

HOUSE RECORD

Second Year of the 157th Session of the General Court

Calendar and Journal of the 2002 Session

Vol. 24

Concord N.H.

January 17, 2002

No. 10

HOUSE JOURNAL No. 2 (cont.)

January 10, 2002

RECESS

(Rep. Patten in the Chair)

RESOLUTION

Rep. Martel offered the following: RESOLVED, that their late drafting and introduction having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bills numbered 1413 and 1414 shall be by this resolution read a first and second time by the therein listed titles, sent for printing, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 1413, relative to disclosure of information by hospitals. (Francoeur, Rock 22; Pilliod, Belk 3; Marshall Quandt, Rock 20; Sokol, Graf 10; Batchelder, Ches 2; Wheeler, Dist 21; O'Hearn, Dist 12; McCarley, Dist 6; Boyce, Dist 4: Commerce)

HB 1414-FN-A-L, relative to the valuation method in the excavation activity tax. (Whalley, Merr 5; Burling, Sull 1; Wheeler, Hills 7; McGuirk, Ches 1; P. Davis, Coos 1; Boyce, Dist 4; Johnson, Dist 3; Burns, Dist 1: Ways and Means)

RECESS

(Rep. Herman in the Chair)

RESOLUTION

Rep. Chandler offered the following: RESOLVED, that the late drafting and introduction having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bill numbered 1000 shall be by this resolution read a first and second time by the therein listed title, sent for printing, and referred to the therein designated committee.

Adopted.

INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 1000-FN-A, relative to the acquisition and oversight of certain rights in land located in Pittsburg, Clarksville, and Stewartstown, known as the Connecticut Lakes headwaters tract and making an appropriation therefor; establishing funds for the stewardship of these lands; and allowing state agencies to hold certain rights under the New Hampshire land and community heritage investment program. (Chandler, Carr 1; Burling, Sull 1; Stohl, Coos 1; Klemm, Dist 22; Burns, Dist 1; Hollingworth, Dist 23: Resources, Recreation and Development)

RECESS

(Rep. Gallus in the Chair)

RESOLUTION

Rep. Francoeur offered the following: RESOLVED, that their late drafting and introduction having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bills numbered 1415 through 1420 shall be by this resolution read a first and second time by the therein listed titles, sent for printing, and referred to the therein designated committees.

Adopted.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 1415, relative to requiring taxpayers requesting abatements to answer inquiries of the assessors, and relative to appeals of certain abatement decisions. (P. Bradley, Coos 6; Rozek, Coos 7; Gallus, Coos 7; Guay, Coos 6; Burns, Dist 1: Municipal and County Government)

HB 1416-FN, relative to the extent of the authority of agencies to adopt administrative rules. (Clegg, Hills 23; Mirski, Graf 12; Herman, Hills 13; Heon, Straf 14; O'Neil, Dist 18; D'Allesandro, Dist 20; Francoeur, Dist 14; Boyce, Dist 4: Executive Departments and Administration)

HB 1417-FN-A, eliminating the payment of the business enterprise tax on interest paid by business enterprises. (J. Sullivan, Carr 2; Rogers Johnson, Rock 25; Belanger, Rock 26; Giuda, Graf 3; Roberge, Dist 9; Francoeur, Dist 14; Boyce, Dist 4: Ways and Means)

HB 1418, establishing a committee to study the cost of telephone calls from state prison inmates to their families. (Weatherspoon, Rock 20; L. Johnson, Hills 40; L. Jean, Hills 17; Pitts, Rock 35; Shultis, Rock 33: Criminal Justice and Public Safety)

HB 1419-FN-A, increasing the capital appropriation made to the fish and game department for the Barry conservation camp building replacement. (E. Smith, Ches 6; Chandler, Carr 1; Gorman, Hills 29; Edwards, Ches 19; Fairbanks, Ches 18; Eaton, Dist 10; Burns, Dist 1; D'Allesandro, Dist 20; Gordon, Dist 2: Public Works and Highways)

HB 1420, relative to exceptions to the prohibition on persons practicing as attorneys when not admitted to practice by the supreme court. (P. Woods, Straf 11; Mirski, Graf 12; Soltani, Merr 10; Phinizy, Sull 7; L. Jean, Hills 17; Roberge, Dist 9; Boyce, Dist 4: Judiciary)

RECESS

(Rep. Herman in the Chair)

RESOLUTION

Rep. Lars Christiansen offered the following: RESOLVED, that the late drafting and introduction having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bill numbered 1100 shall be by this resolution read a first and second time by the therein listed title, sent for printing, and referred to the therein designated committee.

Adopted.

INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 1100-FN-A, requiring review of judges by the judicial conduct commission and relative to staffing of the judicial conduct commission and making an appropriation therefor. (Rowe, Hills 14; Dudley, Graf 14; Soltani, Merr 10; J. Pratt, Ches 2; Herman, Hills 13; D'Allesandro, Dist 20; Johnson, Dist 3; Barnes, Dist 17: Judiciary)

RECESS

Rep. Scanlan moved that the House adjourn.

Adopted.

HOUSE JOURNAL No. 3

January 17, 2002

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, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Ever gracious Creator, in whom we live and move and have our being, we live in uncertain and dangerous times, yet also in times filled with great opportunity and hope. Today we pray for all who hold the authority of government in our nation and in our beloved New Hampshire. Especially, we ask Your blessing to be with our Governor, our House and Senate members, the members of our Supreme Court, and all local citizens who serve in town and city governments. Please give them an abundant share of wisdom, courage and compassion as they seek to promote democracy and to care for those among us who are in the greatest need. As always, we ask that Your protection be with those who serve our state and country by risking their lives to defend and preserve our precious freedom. Amen.

Rep. Lionel Johnson led the Pledge of Allegiance.

The National Anthem was sung by Ashley Mead, a student from Monadnock Regional High School.

LEAVES OF ABSENCE

Reps. Arnold, DePecol, Dewhirst, Richard Eaton, Flanagan, Guay, Karen Hutchinson, Cecelia Kane, Lyman, Lynde, Murphy, Pilliod, Saia, and Whittemore, the day, illness.

Reps. Arndt, Batchelder, Crosby, Emerton, Flora, Marilyn Fraser, Hughes, Lynde, Lessard, O'Keefe, Packard, Pantelakos, Marsha Pelletier, Salts, Seldin, Spang, Stone and Donald White, the day, important business.

Reps. Allison and Paula Bradley, the day, illness in the family.

INTRODUCTION OF GUESTS

Curt and Joanne Mead, Lewis and Sandra Mead, guests of the Speaker. Mari Hoell, Dick Badger, Paul Ronty, Judy Wooster, Tona Chasse, Myles Crowe, Blake Benedict and Janice Crawford of the Mount Washington Valley Chamber of Commerce, guests of the Carroll County Delegation. Chester Academy students, guests of Rep. Hamel. James Boynton, guest of Reps. Nowe and Case. Cliff Newton, guest of Rep. Albert. Steve and Polly Gilman, Debra Hudson, guests of Rep. Rush. Former Representative Merle Schotanus, guest of Rep. Jones. Michael Clemons, Daniel French and Ellen Healy, husband and guests of Rep. Clemons.

enrolled bill report

The Committee on Enrolled Bills has examined and found correctly enrolled Senate Bills numbered 56 and 115.

Rep. Nowe, Sen. D'Allesandro for the Committee

RESOLUTION

Reps. Scanlan and Burling offered the following: RESOLVED, that the late drafting and introduction having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bill numbered 1421 shall be by this resolution read a first and second time by the therein listed title, sent for printing, and referred to the therein designated committee.

Adopted.

INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 1421-FN-A, relative to criminal extradition expenses and making an appropriation therefor. (J. Flanders, Rock 18: Criminal Justice and Public Safety)

resolution

Reps. Scanlan and Burling offer the following:

RESOLVED, THAT THE Honorable Senate be notified that the House of Representatives is ready to meet in Joint Convention for the purpose of hearing an address by her Excellency, Governor Jeanne Shaheen.

senate message

The Senate is ready to meet with the House of Representatives in Joint Convention for the purpose of hearing an address by her Excellency, Governor Jeanne Shaheen.

joint convention

(Speaker Chandler presiding)

The Speaker introduced Governor Jeanne Shaheen who addressed the Joint Convention.

Mr. Speaker, Mr. President, honorable members of the House, Senate and Executive Council, my fellow citizens of New Hampshire:

I am honored to be here to report to you once again on the state of our great state of New Hampshire.

This year is different. On September 11th our nation was tested. Here in New Hampshire, we lost family, friends and neighbors. We mourned, with our nation, the loss of life.

In New Hampshire we did not yield to threats and fear. I am proud that our state House was one of the few that did not shut down on September 11th.

We have celebrated a renewed American spirit. We have recommitted ourselves to the American values, to New Hampshire values, that our men and women in uniform have defended with their lives for generations: democracy and freedom, justice and opportunity.

We have a heightened appreciation for the people whose courage and tireless service make such a difference in our lives and in our communities – police officers, firefighters, National Guard members, postal workers, and all those who safeguard our public health.

Today, I ask you to please join me in recognizing six people who exemplify these every day heroes – our firefighter-lawmakers. Russ Bridle. Bill Clayton. Jeff Goley. Jim Holland. Steve L'Heureux. Eric Palangas. And let's not forget the Speaker's Chief of Staff, Manchester firefighter Terry Pfaff. And all our volunteer firefighters, please stand up. We thank you all for your service and we are honored by your presence.

We face new challenges today: threats to our security that before September 11th were unimaginable on American soil. I assure you we are meeting these new challenges. New Hampshire's emergency response systems are strong. Immediately after September 11th, I took action to make our state more secure, stepping up patrols of our harbor and bridges, increasing inspections along our highways. I answered President Bush's call to put National Guard troops at our airports. We are expanding the state's public health lab, offering biological hazard training for police officers, and taking other steps to enhance our emergency response systems. We must do more.

In the weeks following September 11th, our police and fire departments, haz mat teams and state public health labs were strained to the limit responding to legitimate concerns about anthrax. But outrageously and unforgivably, some people committed hoaxes.

We will not accept that behavior in New Hampshire. Work with me, Representative Bob Clegg and Senator Hollingworth to toughen the punishment for anyone who makes phony threats or hoaxes.

We must protect the people who protect us – the men and women of the New Hampshire National Guard. When I called up the Guard to protect our airports, we found an unjust omission in state law: National Guardsmen and women who are called up for state duty do not get the same employment protections as when they are called up for national duty. This is wrong. Work with me and Senators Jack Barnes and Lou D'Allesandro to correct this oversight. When the brave members of our National Guard leave their jobs to protect us here in New Hampshire, we should guarantee they will get those jobs back.

It is not just new challenges to our national security that we face, it is also new challenges to our economic security; challenges you and I must meet together. Nowhere have these economic challenges been greater than in Berlin and Gorham, devastated by the closing of their pulp and paper mills. I have directed state agencies to bring every possible resource to bear to help these communities, their workers and their families. We're getting children signed up for health coverage through Healthy Kids. The University System established a scholarship fund so that students don't have to leave college. Working with Sen. Judd Gregg, we obtained federal grants to provide job retraining and extend unemployment benefits. We're fighting in bankruptcy court to protect the idled mills to make sure they are not damaged from the harsh North Country winter. My goal remains getting these mills operating again. And I say to the people of the North Country: I will keep fighting to get you back to work.

September 11th shook our economy, moving us faster toward the recession already hitting the rest of the country. It is up to us to take on this economic battle with all the weapons in our fiscal arsenal. We cannot afford to hesitate and simply hope for better times. We must put partisanship aside and take decisive action to make a difference now, for New Hampshire's workers, New Hampshire's businesses, New Hampshire's very economic security.

Let me today outline my plan for getting our economy back on track and our people back to work.

First, we must increase unemployment benefits. I am proposing legislation that increases weekly benefits without raising payroll taxes on businesses. Our unemployment taxes are the second lowest in the nation, and I'm going to keep it that way. This bill will help laid-off workers pay for food, clothing, medical care, and other essentials. In turn, their spending will pump millions of dollars into the New Hampshire economy. Increasing unemployment benefits is the right thing to do for our workers, and the smart thing to do for our economy. Work with me and Sen. Bob Flanders, Reps. Burling and Bishop and the other sponsors of this bipartisan bill. The sooner we pass this bill, the sooner we begin helping workers who lose their jobs. Today, I ask you: fast track this legislation.

