

State of New Hampshire HOUSE RECORD

Second Year of the 156th Session of the General Court
Calendar and Journal of the 2000 Session

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Contains: Committee of Conference Statement and Additional Amendments.

HOUSE CALENDAR

committee OF CONFERENCE STATEMENT

HB 1200-FN, relative to the application of education property tax hardship relief to estate planning trusts and relative to eligibility for hardship relief.

The Senate amendment removed a section relative to eligibility for hardship relief dealing with residing in a homestead as of November 3, 1999 and replaced it with a requirement of residing in the homestead for one year. The conferees agreed to a more restrictive requirement by adopting a new amendment that includes both the Senate and House version.

Rep. Norman L. Major

THURSDAY, APRIL 20

ADDITIONAL AMENDMENTS

2000-4162h

Floor Amendment to CACR 23

Proposed by Reps. Weyler and Wallin

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

RELATING TO: the responsibility and authority of the general court to determine the content, extent, and funding of a public education and the use of moneys received from the enactment of a new personal income tax.

PROVIDING THAT: (a) If the general court enacts a new personal income tax, all moneys received from such income tax and all the interest received on such moneys shall, after deducting the necessary costs of administration, be appropriated and used exclusively to fulfill the state's duty to cherish the interest of public schools under articles 83 and 83-a of part second, and no part of such moneys shall be transferred or diverted to any other purpose whatsoever.

(b) The general court shall have the authority to determine the content, extent, and funding of a public education and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes, or by delegating this power, in whole or part, to a political subdivision; provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the state or the political subdivision in which they are imposed.

Amend the resolution by replacing paragraphs I and II with the following:

I. That the second part of the constitution be amended by inserting after article 6-b the following new article:

[Art.] 6-c. [Use of Income Tax Revenues Restricted to Educational Purposes.] If the general court enacts a new personal income tax, all moneys received from such income tax and all the interest received on such moneys shall, after deducting the necessary costs of administration, be appropriated and used exclusively to fulfill the state's duty to cherish the interest of public schools under articles 83 and 83-a of part second, and no part of such moneys shall be transferred or diverted to any other purpose whatsoever.

II. That the second part of the constitution be amended by inserting after article 83 the following new article:

[Art.] 83-a. [Authority of General Court to Determine Content, Extent, and Funding of Public Education; State's Responsibility to Provide for Public Education; Powers; Duties; Delegation.] The general court shall have the responsibility to provide to all citizens of the state the opportunity to receive a public education, and in furtherance thereof, it shall have the authority to determine and set forth the content, the extent, and the funding of that education. The general court shall fulfill its responsibility, in whole or in part through the state's political subdivisions, through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, and judicial review shall be limited to whether or not there is a rational basis therefor. The general court shall provide for the funding of said education through its power to directly impose and levy assessments, rates, and taxes, or through a delegation of such power, in whole or in part, to the political subdivisions of the state, provided that the resulting assessments, rates, and taxes are reasonable and proportional throughout the state or political subdivision whose legislative body imposes the assessment, rate, or tax. Nothing in this article shall be construed to limit the amount the state or any political subdivision may expend on the funding of education or to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution.

Amend the resolution by replacing paragraphs V and VI with the following:

V. That the wording of the first question put to the qualified voters shall be:

Are you in favor of amending the constitution to provide that the following new article shall be inserted after article 6-b of part second?

[Art.] 6-c. [Use of Income Tax Revenues Restricted to Educational Purposes.] If the general court enacts a new personal income tax, all moneys received from such income tax and all the interest received on such moneys shall, after deducting the necessary costs of administration, be appropriated and used exclusively to fulfill the state's duty to cherish the interest of public schools under articles 83 and 83-a of part second, and no part of such moneys shall be transferred or diverted to any other purpose whatsoever.

VI. That the wording of the second question put to the qualified voters shall be:

Are you in favor of amending the constitution to provide that the following new article shall be inserted after article 83 of part second?

[Art.] 83-a. [Authority of General Court to Determine Content, Extent, and Funding of Public Education; State's Responsibility to Provide for Public Education; Powers; Duties; Delegation.] The general court shall have the responsibility to provide to all citizens of the state the opportunity to receive a public education, and in furtherance thereof, it shall have the authority to determine and set forth the content, the extent, and the funding of that education. The general court shall fulfill its responsibility, in whole or in part through the state's political subdivisions, through the exercise of its power to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, and judicial review shall be limited to whether or not there is a rational basis therefor. The general court shall provide for the funding of said education through its power to directly impose and levy assessments, rates, and taxes, or through a delegation of such power, in whole or in part, to the political subdivisions of the state, provided that the resulting assessments, rates, and taxes are reasonable and proportional throughout the state or political subdivision whose legislative body imposes the assessment, rate, or tax. Nothing in this article shall be construed to limit the amount the state or any political subdivision may expend on the funding of education or to deny, disparage, or infringe any other right of the people as set forth elsewhere in this constitution.

