, Herbert	Tholl, John Jr
Tremblay, Marc			

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Sorg, Gregory	Sova, Charles

HILLSBOROUGH

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

MERRIMACK

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

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Brown, Paul
Davenport, Joshua	DeSimone, Debra	Devine, James	Dowling, Patricia
Duarte, Joe	Elliott, Robert	Ferrante, Beverly	Fesh, Robert
Garcia, Marilinda	Garrity, James	Griffin, Mary	Hagan, Joseph
Headd, James	Hoelzel, Kathleen	Introne, Robert	Itse, Daniel
Kappler, Lawrence	Kolodziej, Walter	Major, Norman	Manuse, Andrew
Mauro, Donna	McKinney, Betsy	Nevins, Chris	O'Connor, John
Okerman, Richard	Packard, Sherman	Peckham, Michele	Perkins, Amy
Perkins, Lawrence	Quandt, Matt	Reagan, John	Reichard, Kevin
Rice, Frederick	Ritter, Glenn	Sanders, Elisabeth	Sapareto, Frank
Schroadter, Adam	Sedensky, John	Sheffert, Kenneth	Shuler, Wyman III
Smith, William	Sytek, John	Tamburello, Daniel	Tremblay, Stella
Tucker, Pamela	Ward, Joanne	Waterhouse, Kevin	Welch, David
Weyler, Kenneth			

STRAFFORD

Cataldo, Sam	DeLemus, Susan	Groen, Warren	Jones, Laura
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

NAYS 99

BELKNAP

None

CARROLL

Knox, J. David

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Meader, David	Parkhurst, Henry	Sad, Tara	Tatro, Bruce
Weber, Lucy	Weed, Charles		

COOS

Coulombe, Gary	Hatch, William	Remick, William	Theberge, Robert
Thomas, Yvonne			

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Gould, Franklin
Harding, Laurie	Nordgren, Sharon	Pierce, David	Smith, Suzanne
Taylor, Kathleen	Townsend, Charles	White, Andrew	

HILLSBOROUGH

Baroody, Benjamin	Buxton, Michael	Campbell, David	Cote, David
Daler, Jennifer	Gargasz, Carolyn	Garrity, Patrick	Gidge, Kenneth
Gimas, John	Gorman, Mary	LeBrun, Donald	Leishman, Peter
Levasseur, Nickolas	Messier, Irene	Pilotte, Maurice	Porter, Marjorie
Ramsey, Peter	Rhodes, Brian	Rosenwald, Cindy	Scontsas, Lisa
Shaw, Barbara	Sullivan, Daniel	Sullivan, Peter	Vaillancourt, Steve

MERRIMACK

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

ROCKINGHAM

Cali-Pitts, Jacqueline	Copeland, Timothy	DiPentima, Rich	Katsakiores, Phyllis
Lovejoy, Patricia	Moody, Marcia	Norelli, Terie	Pantelakos, Laura
Quandt, Marshall	Read, Robin Jr	Schlachman, Donna	Serlin, Christopher
Sullivan, James	Waddell, James		

STRAFFORD

Berube, Roger	Brown, Julie	Browne, Brendon	Ginsburg, Philip

Grassie, Anne	Hooper, Dorothea	Horrigan, Timothy	Kaen, Naida
Pelletier, Marsha	Roberts, Jenna	Schmidt, Peter	Spang, Judith
Sprague, Dale	Watters, David		

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew		

and the majority committee amendment was adopted.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Rep. Bettencourt spoke in favor and requested a roll call; sufficiently seconded.

YEAS 236 NAYS 97

YEAS 236

BELKNAP

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

CARROLL

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

CHESHIRE

Cartwright, Anne	Dwinell, Richard	Hunt, John	Johnson, Jane
Lindsey, Steven	Moore, Charles	Moore, Robert Jr	Roberts, Kris

COOS

Daugherty, Duffy	Rappaport, Laurence	Richardson, Herbert	Tholl, John Jr
Tremblay, Marc			

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Sorg, Gregory	Sova, Charles

HILLSBOROUGH

Avard, Kevin	Balboni, Michael	Ball, J. Michael	Barry, J. Gail
Barry, Richard	Belanger, James	Belvin, William	Bergevin, Jerry
Boehm, Ralph	Brown, Kevin	Brownrigg, Randall Jr	Burt, John
Cebrowski, John	Champagne, Norma	Christensen, D.L. Chris	Christiansen, Lars
Coffey, James	Condra, William	Coughlin, Sean	Cusson-Cail, Kathleen
Daniels, Gary	Day, Russell	DeJong, Cameron	Doherty, Shaun
Donovan, Daniel	Drisko, Richard	Flanagan, Jack	Fredette, Robert
Gagne, Larry	Gandia, Laura	Gonzalez, Carlos	Greazzo, Phil
Hansen, Peter	Hardwick, Harry	Hawkins, Kenneth	Hikel, John
Hogan, Edith	Holden, Frank	Hopper, Gary	Hutchinson, Winfred

Infantine, William	Jasper, Shawn	Krasucki, Joseph	Kurk, Neal
Lambert, George	LeBrun, Donald	Maltz, Jonathan	McCarthy, Michael
McClarren, Donald	McGuinness, Sean	Mecheski, Holly	Moran, Edward
Murphy, Keith	Notter, Jeanine	Ober, Lynne	Ohm, Bill
Palmer, Barry	Palmer, Stephen	Parison, James	Pellegrino, Tony
Pepino, Leo	Peterson, Lenette	Pratt, Calvin	Reed, Michael
Renzullo, Andrew	Robbins, David	Rowe, Robert	Seidel, Carl
Silva, Peter	Simmons, Tammy	Soucy, Connie	Souza, Kathleen
Stroud, Kathleen	Summers, James	Swank, Matthew	Thomas, Joseph
Twombly, Timothy	Ulery, Jordan	Villeneuve, Moe	Warden, Mark
Whitehead, Randall	Willette, Robert		

MERRIMACK

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

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Brown, Paul
Davenport, Joshua	DeSimone, Debra	Devine, James	Dowling, Patricia
Duarte, Joe	Elliott, Robert	Ferrante, Beverly	Fesh, Robert
Garcia, Marilinda	Garrity, James	Griffin, Mary	Hagan, Joseph
Headd, James	Hoelzel, Kathleen	Introne, Robert	Itse, Daniel
Kappler, Lawrence	Kolodziej, Walter	Major, Norman	Manuse, Andrew
Mauro, Donna	McKinney, Betsy	Nevins, Chris	O'Connor, John
Okerman, Richard	Packard, Sherman	Peckham, Michele	Perkins, Amy
Perkins, Lawrence	Quandt, Marshall	Quandt, Matt	Reagan, John
Reichard, Kevin	Rice, Frederick	Ritter, Glenn	Sanders, Elisabeth
Sapareto, Frank	Schroadter, Adam	Sedensky, John	Sheffert, Kenneth
Shuler, Wyman III	Smith, William	Sullivan, James	Tamburello, Daniel
Tremblay, Stella	Tucker, Pamela	Ward, Joanne	Waterhouse, Kevin
Welch, David	Weyler, Kenneth		

STRAFFORD

Cataldo, Sam	DeLemus, Susan	Groen, Warren	Jones, Laura
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

NAYS 97

BELKNAP

None

CARROLL

Knox, J. David

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Meader, David	Parkhurst, Henry	Sad, Tara	Tatro, Bruce
Weber, Lucy	Weed, Charles		

COOS

Coulombe, Gary	Hatch, William	Remick, William	Theberge, Robert
Thomas, Yvonne			

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Gould, Franklin
Harding, Laurie	Nordgren, Sharon	Pierce, David	Smith, Suzanne
Taylor, Kathleen	Townsend, Charles	White, Andrew	

HILLSBOROUGH

Baroody, Benjamin	Buxton, Michael	Campbell, David	Cote, David
Daler, Jennifer	Gargasz, Carolyn	Garrity, Patrick	Gidge, Kenneth
Gimas, John	Gorman, Mary	Leishman, Peter	Levasseur, Nickolas
Messier, Irene	Pilotte, Maurice	Porter, Marjorie	Ramsey, Peter
Rhodes, Brian	Rosenwald, Cindy	Scontsas, Lisa	Shaw, Barbara
Sullivan, Daniel	Sullivan, Peter	Terrio, Ross	Vaillancourt, Steve

MERRIMACK

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

ROCKINGHAM

Cali-Pitts, Jacqueline	Copeland, Timothy	DiPentima, Rich	Katsakiores, Phyllis
Lovejoy, Patricia	Moody, Marcia	Norelli, Terie	Pantelakos, Laura
Read, Robin Jr	Schlachman, Donna	Serlin, Christopher	Sytek, John
Waddell, James			

STRAFFORD

Berube, Roger	Brown, Julie	Browne, Brendon	Ginsburg, Philip
Grassie, Anne	Horrigan, Timothy	Kaen, Naida	Pelletier, Marsha
Roberts, Jenna	Schmidt, Peter	Spang, Judith	Sprague, Dale
Watters, David			

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew

and the majority committee report was adopted and ordered to third reading.
Rep. Berube voted Nay and intended to vote Yea.

SPECIAL ORDERED

Without objection, the Speaker made ***SB 399-FN,*** relative to the maximum permit application fee for certain municipal or state agency dredging projects, a Special Order as the next order of business.

SPECIAL ORDER

SB 399-FN, relative to the maximum permit application fee for certain municipal or state agency dredging projects. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Laurie J. Sanborn for the Majority of Ways and Means: This bill limits the maximum permit application fee for fresh water municipal and state agency dredging projects as is currently allowed for tidal waters. As amended, the bill brings back language from HB 564, which passed the house with a 271-82 vote and brings the adoption of business tax forms back to the legislature for improved transparency. As amended, the bill makes it clear that charges for internet access are excluded from the communication services tax, and sends a clear policy statement to New Hampshire residents and employers that New Hampshire is not a state that will tax internet access. As amended, the bill also transfers $1.5 million in revenue in recognition of a unanticipated surplus for the fiscal year ending June 30, 2011 to the department of health and human services for the purposes of providing services to the developmentally disabled. Vote 16-5.

Rep. William A. Hatch for the Minority of Ways and Means: The minority believes this bill as amended will again take revenues from our already stressed state revenue stream, somewhere between $6 and $24 million in this biennium, depending on whether taxpayers request refunds, and $6 million per year going forward. One of the minority's concerns is that this adds to next term's shortfall of what the minority believes is an already passed loss of revenues that could total $200 million in the next biennium. The minority believes this is will exacerbate the large downshifting to counties, communities, businesses and citizens that will stagnate economic growth. Further, the minority believes that the loss in this term will force further cuts to our ability to provide essential services, including to the disabled community. The minority believes that there have already been too many layoffs and service cuts in our health care community, education, courts, and other services provided by civil servants. The minority also questions the stated reason for this law change.

Majority Amendment (2217h)

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

AN ACT relative to the maximum permit application fee for certain municipal or state agency dredging projects, relative to the adoption of forms by the department of revenue administration for the filing of taxes and removing the requirement for electronic tax payments, excluding charges for Internet access from the communications services tax, and requiring the transfer of insurance premium tax revenue to the department of health and human services.

Amend the bill by replacing all after section 1 with the following:

2 New Paragraph; Department of Revenue Administration; Rulemaking Authority; Business Tax Forms Added. Amend RSA 21-J:13 by inserting after paragraph XIII the following new paragraph:

XIV. The requirements for business tax forms developed or approved by the department which relate to the business profits tax under RSA 77-A, the business enterprise tax under RSA 77-E, and the taxation of incomes under RSA 77.