Second, we must invest our tourism promotion dollars smartly. Tourism provides billions of dollars to the state's economy and supports tens of thousands of jobs. In the past five years, with your approval, we have more than doubled our investment in tourism promotion. So after September 11th we were able to move quickly to make New Hampshire a destination for people forced to change their travel plans. As a result, New Hampshire had a banner Columbus Day weekend. I have directed our Division of Travel and Tourism to take every possible step to keep the industry strong. We are expanding our advertising in Quebec to attract more visitors from Canada. We are doing new in-state marketing to remind New Hampshire citizens of the great vacation opportunities right here in their own backyard.

Third, because state construction projects provide jobs and stimulate local economies, I've directed the Bureau of Public Works to speed up the projects included in the state's capital budget. As a result, over \$87 million of capital projects will be put out to bid by July 1st. That's a record.

Fourth, our future prosperity depends on a sustained focus on the fundamentals of a strong economy. We will continue to implement the recommendations in our comprehensive economic strategy, *New Hampshire in the New Economy*. We must maintain our efforts to expand international trade, promote our high tech sector, increase telecommunications access, lower energy costs, and improve educational opportunities and job skills.

We must continue opening new global markets for New Hampshire companies. We have invested in our International Trade Center so it can help companies get business in lucrative world markets. Trade missions I led to England and Ireland, to Denmark and Germany, and to Canada have generated an estimated \$500 million in sales for New Hampshire businesses. We must expand these global opportunities for our workers and our businesses even more. Today, I am announcing that this May I will lead a trade mission to Mexico, one of New Hampshire's largest trading partners.

We must continue to nurture our high tech sector and encourage new, cutting edge industries to locate in New Hampshire, industries like those exploring biotechnology. With the mapping of the human genome, we can now imagine cures to diseases from diabetes to cancer. The State is working with businesses and higher education on a new initiative to attract biotech companies and jobs to our state. New Hampshire companies can and should be in the forefront of technology breakthroughs.

Recently many of us had an opportunity to ride one of those breakthroughs and it was great fun. Some scoff at Dean Kamen's Segway, just as 90 years ago, horse-and-buggy loyalists assumed that

the automobile was a fad. I saw in Segway, as many of you did, a machine – invented and built right here in New Hampshire – a machine that could revolutionize urban transportation. It is in New Hampshire's interest for Segway to succeed. The future is now. Pass Senator Klemm's legislation to allow the use of Segways on New Hampshire sidewalks.

We have come a long way in expanding access to the high-speed Internet connections that are as important to today's commerce as interstate highways. Per capita, we have more fiber optic cable here in New Hampshire than any other New England state, including Massachusetts, and more than California or New York. Sixty-six percent of our citizens are connected to the Internet from their homes. We are among the top ten states in the country in the percentage of our companies doing business online. In the past year, we have formed public-private partnerships to create Monadnock and North Country Connects, giving businesses in rural parts of our state access to high-speed telecommunications at affordable prices. We are now working with communities to replicate this highly successful model in other parts of the state.

In New Hampshire, we know firsthand how important energy is to our economy. That's why we've begun working on the state's first ever energy plan. We must develop a plan that increases energy efficiency, protects our environment and decreases our dependence on foreign oil.

And we must keep working to bring down utility rates. I took on Public Service of New Hampshire and the other utilities to fight for lower electric rates. As a result of our work, families and businesses across New Hampshire saw their bills drop. I will not stop until every part of New Hampshire has lower rates. Businesses and families in Sullivan County are still paying too much to Connecticut Valley Electric Company. I say to the executives of CVEC over in Vermont: we did not forget you while we were wrestling with PSNH, and now you are in our sights.

We must make sure working people get the skills and job training they need to take advantage of new opportunities. Last session, with your support, we established a permanent job-training fund – a million dollars a year -- to help businesses and workers adapt to changing times. Last week, I announced that companies can now apply for matching grants through our new Job Training Program for Economic Growth. This program will help companies upgrade existing jobs and create new jobs, giving first priority to small businesses.

And we must continue making smart investments in our children's schools. Because we want the best teachers in our classrooms, we have toughened professional development standards and tested 2,000 new teachers. The Best Schools Leadership Institute is helping 225 schools in 88 communities improve student performance. School report cards now let parents see how their children's schools measure up.

We want our young people to stay here in New Hampshire when they choose to go to college. Now we're giving them more reason to stay. New financial incentives through Granite State Scholars. A modern learning environment made possible by the largest capital investment ever made in the state's university system. And more people now have access to higher education at a price they can afford because we've made it easier to transfer credits between our Community Technical Colleges and the University system.

Because every child needs a strong start, we invested in the kindergarten incentive program. Thirty-four communities have added public kindergarten since that initiative was cast. Because of our actions, nearly 7,000 additional children have had the benefit of public kindergarten.

As a state, we have accepted the responsibility to ensure every child in every town the opportunity for a good education. We cannot – and should not – ever go back to a system that shortchanged some

students simply because of their zip code. If legislation gets to my desk that turns back the clock on our children's education, I will veto it.

We ended the last biennium with a general fund surplus of \$35 million – allowing us to nearly triple the state's rainy day fund. But the slowing economy is now affecting our state revenues.

We must continue to exercise fiscal discipline and responsibility. I have issued an executive order reducing general fund spending by \$6.5 million this fiscal year. I will take further actions as necessary. But this is a joint responsibility. Do not pass spending bills this year unless you have identified how you are going to pay for them. In these tough economic times, we simply cannot afford it.

Our economy is directly linked to the availability of quality, affordable health care. We have done much in the last five years. The HMO Accountability Act is making sure that HMO's are providing the health care people need and deserve. From an independent appeals process when HMO's deny care to protecting health care providers who stand up for their patients, the HMO Accountability Act is making a difference for New Hampshire families.

Today, there are nearly 15,000 New Hampshire kids – that's almost as many people as live in the entire city of Laconia – 15,000 who have health care because of the Children's Health Insurance Program. I have worked hard with you to expand health insurance for children, and my goal remains simple: enroll every eligible child.

The increasing cost of prescription drugs is threatening our health care system, and I am working hard to address this problem. The drug purchasing pool we launched in November with Vermont and Maine is expected to save us \$7 million this fiscal year alone on the prescription drugs we provide to people on Medicaid. This first in the nation program will save us here in New Hampshire more than \$28 million over four years.

Since 1999, our Senior Prescription Drug Program has helped more than 2,000 seniors save more than \$2 million on their prescription drug costs. Time and again, the drug companies have gone to court to stop efforts by states to help seniors save on their medicines. And they've lobbied nonstop to extend their patents and keep cheaper generic drugs off the market. This hurts our seniors, who can't afford the medicines they need to stay healthy. This hurts our businesses, whose health insurance premiums are skyrocketing. This hurts the State budget, which has seen Medicaid costs rise.

That's why I am working with other governors, businesses, and labor unions from across our country as part of a new coalition called Business for Affordable Medicine. We are fighting to push Congress to close loopholes that big drug companies exploit to keep cheaper generic drugs off the market. I am determined to end the special breaks that leave consumers – young and old – paying too much. Join me in standing up to the big drug companies.

New Hampshire is a special place. Our beautiful environment is crucial to our economic strength and to the quality of our lives. It is a legacy we want to leave our children. It is a resource we must act now to protect.

We must work to save our open spaces. Last year for the first time we provided significant funding for the Land and Community Heritage Investment Program. This year we have the chance to protect 171,000 acres in the northern part of our state – the IP lands. This land supports wildlife and countless recreational activities – from hiking to snowmobiling. It provides hundreds of jobs for loggers and forest products workers. The bipartisan leadership of the legislature and I have all

agreed to bond up to \$10 million for a conservation easement and the outright purchase of the most environmentally sensitive land, including the headwaters of the Connecticut River. Protect this precious land. Pass this legislation.

We must act now to protect our water. This year we are experiencing the worst drought in fifty years. Water is a finite resource, the oil of the future. I am proposing three bills to address our water needs. One, we must protect our groundwater from big commercial withdrawals. We must remove outdated barriers that keep communities from working together. We must put in place common-sense conservation measures. Join me and Senator McCarley, Rep. Musler and the other sponsors of bipartisan legislation to protect our water for the people it rightfully belongs to – the men and women of New Hampshire.

And with the Clean Power Act, we can have cleaner air. We have the opportunity to reduce air pollution from power plants that causes global warming and illnesses like asthma. Representatives Bradley and Norelli and others have worked hard with me to craft what is sure to become model legislation. To the House, I say thank you for passing the Clean Power Act. To my former colleagues in the Senate, I urge you to stand with us for New Hampshire's environment. Pass this important legislation.

I am putting forward an ambitious, fiscally responsible agenda. Nothing less will meet the challenges we face. The state of our state is strong, and our strengths can and will overcome our challenges. As we begin this new year, let us remember September 11th not only for what we lost, but also for what we gained: a new spirit, a new energy, and a new commitment to each other, to our communities, and to our country.

This session, let us not forget that somewhere across the globe young New Hampshire men and women in uniform are risking their lives for us. We should ask ourselves each and every day, is what we are doing in this historic statehouse worthy of the sacrifice being made for us? Let us do the work of the people in such a way that we may answer yes. Thank you.

Sen. Francoeur and Rep. Scanlan moved that the Joint Convention arise.

Adopted.

The Joint Convention adjourned.

RECESS

(Speaker Chandler in the Chair)

regular calendar

HB 507, opening hearings in abuse and neglect cases to members of the general court and to certain other persons. **INEXPEDIENT TO LEGISLATE**

Rep. Christine M. Furman for Children and Family Law: The majority of the committee felt that opening now confidential neglect and abuse court hearings to members of the general court and "other parties" did not appear to be in the best interest of children. Another bill retained by the committee accomplishes this as a pilot on a limited basis. Vote 8-6.

Rep. Itse spoke against.

Rep. Dowling spoke in favor and yielded to questions.

On a division vote 285 members having voted in the affirmative and 48 in the negative, the report was adopted.

SB 124, relative to confidentiality in abuse and neglect proceedings and establishing a pilot program in the courts of Grafton county. **OUGHT TO PASS WITH AMENDMENT**

Rep. Patricia A. Dowling for Children and Family Law: This bill establishes a pilot project to assess open hearings in child abuse or neglect cases in Grafton County Court only and includes a legislative committee to develop evaluation criteria and provide oversight for the pilot. Vote 9-5.

Amendment (2036h)

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

AN ACT relative to the confidentiality of abuse and neglect proceedings and establishing a pilot project relative to abuse and neglect hearings in the Grafton county court.

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

1 Child Protection Act; Confidentiality; Disclosure of Information Relative to Hearing.
Amend RSA 169-C:25, II to read as follows:

II. It shall be unlawful for any ~~[party]~~ **person** present during a child abuse or neglect hearing to disclose any information concerning the hearing ***that may identify a child or parent who is involved in the hearing*** without the prior permission of the court. Any person who knowingly violates this provision shall be guilty of a misdemeanor.

2 Abuse and Neglect Hearings in the Grafton County Court; Pilot Project.

I. A pilot project in the Grafton county court is established to assess opening hearings in child abuse and neglect cases to the public absent a finding that opening the hearing or that disclosure of some or all of the evidence would be contrary to the best interests of the child or would cause unreasonable harm to one or more of the parties.

II. Notwithstanding RSA 169-C:14, any hearing held under RSA 169-C in the court participating in the pilot project shall be open to the public unless the court makes a specific finding, upon motion of either party or sua sponte by the court, that opening the hearing or that disclosure of some or all of the evidence would be contrary to the best interests of the child or would cause unreasonable harm to one or more of the parties. The court shall then limit admittance to the hearing only to the extent required to prevent disclosure of the harmful evidence except where a child who is the subject of the proceedings attends a hearing, in which case it shall be presumed that admitting nonparties would be contrary to the best interests of the child or would cause unreasonable harm. In any event, medical and psychological reports, records, and profiles, and testimony referring to the contents of such reports, records, and profiles, shall remain non-public. Such hearing shall, whenever possible, be held in rooms not used for criminal trials.