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that if the general court enacts a new personal income tax, all moneys received from such income tax and all the interest received on such moneys shall, after deducting the necessary costs of administration, be appropriated and used exclusively to fulfill the state's duty to cherish the interest of public schools under articles 83 and 83-a of part second, and no part of such moneys shall be transferred or diverted to any other purpose whatsoever; and that the state may fulfill its responsibility to provide to all citizens the opportunity for a public education by exercising its power to levy assessments, rates, and taxes or by delegating this power, in whole or in part, to a political subdivision; provided that upon delegation, such assessments, rates, and taxes are proportional and reasonable throughout the political subdivision in which they are imposed, and that the general court shall have the authority to determine and set forth the content, extent, and funding of public education in this state.

2000-4186h

Floor Amendment to SB 311

Proposed by Rep. Emerton

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

1 Responsibility for Public Medical Assistance. Amend RSA 167:3-b to read as follows:

167:3-b Responsibility for Public Medical Assistance. The provisions of RSA 167:2, 3 and 3-a, do not apply to the administration of medical assistance~~[-, except with respect to the spouse of the individual who needs medical care or services, or the parent of such individual, if said individual is under 21 or is either blind or permanently and totally disabled].~~

2 New Paragraph; Definitions. Amend RSA 167:6 by inserting after paragraph VII the following new paragraph:

VIII. For purposes hereof, the terms "spouse" and "surviving spouse" shall include anyone currently legally married to a recipient, or who was legally married to a recipient at the time of the recipient's death, and shall not include those to whom a legal separation has been granted by a court of competent jurisdiction.

3 Recovery for Assistance Furnished. Amend RSA 167:13 to read as follows:

167:13 Recovery for Assistance Furnished.

I. Except as provided in paragraph II, if at any time during the continuance of assistance, the recipient or the husband or wife of the recipient becomes possessed of any property or income in excess of the amount stated in the application, it shall be the duty of the recipient within 10 calendar days to notify the commissioner of the department of health and human services of the receipt or possession of such property or income. On the death of a recipient of old age assistance or aid to the permanently and totally disabled, the total amount of assistance paid under this chapter or RSA 161 shall be allowed as a claim against the

estate of such person after payment of the charges in the priority set forth in RSA 554:19. No ~~[claim]~~ **lien filed in accordance with RSA 167:14** shall be ~~[imposed]~~ **extended to enforce recovery nor shall any sale be forced** against the real estate of a recipient of old age assistance or aid to the permanently and totally disabled while it is occupied as a home by a surviving spouse~~[-, or against any personal property of less than \$100 in value]~~. The federal government shall be entitled, as long as required as a condition to federal financial participation, to such proportion of the net amount collected from the estate of a recipient of old age assistance or aid to the permanently and totally disabled as the federal participation bears to the total amount of assistance granted said recipient.

II. Notwithstanding paragraph I, for medical assistance, no resources of the community spouse shall be deemed available to the institutionalized spouse during the continuous period in which an institutionalized spouse is in an institution, and after the month in which an institutionalized spouse is determined to be eligible for medical assistance benefits.

III. The department may waive adjustment or recovery in cases in which:

(a) It is not cost-effective to recover from an individual's estate; or

(b) Recovery would result in an undue hardship as determined in accordance with rules adopted pursuant to RSA 541-A.

4 Claims and Liens. RSA 167:14 is repealed and reenacted to read as follows:

I. The estate of every recipient and the estate of a recipient's spouse, if any, owned severally or as joint tenants, shall be liable for all financial old age assistance or aid to the permanently **and totally** disabled granted to the recipient; provided, however, that the estate of a recipient's spouse shall be liable only for such financial assistance as was granted to the recipient during the time that the recipient and the recipient's spouse were neither legally separated nor divorced. After providing all owners of the real property **known to the department** with prior notice and an opportunity for a hearing, the commissioner of the department of health and human services shall file with the register of deeds of the county in which the recipient, or the spouse of the recipient, if any, owns real property, notice of the lien. Such notice of lien shall contain the names of the recipient and the recipient's spouse, if any. All such liens shall continue during the lifetime of the recipient and of the spouse of the recipient, if any, and until enforced as provided in this section, unless sooner released by the commissioner of the department of health and human services. The register of deeds shall keep a suitable record of such notices of lien without charging any fee therefore and enter on the record an acknowledgment of satisfaction or release upon written request from the commissioner of the department of health and human services.