3 Rulemaking; Forms. Amend RSA 21-J:13-a to read as follows:

21-J:13-a Exemption From Rulemaking Requirement. The commissioner shall be exempt from adopting, as rules pursuant to RSA 541-A, the requirements on all forms ***except as provided in RSA 21-J:13, XIV***.

4 Rulemaking; Reference Removed. Amend RSA 21-J:13, X to read as follows:

X. A method for collecting taxes by electronic transfer [~~under RSA 21-J:3, XXI~~].

5 Repeal. The following are repealed:

I. RSA 21-J:33, III, relative to the penalty for failure to comply with electronic payment requirements.

II. RSA 21-J:3, XXI, relative to the authority of the commissioner of revenue administration to require electronic payment.

6 Communications Services Tax; Purpose. Amend RSA 82-A:1 to read as follows:

82-A:1 Statement of Purpose. It is the intent of the general court to impose a tax on those who use 2-way communications services and to source mobile telecommunications services to the place of primary use. It is also the intent of the general court that ***Internet access service and*** basic communications services essential to public health, safety, and welfare shall not be subject to the tax imposed by this chapter.

7 Communications Services Tax; Definition of "Communications Services;" Internet Access Excluded. Amend RSA 82-A:2, III(b) and (c) to read as follows:

(b) Purchases of communications services by a communications services provider for use as a component part of the service provided by him to the ultimate retail consumer who originates or terminates the taxable end-to-end communications, including carrier access charges, right of access charges, charges for use of inter-company facilities, and all communications services resold in the subsequent provision of, used as a component of, or integrated into end-to-end communications services; [~~or~~]

(c) The one-way transmission of radio or television programming, by cable, broadcast, satellite, microwave or similar facility, which is made available generally to any person able to receive such transmission, together with the interaction, if any, of such person required for the selection of such programming other than by use of the same facility by which such transmission was received[~~.~~]***; or***

(d) Internet access.

8 New Paragraphs; Communications Services Tax; Definitions of "Internet" and "Internet Access." Amend RSA 82-A:2 by inserting after paragraph XXIV the following new paragraphs:

XXV. "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprises the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

XXVI. "Internet access":

(a) Means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

(b) Includes the purchase, use, or sale of communications services by a provider of a service described in subparagraph (a) to the extent such communications services are purchased, used or sold:

(1) To provide such service; or

(2) To otherwise enable users to access content, information, or other services offered over the Internet;

(c) Includes services that are incidental to the provision of the service described in subparagraph (a) when furnished to users as part of such service, such as a home page, electronic mail, and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity;

(d) Does not include voice, audio, or video programming, or other products and services, except services described in subparagraph (a), (b), (c), or (e) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (a), (b), (c), or (e); and

(e) Includes a homepage, electronic mail, and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity that are provided independently or not packaged with Internet access.

9 Communications Services Tax; Definition of "Gross Charge;" Charges of Internet Access Excluded. Amend RSA 82-A:2, V(f)-(h) to read as follows:

(f) Charges for communications services and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the tax imposed under this chapter has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service; [~~and~~]

(g) [Repealed.]

(h) Bad debt. For the purposes of this paragraph, bad debt means any portion of a debt that is related to a purchase at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made[~~.~~]***; and***

(i) Charges for Internet access.

10 Existing Assessments Not Enforceable. The department of revenue administration shall not enforce any existing assessment of communications services tax on charges for Internet access, shall promptly withdraw all such pending assessments, and shall issue no additional assessments with respect to such charges.

11 Transfer of Insurance Premium Tax Revenue to Department of Health and Human Services. Notwithstanding any provision of law to the contrary, and in recognition of an unanticipated surplus for the fiscal year ending June 30, 2011 as determined by the official audit performed pursuant to RSA 21-I:8, II(a), the state treasurer shall transfer $1,500,000 in revenue received from the insurance premium tax pursuant to RSA 400-A:32 to the department of health and human services for the purpose of providing services to the developmentally disabled. Said amounts are hereby appropriated to the department for the biennium ending June 30, 2013.

12 Effective Date.

I. Section 1 of this act shall take effect July 1, 2012.

II. Section 11 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Limits the maximum permit application fee for certain municipal or state agency dredging projects.

II. Requires that business tax forms relating to the business profits tax, the business enterprise tax, and the interest and dividends tax, developed or approved by the department of revenue administration, shall be adopted pursuant to RSA 541-A, the administrative procedure act. The bill also repeals the penalty for failure to make electronic payments and the authority of the department of revenue administration to require electronic payments.

III. Clarifies that Internet access services is not subject to the communications services tax.

IV. Requires the transfer of insurance premium tax revenue to the department of health and human services.

On a division vote, 236 members having voted in the affirmative and 80 in the negative, the majority committee amendment was adopted.

Rep. Hatch offered floor amendment (2270h).

Floor Amendment (2270h)

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

AN ACT relative to the maximum permit application fee for certain municipal or state agency dredging projects, relative to the adoption of forms by the department of revenue administration for the filing of taxes and removing the requirement for electronic tax payments, and requiring the transfer of insurance premium tax revenue to the department of health and human services.

Amend the bill by replacing all after section 1 with the following:

2 New Paragraph; Department of Revenue Administration; Rulemaking Authority; Business Tax Forms Added. Amend RSA 21-J:13 by inserting after paragraph XIII the following new paragraph:

XIV. The requirements for business tax forms developed or approved by the department which relate to the business profits tax under RSA 77-A, the business enterprise tax under RSA 77-E, and the taxation of incomes under RSA 77.

3 Rulemaking; Forms. Amend RSA 21-J:13-a to read as follows:

21-J:13-a Exemption From Rulemaking Requirement. The commissioner shall be exempt from adopting, as rules pursuant to RSA 541-A, the requirements on all forms ***except as provided in RSA 21-J:13, XIV***.

4 Rulemaking; Reference Removed. Amend RSA 21-J:13, X to read as follows:

X. A method for collecting taxes by electronic transfer [~~under RSA 21-J:3, XXI~~].

5 Repeal. The following are repealed:

I. RSA 21-J:33, III, relative to the penalty for failure to comply with electronic payment requirements.

II. RSA 21-J:3, XXI, relative to the authority of the commissioner of revenue administration to require electronic payment.

6 Transfer of Insurance Premium Tax Revenue to Department of Health and Human Services. Notwithstanding any provision of law to the contrary, and in recognition of an unanticipated surplus for the fiscal year ending June 30, 2011 as determined by the official audit performed pursuant to RSA 21-I:8, II(a), the state treasurer shall transfer $1,500,000 in revenue received from the insurance premium tax pursuant to RSA 400-A:32 to the department of health and human services for the purpose of providing services to the developmentally disabled. Said amounts are hereby appropriated to the department for the biennium ending June 30, 2013.

7 Effective Date.

I. Section 1 of this act shall take effect July 1, 2012.

II. Section 6 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Limits the maximum permit application fee for certain municipal or state agency dredging projects.

II. Requires that business tax forms relating to the business profits tax, the business enterprise tax, and the interest and dividends tax, developed or approved by the department of revenue administration, shall be adopted pursuant to RSA 541-A, the administrative procedure act. The bill also repeals the penalty for failure to make electronic payments and the authority of the department of revenue administration to require electronic payments.

III. Requires the transfer of insurance premium tax revenue to the department of health and human services.

Reps. Hatch, Rosenwald and Almy spoke in favor.

Reps. Hess and Jasper spoke against.

Rep. Rosenwald requested a roll call; sufficiently seconded.

YEAS 85 NAYS 245

YEAS 85

BELKNAP

None

CARROLL

None

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Lindsey, Steven	Meader, David	Parkhurst, Henry	Roberts, Kris
Sad, Tara	Tatro, Bruce	Weber, Lucy	Weed, Charles

COOS

Coulombe, Gary	Hatch, William	Theberge, Robert	Thomas, Yvonne

GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Gould, Franklin
Harding, Laurie	Nordgren, Sharon	Pierce, David	Smith, Suzanne
Taylor, Kathleen	Townsend, Charles	White, Andrew	

HILLSBOROUGH

Baroody, Benjamin	Cote, David	Daler, Jennifer	Gidge, Kenneth
Gimas, John	Goley, Jeffrey	Gorman, Mary	Leishman, Peter
Levasseur, Nickolas	Pilotte, Maurice	Porter, Marjorie	Ramsey, Peter
Rhodes, Brian	Rosenwald, Cindy	Shaw, Barbara	Sullivan, Daniel
Vaillancourt, Steve			

MERRIMACK

Bouchard, Candace	Deloge, Helen	Foose, Robert	Frazer, June
Gile, Mary	Hamm, Christine	Kidder, David	Lockwood, Priscilla
MacKay, James	Owen, Derek	Patten, Dick	Potter, Frances
Rice, Chip	Richardson, Gary	Shurtleff, Stephen	Wallner, Mary Jane
Watrous, Rick			

ROCKINGHAM

Cali-Pitts, Jacqueline	DiPentima, Rich	Lovejoy, Patricia	Moody, Marcia
Norelli, Terie	Pantelakos, Laura	Read, Robin Jr	Schlachman, Donna
Serlin, Christopher	Sytek, John		

STRAFFORD

Berube, Roger	Brown, Julie	Browne, Brendon	Ginsburg, Philip
Grassie, Anne	Horrigan, Timothy	Kaen, Naida	Pelletier, Marsha
Roberts, Jenna	Schmidt, Peter	Spang, Judith	Watters, David

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew		

NAYS 245

BELKNAP

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

CARROLL

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

CHESHIRE

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

COOS

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

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Sorg, Gregory	Sova, Charles

HILLSBOROUGH

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

MERRIMACK

Blankenbeker, Lynne	Coffey, Jennifer	Cohn, Seth	DeStefano, Stephen
Giuda, J. Brandon	Hess, David	Hill, Gregory	Hoell, J.R.
Keane, Thomas	Kotowski, Frank	Kreis, Kenneth Sr	Lauer-Rago, Kathleen
Lindsley, Mark	McDonnell, John	McGuire, Carol	McGuire, Dan
Palfrey, David	Reed, Dennis	Sanborn, Laurie	Seaworth, G. Brian
Soltani, Tony	Winter, Steven		

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Brown, Paul
Copeland, Timothy	Davenport, Joshua	DeSimone, Debra	Devine, James
Duarte, Joe	Elliott, Robert	Ferrante, Beverly	Fesh, Robert
Garcia, Marilinda	Garrity, James	Griffin, Mary	Hagan, Joseph
Headd, James	Hoelzel, Kathleen	Introne, Robert	Itse, Daniel
Kappler, Lawrence	Katsakiores, Phyllis	Kolodziej, Walter	Major, Norman
Manuse, Andrew	Mauro, Donna	McKinney, Betsy	Nevins, Chris
O'Connor, John	Okerman, Richard	Packard, Sherman	Peckham, Michele
Perkins, Amy	Perkins, Lawrence	Quandt, Marshall	Quandt, Matt
Reagan, John	Reichard, Kevin	Rice, Frederick	Ritter, Glenn
Sapareto, Frank	Schroadter, Adam	Sedensky, John	Sheffert, Kenneth
Shuler, Wyman III	Smith, William	Sullivan, James	Tamburello, Daniel
Tremblay, Stella	Tucker, Pamela	Waddell, James	Ward, Joanne
Waterhouse, Kevin	Welch, David	Weyler, Kenneth	

STRAFFORD

Cataldo, Sam	DeLemus, Susan	Groen, Warren	Jones, Laura
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Sprague, Dale	Vita, Carol	Vita, Lucien

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

and floor amendment (2270h) failed.
Rep. Sapareto offered floor amendment (2269h).