III. The administrative judge of the district courts shall prepare a report on the findings and recommendations of the Grafton county court relative to opening hearings in child abuse and neglect cases under the terms established by the pilot project. The administrative justice of the district courts shall provide the report to the governor, the speaker of the house of representatives, the senate president, the legislative oversight committee, the senate clerk, the house clerk, and the commissioner of the department of health and human services on or before September 1, 2003.

3 Legislative Oversight Committee Established. There is established a legislative oversight committee to monitor the progress of the pilot project in the Grafton county court.

I. Membership and Compensation.

(a) The members of the committee shall be as follows:

(1) Three members of the house of representatives, appointed by the speaker of the house.

(2) Three members of the senate, appointed by the president of the senate.

(b) Members of the oversight committee shall receive mileage at the legislative rate when attending to the duties of the committee.

II. Duties. The legislative oversight committee shall:

(a) Establish criteria to evaluate the effectiveness of the pilot project.

(b) Determine what costs, if any, are incurred by the court as a result of the project.

(c) Assess the effectiveness of the project based on the established criteria and information gathered by the committee regarding the project's implementation.

III. Chairperson; Quorum. The members of the legislative oversight committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

IV. Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2003.

4 Repeal. Section 2 of this act, relative to the pilot project in Grafton county, is repealed.

5 Effective Date.

I. Section 4 of this act shall take effect June 30, 2004.

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

AMENDED ANALYSIS

This bill makes the knowing disclosure of information sufficient to identify a child or parent involved in an abuse and neglect proceeding a misdemeanor.

The bill establishes a pilot project in the Grafton county court in which abuse and neglect proceedings may be opened to the public. The bill also establishes a legislative oversight committee to monitor the progress of the pilot project.

Adopted.

Report adopted and ordered to third reading.

SB 31, eliminating straight ticket voting. INEXPEDIENT TO LEGISLATE

Rep. Robert E. Clegg, Jr. for Election Law: The annual "straight ticket" bill once again came before the committee. Once again, members of both parties could not agree. The majority of the committee felt allowing voters to check off a straight ticket on the ballot was a right we were not willing to take away. Current law and practice of determining voter intent by Secretary of State is sufficient to clarify any doubts of moderators or during recounts. The system of straight ticket voting works and therefore needs no corrective action. Vote 10-8.

Rep. Clemons and Vaillancourt spoke against and yielded to questions.

Rep. Stritch and Clegg spoke in favor and yielded to questions.

Rep. Mirski requested a roll call; sufficiently seconded.

The question being adoption of the report.

YEAS 200 NAYS 142

YEAS 200

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Flanders, Donald
Holbrook, Robert	Lawton, David	Millham, Alida	Nedeau, Stephen
Rice, Thomas Jr	Rosen, Ralph	Russell, David	Thomas, John
Wendelboe, Fran			

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
Mock, Henry	Patten, Betsey	Philbrick, Donald	Quimby, Lee

Stevens, Stanley

Sullivan, P Judith

Torressen, Gary

CHESHIRE

Avery, Stephen

Dexter, Judson

Edwards, Dana

Emerson, Susan

Fairbanks, Chandler

Hunt, John

Liebl, George

Roberts, William

Royce, H Charles

Smith, Edwin

COOS

Davis, Perley

Gallus, John

Horton, Lynn

Pratt, Leighton

Rozek, Michael

Stohl, Eric

Tholl, John Jr

Woodward, David

GRAFTON

Akins, Ralph

Alger, John

Barker, Robert

Cobb, John

Dudley, Terri

Eaton, Stephanie

Gabler, William

Gilman, G Michael

Giuda, Robert

Marshall, Gene

Mirski, Paul

Scanlan, David

Sova, Charles

Ward, Brien

Williams, Burton

HILLSBOROUGH

Allan, Nelson

Alukonis, David

Artz, Lawrence

Balboni, Michael

Balcom, John

Batula, Peter

Bergeron, Jean-Guy

Bouchard, David

Brundige, Robert

Bruno, Pierre

Calawa, Leon Jr

Cardin, Lori

Carlson, Donald

Christensen, D L Chris

Clegg, Robert Jr

Cote, Peter

Coughlin, Pamela

Dionne, Kimberley

Drisko, Richard

Dyer, Merton

Elliott, Larry

Fields, Dennis

Fletcher, Richard

Ford, Nancy

Furman, Christine

Gargasz, Carolyn

Golding, William

Gonzalez, Carlos

Goulet, Maurice

Graham, John

Greenberg, Gary

Haley, Robert

Hall, Charles

Herman, Keith

Holden, Randolph

Hopper, Gary

Jean, Loren

Kurk, Neal

LaRose, Richard

Leach, Edward

Martel, Andre

McHugh, Claire

Mercer, Robert

Milligan, Robert

O'Connell, Timothy

Pepino, Leo

Peterson, Andrew

Reeves, Sandra

Rowe, Robert

Sargent, Maxwell

Seibel, Christopher

Tahir, Saghir

Tate, Joan

Thompson, Rob

Thulander, O Alan

Wheeler, Robert

MERRIMACK

Anderson, Eric	Colcord, J D	Cummings, Raymond	Dunne, Christopher
Feuerstein, Martin	Fraser, Leo Jr	Hess, David	Hutchinson, John
Kennedy, Richard	Langer, Ray	Leber, William	MacKay, James
Maxfield, Roy	Swindlehurst, John	Whalley, Michael	Winter, Steven

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Bowles, Raimond	Camm, Kevin
Carson, Sharon	Case, Margaret	Chalbeck, Kevin	Cooney, Richard
Corbin, Corey	Cox, Russell	Dalrymple, Janeen	Dearborn, Bruce
DiFruscia, Anthony	Dowling, Patricia	Dumaine, Dudley	Fesh, Bob
Flanders, John Sr	Francoeur, Sheila	Gilbert, Jeffrey	Giordano, Ronald
Gleason, John	Griffin, Mary	Hamel, Albert	Henderson, Warren
Hill, Jonathan	Holland, James Jr	Introne, Robert	Itse, Daniel
Johnson, Robert	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Kelley, William	Kobel, Rudolph	Langone, John	Letourneau, Robert
Major, Norman	McKinney, Betsy	Moore, Benjamin	Morse, Charles
Nowe, Ronald	O'Neil, Michael	Power, Lucille	Priestley, Anne
Putnam, Ed II	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reardon, Neil	Ruffner, Walter	Sapareto, Frank	Sloan, Stephen
Stritch, C Donald	Varrell, Thomas	Welch, David	Weyler, Kenneth
Zolla, William			

STRAFFORD

Albert, Russell	Bickford, David	Cossette, Larry	Dunlap, Patricia
Ferland, Paul	Harrington, Michael	Musler, George	Twombly, James
Woods, Phyllis			

SULLIVAN

Flint, Gordon Sr	Jones, Constance	Leone, Richard	Odell, Bob
Rodeschin, Beverly			

BELKNAP

Johnson, William	Salatiello, Thomas	Wood, Jane
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CARROLL

None

CESHIRE

Allen, Peter	Burnham, Daniel	Espieffs, Peter	Manning, Joseph
McGuirk, Paul	Meader, David	Mitchell, McKim	Pratt, Irene
Pratt, John	Richardson, Barbara	Slack, Pamela Russell	Weed, Charles
Zerba, Roger			

COOS

Landers, Dana	Mears, Edgar	Rodrigue, Robert
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GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Ham, Bonnie
Lovett, Sid	Naro, Debra	Nordgren, Sharon	Pawlek, Marion
Scovner, Nancy	Sokol, Hilda	Solow, Martha	

HILLSBOROUGH

Andosca, Mary	Bellavance, Paul	Bragdon, Peter	Buckley, Raymond
Chabot, Robert	Clayton, William	Clemons, Jane	Cote, David
Craig, James	Daigle, Robert	Desrosiers, William	Dionne, David
Dokmo, Cynthia	Drabinowicz, A Theresa	Dwyer, Paul	Foster, Linda
Ginsburg, Ruth	Gleneck, David	Goley, Jeffrey	Gorman, Mary
Guinta, Frank	Hall, Betty	Jean, Claudette	Johnson, Lionel
Kacavas, John	Keye, Harvey	Konys, Christine	LaFlamme, Paul
Lasky, Bette	Lefebvre, Roland	Leishman, Peter	Martin, Mary Ellen
McDonough-Wallace, Alice	Melcher, Harold	Messier, Irene	Movsesian, Lori
Panagopoulos, Nicholas	Schulze, Joan	Shaw, Barbara	Souza, Kathleen

Spiess, Paul	Sullivan, Peter	Sweeney, Cynthia	Vaillancourt, Steve
White, John	Williams, Carol		

MERRIMACK

Bouchard, Candace	Brewster, Richard	Clarke, Claire	Daneault, Gabriel
Davis, Frank	French, Barbara	Gile, Mary	Greco, Vincent
Jacobson, Alf	Lockwood, Priscilla	Moore, Carol	Owen, Derek
Potter, Frances	Reardon, Tara	Rodd, Beth	Rush, Deanna
Soltani, Tony	Wallner, Mary Jane	Yeaton, Charles	

ROCKINGHAM

Blanchard, MaryAnn	Clark, Martha Fuller	Clark, Vivian	Coes, Betsy
Downing, Michael	Gilbert, Karl	Kelley, Jane	Langley, Jane
McGuire, Robert	Micklon, Stephanie	Norelli, Terie	Pitts, Jacqueline
Robertson, Carl	Shultis, Elizabeth	Splaine, James	Trueman, Raymond
Weatherspoon, Jacquelyne	Whittier, John		

STRAFFORD

Berube, Roger	Brennan, William	Brown, Julie	Callaghan, Frank
DeChane, Marlene	Estabrook, Iris	Goodwin, Earle	Grassie, Anne
Heon, Richard	Johnson, Nancy	Kaen, Naida	Knowles, William
Lent, Donald	McCarthy, Gerald	Pelletier, Arthur	Proulx, Raymond
Rollo, Michael	Smith, Marjorie	Snyder, Clair	Taylor, Kathleen
Wall, Janet	Woodill, Rodney		

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Franklin, Peter
Harris, Joseph	Harris, Sandra	Phinizy, James	

and the report was adopted.

Rep. Pappas did not vote and wished to be recorded in favor.

HB 298-FN-L, relative to charter schools and establishing a charter school revolving fund. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kenneth L. Weyler for Finance: Existing charter school legislation has been too restrictive to allow any founding of charter schools in our state. The amendment replaces the bill and makes these significant changes: The state Board of Education is the approving authority for charter schools. They will grant no more than two per year for the next ten years. Funding per student will be from the state adequate education grant. A district may forward the money to the charter school, or issue a reimbursement anticipation note. In the case of the note, the grant money will be delayed until the next Average Daily Membership Report (ADMR) shows the students transfer. This could be as long as three years. Transfer requisitions must be made six months in advance. Not more than 5 percent of the resident pupils in any grade shall be eligible to transfer to a charter school in any year without the approval of the local school board. Vote 11-9.

Amendment (2016h)

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

1 New Sections; Charter Schools and Open Enrollment Schools; Alternative Procedure for Approval of Charter Schools. Amend RSA 194-B by inserting after section 3 the following new sections:

194-B:3-a Charter School Approval by State Board of Education.

I. Notwithstanding RSA 194-B:3, III or RSA 194-B:4, a proposed application and contract to establish a charter school may be presented by July 1 of the year preceding intended operation of a charter school by its prospective board of trustees directly to the state board of education. The content of such application shall conform to the requirements set forth in RSA 194-B:3, II. An applicant shall be notified of any missing information within 10 days of the initial filing.

II. The state board of education is hereby authorized to grant charter status to charter school applicants qualifying under this chapter. By September 15 of the given year, the state board of education shall have completed its review of the application and shall either grant or deny its approval in accordance with the requirements set forth in RSA 194-B:3, II.

III. The state board of education shall forward the proposed application, along with its approval or denial, and a written statement specifying any areas deemed deficient to the applicant. The state board of education is authorized to suggest amendments or alterations to the proposed application.

IV. An applicant whose proposed application is not approved by the state board of education shall be granted the opportunity to present a revised application for reconsideration. The state board of education may provide technical assistance to improve a charter school's application or to speed the approval process.

V. A charter school approved in accordance with this section shall be subject to, and in compliance with, the provisions of this chapter, except as provided in paragraph I.