II. Subject to RSA 167:16-a, the estate of every recipient shall be liable for all medical assistance granted to the recipient, and the commissioner of the department of health and human services shall file a claim for recovery against the recipient's estate. No notice of lien may be filed against real property with respect to medical assistance except in conformance with RSA 167:16-a.

5 Enforcement of Assistance Liens; Restricted to Recipient Assets. Amend RSA 167:16, I-III to read as follows:

I. Assistance liens arising under this chapter or RSA 161 may be enforced by a bill in equity, or, in the case of liens against real estate which have been duly filed under RSA 167:14, by filing a timely and verified notice of lien with the probate court with jurisdiction over the estate of the recipient ~~[or recipient spouse]~~ and mailing a copy of said notice and a verified claim for recovery of assistance payments to the administrator of the estate.

II. The commissioner may enforce the liquidated amount of an assistance lien against real estate by filing a timely and verified notice with the probate court and submitting a timely and verified claim against the estate of the recipient~~[-, or recipient spouse,]~~ which sets forth the dates and amounts of assistance paid. Such claims shall be timely if filed within 6 months from the initial grant of administration for the estate in question.

III. **Notwithstanding RSA 556:5 and any other provision of law to the contrary,** the administrator of a recipient's estate~~[-, or the estate of a recipient's spouse,]~~ shall be conclusively presumed to have accepted a claim for recovery of assistance which is ~~[the subject of a lien against real estate]~~ subject to the jurisdiction of the probate court unless, within 12 months from the initial grant of administration, the administrator commences an equitable action in the superior court challenging the validity or amount of the commissioner's claim and lien.

6 Limitations on Recovery of Assistance. RSA 167:16-a, IV is repealed and reenacted to read as follows:

IV. Notwithstanding any provision of law to the contrary, there shall be no adjustment or recovery of medical assistance

correctly paid on behalf of such an individual, except from the estate of an individual who was 55 years of age or older when the individual received such assistance, and then only after the death of the surviving spouse, if any, and only at a time when:

- (a) The individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled.
- (b) In the case of a lien on an individual's home under subparagraph I(b):
 - (1) No sibling of the individual who was residing in the individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution, nursing facility, or intermediate care facility for the mentally retarded and is lawfully residing in such home on a continuous basis since the date of the individual's admission to the medical institution, nursing facility, or intermediate care facility for the mentally retarded.
 - (2) No son or daughter of the individual who was residing in the individual's home for a period of at least 2 years immediately before the date of the individual's admission to the medical institution, nursing facility, or intermediate care facility for the mentally retarded and who establishes to the satisfaction of the state that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution and is lawfully residing in such home and has done so on a continuous basis since the date of the individual's admission to the medical institution, nursing facility, or intermediate care facility for the mentally retarded.

7 Effective Date. This act shall take effect January 1, 2001.

2000-4180h

Floor Amendment to SB 416-FN

Proposed by Rep. Stickney

Amend RSA 326-A:10 as inserted by section 1 of the bill by replacing it with the following:

326-H:10 Rulemaking.

I. The board shall adopt rules, pursuant to RSA 541-A, relative to:

- (a) The application procedures for licensure or temporary licensure to practice as a licensed dietitian in this state.
- (b) The renewal, suspension, revocation, and reinstatement of licenses.
- (c) The establishment of license fees.
- (d) Educational qualifications for licensure.
- (e) The conditions and fees for licensing out-of-state dietitians.
- (f) Continuing education requirements.
- (g) Procedures for investigations and hearings held under this chapter.
- (h) Procedures for appealing hearing board decisions.

II. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

2000-4169h

Floor Amendment to SB 426-FN

Proposed by Rep. Packard

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

1 New Paragraphs; Use of Utility Plates by Boat Manufacturers and Dealers. Amend RSA 261:121 by inserting after paragraph II the following new paragraphs:

III. A utility plate may be used by a manufacturer or dealer of boats or boat trailers, or his or her employees or agents contracted by the manufacturer or dealer, for the transportation of boats in the ordinary course of business, which shall include the sale, demonstration, delivery, and repair of such boats.

IV. A utility plate may be used by a manufacturer or dealer of boats or boat trailers, or his or her employees or agents contracted by the manufacturer or dealer, on a boat trailer not owned or leased by the manufacturer or dealer if used for the purpose of transporting a boat or boat trailer to and from his or her place of business for repair or service.

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

AMENDED ANALYSIS

This bill permits boat manufacturers and dealers to use utility plates when transporting boats in the ordinary course of business.