Floor Amendment (2269h)

Amend the title of the bill by replacing it with the following:
AN ACT relative to the maximum permit application fee for certain municipal or state agency dredging projects, relative to the adoption of forms by the department of revenue administration for the filing of taxes and removing the requirement for electronic tax payments, excluding charges for Internet access from the communications services tax, requiring the transfer of insurance premium tax revenue to the department of health and human services, and increasing the threshold amounts for taxation under the business enterprise tax.
Amend the bill by replacing all after section 11 with the following:

12 Business Enterprise Tax; Returns. Amend RSA 77-E:5 to read as follows:

77-E:5 Returns.

I. Every business enterprise having gross business receipts in excess of [~~$150,000~~] ***$200,000 as adjusted biennially for inflation and rounded to the nearest $1,000 by the commissioner using the Consumer Price Index, Northeast Region*** as defined by RSA 77-E:1, X, during the taxable period or the enterprise value tax base of which is greater than [~~$75,000~~] ***$100,000 as adjusted biennially for inflation and rounded to the nearest $1,000 by the commissioner using the Consumer Price Index, Northeast Region***, shall, on or before the fifteenth day of the third month in the case of enterprises required to file a United States corporation tax return, and the fifteenth day of the fourth month in the case of all other business enterprises, following expiration of its taxable period, make a return to the commissioner. All returns shall be signed by the business enterprise or by its authorized representative, subject to the pains and penalties of perjury and the penalties provided in RSA 21-J:39.

II. Every business enterprise shall in addition file a declaration of its estimated business enterprise tax for its subsequent taxable period; provided, however, if the estimated tax is less than [~~$200~~] ***$260***, a declaration need not be filed; and provided further that a declaration shall be filed at the end of any quarter thereafter in which estimated tax exceeds [~~$200~~] ***$260***. The declaration shall be filed when payments are due under RSA 77-E:6.

13 Effective Date.

I. Section 1 of this act shall take effect July 1, 2012.

II. Section 11 of this act shall take effect upon its passage.

III. Section 12 of this act shall be in effect for taxable periods ending on or after December 31, 2013.

IV. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Limits the maximum permit application fee for certain municipal or state agency dredging projects.

II. Requires that business tax forms relating to the business profits tax, the business enterprise tax, and the interest and dividends tax, developed or approved by the department of revenue administration, shall be adopted pursuant to RSA 541-A, the administrative procedure act. The bill also repeals the penalty for failure to make electronic payments and the authority of the department of revenue administration to require electronic payments.

III. Clarifies that Internet access services is not subject to the communications services tax.

IV. Requires the transfer of insurance premium tax revenue to the department of health and human services.

V. Increases the threshold amounts for taxation under the business enterprise tax.

Floor amendment (2269h) adopted.

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

Rep. Sanborn spoke in favor.

Rep. Sapareto spoke in favor and yielded to questions.

Rep. Summers requested a roll call; sufficiently seconded.

YEAS 245 NAYS 80

YEAS 245

BELKNAP

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

CARROLL

Ahlgren, Christopher	Babson, David Jr	Chandler, Gene	Fleck, Joseph

Knox, J. David
McCarthy, Frank
McConkey, Mark
Merrow, Harry
Patten, Betsey
Pettengill, Laurie
Schmidt, Stephen
Tregenza, Norman
Umberger, Karen

CHESHIRE

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

COOS

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

GRAFTON

Bradley, Lester
Brosseau, Charles
Bulis, Lyle
Gionet, Edmond
Ingbretson, Paul
Ladd, Rick Jr
Mirski, Paul
Reilly, Harold Sr
Shackett, Jeffrey
Simard, Paul
Sorg, Gregory
Sova, Charles

HILLSBOROUGH

Avard, Kevin
Balboni, Michael
Ball, J. Michael
Barry, J. Gail
Barry, Richard
Belanger, James
Belvin, William
Bergevin, Jerry
Boehm, Ralph
Brown, Kevin
Brownrigg, Randall Jr
Burt, John
Buxton, Michael
Campbell, David
Cebrowski, John
Champagne, Norma
Christensen, D.L. Chris
Christiansen, Lars
Coffey, James
Condra, William
Coughlin, Sean
Cusson-Cail, Kathleen
Daniels, Gary
Day, Russell
DeJong, Cameron
Doherty, Shaun
Donovan, Daniel
Drisko, Richard
Flanagan, Jack
Fredette, Robert
Gagne, Larry
Gandia, Laura
Gargasz, Carolyn
Gimas, John
Gonzalez, Carlos
Graham, John
Greazzo, Phil
Hansen, Peter
Hardwick, Harry
Hawkins, Kenneth
Hikel, John
Hogan, Edith
Holden, Frank
Hopper, Gary
Hutchinson, Winfred
Infantine, William
Krasucki, Joseph
LeBrun, Donald
Leishman, Peter
Maltz, Jonathan
McCarthy, Michael
McClarren, Donald
McGuinness, Sean
Mecheski, Holly
Messier, Irene
Moran, Edward
Murphy, Keith
Notter, Jeanine
Ober, Lynne
Ober, Russell III
Ohm, Bill
Palmer, Stephen
Parison, James
Pellegrino, Tony
Pepino, Leo
Peterson, Lenette
Porter, Marjorie
Pratt, Calvin
Reed, Michael
Renzullo, Andrew
Robbins, David
Rowe, Robert
Scontsas, Lisa
Seidel, Carl
Silva, Peter
Simmons, Tammy
Soucy, Connie
Souza, Kathleen
Summers, James
Swank, Matthew
Terrio, Ross
Thomas, Joseph
Twombly, Timothy
Ulery, Jordan
Villeneuve, Moe
Warden, Mark
Whitehead, Randall
Willette, Robert

MERRIMACK

Blankenbeker, Lynne
Coffey, Jennifer
Cohn, Seth
DeStefano, Stephen
Giuda, J. Brandon
Hess, David
Hill, Gregory
Hoell, J.R.
Keane, Thomas
Kidder, David
Kotowski, Frank
Lauer-Rago, Kathleen
Lindsley, Mark
McDonnell, John
McGuire, Carol
McGuire, Dan
Palfrey, David
Reed, Dennis
Sanborn, Laurie
Seaworth, G. Brian
Soltani, Tony
Winter, Steven

ROCKINGHAM

Abrami, Patrick
Allen, Mary
Azarian, Gary
Bates, David

Bettencourt, David	Birdsell, Regina	Brown, Paul	Copeland, Timothy
Davenport, Joshua	DeSimone, Debra	Devine, James	Duarte, Joe
Elliott, Robert	Ferrante, Beverly	Fesh, Robert	Garcia, Marilinda
Garrity, James	Griffin, Mary	Hagan, Joseph	Headd, James
Hoelzel, Kathleen	Introne, Robert	Itse, Daniel	Kappler, Lawrence
Katsakiores, Phyllis	Kolodziej, Walter	Major, Norman	Manuse, Andrew
Mauro, Donna	McKinney, Betsy	Nevins, Chris	O'Connor, John
Okerman, Richard	Packard, Sherman	Peckham, Michele	Perkins, Amy
Perkins, Lawrence	Quandt, Marshall	Quandt, Matt	Reagan, John
Reichard, Kevin	Rice, Frederick	Ritter, Glenn	Sapareto, Frank
Schroadter, Adam	Sedensky, John	Sheffert, Kenneth	Shuler, Wyman III
Smith, William	Sullivan, James	Tamburello, Daniel	Tremblay, Stella
Tucker, Pamela	Waddell, James	Ward, Joanne	Waterhouse, Kevin
Welch, David	Weyler, Kenneth		

STRAFFORD

Cataldo, Sam	DeLemus, Susan	Groen, Warren	Jones, Laura
Munck, Philip	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Roberts, Jenna	Sprague, Dale	Vita, Carol
Vita, Lucien			

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

NAYS 80

BELKNAP

None

CARROLL

None

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Lindsey, Steven	Meader, David	Parkhurst, Henry	Roberts, Kris
Sad, Tara	Tatro, Bruce	Weber, Lucy	Weed, Charles

COOS

Coulombe, Gary	Hatch, William	Theberge, Robert	Thomas, Yvonne

GRAFTON

Almy, Susan	Cooney, Mary	Gould, Franklin	Harding, Laurie
Nordgren, Sharon	Pierce, David	Smith, Suzanne	Taylor, Kathleen
Townsend, Charles	White, Andrew		

HILLSBOROUGH

Baroody, Benjamin	Cote, David	Daler, Jennifer	Gidge, Kenneth
Goley, Jeffrey	Gorman, Mary	Kurk, Neal	Levasseur, Nickolas
Pilotte, Maurice	Ramsey, Peter	Rhodes, Brian	Rosenwald, Cindy

Shaw, Barbara	Sullivan, Daniel	Sullivan, Peter	Vaillancourt, Steve

MERRIMACK

Bouchard, Candace	Deloge, Helen	Foose, Robert	Frazer, June
Gile, Mary	Hamm, Christine	Lockwood, Priscilla	MacKay, James
Owen, Derek	Patten, Dick	Potter, Frances	Richardson, Gary
Shurtleff, Stephen	Wallner, Mary Jane	Watrous, Rick	

ROCKINGHAM

Cali-Pitts, Jacqueline	DiPentima, Rich	Lovejoy, Patricia	Moody, Marcia
Norelli, Terie	Pantelakos, Laura	Read, Robin Jr	Schlachman, Donna
Serlin, Christopher	Sytek, John		

STRAFFORD

Berube, Roger	Brown, Julie	Browne, Brendon	Ginsburg, Philip
Grassie, Anne	Horrigan, Timothy	Kaen, Naida	Pelletier, Marsha
Schmidt, Peter	Spang, Judith	Watters, David	

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew

and the majority committee report was adopted and ordered to third reading.

(Rep. Chandler in the Chair)

SPECIAL ORDERED

Without objection, the Speaker made ***SB 229-FN,*** establishing a commission to make recommendations on whether the New Hampshire retirement system should be replaced with a defined contribution plan for all new hires and to study the impact such change would have on the retirement system, a Special Order as the next order of business.

SPECIAL ORDER

SB 229-FN, establishing a commission to make recommendations on whether the New Hampshire retirement system should be replaced with a defined contribution plan for all new hires and to study the impact such change would have on the retirement system.

MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. William B. Smith for the Majority of Special Committee on Public Employee Pensions Reform: This bill amends SB 229, as passed by the Senate, which establishes a commission to make recommendation on whether the NH retirement system should be replaced with a defined contribution plan for all new hires. The majority felt that the retirement system, which has an estimated unfunded liability of $3.7 billion, needs to be changed to a defined contribution plan as soon as possible. However, we recognize that there are a number of open questions that must be addressed before the actual plan is established. Consequently, the amendment establishes a legislative committee in lieu of a commission, includes a non-voting advisory group to assist it, and charters it to answer remaining questions and propose legislation to enable the establishment of a specific plan prior to Nov 1, 2012. If the committee meets this reporting requirement, the amendment enacts a basic defined contribution plan, based on the originally introduced version of SB 229, effective as of Nov 1, 2013, primarily for new state hires, and a concrete timetable for implementation, with modifications by legislation that the committee will likely submit as part of its reporting. The amendment defines the broad objectives for the plan, and instructs the committee to prepare, issue, and evaluate requests for proposals to collect information to address the open questions, and refine the plan parameters. Vote 9-4.