VI. Beginning January 1, 2002, and for the next 10 years thereafter, the state board of education shall be authorized to grant no more than 2 state charter school applications each year under the provisions of this section.

194-B:3-b Funding for State Board of Education Approved Charter Schools. Notwithstanding RSA 194-B:11, a charter school approved under RSA 194-B:3-a shall be funded as follows:

I. Issuance of Reimbursement Anticipation Notes.

(a) The pupil's resident school district shall pay cash or issue a reimbursement anticipation note as set forth in RSA 198:20-d for each year in which a resident pupil attends a charter school approved by the state board of education. The reimbursement anticipation note shall be in the amount of the average base cost per pupil of an elementary or high school pupil, as calculated under RSA 198:40, for the year of attendance at the charter school, and shall be issued to the charter school prior to the beginning of the school year of the charter school. Each reimbursement anticipation note issued shall be for a term of 3 years from the date of issue or would be redeemable by the charter school at such time as the charter school or the pupil's resident school district receives adequate education grant amounts pursuant to RSA 198:42.

(b) Upon receipt of such reimbursement anticipation notes, the charter school may elect to borrow funds for the purpose of meeting general operating and maintenance expenses for charter school operations.

(c) An educationally disabled child's resident school district shall remain liable for providing special education programs and services under RSA 186-C while such child attends a charter school outside of his or her resident school district.

(d) The commissioner of the department of education shall adopt rules, pursuant to RSA 541-A, relative to pupils who change residency or transfer to a charter school, provided that the rules adopted shall require that a pupil transferring to a charter school shall notify the resident school district at least 6 months prior to the transfer, and that not more than 5 percent of the resident pupils in any grade shall be eligible to transfer to a charter school in any school year without the approval of the local school board.

II. Direct Assignment of Payment. As an alternative to paragraph I and subject to a written agreement by the school district and the charter school:

(a) A pupil seeking to attend a charter school established under RSA 194-B:3-a shall notify the pupil's resident school district of his or her intent not later than 6 months prior to the proposed date of attendance.

(b) Prior to the adoption of the annual budget, a school district shall determine the total number of resident pupils in each school year who will be attending a charter school established under RSA 194-B:3-a.

(c) The school district, in its budget, shall approve the payment of adequate education grants directly to the charter school for each resident pupil attending a charter school. Adequate education grant payments to the charter school shall be distributed in accordance with the schedule set forth in RSA 198:42.

2 School Money; Education Trust Fund Amended. Amend the introductory paragraph of RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities' school districts pursuant to RSA 198:42, ~~and~~ to provide education property tax hardship relief under RSA 198:55, **and to make payments for pupils attending charter schools established under RSA 194-B:3-a**. The state treasurer shall deposit into this fund immediately upon receipt:

3 Effective Date. This act shall take effect July 1, 2001.

AMENDED ANALYSIS

This bill establishes a charter school approval process directly through the state board of education and provides for funding such charter schools either through the use of reimbursement anticipation notes for each pupil attending a charter school, or by the adoption of a budget by the school district which includes the necessary amounts directly payable to the charter school.

Adopted.

Rep. Burling offered a floor amendment.

Floor amendment (2176h)

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

AN ACT establishing a charter school approval process directly through the state board of education.

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

1 New Section; Charter Schools and Open Enrollment Schools; Alternative Procedure for Approval of Charter Schools. Amend RSA 194-B by inserting after section 3 the following new section:

194-B:3-a Charter School Approval by State Board of Education.

I. Notwithstanding RSA 194-B:3, III or RSA 194-B:4, a proposed application and contract to establish a charter school may be presented by July 1 of the year preceding intended operation of a charter school by its prospective board of trustees directly to the state board of education. The content of such application shall conform to the requirements set forth in RSA 194-B:3, II. An applicant shall be notified of any missing information within 10 days of the initial filing.

II. The state board of education is hereby authorized to grant charter status to charter school applicants qualifying under this chapter. By September 15 of the given year, the state board of education shall have completed its review of the application and shall either grant or deny its approval in accordance with the requirements set forth in RSA 194-B:3, II.

III. The state board of education shall forward the proposed application, along with its approval or denial, and a written statement specifying any areas deemed deficient to the applicant. The state board of education is authorized to suggest amendments or alterations to the proposed application.

IV. An applicant whose proposed application is not approved by the state board of education shall be granted the opportunity to present a revised application for reconsideration. The state board of education may provide technical assistance to improve a charter school's application or to speed the approval process.

V. A charter school approved in accordance with this section shall be subject to, and in compliance with, the provisions of this chapter, except as provided in paragraph I.

VI. Upon the effective date of this section, and for the next 10 years thereafter, the state board of education shall be authorized to grant no more than 2 state charter school applications each year under the provisions of this section.

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

AMENDED ANALYSIS

This bill establishes a charter school approval process directly through the state board of education.

Reps. Cox and Weyler spoke against and yielded to questions.

Rep. Henderson spoke against.

Rep. Burling spoke in favor.

Rep. Herman requested a roll call; sufficiently seconded.

The question being adoption of the Burling floor amendment.

YEAS 131 NAYS 217

YEAS 131

BELKNAP

Johnson, William	Salatiello, Thomas	Wood, Jane
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CARROLL

None

CHESHIRE

Allen, Peter	Burnham, Daniel	Espieffs, Peter	Manning, Joseph
McGuirk, Paul	Meader, David	Mitchell, McKim	Pratt, Irene
Pratt, John	Richardson, Barbara	Slack, Pamela Russell	Weed, Charles
Zerba, Roger			

COOS

Landers, Dana	Mears, Edgar	Rodrigue, Robert
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GRAFTON

Almy, Susan	Benn, Bernard	Cooney, Mary	Ham, Bonnie
Lovett, Sid	Naro, Debra	Nordgren, Sharon	Pawlek, Marion
Scovner, Nancy	Sokol, Hilda	Solow, Martha	

HILLSBOROUGH

Andosca, Mary	Baroody, Benjamin	Bellavance, Paul	Bergin, Peter
Buckley, Raymond	Cardin, Lori	Clayton, William	Clemons, Jane
Cote, David	Cote, Peter	Craig, James	Daigle, Robert
Dionne, David	Dokmo, Cynthia	Drabinowicz, A Theresa	Dwyer, Paul
Ford, Nancy	Foster, Linda	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Hall, Betty	Jean, Claudette	Johnson, Lionel
Konys, Christine	Lasky, Bette	Lefebvre, Roland	Leishman, Peter
Martin, Mary Ellen	Melcher, Harold	Movsesian, Lori	Palangas, Eric
Panagopoulos, Nicholas	Schulze, Joan	Shaw, Barbara	Spiess, Paul
Sweeney, Cynthia	White, John	Williams, Carol	

MERRIMACK

Bouchard, Candace	Clarke, Claire	Daneault, Gabriel	Davis, Frank
French, Barbara	Gile, Mary	Greco, Vincent	Hager, Elizabeth
Jacobson, Alf	Moore, Carol	Owen, Derek	Perkins, Randy
Potter, Frances	Reardon, Tara	Rodd, Beth	Rush, Deanna
Wallner, Mary Jane	Yeaton, Charles		

ROCKINGHAM

Blanchard, MaryAnn	Clark, Martha Fuller	Coes, Betsy	Cooney, Richard
Kelley, Jane	McGuire, Robert	Micklon, Stephanie	Norelli, Terie
Pitts, Jacqueline	Shultis, Elizabeth	Splaine, James	Trueman, Raymond
Weatherspoon, Jacquelyne			

STRAFFORD

Berube, Roger	Brennan, William	Callaghan, Frank	DeChane, Marlene
Dunlap, Patricia	Estabrook, Iris	Ferland, Paul	Goodwin, Earle

Grassie, Anne
Lent, Donald
Rollo, Michael
Wall, Janet

Johnson, Nancy
McCarthy, Gerald
Smith, Marjorie
Woodill, Rodney

Kaen, Naida
Pelletier, Arthur
Snyder, Clair

Knowles, William
Proulx, Raymond
Taylor, Kathleen

SULLIVAN

Burling, Peter
Franklin, Peter
Phinizy, James

Cloutier, John
Harris, Joseph

Ferland, Brenda
Harris, Sandra

Flint, Gordon Sr
Leone, Richard

NAYS 217

BELKNAP

Bartlett, Gordon
Holbrook, Robert
Rice, Thomas Jr
Wendelboe, Fran

Boyce, Laurie
Lawton, David
Rosen, Ralph

Czech, Stanley
Millham, Alida
Russell, David

Flanders, Donald
Nedeau, Stephen
Thomas, John

CARROLL

Babson, David Jr
Mock, Henry
Stevens, Stanley

Bradley, Jeb
Patten, Betsey
Sullivan, P Judith

Dickinson, Howard
Philbrick, Donald
Torressen, Gary

Kenney, Joseph
Quimby, Lee

CHESHIRE

Avery, Stephen
Fairbanks, Chandler
Royce, H Charles

Dexter, Judson
Hunt, John
Smith, Edwin

Edwards, Dana
Liebl, George

Emerson, Susan
Roberts, William

COOS

Davis, Perley
Rozek, Michael

Gallus, John
Stohl, Eric

Horton, Lynn
Tholl, John Jr

Pratt, Leighton
Woodward, David

GRAFTON

Akins, Ralph	Alger, John	Barker, Robert	Cobb, John
Dudley, Terri	Eaton, Stephanie	Gabler, William	Gilman, G Michael
Giuda, Robert	Marshall, Gene	Mirski, Paul	Scanlan, David
Sova, Charles	Ward, Brien	Williams, Burton	

HILLSBOROUGH

Allan, Nelson	Alukonis, David	Artz, Lawrence	Balboni, Michael
Balcom, John	Batula, Peter	Bergeron, Jean-Guy	Bouchard, David
Bragdon, Peter	Brundige, Robert	Bruno, Pierre	Calawa, Leon Jr
Carlson, Donald	Chabot, Robert	Christensen, D L Chris	Clegg, Robert Jr
Coughlin, Pamela	Desrosiers, William	Dionne, Kimberley	Drisko, Richard
Dyer, Merton	Elliott, Larry	Fields, Dennis	Fletcher, Richard
Furman, Christine	Gargasz, Carolyn	Gleneck, David	Golding, William
Gonzalez, Carlos	Goulet, Maurice	Graham, John	Greenberg, Gary
Guinta, Frank	Hall, Charles	Herman, Keith	Holden, Randolph
Hopper, Gary	Jean, Loren	Kurk, Neal	L'Heureux, Robert
LaFlamme, Paul	LaRose, Richard	Leach, Edward	Martel, Andre
McHugh, Claire	Mercer, Robert	Messier, Irene	Milligan, Robert
Moran, Edward	O'Connell, Timothy	Pappas, Marc	Pepino, Leo
Peterson, Andrew	Reeves, Sandra	Rowe, Robert	Sargent, Maxwell
Seibel, Christopher	Souza, Kathleen	Sullivan, Peter	Tahir, Saghir
Tate, Joan	Thompson, Rob	Thulander, O Alan	Vaillancourt, Steve
Wheeler, Robert			

MERRIMACK

Anderson, Eric	Brewster, Richard	Colcord, J D	Cummings, Raymond
Dunne, Christopher	Feuerstein, Martin	Fraser, Leo Jr	Hess, David
Hutchinson, John	Kennedy, Richard	L'Heureux, Stephen	Langer, Ray
Leber, William	Lockwood, Priscilla	MacKay, James	Maxfield, Roy
Soltani, Tony	Swindlehurst, John	Whalley, Michael	Winter, Steven

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Bowles, Raimond	Bridle, Russell
Camm, Kevin	Carson, Sharon	Case, Margaret	Chalbeck, Kevin

Clark, Vivian	Corbin, Corey	Cox, Russell	Dalrymple, Janeen
Dearborn, Bruce	DiFruscia, Anthony	Dowling, Patricia	Downing, Michael
Dumaine, Dudley	Fesh, Bob	Flanders, John Sr	Francoeur, Sheila
Gilbert, Jeffrey	Gilbert, Karl	Giordano, Ronald	Gleason, John
Griffin, Mary	Hamel, Albert	Henderson, Warren	Hill, Jonathan
Holland, James Jr	Introne, Robert	Itse, Daniel	Johnson, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kelley, William
Kobel, Rudolph	Langley, Jane	Letourneau, Robert	Major, Norman
McKinney, Betsy	Moore, Benjamin	Morse, Charles	Nowe, Ronald
O'Neil, Michael	Palermo, Diane	Power, Lucille	Priestley, Anne
Putnam, Ed II	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reardon, Neil	Robertson, Carl	Ruffner, Walter	Sapareto, Frank
Sloan, Stephen	Stritch, C Donald	Varrell, Thomas	Welch, David
Weyler, Kenneth	Whittier, John	Zolla, William	

STRAFFORD

Albert, Russell	Brown, Julie	Cossette, Larry	Harrington, Michael
Heon, Richard	Musler, George	Reid, Christopher	Twombly, James
Woods, Phyllis			

SULLIVAN

Jones, Constance	Odell, Bob	Rodeschin, Beverly
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and the floor amendment failed.