Rep. Daniel J. Sullivan for the Minority of Special Committee on Public Employee Pensions Reform: This bill, as amended, is seriously flawed and poorly designed. It uses state employees as test subjects for a defined contribution plan that numerous national experts and the retirement system's actuaries have determined is more expensive for employers and employees. Furthermore, the retirement system's actuaries have shown that a defined contribution plan would dramatically increase the unfunded liability by up to $1.2 billion. This bill is logically flawed; it asks a legislative study committee to select a suitable proposal for a defined contribution or hybrid plan, but if it does not select one, a default defined contribution plan will still take effect for new state employees, as well as cities, towns, or school districts that choose to enroll. The bill does not address the impact of these members leaving the retirement system on the unfunded liability. The minority feels that state employees and the retirement system should not have to suffer the consequences of this hasty, rushed, and ill-conceived piece of legislation.

Majority Amendment (2214h)

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

AN ACT establishing a defined contribution retirement plan for state employees and establishing a committee to study and implement a defined contribution plan.

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

1 Findings and Intent.

I. It is imperative for the state to take immediate action to assure the state retirement system's future financial health.

(a) The Pew Institute has concluded that unfunded pension and healthcare liabilities are a nationwide problem, estimated at over $1 trillion. There is a general trend in private industry, and increasingly included as an option in state plans, toward replacing defined benefit plan pensions with defined contribution plans to solve this problem.

(b) The New Hampshire retirement system has an estimated unfunded pension liability of $3.7 billion and $1.5 billion of unfunded other post-employment benefit insurance liability. Although a plan is underway for recovery over the next 26 years, uncertainties in future market returns, rapid increases in medical costs, increases in life expectancy, and slower growth in public sector employment require a more prudent long term approach to assure financial viability.

(c) The budget reductions in the state fiscal years 2012 and 2013 are large and future budgets will likely remain lean. Federal budgets are likely to be lower in the future, and in order to meet the state's long term commitments to health and human services, education, transportation, and other services, setting future retirement liabilities and obligations in a financially prudent manner is a necessary part to help ensure these other commitments can be met.

(d) Financial viability is essential to the operation of state government and local government performing its constitutional and statutory obligations. Therefore, ensuring that a financially viable retirement plan is in place is an important, immediate, and fundamental necessity.

II. The current level of benefits for public employees is unsustainable. On average, benefits constitute an additional 52 percent increase to the cost of public salaries. This is significantly higher than the percent paid in the private sector, and taxpayers are increasingly unable to continue this level of support, especially in our recessionary climate.

III. The financial viability of the state retirement system must be preserved.

(a) Simply shifting who pays (i.e., employees or employers) will not solve the problem.

(b) It is important to adjust the system fairly among employee classes, and to introduce changes in a way to avoid impact on any present employees.

(c) Pension costs must not make public employees uncompetitive with the private sector.

(d) This act will ensure greater predictability for taxpayers in the cost of pensions.

IV. There are many advantages to a defined contribution system for our employees:

(a) Capability to build family wealth as any principal and earnings in the employees individual account can be passed onto heirs through the estate process.

(b) The employee can transfer all vested account balances upon employment termination to another employer's plan or their own IRA account penalty free.

(c) Daily valuation of investment selection along with a wide selection of investment options give employees the ability to check account balance status and make transfers frequently.

(d) Vesting schedule gives true ownership of account balances to the employees in a shorter time period than a defined benefit pension.

(e) Distribution options allow for employee access to a partial lump-sum of retirement assets to satisfy retirement needs.

(f) The nature of the investments provides the possibility for a built-in cost of living. Market adjustments to market conditions makes this possible.

V. The legislature specifically finds after many public hearings, hours of studying the issue, and hours of debate, that the changes made in this act are reasonable and necessary, and seek to find optimum adjustments to the current retirement system and to public employee retirement benefits to accomplish the important public purpose of preserving and providing retirement benefits to public employees.

2 Committee Established. There is established a committee to make recommendations on the details and the procedures for the transition from a defined benefit plan to a defined contribution plan, for all new state employee hires, and others who may elect to do so, including issuing requests for proposals (RFPs) from potential vendors, studying the proposals received, and recommending legislation to implement a defined contribution plan based on one or more proposals, and any other matters deemed relevant by the committee.

3 Membership and Compensation of the Committee; Advisory Adjunct Committee.

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

(a) Four members of the house of representatives, one of whom shall be from the special committee on pension reform and one of whom shall be from the finance committee, appointed by the speaker of the house of representatives.

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

(c) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

II. In order to assist the legislative committee members in answering any questions on implementing a defined contribution plan for all new hires by the state of New Hampshire and other employers eligible to participate, and to study the impact such change might have on the current retirement system, there shall be an advisory adjunct to the committee. The appointed members of the advisory adjunct to the committee shall have substantial experience in the field of institutional investment or finance, taking into account factors such as educational background, business experience, and professional licensure and designations. The adjunct committee shall consist of the following nonvoting members:

(a) The chairperson of the New Hampshire retirement system board of trustees, or designee.

(b) One member representative of group I of the retirement system in RSA 100-A, appointed by the speaker of the house of representatives.

(c) One member representative of group II of the retirement system in RSA 100-A, appointed by the president of the senate.

(d) Four retirement system employer representatives, with one employer representative appointed by the New Hampshire Municipal Association, one appointed by the New Hampshire School Boards Association, one appointed by the New Hampshire

Association of Counties, and one representing the state of New Hampshire, appointed by the governor.

(e) One public member with recognized expertise in finance, financial management, or the governance and oversight of large endowments or public funds, appointed by the governor.

(f) Two public members with recognized expertise in the design, administration, implementation, and educational components of public sector and/or private sector defined contribution plans. One member to be appointed by the speaker of the house of representatives and one member to be appointed by the president of the senate.

4 Duties. The committee shall:

I. Study the issues surrounding the implementation of a defined contribution plan for all state employees hired after November 1, 2013. Such study shall include but not be limited to:

(a) Public employee defined contribution plans in other states, including who is actually covered (such as state employees only, or cities and towns as well), and private sector defined contribution plans, including the following areas:

(1) Investments:

(A) Number of selections and types of investments (i.e. mutual funds only, brokerage accounts, etc.).

(B) The process by which investments are selected and by whom at the plan level.

(C) Employee discretion in choosing individual investments and timing.

(2) Administration:

(A) Plan reports to employers.

(B) Plan reports to employees.

(C) Access and enrollment of personal accounts (on-line, telephone, etc.).

(D) In-house administration or private company contract, and duration of a contract.

(3) Education:

(A) Generic education of employees.

(B) Specific education done by licensed professionals (CFP, ChFC, etc.).

(b) Evaluation of issues described in subparagraph (a) considering those features that a defined contribution plan for New Hampshire state employees should contain. A hybrid plan combining elements of both a defined benefit and a defined contribution plan are to be duly considered, and proposals may allow for implementing such a hybrid plan.

II. Prepare one or more RFPs for a new defined contribution plan and/or for managing both the existing defined benefit plan in RSA 100-A and the new defined contribution plan.

III. Evaluate proposals received pursuant to the RFPs.

IV. Study the impact on New Hampshire taxpayers from the closing of the defined benefit plan in RSA 100-A to new state employees after November 1, 2013. The study may include:

(a) Various investment return scenarios.

(b) Suggestions made by the defined benefit plan under RSA 100-A and its actuaries of investment policy changes due to needed liquidity, including:

(1) Actuarial assumptions.

(2) Investment committee opinion of liquidity needs.

(3) Possible solutions to a lowering of the assumed interest earnings to include bonding or changing the make-up of the finite employee pool in the defined benefit plan by incentivizing buy-outs or annuitization.

V. Evaluate various methods for continued funding of the unfunded accrued liability of the existing New Hampshire retirement system, including but not limited to recent legislative proposals establishing a state administered defined contribution plan, and any proposals received.

VI. Seek technical assistance as necessary from the New Hampshire retirement system and from other independent financial, investment, actuarial, and retirement experts. The committee may utilize support staff for the purposes of its duties.

VII. Evaluate employer and employee education programs for administration and participation in the proposed plan.

VIII. Prepare legislation intended to implement the selected plan based on criteria in this act. If no proposal or combination or variation thereof is selected, the committee may propose supplemental legislation as deemed needed.

5 Chairperson; Quorum. The voting members of the committee shall elect a chairperson from among the legislative 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 voting members of the committee shall constitute a quorum.

6 Appropriation; Expenditures. In addition to any sums collected from the assessment of the RFP application charge which may be expended by the committee for the purposes of this act, there is hereby appropriated the sum of $100,000 for fiscal year 2013 which may be expended by the committee for the purposes of this act. The source of funds for the appropriation to the committee shall be charged equally against each subaccount in the legislative account established in 2011, 224:217, provided that any sums collected from the assessment of an application charge for an RFP response by a vendor shall offset the special legislative account funds for this appropriation.

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2012. This report shall include estimation of costs, comparison of benefits against the current defined benefit plan, and an analysis of potential advantages and disadvantages.

8 Development and Issuance of Request for Proposals.

I. The RFPs shall ask for the inclusion of as many of the features specified in paragraph VIII as possible. Variations, including not meeting all of the requested features is acceptable, if the overall proposal is selected as the most appropriate for implementation. The committee may assess an application charge of $10,000 to vendors or other entities responding to an RFP. Any sums collected shall be for the use of the committee as provided in section 6 of this act.

II. The committee shall issue RFPs to qualified entities engaged in retirement and pension plan management. In addition, the New Hampshire retirement system may submit a proposal on any of the 3 options set forth in paragraph III.

III. The RFP shall be issued allowing entities to submit proposals on one, 2, or all 3 of the following options for plan management and administration:

(a) Investment management and plan administration for the public employee selected plan only.

(b) Investment management and plan administration for the public employee selected plan, plus investment management for the retirement system corpus fund under RSA 100-A pending legislative authorization for such management.

(c) Investment management and plan administration for the public employee selected plan, plus investment management and plan administration for retirement system corpus fund under RSA 100-A pending legislative authorization for such management and administration.

IV. The committee shall explore the opportunities and details of the various proposals or combination of proposals. Criteria of evaluation shall include but not be limited to:

(a) Set-up/ongoing cost compared with current system.

(b) Level of financial risk.

(c) Expected performance.

V. If after due evaluation, a second round of RFPs to further refine the best approach is needed, the committee may issue additional RFPs.

VI. The committee shall issue a recommendation for the best plan proposal for New Hampshire, no later than November 1, 2012, and, notwithstanding any rule of the house of representatives or senate, prepare and introduce a bill to implement that recommended proposal, on the following time table:

(a) The vendor to implement the recommended proposal demonstrating the greatest ability to satisfy the state's need for value, quality, efficiency, and savings shall be selected no later than August 15, 2013.

(b) Final contracts submitted to the governor and council no later than September 15, 2013, unless this date is extended by the implementation legislation.

(c) The date for implementation of the contract shall be November 1, 2013.

VII. The committee may change the target dates in paragraph VI, conditional on agreement of a proposal that otherwise achieves the objectives as stated in this act.

VIII. The following items shall be included in the RFPs issued by the committee. These items shall be major considerations in the development of the first RFP, so that proposals received will give them due focus and attention. In the RFPs, the committee shall include a request for any alternatives that should be considered by the committee in addition to stated requirements.

(a) The state employee defined contribution plan is intended as a qualified retirement plan established and maintained with contributions treated as provided in 26 U.S.C. section 414(h). Any person who is first employed, or reemployed after separation from service, by the state of New Hampshire, and entered on the payroll on a full-time basis on or after November 1, 2013 shall be a member of the plan; except that membership shall be optional in the case of state elected officials, unclassified state employees appointed for fixed terms, or full-time employees of the general court. In addition, membership shall be optional for political subdivision employees, teachers, firemen and police working for those employers as defined in RSA 100-A:1, IV which otherwise elect to join the plan.

(b) Employee Contributions.

(1) Mandatory employee contributions shall be as close to the following rate percent as feasible to achieve a standard level of retirement, applied to the employee's earnable compensation:

Group I employees, 7.00.

Group II permanent fireman employees, 11.80.

Group II permanent police employees, 11.55.

(2) Additional voluntary employee contributions should be allowed to the extent permitted by the federal Internal Revenue Code and Regulations for qualified governmental retirement plans.

(c) Employer Contributions.

(1) For group I employees and teachers, the employer shall contribute on behalf of the employee an amount equal to 10 percent of the employee's earnable compensation, minus the sum of the following:

(A) Mandatory contributions of the employee.

(B) The cost of any required premium contributions for long term disability insurance and life insurance attributable to the employee, paid by the employer.

(2) For group II employees, the employer shall contribute on behalf of the employee an amount equal to 16 percent of the employee's earnable compensation, minus the sum of the following:

(A) Mandatory contributions of the employee.

(B) The cost of any required premium contributions for long term disability insurance and life insurance attributable to the employee, paid by the employer.

(3) Any increases over targets given for employee and employer contribution rates shall be shared equally.

(d) Plan Administration.

(1) The plan will include a range of investment options and a procedure for election of options by the employee.

(2) No loans, hardship withdrawals, or other in-service withdrawals shall be permitted, except as provided in subparagraph (g).

(e) Vesting. Member contributions and investment return attributable to member contributions shall be 100 percent vested as of the date of contribution or accrual. Employer contributions, if any, and investment return attributable to employer contributions held in an account of a member by the administrator shall be vested under this subdivision according to the following schedule:

(1) Twenty percent of funds in an account after one year total of active service by a member.

(2) Forty percent of funds in an account after 2 years total of active service by a member.

(3) Sixty percent of funds in an account after 3 years total of active service by a member.

(4) Eighty percent of funds in an account after 4 years total of active service by a member.

(5) One hundred percent of funds in an account after 5 years total of active service by a member.

(f) Upon retirement of a member:, at least 50 percent of funds in an individual member account may be convertible by the employee to a life annuity contract.

(g) Withdrawal of funds. Distributions from an account of a member shall be permitted in the following circumstances, subject to applicable limitations under federal regulations:

(1) Termination of employment.

(2) Retirement.

(3) If the member becomes disabled.

(4) If the member dies.

(h) The plan and the benefits provided shall not be construed to constitute a binding contractual obligation with respect to members and may be modified or discontinued by the adoption of appropriate legislation or vendor contract changes.

(i) The RFP may include as an optional item, the potential for the plan to apply not just to new hires but to non-vested employees.

IX. Notwithstanding any provision of law to the contrary relating to the award of public contracts, the committee established in this act shall be authorized to issue a public request for proposals provided for in this act, advertise and receive responses for the RFPs, and review and consider the proposals. Once negotiations have been completed and the contract for administration of the selected plan is approved by the governor and council, all proposals submitted to the committee, but excluding any proprietary information or materials, shall become available for public review.

9 New Subparagraph; Participation by Members; Retirement System. Amend RSA 100-A:3, I by inserting after subparagraph (d) the following new subparagraph:

(e) Notwithstanding the provisions of subparagraphs (a)–(d) of this paragraph, employees, teachers, permanent policemen, and permanent firemen beginning service on or after November 1, 2013, working in a position for the state of New Hampshire, or for an employer who has joined the defined contribution plan under RSA 100-E, as determined by common law standards, shall as a condition of employment participate in the public employee defined contribution plan established under RSA 100-E and not be members of the retirement system established in RSA 100-A.

10 New Chapter; Public Employee Defined Contribution Plan. Amend RSA by inserting after chapter 100-D the following new chapter:

CHAPTER 100-E

PUBLIC EMPLOYEE DEFINED CONTRIBUTION PLAN

100-E:1 Authorization of Plan. The public employee defined contribution plan authorized in this chapter is intended as a qualified retirement plan established and maintained by the state with contributions treated as provided in 26 U.S.C. section 414(h).

100-E:2 Definitions. In this chapter:

I. “Earnable compensation” means earnable compensation as defined in RSA 100-A:1.

II. “Employer” means the state of New Hampshire and agencies of state government. All employers other than the state, participating in the New Hampshire retirement system under RSA 100-A on October 31, 2012, and any new employers, may elect to participate in the plan on and after November 1, 2013.

III. “Group I members” means employees and teachers as defined in RSA 100-A:1.

IV. “Group II members” means permanent policemen and permanent firemen as defined in RSA 100-A:1.

V. “Member” means any person included in the membership of the plan, as provided in RSA 100-E:3.

VI. “Plan” means the public employee defined contribution plan established in this chapter for members who begin service on and after November 1, 2013.

100-E:3 Membership. Any person who is first employed, or reemployed after separation from service, by the state of New Hampshire or an employer who has expressly opted to participate in this plan, and entered on the payroll on a full-time basis on or after November 1, 2013 shall be a member of the plan established in this chapter; except that membership shall be optional in the case of elected officials, unclassified state employees appointed for fixed terms, or full-time employees of the general court.

100-E:4 Member Contributions.

I. Mandatory member contributions shall be at the following rate percent applied to the member’s earnable compensation:

(a) Group I members, 7.00.

(b)(1) Group II permanent fireman members, 11.80.

(2) Group II permanent police members, 11.55.

II. Additional voluntary employee contributions shall be allowed to the extent permitted by the federal Internal Revenue Code and Regulations for qualified governmental retirement plans.

100-E:5 Employer Contributions.

I. For group I employees and teachers, the employer shall contribute on behalf of the member an amount equal to 10 percent of the member’s earnable compensation, minus the sum of the following:

(a) Mandatory contributions of the member under RSA 100-E:4, I.

(b) The cost of the required premium contributions for long term disability insurance and life insurance attributable to the member.

II. For group II members, the employer shall contribute on behalf of the member an amount equal to 16 percent of the member’s earnable compensation, minus the sum of the following:

(a) Mandatory contributions of the member under RSA 100-E:4, I.

(b) The cost of the required premium contributions for long term disability insurance and life insurance attributable to the member.

100-E:6 Employer Payments for State Retirement System Unfunded Accrued Liability.

I. Each employer participating in the New Hampshire retirement system under RSA 100-A on October 31, 2012 shall pay to the retirement system a sum, calculated as the percentage of earnable compensation of its members participating in the plan, in an amount equal to the employer contribution rate determined under RSA 100-A:16, II minus the employer contribution determined in RSA 100-E:5 for the respective member.

II. Employer payments under this section shall continue until the New Hampshire retirement system actuary determines that the funded ratio of the consolidated retirement system in RSA 100-A as of June 30 of any given year is equal to or greater than 100 percent. Provided, however that employer payments under this section shall resume if for any subsequent period the retirement system under RSA 100-A incurs new unfunded accrued liability.

100-E:7 Adjustment of Contribution Rates.

I. The sum of the employer contributions under RSA 100-E:5 and the employer payments under RSA 100-E:6, expressed as the rate percent of a member's earnable compensation, shall be the "total employer rate."

II. Upon attainment of the reduction in the total employer rate to 7 percent for group I, 11.80 percent for group II permanent fireman members, or 11.55 percent for group II permanent police members, the contribution rates under RSA 100-E:4 and RSA 100-E:5 shall, upon further reductions in required contributions, both be adjusted and reduced equally until the sum of the total employer rate and the employee contribution rate equals 10 percent for group I members or 16 percent for group II members.

100-E:8 Employer Costs for Long Term Disability and Life Insurance Benefits. The employer shall pay the costs for long term disability insurance benefits and life insurance benefits which shall be provided at benefit levels to be determined.

100-E:9 Plan Administration.

I. The governor and council shall contract according to the procedure in RSA 100-E:13 with an administrator for the public employee defined contribution plan for the administration of assets accumulated under each member's account.

II. The plan shall include a range of investment options and a procedure for election of options by the member. If a member exercises control over the assets in the individual account, the member is not considered a fiduciary for any reason on the basis of exercising that control.

III. No member-in-service loans, hardship withdrawals, or other in-service withdrawals shall be permitted.

IV. To the extent permitted by federal law, the plan shall include the requirement that at least 50 percent of funds in an individual member account at the member's retirement be converted to a life annuity contract to provide income during retirement. The plan shall include life annuity options which may be elected by the member upon retirement or allow for members to show proof of a suitable alternative.

100-E:10 Vesting. Member contributions and investment return attributable to member contributions shall be 100 percent vested as of the date of contribution or accrual. Employer contributions and investment return attributable to employer contributions held in an account of a member by the administrator shall be vested under this chapter according to the following schedule:

I. 20 percent of funds in an account after one year of continuous participation by a member.

II. 40 percent of funds in an account after 2 years of continuous participation by a member.

III. 60 percent of funds in an account after 3 years of continuous participation by a member.

IV. 80 percent of funds in an account after 4 years of continuous participation by a member.

V. 100 percent of funds in an account after 5 years of continuous participation by a member.

100-E:11 Disbursement of Funds. Upon retirement of a member:

I. At least 50 percent of funds in an individual member account shall be converted by the administrator to a life annuity contract.

II. Up to 50 percent of the vested balance in an individual member account shall be available for withdrawal by the participant at retirement.

100-E:12 Selection of Administrator.

I. The department of administrative services shall issue a request for proposals (RFP) to qualified entities engaged in retirement and pension plan management. In addition, the New Hampshire retirement system may bid on management of the public employee defined contribution plan.

II. The RFP shall be issued requesting 3 options for plan management and administration, as follows:

(a) Investment management and plan administration for the public employee defined contribution plan only.

(b) Investment management and plan administration for the public employee defined contribution plan, plus investment management for the retirement system corpus fund under RSA 100-A pending legislative authorization for such management.

(c) Investment management and plan administration for the public employee defined contribution plan, plus investment management and plan administration for retirement system corpus fund under RSA 100-A pending legislative authorization for such management and administration.

III. The governor and council shall contract to provide for a fully bundled retirement plan including investment management and plan administration that will include full services to employer and employee participants in the plan. Plan management shall provide educational services for employer and employee participants.

IV. The selection of an administrator for plan management shall be based on the best combination of contracted management and administrative costs and proposed services.

100-E:13 Construction of Provisions; Member Acknowledgement.

I. The benefits provided under this chapter shall not be construed to constitute a binding contractual obligation with respect to members and may be modified or discontinued by the adoption of appropriate legislation.

II. Every employer involved under this chapter shall keep on file for each member commencing service after November 1, 2013 a statement of the employee's, teacher's, policeman's, or fireman's acknowledgement of the provisions of paragraph I of this section.

11 Contingency. If the committee established in section 2 of this act submits its report, including recommendations for proposed legislation, no later than November 1, 2012, then sections 9 and 10 of this act shall take effect November 1, 2013. If the committee does not submit its report by November 1, 2012, then sections 9 and 10 of this act shall not take effect.

12 Effective Date.

I. Sections 9 and 10 of this act shall take effect as provided in section 11 of this act.

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

AMENDED ANALYSIS

This bill establishes a committee to study and evaluate defined contributions plans for new state employee hires after November 1, 2013. The committee shall issue a request for proposals and propose legislation to implement the plan. The bill also establishes a defined contribution plan for new state employees hired after November 1, 2013, and other governmental employees whose employers elect its provisions, unless amended by legislation.