The question now being adoption of the report.

Reps. Estabrook and Foster spoke against.

Rep. Hunt spoke in favor; yielded to questions and requested a roll call; sufficiently seconded.

YEAS 204 NAYS 150

YEAS 204

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Flanders, Donald
Holbrook, Robert	Johnson, William	Lawton, David	Millham, Alida
Nedeau, Stephen	Rosen, Ralph	Russell, David	Thomas, John
Wendelboe, Fran			

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
Mock, Henry	Patten, Betsey	Quimby, Lee	Stevens, Stanley
Sullivan, P Judith	Torressen, Gary		

CHESHIRE

Avery, Stephen	Dexter, Judson	Edwards, Dana	Emerson, Susan
Fairbanks, Chandler	Hunt, John	Liebl, George	Roberts, William
Royce, H Charles	Smith, Edwin		

COOS

Gallus, John	Horton, Lynn	Landers, Dana	Pratt, Leighton
Rozek, Michael	Stohl, Eric	Tholl, John Jr	Woodward, David

GRAFTON

Akins, Ralph	Alger, John	Barker, Robert	Cobb, John
Dudley, Terri	Eaton, Stephanie	Gabler, William	Gilman, G Michael
Giuda, Robert	Marshall, Gene	Mirski, Paul	Scanlan, David
Sova, Charles	Ward, Brien		

HILLSBOROUGH

Allan, Nelson	Alukonis, David	Artz, Lawrence	Balboni, Michael
Batula, Peter	Bergeron, Jean-Guy	Bouchard, David	Brundige, Robert
Bruno, Pierre	Calawa, Leon Jr	Carlson, Donald	Chabot, Robert
Christensen, D L Chris	Clegg, Robert Jr	Coughlin, Pamela	Desrosiers, William
Dionne, Kimberley	Dyer, Merton	Elliott, Larry	Fields, Dennis
Fletcher, Richard	Furman, Christine	Gargasz, Carolyn	Gleneck, David
Golding, William	Gonzalez, Carlos	Goulet, Maurice	Greenberg, Gary

Guinta, Frank	Hall, Charles	Herman, Keith	Holden, Randolph
Hopper, Gary	Jean, Loren	Kurk, Neal	L'Heureux, Robert
LaFlamme, Paul	Lefebvre, Roland	Martel, Andre	Martin, Mary Ellen
McHugh, Claire	McRae, Karen	Melcher, Harold	Mercer, Robert
Messier, Irene	Milligan, Robert	Moran, Edward	Pappas, Marc
Pepino, Leo	Reeves, Sandra	Rowe, Robert	Sargent, Maxwell
Seibel, Christopher	Souza, Kathleen	Sullivan, Peter	Tahir, Saghir
Tate, Joan	Thompson, Rob	Thulander, O Alan	Wheeler, Robert

MERRIMACK

Anderson, Eric	Colcord, J D	Cummings, Raymond	Dunne, Christopher
Feuerstein, Martin	Fraser, Leo Jr	Hess, David	Hutchinson, John
Kennedy, Richard	L'Heureux, Stephen	Langer, Ray	Leber, William
MacKay, James	Maxfield, Roy	Soltani, Tony	Swindlehurst, John
Whalley, Michael	Winter, Steven		

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Bridle, Russell	Camm, Kevin
Carson, Sharon	Chalbeck, Kevin	Clark, Martha Fuller	Clark, Vivian
Corbin, Corey	Cox, Russell	Dalrymple, Janeen	Dearborn, Bruce
Dowling, Patricia	Dumaine, Dudley	Fesh, Bob	Flanders, John Sr
Francoeur, Sheila	Gilbert, Jeffrey	Gilbert, Karl	Giordano, Ronald
Gleason, John	Griffin, Mary	Hamel, Albert	Henderson, Warren
Hill, Jonathan	Holland, James Jr	Introne, Robert	Itse, Daniel
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kelley, William
Kobel, Rudolph	Langley, Jane	Letourneau, Robert	Major, Norman
McKinney, Betsy	Moore, Benjamin	Morse, Charles	Nowe, Ronald
O'Neil, Michael	Palermo, Diane	Power, Lucille	Priestley, Anne
Putnam, Ed II	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reardon, Neil	Ruffner, Walter	Sapareto, Frank	Sloan, Stephen
Stritch, C Donald	Varrell, Thomas	Welch, David	Weyler, Kenneth
Whittier, John	Zolla, William		

STRAFFORD

Albert, Russell
Harrington, Michael
Twombly, James

Bickford, David
Kaen, Naida
Woods, Phyllis

Cossette, Larry
Musler, George

Goodwin, Earle
Reid, Christopher

SULLIVAN

Leone, Richard

Odell, Bob

Rodeschin, Beverly

NAYS 150

BELKNAP

Rice, Thomas Jr

Salatiello, Thomas

Wood, Jane

CARROLL

Philbrick, Donald

CHESHIRE

Allen, Peter
Meader, David
Richardson, Barbara

Espieffs, Peter
Mitchell, McKim
Slack, Pamela Russell

Manning, Joseph
Pratt, Irene
Weed, Charles

McGuirk, Paul
Pratt, John
Zerba, Roger

COOS

Davis, Perley

Mears, Edgar

Rodrigue, Robert

GRAFTON

Almy, Susan
Lovett, Sid
Scovner, Nancy

Benn, Bernard
Naro, Debra
Sokol, Hilda

Cooney, Mary
Nordgren, Sharon
Solow, Martha

Ham, Bonnie
Pawlek, Marion
Williams, Burton

HILLSBOROUGH

Andosca, Mary
Bergin, Peter
Clayton, William
Craig, James

Balcom, John
Bragdon, Peter
Clemons, Jane
Daigle, Robert

Baroody, Benjamin
Buckley, Raymond
Cote, David
Dionne, David

Bellavance, Paul
Cardin, Lori
Cote, Peter
Dokmo, Cynthia

Drabinowicz, A Theresa	Drisko, Richard	Dwyer, Paul	Ford, Nancy
Foster, Linda	Ginsburg, Ruth	Goley, Jeffrey	Gorman, Mary
Graham, John	Haley, Robert	Hall, Betty	Jean, Claudette
Johnson, Lionel	Kacavas, John	Keye, Harvey	Konys, Christine
LaRose, Richard	Lasky, Bette	Leach, Edward	Leishman, Peter
McDonough-Wallace, Alice	Movsesian, Lori	O'Connell, Timothy	Palangas, Eric
Panagopoulos, Nicholas	Peterson, Andrew	Schulze, Joan	Shaw, Barbara
Spiess, Paul	Sweeney, Cynthia	Vaillancourt, Steve	White, John
Williams, Carol			

MERRIMACK

Bouchard, Candace	Brewster, Richard	Clarke, Claire	Daneault, Gabriel
Davis, Frank	French, Barbara	Gile, Mary	Greco, Vincent
Hager, Elizabeth	Jacobson, Alf	Lockwood, Priscilla	Moore, Carol
Owen, Derek	Perkins, Randy	Potter, Frances	Reardon, Tara
Rodd, Beth	Rush, Deanna	Wallner, Mary Jane	Yeaton, Charles

ROCKINGHAM

Blanchard, MaryAnn	Bowles, Raimond	Case, Margaret	Coes, Betsy
Cooney, Richard	DiFruscia, Anthony	Downing, Michael	Johnson, Robert
Kelley, Jane	Langone, John	McGuire, Robert	Micklon, Stephanie
Norelli, Terie	Pitts, Jacqueline	Robertson, Carl	Shultis, Elizabeth
Splaine, James	Trueman, Raymond	Weatherspoon, Jacquelyne	

STRAFFORD

Berube, Roger	Brennan, William	Brown, Julie	Callaghan, Frank
DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris	Ferland, Paul
Grassie, Anne	Heon, Richard	Johnson, Nancy	Knowles, William
Lent, Donald	McCarthy, Gerald	Pelletier, Arthur	Proulx, Raymond
Rollo, Michael	Smith, Marjorie	Snyder, Clair	Taylor, Kathleen
Wall, Janet	Woodill, Rodney		

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Flint, Gordon Sr
Franklin, Peter	Harris, Joseph	Harris, Sandra	Jones, Constance
Phinizy, James			

and the report was adopted.

Ordered to third reading.

SPECIAL ORDER

HB 560-FN-A, establishing a contributory judicial retirement plan. OUGHT TO PASS WITH AMENDMENT

Rep. Robert L. Wheeler for Finance: The committee in majority felt that since the current system of retirement for the judiciary has produced a \$2.3 million annual outlay and nearly a \$40 million unfunded accrued liability that it was time for revision. And since the revision is taking place, we should remove the old provision that compelled a judge to work to age 65 or lose it all. In addition, we should make the plan contributory so that we can gain interest earned and reduce the net cost. As a result, you have this bill which creates a new defined benefit contributory retirement plan with the annual contributions shared equally between employer and employees. It will be administered by a seven person board of trustees and will allow someone to retire at age 60 with 20 years of service at 70% of final year's salary. If they chose to work to age 65 with 25 years of service, then the benefit would be 75% of final year's salary. A retirement obligation bond will be used to fund the unfunded liability, and when the bond is amortized, pension costs should be reduced to almost half of current costs. Until then, the annual cost for the state's share of pension obligations plus debt service on the bond will be higher than the current \$2.3 million annual pension outlay. The bill also provides a \$250 thousand general fund appropriation for start-up costs. Vote 14-3.

Amendment (2049h)

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

1 Purpose. The purpose of this act is to create a defined benefit contributory retirement plan for the judiciary; to allow benefits to be influenced by interest earned; to allow greater flexibility in benefits; and to eliminate over time the budgetary pay-as-you-go system.

2 New Chapter; Judicial Retirement Plan. Amend RSA by inserting after chapter 100-B the following new chapter:

CHAPTER 100-C

JUDICIAL RETIREMENT PLAN

100-C:1 Definitions. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

I. "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member.

II. "Actuarial equivalent" means a benefit of equal value when computed at regular interest upon the basis of the mortality tables last adopted by the board of trustees.

III. "Actuary" means:

(a) A member of the American Academy of Actuaries; or

(b) An individual who has demonstrated to the satisfaction of the board of trustees that such individual has the educational background necessary for the practice of actuarial science and has had at least 7 years of actuarial experience.

IV. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this chapter.

V. "Board of trustees" or "board" means the board provided for in RSA 100-C:12.

VI. "Creditable service" means prior service plus membership service, as provided in RSA 100-C:4.

VII. "Earnable compensation" means a member's annual salary.

VIII. "Judicial retirement plan" or "plan" means the New Hampshire judicial retirement plan as defined in RSA 100-C:2.

IX. "Member" means any full-time supreme court, superior court, district court, or probate court judge.

X. "Member annuity" means annual payments for life derived from the accumulated contributions of the member.

XI. "Membership service" means service rendered while a member of the judicial retirement plan.

XII. "Predecessor system" means any state retirement plans or systems for judges in effect prior to the date of implementation of the judicial retirement plan by this chapter.

XIII. "Regular interest" means interest at such rate or rates compounded annually as may be set from time to time by the board of trustees.

XIV. "Retirement" means withdrawal from active service with a retirement allowance granted under the provisions of this chapter.