Reps. William Smith and Cohn spoke in favor.

Rep. Shurtleff spoke against and requested a roll call; sufficiently seconded.

YEAS 222 NAYS 94

YEAS 222

BELKNAP

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

CARROLL

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

CHESHIRE

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

COOS

Daugherty, Duffy	Rappaport, Laurence	Richardson, Herbert	

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr	Shackett, Jeffrey
Simard, Paul	Sorg, Gregory	Sova, Charles	

HILLSBOROUGH

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

MERRIMACK

Blankenbeker, Lynne	Coffey, Jennifer	Cohn, Seth	Giuda, J. Brandon
Hess, David	Hill, Gregory	Hoell, J.R.	Keane, Thomas

Kidder, David	Kotowski, Frank	Kreis, Kenneth Sr	Lauer-Rago, Kathleen
Lindsley, Mark	Lockwood, Priscilla	McDonnell, John	McGuire, Carol
McGuire, Dan	Palfrey, David	Reed, Dennis	Sanborn, Laurie
Seaworth, G. Brian	Soltani, Tony	Winter, Steven	

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Brown, Paul
Davenport, Joshua	DeSimone, Debra	Devine, James	Dowling, Patricia
Duarte, Joe	Elliott, Robert	Ferrante, Beverly	Fesh, Robert
Garcia, Marilinda	Garrity, James	Griffin, Mary	Hagan, Joseph
Headd, James	Hoelzel, Kathleen	Introne, Robert	Itse, Daniel
Kappler, Lawrence	Katsakiores, Phyllis	Kolodziej, Walter	Major, Norman
Manuse, Andrew	Mauro, Donna	McKinney, Betsy	Nevins, Chris
O'Connor, John	Okerman, Richard	Packard, Sherman	Peckham, Michele
Reagan, John	Reichard, Kevin	Rice, Frederick	Ritter, Glenn
Sapareto, Frank	Schroadter, Adam	Sedensky, John	Sheffert, Kenneth
Shuler, Wyman III	Smith, William	Sullivan, James	Sytek, John
Tremblay, Stella	Tucker, Pamela	Ward, Joanne	Welch, David
Weyler, Kenneth			

STRAFFORD

Brown, Julie	Cataldo, Sam	DeLemus, Susan	Groen, Warren
Jones, Laura	Munck, Philip	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

NAYS 94

BELKNAP

Bolster, Peter

CARROLL

Knox, J. David

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Lindsey, Steven	Meader, David	Parkhurst, Henry	Roberts, Kris
Sad, Tara	Tatro, Bruce	Weber, Lucy	Weed, Charles

COOS

Coulombe, Gary	Remick, William	Theberge, Robert	Tholl, John Jr
Thomas, Yvonne	Tremblay, Marc		

GRAFTON

Almy, Susan	Cooney, Mary	Gould, Franklin	Harding, Laurie
Nordgren, Sharon	Pierce, David	Taylor, Kathleen	Townsend, Charles

White, Andrew

HILLSBOROUGH

Baroody, Benjamin	Buxton, Michael	Campbell, David	Cote, David
Daler, Jennifer	Day, Russell	Gidge, Kenneth	Goley, Jeffrey
Gorman, Mary	Leishman, Peter	Levasseur, Nickolas	McCarthy, Michael
Pilotte, Maurice	Porter, Marjorie	Ramsey, Peter	Rhodes, Brian
Rosenwald, Cindy	Shaw, Barbara	Sullivan, Daniel	Sullivan, Peter

MERRIMACK

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

ROCKINGHAM

Cali-Pitts, Jacqueline	Copeland, Timothy	DiPentima, Rich	Moody, Marcia
Norelli, Terie	Pantelakos, Laura	Perkins, Amy	Perkins, Lawrence
Quandt, Marshall	Quandt, Matt	Read, Robin Jr	Schlachman, Donna
Serlin, Christopher	Waddell, James		

STRAFFORD

Berube, Roger	Browne, Brendon	Ginsburg, Philip	Grassie, Anne
Horrigan, Timothy	Kaen, Naida	Keans, Sandra	Pelletier, Marsha
Roberts, Jenna	Schmidt, Peter	Spang, Judith	Sprague, Dale
Watters, David			

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew

and the majority committee amendment was adopted.
Majority committee report adopted and ordered to third reading.

SPECIAL ORDERED

Without objection, the Speaker made ***SB 217-FN,*** relative to management of Cannon mountain by the department of resources and economic development, a Special Order as the next order of business.

SPECIAL ORDER

SB 217-FN, relative to management of Cannon mountain by the department of resources and economic development. **OUGHT TO PASS WITH AMENDMENT.**
Rep. Lynne F. Blankenbeker for State-Federal Relations and Veterans Affairs: This bill protects the veterans' memorials on the area known as Cannon Mountain. It further develops a hiking corridor from the base of Mittersill Mountain. Finally, it denounces any state involvement in the International Council for Local Environmental Initiatives (ICLEI) recognizing the negative and contrary private property and state and federal constitutional implications of ICLEI. Vote 14-2.

Amendment (2209h)

Amend the title of the bill by replacing it with the following:
AN ACT establishing a hiking corridor on Mittersill Mountain, and relative to prohibiting the state, counties, towns, and cities from implementing programs of, expending money for,

receiving funding from, or contracting with the International Council for Local Environmental Initiatives.

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

1 Department of Resources and Economic Development; Hiking Corridor on Ski Trails. The commissioner of the department of resources and economic development shall, after consulting with fish and game department, develop a hiking corridor from the base of Mittersill Mountain over the summit of Mittersill Mountain to connect with the Kinsman Ridge trail at the summit of Cannon Mountain. The department may restrict access to the hiking trail only during times the ski area is open to the public and only if restricting such access is necessary to promote safety.

2 New Section; Towns and Cities; Prohibition Added. Amend RSA 31 by inserting after section 8-a the following new section:

31:8-b International Council for Local Environmental Initiatives; Contracts; Expenditures Prohibited. No town or city shall implement programs of, expend any sum for, be a member of, receive funding from, contract for services from, or give financial or other forms of aid to the International Council for Local Environmental Initiatives (ICLEI), and its derivatives, in furtherance of the United Nations program known as Agenda 21.

3 New Section; State Budget; Prohibition Added. Amend RSA 9 by inserting after section 28 the following new section:

9:29 International Council for Local Environmental Initiatives; Contracts; Expenditures Prohibited. No agency or department of the state shall implement programs of, expend any sum for, be a member of, receive funding from, contract for services from, or give financial or other forms of aid to the International Council for Local Environmental Initiatives (ICLEI), and its derivatives, in furtherance of the United Nations program known as Agenda 21.

4 New Section; Counties; Prohibition Added. Amend RSA 23 by inserting after section 1-a the following new section:

23:1-b International Council for Local Environmental Initiatives; Contracts; Expenditures Prohibited. No county nor any department thereof shall implement programs of, expend any sum for, be a member of, receive funding from, contract for services from, or give financial or other forms of aid to the International Council for Local Environmental Initiatives (ICLEI), and its derivatives, in furtherance of the United Nations program known as Agenda 21.

5 Effective Date.

I. Sections 2-4 of this act shall take effect 60 days after its passage.

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

AMENDED ANALYSIS

This bill requires the commissioner of the department of resources and economic development to develop a hiking corridor from the base of Mittersill Mountain over the summit of Mittersill Mountain to connect with the Kinsman Ridge trail at the summit of Cannon Mountain. This bill also prohibits the state and political subdivisions from implementing programs, or receiving funding from, or contracting with, the International Council for Local Environmental Initiatives (ICLEI).

Rep. Knox spoke against and yielded to questions.

Rep. Serlin spoke against.

Rep. Itse spoke in favor and yielded to questions.

Rep. Cartwright spoke in favor and requested a roll call; sufficiently seconded.

YEAS 201 NAYS 104

YEAS 201

BELKNAP

Accornero, Harry	Comtois, Guy	Fields, Dennis	Flanders, Donald

Greemore, Robert	Kingsbury, Robert	Malone, Robert	Pilliod, James
Russell, David	Simpson, Tyler	St. Cyr, Jeffrey	Swinford, Elaine
Tilton, Franklin	Worsman, Colette		

CARROLL

Fleck, Joseph	McCarthy, Frank	McConkey, Mark	Merrow, Harry
Pettengill, Laurie	Schmidt, Stephen	Tregenza, Norman	Umberger, Karen

CHESHIRE

Cartwright, Anne	Dwinell, Richard	Johnson, Jane	Moore, Robert Jr
Parkhurst, Henry	Sterling, Franklin Jr		

COOS

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

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Sorg, Gregory	Sova, Charles

HILLSBOROUGH

Balboni, Michael	Ball, J. Michael	Barry, J. Gail	Belanger, James
Belvin, William	Bergevin, Jerry	Boehm, Ralph	Brown, Kevin
Burt, John	Buxton, Michael	Cebrowski, John	Champagne, Norma
Christiansen, Lars	Coffey, James	Coughlin, Sean	Cusson-Cail, Kathleen
Daniels, Gary	DeJong, Cameron	Doherty, Shaun	Donovan, Daniel
Drisko, Richard	Flanagan, Jack	Fredette, Robert	Gagne, Larry
Gandia, Laura	Gonzalez, Carlos	Greazzo, Phil	Hansen, Peter
Hardwick, Harry	Hawkins, Kenneth	Hikel, John	Hogan, Edith
Hopper, Gary	Hutchinson, Winfred	Krasucki, Joseph	Lambert, George
LeBrun, Donald	Maltz, Jonathan	McClarren, Donald	McGuinness, Sean
Messier, Irene	Moran, Edward	Notter, Jeanine	Ohm, Bill
Palmer, Stephen	Parison, James	Pellegrino, Tony	Peterson, Lenette
Pratt, Calvin	Reed, Michael	Renzullo, Andrew	Rowe, Robert
Scontsas, Lisa	Seidel, Carl	Silva, Peter	Simmons, Tammy
Soucy, Connie	Souza, Kathleen	Stroud, Kathleen	Summers, James
Swank, Matthew	Terrio, Ross	Thomas, Joseph	Twombly, Timothy
Ulery, Jordan	Villeneuve, Moe	Warden, Mark	Whitehead, Randall
Willette, Robert			

MERRIMACK

Blankenbeker, Lynne	Coffey, Jennifer	Cohn, Seth	Giuda, J. Brandon
Hill, Gregory	Hoell, J.R.	Kotowski, Frank	Lauer-Rago, Kathleen
Lindsley, Mark	McDonnell, John	McGuire, Carol	McGuire, Dan
Reed, Dennis	Seaworth, G. Brian		

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Brown, Paul
Davenport, Joshua	DeSimone, Debra	Devine, James	Dowling, Patricia
Duarte, Joe	Elliott, Robert	Ferrante, Beverly	Fesh, Robert

Garcia, Marilinda	Griffin, Mary	Hagan, Joseph	Headd, James
Introne, Robert	Itse, Daniel	Kappler, Lawrence	Katsakiores, Phyllis
Kolodziej, Walter	Major, Norman	Manuse, Andrew	Mauro, Donna
McKinney, Betsy	O'Connor, John	Okerman, Richard	Packard, Sherman
Peckham, Michele	Perkins, Amy	Perkins, Lawrence	Quandt, Marshall
Quandt, Matt	Reagan, John	Reichard, Kevin	Rice, Frederick
Ritter, Glenn	Sapareto, Frank	Schroadter, Adam	Sedensky, John
Sheffert, Kenneth	Shuler, Wyman III	Smith, William	Sullivan, James
Sytek, John	Tremblay, Stella	Tucker, Pamela	Ward, Joanne
Welch, David	Weyler, Kenneth		