XV. "Retirement allowance" means the sum of the member annuity and the state annuity. All retirement allowances shall be payable in equal monthly installments which shall cease with the last monthly payment prior to death, unless otherwise specifically provided for in this chapter; provided, however, that if the retirement allowance is less than \$10 per month, it may be paid, at the discretion of the board of trustees, in quarterly or semiannual installments due at the midpoint of such period, or in a lump sum of equivalent actuarial value.

XVI. "Retirement system" means the New Hampshire retirement system as defined in RSA 100-A:2.

XVII. "Service" means service as a supreme court, superior court, full-time district court, or full-time probate court justice.

XVIII. "State" means the state of New Hampshire.

XIX. "State annuity" means annual payments for life derived from contributions by the state.

XX. "Terminal funding" means providing the full present value of the total liability for benefit improvement. Unless otherwise specified, the source of terminal funding shall be the special account established under RSA 100-C:14, III(g).

100-C:2 Establishment of Judicial Retirement Plan.

I. The judicial retirement plan is hereby established. It shall be known as the New Hampshire judicial retirement plan, and by such name all of its business shall be transacted, all of its funds invested, and all of its cash, securities and other property held in trust for the purpose for which received. It is intended for all time to meet the requirements of a qualified pension trust within the meaning of section 401(a), and to qualify as a governmental plan within the meaning of section 414(d) of the United States Internal Revenue Code of 1986, as amended. It is a defined benefit plan providing disability, death, and retirement protection to members and their families.

II. The board of trustees shall have the exclusive authority and full power to invest and manage those assets of the judicial retirement plan and may cause any stock or other securities to be registered and held in the name of a nominee without mention of the judicial retirement plan's ownership, provided that no nominee shall have possession of or access to the stock or other securities unless the nominee shall be an officer of a corporate custodian of such stock or other securities, in which case the custodian shall maintain on its books accurate and current records of the New Hampshire judicial retirement plan's interest in such stock or other securities and the custodian shall be strictly liable for all acts or omissions of the nominee in connection with such stock or other securities and the nominee shall be bonded by the custodian.

III. All benefits to which any member or beneficiary of this judicial retirement plan may be entitled to receive under the provisions of RSA 490:2; RSA 491:2; RSA 502-A:6-a, or RSA 547:2-a, if any, shall be offset by those benefits to which such members or beneficiaries may be entitled under the judicial retirement plan established in this chapter.

100-C:3 Membership. Membership in the judicial retirement plan shall be mandatory for any full-time supreme court, superior court, district court, or probate court judge.

100-C:4 Creditable Service.

I. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist only of that membership service since such judge became a member of the judicial retirement plan plus that service credited a member for retirement allowance under RSA 490:2; RSA 491:2, RSA 502-A:6-a, or RSA 547:2-a, if any.

II.(a) The board shall fix and determine by appropriate rules how much service in any year is equivalent to one year of service, but in no case shall it allow credit for a period of absence without pay of more than a month's duration, nor shall more than one year of service be creditable for all service in a calendar year. Service rendered for the full normal working time in any year shall be equivalent to one year's service.

(b) Notwithstanding the provisions of subparagraph (a) or any other law to the contrary, any member who receives a weekly award under the provisions of RSA 281-A from the commissioner of labor, for injury arising out of and in the course of employment, shall be entitled to creditable service for the period not in excess of one year. To receive creditable service, a member shall file a department of labor memo of payment of disability compensation form, with the board of trustees, verifying the first and last payment of disability compensation not later than one year after the date of each new unrelated injury.

III. Notwithstanding the provisions of paragraph II of this section, any member who is absent without salary due to a disability for which the member is compensated by a salary continuance plan which is funded wholly or partially by the state shall continue to accrue creditable service until such time as the member returns to work, dies, retires, or is no longer compensated by such salary continuance plan. Amounts received under such salary continuance plan are earnable compensation to the extent attributable to state funding and shall be subject to the regular member contributions required under RSA 100-C:15 and the required state contributions, if applicable, as are in effect from time to time. All such contributions shall be remitted to the judicial retirement plan in accordance with remittance procedures of the board of trustees. Any member who is absent without salary due to a disability for which the member is compensated by a salary continuance plan which has not been funded in whole or in part by the state shall not accrue any creditable service for the period of such absence. Further, amounts received from such salary continuance plan shall not be included as earnable compensation for purposes of the judicial retirement plan.

100-C:5 Service Retirement Benefits.

I. Any member who has at least 10 years of creditable service and is at least 60 years of age may retire on a service retirement allowance or a reduced service retirement allowance, upon written application to the board setting forth on what date, not less than 30 days nor more than 90 days subsequent to the filing of the application, the member desires to be retired. During such period of notification, the member may have separated from service.

II. A member who is at least 60 years of age with 20 years of creditable service may retire on a service retirement allowance equal to 70 percent of the member's final year's salary.

III. A member who is at least 60 years of age but who has not attained 20 years of creditable service may retire on a reduced service retirement allowance calculated as follows:

(a) Determine the retirement allowance the member would have been eligible for under paragraph II if the member had 20 years of service.

(b) Multiply $3\frac{1}{2}$ percent of the allowance in subparagraph (a) by the number of full years of creditable service needed for the member to reach 20 years.

(c) Subtract the product in subparagraph (b) from the amount determined in subparagraph (a). The result is the reduced service retirement allowance for the member.

IV. A member who has at least 20 years of creditable service and is at least 60 years of age shall be granted an additional percent over the 70 percent level for each year of continued service until the age of 65. A member who is at least 65 years of age with 25 years of creditable service may retire on a service retirement allowance equal to 75 percent of the member's final year's salary. Under no circumstance shall a service retirement allowance exceed 75 percent of the member's final year's salary. Any member attaining eligibility for 75 percent of final year's salary

under this paragraph shall not be required to make employee contributions to the plan pursuant to RSA 100-C:15.

100-C:6 Disability Retirement Benefits. Regardless of a member's length of service, any member who becomes permanently and totally disabled may apply to the board of trustees to retire on a disability retirement allowance not less than 30 nor more than 90 days subsequent to the filing of such application. Such application shall be granted provided that a physician or physicians designated by the board of trustees, after a medical examination of such member, certifies that the member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such person should be retired. A member's disability retirement allowance shall be equal to $66\frac{2}{3}$ percent of the member's final salary where the disability is the result of an accident, repeated trauma or occupational disease occurring while in the performance of duty or arising out of or in the course of employment. For a disability not occurring while in the performance of duty or arising out of or in the course of employment, a member's disability retirement allowance shall be equal to 50 percent of the member's final salary. A member who retires on a disability retirement allowance shall lose eligibility for said allowance if in any calendar year the member's earned income, as defined under the Internal Revenue Code, exceeds 15 percent of the annual amount of compensation currently payable for the judicial position last held by said member.

100-C:7 Vested Deferred Retirement Benefit.

I. A member who has completed 10 years of creditable service and who, for reasons other than retirement or death, ceases to be a judge may elect, in lieu of the refund of accumulated contributions under RSA 100-C:9, on a form prescribed by the board of trustees for such purpose, to receive a vested deferred retirement allowance.

II. At any time after attainment of age 60, a member who has made such election may apply for and receive a vested deferred retirement allowance which shall consist of a member annuity which shall be the actuarial equivalent of the member's accumulated contributions on the date of retirement and a state annuity which, together with the member annuity, shall be equal to either the service retirement allowance or the reduced service retirement allowance payable under RSA 100-C:5, based on the member's age when the vested deferred retirement allowance begins and on the member's final year's salary and creditable service at the time service is terminated.

100-C:8 Optional Allowance.

I. Any member who has reached service retirement age as provided in RSA 100-C:5 or RSA 100-C:7, or any retiree within 120 days after the effective date of retirement, may elect to receive, instead of the retirement allowance otherwise payable, a reduced retirement allowance of equivalent actuarial value payable during the retired member's life, with the provision that it shall continue after the member's death at 1/2 the rate paid to the member and be paid for the life of, and to, the beneficiary nominated by the member by written designation duly acknowledged and filed with the board of trustees at the time of retirement. When the member elects to receive the optional retirement allowance, the beneficiary or beneficiaries whom the member nominates may include the member's spouse and/or children. The optional allowance shall be effective upon retirement if the election is made before the effective date of retirement, and on the first day of the month following receipt by the board of the notice of election if made during the 120-day grace period. When an election is made during the 120-day grace period, no retroactive adjustments will be made in payments already received by the retiree.

II.(a) Any retired member who has elected the optional allowance and whose beneficiary nominated by the retiree was the retiree's spouse at the time of such election, may terminate such elected option upon the issuance of a divorce decree and subsequent remarriage of the former spouse. Upon termination, the allowance received under the elected option shall be converted to the retirement allowance that would have been payable in the absence of such election. Any supplemental allowance, or COLAs, granted to the retiree and effective before the date of termination of the option shall continue in effect and shall not be adjusted as a result of the termination. Notice of such termination shall be given by the retiree on a form designated by the board. Payment of the converted allowance shall commence on the first day of the month following receipt of termination by the board. Said termination action shall become effective on the first day of the month following receipt of such notice by the board. If the retiree dies after giving valid notice of such termination but before the effective date, the option shall terminate as of the date of the retiree's death.

(b) Where a retired member has elected an optional allowance, and has designated a single beneficiary, the beneficiary may at any time voluntarily renounce his or her right to any future benefits by signing and filing with the board a form designated by the board. Upon such renunciation, the allowance received under the elected option shall be converted to the retirement allowance that would have been payable in the absence of such election. Any supplemental allowance, or COLAs, granted to the retiree and effective before the date of renunciation of the option shall continue in effect and shall not be adjusted as a result of the renunciation. The renunciation shall become effective, and payment of the converted allowance shall commence, on the first day of the month following receipt of the signed form by the board. If the retiree dies after the board's receipt of such renunciation but before the effective date, the option shall terminate as of the date of the retiree's death.

100-C:9 Return of Members' Contributions.

I. If a member ceases to be a judge for reasons other than retirement or death and if such member has not elected to receive a vested deferred retirement allowance under RSA 100-C:7, the amount of such member's accumulated contributions shall be paid to such member within 3 months after such member's written request therefor, provided that the member may not file a written request for such payment until at least 30 days from the date the member ceases to be a judge. Upon the refund of such contributions all rights of the member, any beneficiary, and any survivor of the member under this chapter shall terminate.

II. Upon the death of a member in service who does not have a surviving spouse or dependent children, the amount of the member's accumulated contributions shall be paid to any beneficiary or beneficiaries nominated by the member, if living, or otherwise to the member's estate.

III. Upon the death of a member, who does not have a surviving spouse or dependent children, after retirement allowance payments have commenced, any excess amount of the member's accumulated contributions at retirement over the sum of the retirement allowance payments received shall be paid in one sum to the beneficiary or beneficiaries nominated by the member, if living, otherwise to the member's estate.

IV. Upon the death of a member who has a surviving spouse or dependent children and who had not elected the optional allowance under RSA 100-A:8, the amount of the member's accumulated contributions shall be paid to the surviving spouse or dependent children.

V. The return of a member's contributions shall include accrued interest at such rates as the board of trustees may from time to time determine in its discretion.

100-C:10 Designation of Beneficiaries; Effect. When more than one person is designated by the member as beneficiary under this chapter, the member may provide the portion of the whole sum which each designee shall receive and may also provide that on the death of one of multiple designees the share of that designee shall automatically be added to the share of another or other designees or be payable to the estate of the member.

100-C:11 Maximum Benefit Limitations. Notwithstanding any other provisions of this chapter, the maximum benefit payable to any retired member or beneficiary of the New Hampshire judicial retirement plan shall be limited to such extent as may be necessary to conform to the requirements of sections 401(a)(9) and 415 of the United States Internal Revenue Code of 1986 for a qualified retirement plan.

100-C:12 Administration and Delegation.

I. The judicial retirement plan shall be administered by a board of trustees, which shall be separate from the board of trustees of the New Hampshire retirement system. The board of the judicial retirement plan shall have the exclusive authority and full power to administer and to invest and manage those assets of the judicial retirement plan.

II. The board of trustees of the judicial retirement plan shall consist of 7 members. The governor and council shall appoint 2 trustees, one of whom the governor shall designate to serve as chairman of the board of trustees, and who shall be qualified persons with business experience and not members of the judicial retirement plan, and who shall serve for a term of 3 years and until such trustee's successor is appointed and qualified, except that the original appointment of one of the trustees shall be for a term of one year. The chief justice of the state supreme court, with the advice and consent of the chief justice of the superior court and the administrative justices of the district and probate courts, shall appoint 3 trustees, who shall be active members of the judicial retirement plan, and who shall serve for a term of 3 years and until such trustee's successor is appointed and qualified, except that the original appointment of one of the trustees shall be for a term of one year, and the original appointment of another of the trustees shall be for a term of 2 years. One member of the state senate shall be appointed biennially by the senate president as a trustee of the board, and one member of the house of representatives shall be appointed biennially by the speaker of the house as a trustee of the board.

III.(a) In addition to those other powers conferred herein, the board of trustees shall have exclusive authority and full power, consistent with the board's duties under this chapter, to:

(1) Establish an administrative budget sufficient to exercise the board's powers and to perform the board's duties and, as appropriate and reasonable, draw upon assets of the plan to fund the budget;

(2) Obtain by employment or contract the services necessary to exercise the board's powers and perform the board's duties, including actuarial, auditing, custodial, investment, and legal services; and

(3) Procure and dispose of goods and property necessary to exercise the board's powers and perform the board's duties.

(b) In exercising its authority under this section, the board shall be subject to the fiduciary duties of this chapter, but not to civil service, personnel, procurement, or similar general laws relating to the subjects of subparagraph III(a).

IV. The members of the board of trustees shall serve without compensation but shall be reimbursed for actual and necessary traveling and other expenses and disbursements incurred or made by them in the discharge of their official duties.

V. Each trustee shall be entitled to one vote in the board of trustees. Five trustees shall constitute a quorum for the transaction of any business. Four trustees voting shall be necessary for any resolution or action by the board at any meeting.

VI.(a) The board may engage such administrative services as may be required to transact the business of the judicial retirement plan. The compensation for such services, and all other necessary expenses of the board shall be paid at such rates and in such amounts as the board shall approve. The New Hampshire retirement system may be engaged to provide such administrative services to the judicial retirement plan on such terms as the board of trustees of each plan may both agree.

(b) The board may delegate functions, including the administration of the plan, that a prudent trustee acting in a like capacity and familiar with such matters could properly delegate under the circumstances.

(c) The board shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent, including administrator of the judicial retirement plan;

(2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of this chapter; and

(3) Periodically reviewing the agent's performance and compliance with the terms of the delegation.

(d) In performing a delegated function, an agent owes a duty to the judicial retirement plan and to its members and beneficiaries to comply with the terms of the delegation and, if a fiduciary, to comply with the duties imposed by this chapter.

(e) A trustee of the board who complies with subparagraphs (b) and (c) shall not be liable to the plan or to its members or beneficiaries for the decisions or actions of the agent to whom the function was properly delegated.

(f) By accepting the delegation of a function from the board, an agent submits to the jurisdiction of the courts of this state.

(g) The board may limit the authority of an agent to further delegate functions under this section.

VII. The board shall keep a record of all of its proceedings. In furtherance of public disclosure:

(a) The board by the plan administrator shall prepare and disseminate:

(1) A summary plan description of the judicial retirement plan;

(2) A summary description of any material modification in the terms of the plan and any material change in the information required to be contained in the summary plan description, to the extent the modification or change has not been integrated into an updated summary plan description;

(3) An annual disclosure of the plan's financial and actuarial status;
and

(4) An annual report.

(b) The board shall make available for public examination in the principal administrative offices of the plan or in such other places as the board may designate:

(1) The governing law of the judicial retirement plan;

(2) The most recent summary plan description;

(3) Summary descriptions of modifications or changes described in subparagraph (a)(2) that have been provided to members and beneficiaries but have not yet been integrated into the summary plan description;

(4) The most recent annual disclosure of financial and actuarial
status; and

(5) The most recent annual report.

(c) Upon written request by a plan member, beneficiary, or member of the public, the board by its administrator shall provide a copy of any publication described in subparagraph (b). Except as otherwise provided herein, the board may charge a reasonable fee to cover the cost of providing copies. The board by its administrator shall provide the copies within 30 days after the request or, if a fee is charged, within 30 days after receiving payment.

VIII. The board of trustees shall direct the administrator of the plan to make the following disclosure to members and beneficiaries of the judicial retirement plan:

(a) The administrator shall furnish to each member and to each beneficiary who is receiving benefits under the plan:

(1) A copy of the most recent summary plan description, along with any summary descriptions of modifications or changes described in paragraph III(a)(2); within 30 days after a person becomes a member or, in the case of a beneficiary, within 30 days after a person first receives benefits;

(2) The summary description of any modifications or changes described in paragraph III(a)(2), within 7 months after the end of the fiscal year of the plan in which a modification or change has been made;

(3) A copy of an updated summary plan description that integrates all modifications and changes at intervals not exceeding 5 years; and

(4) The annual report within 7 months after the end of each fiscal year of the plan.

(b) The board by its administrator shall provide to a member or beneficiary a statement containing information that would permit the member or beneficiary to reasonably estimate projected benefits to the extent the information is regularly maintained by the plan. The information may be provided periodically with the annual report or upon written request of the member or beneficiary. The information need not be provided to a member or beneficiary who is currently receiving benefits.

(c) A member who is not currently receiving benefits is entitled without charge to one statement under subparagraph (b) during any fiscal year of the plan. The administrator may charge a reasonable fee to cover the cost of providing additional statements. The administrator shall provide the statements within 30 days of receipt of the member or beneficiary's written request or, if a fee is charged, within 30 days after receiving payment.

(d) A summary plan description and summary description of modifications or changes provided herein must be written in a manner calculated to be understood by the average member and be accurate and sufficiently comprehensive reasonably to inform the members and beneficiaries of their rights and obligations under the plan and shall contain:

- (1) The name of the plan and type of administration;
- (2) The name and business address of the administrator appointed by the board;
- (3) The name and business address of each agent for service of process;
- (4) Citations to the governing law of the judicial retirement plan;
- (5) A description of the plan's requirements concerning eligibility for participation and benefits;
- (6) A description of the plan's provisions providing for nonforfeitable benefits;
- (7) A description of circumstances that may result in disqualification, ineligibility, or denial or loss of benefits;
- (8) A description of the benefits provided by the plan, including the manner of calculating benefits and any benefits provided for spouses and survivors;
- (9) The source of financing of the program;
- (10) The identity of any organization through which benefits are provided;
- (11) The date the fiscal year of the plan ends;

(12) The procedures to claim benefits under the program and the administrative procedures available under the program for the redress of claims that are denied in whole or in part; and

(13) Notice of the availability of additional information provided herein.

(e) The board of trustees shall file with the secretary of state a copy of:

(1) The summary plan and of updated summary plan descriptions at the same time such are first furnished to plan members or beneficiaries pursuant to subparagraph (a)(3);

(2) Any summary description of modifications or changes within 7 months after the end of the fiscal year in which a modification or change has been made; and

(3) The annual disclosure of the plan's financial and actuarial status and its annual report within 7 months after the end of each fiscal year of the plan.

IX. The board shall make annual disclosure of the financial and actuarial status of the judicial retirement plan as provided herein.

(a) As used in this paragraph, "qualified public accountant" means:

(1) An auditing agency of this state which has no direct relationship with the functions or activities of the judicial retirement plan or its fiduciaries other than:

(A) Functions relating to this chapter, or

(B) A person who is an independent public accountant, certified or licensed by a regulatory authority of a state.

(b) As used in this paragraph, "related person" of an individual means:

(1) The individual's spouse or a parent or sibling of the spouse;

(2) The individual's descendant, sibling, or parent, or the spouse of the individual's descendant, sibling, or parent;

(3) Another individual residing in the same household as the individual;

(4) A trust or estate in which an individual described in above subparagraphs (1), (2), or (3) has a substantial interest;

(5) A trust or estate for which the individual has fiduciary responsibilities; or

(6) An incompetent, ward, or minor for whom the individual has fiduciary responsibilities.

(c) The annual disclosure of the financial and actuarial status of the plan shall contain:

- (1) The name of the plan;
- (2) The name and principal business office of the administrator appointed by the board of trustees;
- (3) The name and business address of each member of the board of trustees and a brief description of how the trustee was selected;
- (4) The name and business address of the plan's agent for service of process;
- (5) The name and business address of each fiduciary;
- (6) The current statement of investment objectives and policies of the plan;
- (7) Financial statements and notes to the financial statements in conformity with generally accepted accounting principles;
- (8) An opinion on the financial statements by a qualified public accountant in conformity with generally accepted auditing standards;
- (9) Actuarial schedules and notes to the actuarial schedules in conformity with generally accepted actuarial principles and practices for measuring pension obligations;
- (10) An opinion by the actuary that the actuarial schedules are complete and accurate to the best of the actuary's knowledge, that each assumption and method used in preparing the schedules is reasonable, that the assumptions and methods in the aggregate are reasonable, and that the assumptions and methods in combination offer the actuary's best estimate of anticipated experience;
- (11) A description of any material interest held by any trustee, administrator, or employee who is a fiduciary with respect to the investment and management of assets of the plan, and, if the fiduciary is an individual, by a related person of the beneficiary, in any material transaction with the plan within the last 3 years or proposed to be effected;
- (12) A schedule of the rates of return, net of total investment expense, on assets of the plan overall and on assets aggregated by category over the most recent one-year, 3-year, 5-year, and 10-year periods, to the extent available, and the rates of return stated against appropriate benchmarks for assets of the system overall and for each category over each period; and
- (13) A schedule of the sum of total investment expense and total general administrative expense paid by the plan for the fiscal year expressed as a percentage of the fair value of assets of the system on the last day of the fiscal year, and an equivalent percentage for the preceding 5 fiscal years.

X. The annual report for the plan shall contain:

- IX(c)(7);
- (a) The name and business address of each member of the board of trustees;
 - (b) The financial statements, but not the notes, required by paragraph IX(c)(7);
 - (c) The actuarial schedules, but not the notes, required by paragraph IX(c)(9);
 - (d) The schedules described in paragraphs IX(c)(12) and (13);
 - (e) A brief description of the above statements and schedules;
 - (f) Other material to summarize fairly and accurately the annual disclosure of the plan's financial and actuarial status; and
 - (g) A general notice of the availability of the public, member and beneficiary information provided herein.

100-C:13 Fiduciary Duties of Board of Trustee in Investing and Managing Assets of Judicial Retirement Plan.

I. The members of the board of trustees shall be the trustees of all funds of the judicial retirement plan created under this chapter and shall have full power to invest, and reinvest such funds, subject to all the terms, conditions, limitations, and restrictions herein. Each member of the board of trustees or other fiduciary shall discharge duties with respect to the plan:

- (a) Solely in the interest of its members and beneficiaries;
- (b) For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the plan;
- (c) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
- (d) Impartially, taking into account any differing interests of members and beneficiaries;
- (e) Incurring only costs that are appropriate and reasonable; and
- (f) In accordance with a good-faith interpretation of the law governing the judicial retirement plan.

II. In investing and managing assets of the judicial retirement plan, the board of trustees:

- (a) Shall consider among other circumstances:
 - (1) General economic conditions;
 - (2) The possible effect of inflation or deflation;

(3) The expected total return from income and the appreciation of capital;

(4) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(5) The adequacy of funding for the plan based on reasonable actuarial factors;

(b) Shall diversify the investments of the plan unless the board reasonably determines that, because of special circumstances, it is clearly prudent not to do so;

(c) Shall make a reasonable effort to verify facts relevant to the investment and management of assets of the plan; and

(d) May invest in any kind of property or type of investment consistent with the fiduciary provisions of this chapter.

III. The board may return a member or state contribution, or make alternative arrangements for reimbursement, if the board determines the contribution was made because of a mistake of fact or law.

IV. In evaluating the performance of a trustee or other fiduciary of the plan, compliance by the trustee or other fiduciary with those duties and liabilities under this chapter shall be determined in light of the facts and circumstances existing at the time of the trustee or fiduciary's decision or action and not by hindsight; and the board's investment and management decisions shall be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the plan.

V. The board of trustees may insure against liability or losses occurring because of a breach of duty hereunder if the insurance is purchased or provided either by the trustee or fiduciary personally or, on the trustee or fiduciary's behalf, by the state, the plan, the employer whose members participate in the plan, or the trustee or fiduciary's employer.