STRAFFORD

Berube, Roger	Cataldo, Sam	DeLemus, Susan	Groen, Warren
Jones, Laura	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly

NAYS 104

BELKNAP

Bolster, Peter	Tobin, William

CARROLL

Ahlgren, Christopher	Babson, David Jr	Knox, J. David	Patten, Betsey

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Hunt, John
Johnsen, Gladys	Lindsey, Steven	Roberts, Kris	Sad, Tara
Smith, Edwin	Weber, Lucy	Weed, Charles	

COOS

Coulombe, Gary	Hatch, William	Theberge, Robert	Thomas, Yvonne
Tremblay, Marc			

GRAFTON

Almy, Susan	Cooney, Mary	Gould, Franklin	Harding, Laurie
Nordgren, Sharon	Pierce, David	Smith, Suzanne	Taylor, Kathleen
Townsend, Charles	White, Andrew		

HILLSBOROUGH

Baroody, Benjamin	Campbell, David	Christensen, D.L. Chris	Cote, David
Daler, Jennifer	Day, Russell	Gargasz, Carolyn	Gidge, Kenneth
Gimas, John	Goley, Jeffrey	Gorman, Mary	Graham, John
Jasper, Shawn	Kurk, Neal	Leishman, Peter	Levasseur, Nickolas
Pilotte, Maurice	Porter, Marjorie	Ramsey, Peter	Rhodes, Brian
Robbins, David	Rosenwald, Cindy	Shaw, Barbara	Sullivan, Daniel
Sullivan, Peter	Vaillancourt, Steve		

MERRIMACK

Bouchard, Candace	Deloge, Helen	DeStefano, Stephen	Foose, Robert
Frazer, June	Hamm, Christine	Lockwood, Priscilla	MacKay, James
Owen, Derek	Palfrey, David	Patten, Dick	Potter, Frances
Rice, Chip	Richardson, Gary	Shurtleff, Stephen	Wallner, Mary Jane
Watrous, Rick			

ROCKINGHAM

Cali-Pitts, Jacqueline	Copeland, Timothy	DiPentima, Rich	Garrity, James
Hoelzel, Kathleen	Lovejoy, Patricia	Moody, Marcia	Nevins, Chris
Norelli, Terie	Pantelakos, Laura	Read, Robin Jr	Schlachman, Donna
Serlin, Christopher			

STRAFFORD

Brown, Julie	Browne, Brendon	Ginsburg, Philip	Grassie, Anne
Horrigan, Timothy	Kaen, Naida	Keans, Sandra	Munck, Philip
Pelletier, Marsha	Roberts, Jenna	Schmidt, Peter	Spang, Judith
Watters, David			

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew	Smith, Steven

and the committee amendment was adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Kris Roberts spoke against.
Rep. Baldasaro spoke in favor and yielded to questions.

MOTION TO LAY ON THE TABLE

Rep. Cali-Pitts moved that ***SB 217-FN,*** relative to management of Cannon mountain by the department of resources and economic development, be laid on the table.
Rep. Kolodziej requested a roll call; sufficiently seconded.

YEAS 104 NAYS 201

YEAS 104

BELKNAP

Bolster, Peter

CARROLL

Knox, J. David	Patten, Betsey

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Lindsey, Steven	Parkhurst, Henry	Roberts, Kris	Sad, Tara
Weber, Lucy	Weed, Charles		

COOS

Coulombe, Gary	Hatch, William	Remick, William	Theberge, Robert

Thomas, Yvonne

GRAFTON

Almy, Susan | Cooney, Mary | Gould, Franklin | Harding, Laurie
Nordgren, Sharon | Pierce, David | Smith, Suzanne | Taylor, Kathleen
Townsend, Charles | White, Andrew

Almy, Susan	Cooney, Mary	Gould, Franklin	Harding, Laurie
Nordgren, Sharon	Pierce, David	Smith, Suzanne	Taylor, Kathleen
Townsend, Charles	White, Andrew		

HILLSBOROUGH

Baroody, Benjamin	Bergevin, Jerry	Campbell, David	Christensen, D.L. Chris
Christiansen, Lars	Cote, David	Cusson-Cail, Kathleen	Daler, Jennifer
Day, Russell	Gargasz, Carolyn	Gidge, Kenneth	Gimas, John
Goley, Jeffrey	Gorman, Mary	Jasper, Shawn	Kurk, Neal
Leishman, Peter	Levasseur, Nickolas	Pilotte, Maurice	Porter, Marjorie
Ramsey, Peter	Rhodes, Brian	Robbins, David	Rosenwald, Cindy
Shaw, Barbara	Sullivan, Daniel	Sullivan, Peter	Vaillancourt, Steve

MERRIMACK

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

ROCKINGHAM

Cali-Pitts, Jacqueline	Copeland, Timothy	Devine, James	DiPentima, Rich
Garrity, James	Hoelzel, Kathleen	Lovejoy, Patricia	Moody, Marcia
Nevins, Chris	Norelli, Terie	Pantelakos, Laura	Read, Robin Jr
Schlachman, Donna	Serlin, Christopher		

STRAFFORD

Brown, Julie	Browne, Brendon	Ginsburg, Philip	Grassie, Anne
Horrigan, Timothy	Kaen, Naida	Keans, Sandra	Munck, Philip
Pelletier, Marsha	Roberts, Jenna	Schmidt, Peter	Spang, Judith
Watters, David			

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew	Smith, Steven	

NAYS 201

BELKNAP

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

CARROLL

Ahlgren, Christopher	Babson, David Jr	Fleck, Joseph	McCarthy, Frank
McConkey, Mark	Merrow, Harry	Pettengill, Laurie	Schmidt, Stephen
Tregenza, Norman	Umberger, Karen		

CHESHIRE

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

COOS

Daugherty, Duffy	Rappaport, Laurence	Richardson, Herbert	Tholl, John Jr
Tremblay, Marc			

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Sorg, Gregory	Sova, Charles

HILLSBOROUGH

Balboni, Michael	Ball, J. Michael	Barry, J. Gail	Belanger, James
Belvin, William	Boehm, Ralph	Brown, Kevin	Burt, John
Buxton, Michael	Cebrowski, John	Champagne, Norma	Coffey, James
Coughlin, Sean	Daniels, Gary	DeJong, Cameron	Doherty, Shaun
Donovan, Daniel	Drisko, Richard	Flanagan, Jack	Fredette, Robert
Gagne, Larry	Gandia, Laura	Gonzalez, Carlos	Graham, John
Greazzo, Phil	Hansen, Peter	Hardwick, Harry	Hawkins, Kenneth
Hikel, John	Hogan, Edith	Hutchinson, Winfred	Krasucki, Joseph
Lambert, George	LeBrun, Donald	Maltz, Jonathan	McClarren, Donald
McGuinness, Sean	Messier, Irene	Moran, Edward	Notter, Jeanine
Ohm, Bill	Palmer, Stephen	Parison, James	Pellegrino, Tony
Peterson, Lenette	Pratt, Calvin	Reed, Michael	Renzullo, Andrew
Rowe, Robert	Scontsas, Lisa	Seidel, Carl	Simmons, Tammy
Soucy, Connie	Souza, Kathleen	Stroud, Kathleen	Summers, James
Swank, Matthew	Terrio, Ross	Thomas, Joseph	Twombly, Timothy
Ulery, Jordan	Villeneuve, Moe	Warden, Mark	Whitehead, Randall
Willette, Robert			

MERRIMACK

Blankenbeker, Lynne	Coffey, Jennifer	Cohn, Seth	Giuda, J. Brandon
Hess, David	Hill, Gregory	Hoell, J.R.	Kotowski, Frank
Lauer-Rago, Kathleen	Lindsley, Mark	McDonnell, John	McGuire, Carol
McGuire, Dan	Palfrey, David	Reed, Dennis	Sanborn, Laurie
Seaworth, G. Brian	Winter, Steven		

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Brown, Paul
Davenport, Joshua	DeSimone, Debra	Dowling, Patricia	Duarte, Joe
Elliott, Robert	Ferrante, Beverly	Fesh, Robert	Garcia, Marilinda
Griffin, Mary	Hagan, Joseph	Headd, James	Itse, Daniel
Kappler, Lawrence	Katsakiores, Phyllis	Kolodziej, Walter	Major, Norman
Manuse, Andrew	Mauro, Donna	McKinney, Betsy	O'Connor, John
Okerman, Richard	Peckham, Michele	Perkins, Amy	Perkins, Lawrence
Quandt, Marshall	Quandt, Matt	Reagan, John	Reichard, Kevin
Rice, Frederick	Ritter, Glenn	Sapareto, Frank	Sedensky, John
Sheffert, Kenneth	Shuler, Wyman III	Smith, William	Sullivan, James

Sytek, John	Tremblay, Stella	Tucker, Pamela	Ward, Joanne
Welch, David	Weyler, Kenneth		

STRAFFORD

Berube, Roger	Cataldo, Sam	DeLemus, Susan	Groen, Warren
Jones, Laura	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly

and the motion failed.

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

YEAS 207 NAYS 99

YEAS 207

BELKNAP

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

CARROLL

Babson, David Jr	Fleck, Joseph	McCarthy, Frank	McConkey, Mark
Merrow, Harry	Pettengill, Laurie	Schmidt, Stephen	Tregenza, Norman
Umberger, Karen			

CHESHIRE

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

COOS

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

GRAFTON

Bradley, Lester	Brosseau, Charles	Bulis, Lyle	Gionet, Edmond
Ingbretson, Paul	Ladd, Rick Jr	Mirski, Paul	Reilly, Harold Sr
Shackett, Jeffrey	Simard, Paul	Sorg, Gregory	Sova, Charles

HILLSBOROUGH

Balboni, Michael	Ball, J. Michael	Barry, J. Gail	Belanger, James
Belvin, William	Bergevin, Jerry	Boehm, Ralph	Brown, Kevin
Burt, John	Buxton, Michael	Cebrowski, John	Champagne, Norma
Christiansen, Lars	Coffey, James	Coughlin, Sean	Cusson-Cail, Kathleen
Daniels, Gary	DeJong, Cameron	Doherty, Shaun	Donovan, Daniel
Drisko, Richard	Flanagan, Jack	Fredette, Robert	Gagne, Larry

Gandia, Laura	Gonzalez, Carlos	Graham, John	Greazzo, Phil
Hansen, Peter	Hardwick, Harry	Hawkins, Kenneth	Hikel, John
Hogan, Edith	Hutchinson, Winfred	Krasucki, Joseph	Lambert, George
LeBrun, Donald	Maltz, Jonathan	McClarren, Donald	McGuinness, Sean
Messier, Irene	Moran, Edward	Notter, Jeanine	Ohm, Bill
Palmer, Stephen	Parison, James	Pellegrino, Tony	Peterson, Lenette
Pratt, Calvin	Reed, Michael	Renzullo, Andrew	Rowe, Robert
Scontsas, Lisa	Seidel, Carl	Simmons, Tammy	Soucy, Connie
Souza, Kathleen	Stroud, Kathleen	Summers, James	Swank, Matthew
Terrio, Ross	Thomas, Joseph	Twombly, Timothy	Ulery, Jordan
Villeneuve, Moe	Warden, Mark	Whitehead, Randall	Willette, Robert

MERRIMACK

Blankenbeker, Lynne	Coffey, Jennifer	Cohn, Seth	Giuda, J. Brandon
Hill, Gregory	Hoell, J.R.	Kotowski, Frank	Lauer-Rago, Kathleen
Lindsley, Mark	McDonnell, John	McGuire, Carol	McGuire, Dan
Palfrey, David	Reed, Dennis	Sanborn, Laurie	Seaworth, G. Brian
Soltani, Tony	Winter, Steven		

ROCKINGHAM

Abrami, Patrick	Allen, Mary	Azarian, Gary	Baldasaro, Alfred
Bates, David	Bettencourt, David	Birdsell, Regina	Brown, Paul
Davenport, Joshua	DeSimone, Debra	Dowling, Patricia	Duarte, Joe
Elliott, Robert	Ferrante, Beverly	Fesh, Robert	Garcia, Marilinda
Griffin, Mary	Hagan, Joseph	Headd, James	Itse, Daniel
Kappler, Lawrence	Katsakiores, Phyllis	Kolodziej, Walter	Major, Norman
Manuse, Andrew	Mauro, Donna	McKinney, Betsy	O'Connor, John
Okerman, Richard	Peckham, Michele	Perkins, Amy	Perkins, Lawrence
Quandt, Marshall	Quandt, Matt	Reagan, John	Reichard, Kevin
Rice, Frederick	Ritter, Glenn	Sapareto, Frank	Schroadter, Adam
Sedensky, John	Sheffert, Kenneth	Shuler, Wyman III	Smith, William
Sullivan, James	Sytek, John	Tremblay, Stella	Tucker, Pamela
Ward, Joanne	Welch, David	Weyler, Kenneth	

STRAFFORD

Berube, Roger	Cataldo, Sam	DeLemus, Susan	Groen, Warren
Jones, Laura	Newton, Clifford	O'Connor, William	Parsons, Robbie
Pitre, Joseph	Vita, Carol	Vita, Lucien	

SULLIVAN

Bowers, Spec	Cunningham, Steven	Howard, Thomas	LaCasse, Paul Sr
Laware, Thomas	Lovett, Charlene	Osgood, Joe	Rodeschin, Beverly
Smith, Steven			

NAYS 99

BELKNAP

Bolster, Peter

CARROLL

Ahlgren, Christopher	Knox, J. David	Patten, Betsey

CHESHIRE

Butynski, William	Chase, Cynthia	Hawkes, Samuel	Johnsen, Gladys
Lindsey, Steven	Roberts, Kris	Sad, Tara	Weber, Lucy
Weed, Charles			

COOS

Coulombe, Gary	Hatch, William	Theberge, Robert	Thomas, Yvonne

GRAFTON

Almy, Susan	Cooney, Mary	Gould, Franklin	Harding, Laurie
Nordgren, Sharon	Pierce, David	Smith, Suzanne	Taylor, Kathleen
Townsend, Charles	White, Andrew		

HILLSBOROUGH

Baroody, Benjamin	Campbell, David	Christensen, D.L. Chris	Cote, David
Daler, Jennifer	Day, Russell	Gargasz, Carolyn	Gidge, Kenneth
Gimas, John	Goley, Jeffrey	Gorman, Mary	Jasper, Shawn
Kurk, Neal	Leishman, Peter	Levasseur, Nickolas	Pilotte, Maurice
Porter, Marjorie	Ramsey, Peter	Rhodes, Brian	Robbins, David
Rosenwald, Cindy	Shaw, Barbara	Sullivan, Daniel	Sullivan, Peter
Vaillancourt, Steve			

MERRIMACK

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

ROCKINGHAM

Cali-Pitts, Jacqueline	Copeland, Timothy	Devine, James	DiPentima, Rich
Garrity, James	Hoelzel, Kathleen	Lovejoy, Patricia	Moody, Marcia
Nevins, Chris	Norelli, Terie	Pantelakos, Laura	Read, Robin Jr
Schlachman, Donna	Serlin, Christopher		

STRAFFORD

Brown, Julie	Browne, Brendon	Ginsburg, Philip	Grassie, Anne
Horrigan, Timothy	Kaen, Naida	Keans, Sandra	Munck, Philip
Pelletier, Marsha	Roberts, Jenna	Schmidt, Peter	Spang, Judith
Watters, David			

SULLIVAN

Gagnon, Raymond	Schmidt, Andrew		

and the committee report was adopted and ordered to third reading.

MOTION TO PRINT DEBATE

Rep. Weed moved that the debate on ***SB 217-FN,*** relative to management of Cannon mountain by the department of resources and economic development, be printed in the Permanent Journal.

On a division vote, 100 members having voted in the affirmative and 204 in the negative, the motion failed.

SPECIAL ORDERED

Without objection, the Speaker made ***SB 266-FN,*** prohibiting electric utilities from installing and maintaining smart meter gateway devices without the residential or business property owner's consent, a Special Order as the next order of business.

SPECIAL ORDER

SB 266-FN, prohibiting electric utilities from installing and maintaining smart meter gateway devices without the residential or business property owner's consent. **MAJORITY**: **OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Sam A. Cataldo for the Majority of Science, Technology and Energy: This bill addresses a potential future privacy concern of customers whose electric utility installs so-called “smart meters.” The bill does not deal with the meters themselves, which are “smart” only in that they can more efficiently send summary readings back to the utility without human meter readers. Rather the bill deals with an optional piece of equipment which could possibly be installed in the meter in the future, called a “smart meter gateway device.” It defines the terms and makes it clear that electric utilities may not install such devices without the written consent of the homeowner or business owner. It also requires the electric utility to inform a new electric customer if their meter has a smart gateway device installed inside; if so, the customer may ask, and the utility must remove the device. The committee found no conclusive evidence that the smart meters themselves are any danger to human health or privacy. Vote 11-4.

Rep. Jacqueline A. Cali-Pitts for the Minority of Science, Technology and Energy: This bill prohibits the use of smart electric meter gateway devices without the written consent of the homeowner and leaves many unanswered questions involving transfers of property, etc. The technology is meant to enable customers and utilities to better manage use of their power and potentially lower costs all around. The fear that utilities will act like Big Brother, will shut down or decrease a customer’s power or know exactly how a customer uses their power and somehow interfere is unfounded. The metering device is owned by the utility and should be the most accurate and technologically advanced device to benefit both utility and customer.

Rep. Kurk offered floor amendment (2243h).

Floor Amendment (2243h)

Amend RSA 374:62, I(a) as inserted by section 1 of the bill by replacing it with the following:

(a) “Smart meter gateway device” means any electric utility meter, including a smart meter, electric utility meter component, electric utility load control device, or device ancillary to the electric utility meter, which is located at or car monitor or control an end-user’s residence or business, and which serves as a communications gateway or portal to electrical appliances, electrical equipment, or electrical devices within the end-user’s residence or business, or which otherwise communicates with, monitors, or controls such electrical appliances, electrical equipment, or electrical devices.

Amend RSA 374:62, II(a) as inserted by section 1 of the bill by replacing it with the following:

(a) No electric utility that sells or provides electricity within the state of New Hampshire shall install a smart meter gateway device on, in, or for a person’s home or business without the written consent of the person or persons who own the home or business.

Amend RSA 374:62 as inserted by section 1 of the bill by inserting after paragraph III the following new paragraphs:

IV. Every electric utility that sells or provides electricity within the state of New Hampshire shall remove a smart meter gateway device, including a smart meter, at or monitoring or controlling a person's home or business within a reasonable time after receiving a request to do so from the owner.

V. No fee or other charge shall be imposed by an electric utility in connection with this subdivision for not installing or for removing a smart meter or smart meter gateway device, for exercising any option, or for providing or withholding any consent.

Reps. Kurk and Simard spoke in favor.
Reps. Manuse and Soltani spoke in favor and yielded to questions.
Rep. James Garrity spoke against and yielded to questions.
On a division vote, 78 members having voted in the affirmative and 211 in the negative, floor amendment (2243h) failed.

The question now being adoption of the committee report of Ought to Pass.
On a division vote, 240 members having voted in the affirmative and 49 in the negative, the committee report was adopted and ordered to third reading.

SPECIAL ORDERED

Without objection, the Speaker made ***SB 348-FN,*** relative to the pulse oximetry test for newborns, a Special Order as the first order of business for the Session of May 17, 2012.

RESOLUTION

Rep. Bettencourt offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, May 17, 2012 at 10:00 a.m.
Adopted.

LATE SESSION

Third reading and final passage

SB 366-FN, relative to use of certain OHRVs on snowmobile trails, and relative to authorization for snowmobiles and OHRVs registered in Vermont and Maine to operate in this state.
SB 375-FN, relative to a prepaid health plan for Medicaid services and relative to the Medicaid management information system.
SB 317, relative to towable devices permitted to be towed by a motorboat.
SB 315, requiring motorists to give wide berth to highway maintenance vehicles.
SB 323, authorizing accounting transfers by the department of corrections.
SB 376, extending the committee to develop a plan for privatizing the department of corrections.
SB 369-FN-L, relative to aid to assisted persons.
SB 389-L, relative to sewer commission costs.
SB 401-FN, relative to reporting the average daily membership of pupils in the public schools and relative to adjustments to adequate education grants.
SB 409-FN, relative to the use of marijuana for medicinal purposes.
SB 17, relative to evidence of admissions in medical injury actions.
SB 273, relative to vexatious litigants.
SB 354, relative to the escrow fund for court facility improvements.
SB 359, relative to civil actions involving accessibility standards for public buildings.
SB 406, establishing an early offer alternative in medical injury claims.
SB 231, relative to municipal liens.
SB 243, relative to the management of trust funds and capital reserve funds.

SB 324-FN, relative to the use of funds generated by the Hampton Beach parking facilities.
SB 372-FN-L, establishing an education tax credit.
SB 399-FN, relative to the maximum permit application fee for certain municipal or state agency dredging projects.
SB 229-FN, establishing a commission to make recommendations on whether the New Hampshire retirement system should be replaced with a defined contribution plan for all new hires and to study the impact such change would have on the retirement system.
SB 217-FN, relative to management of Cannon mountain by the department of resources and economic development.
SB 266-FN, prohibiting electric utilities from installing and maintaining smart meter gateway devices without the residential or business property owner's consent.

UNANIMOUS CONSENT

Reps. Pilotte and Hansen addressed the House.

MOMENT OF SILENCE

A moment of silence was observed in honor and memory of former Representative, the Honorable Francis B. Sullivan of Manchester.

MOTION TO PRINT REMARKS

Rep. Hawkins moved that the remarks made by Rep. Pilotte be printed in the Permanent Journal.
Without objection, the Speaker so ordered.

REMARKS

Rep. Pilotte: Thank you, Mister Speaker. I rise to honor the memory of the Honorable Francis B. Sullivan. Sully thoroughly enjoyed his 6 years in this Chamber. He was called to his eternal reward on Monday. Those of us who knew him always appreciated his brand of quiet humor. Former teacher, former sports coach, successful drama coach, Sully was a man of few words, and Mr. Speaker, I could not pay greater honor to him than to paraphrase his favorite Mark Twain quote in a letter to a friend. “I regret that I did not have enough time to write a shorter note.” Thank you.

RECESS MOTION

Rep. Bettencourt moved that the House stand in recess for the purposes of the introduction of bills, the reading-in of petitions, receiving Senate messages, enrolled bill amendments and enrolled bill reports.
Adopted.

The House recessed at 5:35 p.m.

RECESS