100-C:14 Method of Financing.

I. All of the assets of the judicial retirement plan shall be credited, according to the purpose for which they are held, between 2 funds, namely, the member annuity savings fund and the state annuity accumulation fund. In making the determinations required under this section for financing the judicial retirement plan, the board shall determine and use an appropriate actuarial funding methodology. The board shall direct the plan's actuary to prepare biennial valuations of the system's assets and liabilities commencing with a valuation prepared as of the date of implementation of this chapter. Such biennial valuation shall be the sole basis for determining the annual contribution requirements of the judicial retirement plan until the next following biennial valuation.

II. Member Annuity Savings Fund.

(a) The member annuity savings fund shall be a fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their member annuities. The board of trustees shall certify to the proper authority responsible for making

up the payroll of the judicial branch, and such authority shall cause to be deducted from the compensation of each member, on each and every payroll for each and every payroll period, the percentage of earnable compensation applicable to such member. In determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if such person was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of one percent of the annual earnable compensation upon the basis of which such deduction is made. The amounts deducted shall be reported to the board. Each of such amounts, when deducted, shall be paid to the judicial retirement plan at such times as may be designated by the board and credited to the individual account, in the member annuity savings fund, of the member from whose compensation the deduction was made.

(b) Every member shall be deemed to consent and agree to the deductions provided in this section as a condition of membership.

(c) The accumulated contributions of a member withdrawn by such member, or paid to such member's estate or to such member's designated beneficiary in event of the member's death in service, shall be paid from the member annuity savings fund. Upon the retirement of a member, such member's accumulated contributions shall be transferred from the member annuity savings fund to the state annuity accumulation fund.

III. State Annuity Accumulation Fund.

(a) The state annuity accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all state annuities payable from contributions made by the state, any amounts transferred to the fund from a similar fund under one or more of the predecessor systems, and amounts transferred from the member annuity savings fund and from which shall be paid all benefits payable under the plan other than those payable from the member annuity savings fund.

(b) The contributions of the state for benefits under the judicial retirement plan shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution," and an additional amount to be known as the "accrued liability contribution." The rate percent of such normal contribution in each instance shall be fixed on the basis of the liabilities of the plan with respect to its members.

(c) Commencing with the valuation as required in paragraph I, the actuary in determining the percentage normal contribution rate may include a projection of the membership, earnable compensation, and assets of the judicial retirement plan from the valuation date to the beginning of the year to which such percentage normal contribution rate is applicable; or the actuary may base such determination on the anticipated level of contribution as is necessary to maintain such reasonable actuarial funded ratio as may be directed by the board of trustees, and for purposes of this determination the actuarial funded ratio shall be the ratio of the fair market value of the judicial retirement plan's assets to the present value of accumulated benefits under the judicial retirement plan for all members, but without regard to any future compensation increase.

(d) Immediately following the actuarial valuation prepared under paragraph I, the board shall have an actuary determine the amount of the unfunded accrued liability as the amount of the total liabilities of the state annuity accumulation fund which is not dischargeable by the total of the funds in hand to the credit of the state annuity accumulation fund, and the normal

contributions to be made on account of the members during the remainder of their active service. The amount so determined shall be known as the "unfunded accrued liability". On the basis of the unfunded accrued liability, the board shall have an actuary determine the level annual contribution required to discharge such amount over a period of 20 years from the date of implementation of this chapter.

(e) The total amount payable to the state annuity accumulation fund in each year shall not be less than the normal contribution rate multiplied by the total compensation earnable by all members for such year, plus the amount of the accrued liability contribution necessary to liquidate the unfunded accrued liability as determined by the actuary under subparagraph (d) above including such additional normal contribution percentages as determined by the actuary to be paid by the state under subparagraphs (b) and (c) above.

(f) All interest and dividends earned on the funds of the judicial retirement plan shall be credited to the state annuity accumulation fund. The board shall allow interest at such rate or rates as it shall determine from time to time on the individual accounts of members in the member annuity savings fund and shall annually transfer such interest amount from the state annuity accumulation fund. Such interest shall be compounded monthly or more frequently as the board of trustees may determine and shall be allowed to the date of processing upon termination of active service for any reason including withdrawal, retirement, or death.

(g) There shall be a special account for additional benefits held by the board of trustees. Beginning with the first state fiscal year ending after the date of implementation of the judicial retirement plan, all of the earnings of the judicial retirement plan which are in excess of the assumed rate of return as determined by the board of trustees, plus one half of one percent added to such rate, shall be allocated to the special account. None of the assets held in the special account shall be used in the actuarial determination of the rate percent of normal contribution as set forth in subparagraphs (b) and (c). The actuarial cost of all legislation enacted during each fiscal year and calling for funding from the special account shall be withdrawn from the special account, as of June 30 of each year, after funds are credited to the special account as provided in this subparagraph. The special account shall be used only to fund or partially fund additional benefits as follows: first, to provide supplemental allowances, or COLAs, pursuant to RSA 100-C:18, and, second, to the extent that funds may be available in the special account, to provide additional benefits to retired members and beneficiaries of the judicial retirement plan.

(h) If the actuarially determined normal contribution rate as set forth in subparagraphs (b) and (c) is negative in any fiscal year, then the excess amount resulting from the difference between zero and the negative actuarially determined normal contribution rate shall be used to reduce the member contribution rate in that fiscal year.

IV. State Contributions. On or before the first day of October next preceding each regular session of the state legislature, the board of trustees shall certify to the commissioner of administrative services the amounts which will become due and payable by the state during the biennium next following to the judicial retirement plan and it shall be the duty of the commissioner of administrative services in preparing the executive budget for each ensuing biennium to include in the budget the amounts so certified which amounts shall be appropriated by the legislature. The amounts so certified under this paragraph shall include the unfunded accrued liability of the judicial retirement plan.

100-C:15 Member Contributions. All member contributions to the judicial retirement plan shall be payable only with respect to membership service, and picked up by the state by means of payroll deduction and shall be treated as employer contributions for purposes of Section 414(h) of the

Internal Revenue Code of 1986, as amended. The member contribution rate shall be fixed biennially by the board of trustees and shall be calculated so that the rate percent of earnable compensation deducted is one-half of the annual contribution requirements of the judicial retirement plan as determined in RSA 100-C:14, I. For any member appointed as a judge prior to the date of implementation of this chapter, all member contributions required by this section shall be paid by the state according to the procedure in RSA 100-C:14, IV. A member in service who attains the age of 65 and who has 25 years of service shall not be required to have deductions made from earnable compensation for purposes of this section provided that the state contributions for such member under RSA 100-C:14, IV shall continue until the member's retirement.

100-C:16 Exemption From Taxation and Execution.

I. The right of a person to any benefit or to any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the funds created by this chapter, shall be exempted from any state, county, or municipal tax in the state; shall not be subject to execution, trustee process, attachment or any other process whatsoever, legal or equitable; and shall be unassignable except as provided in paragraph II.

II. Notwithstanding any provision of law to the contrary, the right of a person to any benefit or to any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the funds created by this chapter shall be subject to assignment, attachment, and execution to the same extent as such rights under private retirement systems.

100-C:17 Protection Against Fraud. Any person who knowingly makes any false statement or falsifies or permits to be falsified any record or records of the judicial retirement plan in any attempt to defraud the system as a result of such act, shall be guilty of a class B felony if a natural person, or guilty of a felony if any other person. Should any change or error in the records result in any member or beneficiary receiving from the plan more or less than such person would have been entitled to receive had the records been correct, the board of trustees shall have the power to correct such error, and to adjust as far as practicable the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

100-C:18 Supplemental Allowances.

I. On February 1 of each year, the fiscal committee of the general court may approve COLA's upon certification from the board of the amount of the COLA which may be granted based on the funds available in the special account. The board shall direct an actuary to certify to the fiscal committee the funds available, and any other information required by the committee, including but not limited to any change in the Consumer Price Index-Urban for the year prior to the year in which the allowance is granted. Any such supplemental allowance when granted by the fiscal committee of the general court shall become a permanent addition to the beneficiary's base retirement allowance, and shall be included in the monthly annuity paid to the retired member, or to the member's beneficiary if the member is deceased and the beneficiary is receiving an allowance.

II.(a) The granting of any such supplemental allowance, or of any increase in supplemental allowances, shall be contingent on terminal funding of the total actuarial cost thereof at the time of granting. Such terminal funding shall be from the special account established under RSA 100-C:14, III(g).

(b) No supplemental allowance shall be granted or increased if such grant or increase would reduce the funds in the special account to an amount less than zero.

3 Current Supreme Court Justices; Retirement Benefits; Contributions to Retirement. Amend RSA 490:2, VI to read as follows:

VI. *This section shall apply only to justices appointed on or before the date of implementation of the judicial retirement plan under RSA 100-C.* A sum sufficient to pay any and all benefits or compensation pursuant to this section is hereby continually appropriated therefor. The governor is authorized to draw [his] a warrant for the payment thereof out of any funds in the treasury not otherwise appropriated.

4 Superior Court Justices; Retirement Benefits; Contributions to Retirement. Amend RSA 491:2, VI to read as follows:

VI. *This section shall apply only to justices appointed on or before the date of implementation of the judicial retirement plan under RSA 100-C.* A sum sufficient to pay any and all benefits or compensation pursuant to this section is hereby continually appropriated therefor. The governor is authorized to draw [his] a warrant for the payment thereof out of any funds in the treasury not otherwise appropriated.

5 District Court Justices; Retirement Benefits; Contributions to Retirement. Amend RSA 502-A:6-a, VI to read as follows:

VI. *This section shall apply only to justices appointed on or before the date of implementation of the judicial retirement plan under RSA 100-C.* A sum sufficient to pay any and all benefits or compensation pursuant to this section is hereby continually appropriated therefor. The governor is authorized to draw [his] a warrant for the payment thereof out of any funds in the treasury not otherwise appropriated.

6 Probate Court Judges; Retirement Benefits; Contributions to Retirement. Amend RSA 547:2-a to read as follows:

547:2-a Full-Time Judges. A probate judge designated to be full-time pursuant to RSA 491-A:4, IV shall not be permitted to engage in the practice of law to any degree. Full-time probate judges shall receive the salary specified in RSA 491-A:1 and shall be entitled to the same disability and retirement benefits as full-time justices of the district court *under RSA 502-A:6-a*. Full-time judges designated pursuant to RSA 491-A:4, IV shall assist the probate courts in the other counties whenever a probate judge in such other county is disqualified, disabled, or otherwise unable to sit.

7 Appropriation. The sum of \$250,000 is hereby appropriated for the fiscal year ending June 30, 2003 to the board of trustees of the judicial retirement system as established in this act. Such sum shall be non-lapsing and shall be used for legal, administrative, and other start-up costs of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

8 Contingent Implementation of Judicial Retirement Plan. The provisions of RSA 100-C relating to contributions by members, retirement benefits, and operation of the judicial retirement plan shall be implemented beginning on the latter of July 1, 2003 or 180 days after the date that the board of trustees established under RSA 100-C certifies to the joint legislative fiscal committee of the judicial retirement plan's receipt of a favorable determination letter from the Internal Revenue Service as to the tax qualified status of the plan under section 401(a) of the Internal Revenue Code of 1986 as amended. Such date shall be the date of implementation of the judicial retirement plan. The provisions of RSA 100-C:12 for the appointment of the board and the administration of the duties and responsibilities of the board may begin on the effective date of this act.

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

Adopted.

Rep. Almy spoke against.

Rep. Dyer and Wheeler spoke in favor and yielded to questions.

Rep. Petersen spoke in favor.

Report adopted and ordered to third reading.

regular calendar (CONT'D.)

HB 169-FN, repealing the certificate of need law. INEXPEDIENT TO LEGISLATE

Rep. Alida I. Millham for Health, Human Services and Elderly Affairs: Repealing the certificate of need law is not a new issue for the legislature. In fact, there is a task force currently working to examine and study the certificate of need and make recommendations for change. Their recommendations will not be finalized in time for this session. Therefore, a majority of the committee considered it unnecessary to keep this bill active at this time. New legislation will undoubtedly be recommended by the Task Force report. Vote 15-4.

Adopted.

CACR 21, relating to compensation for members of the general court. Providing that members of the general court shall be reimbursed for actual and reasonable expenses incurred for legislative business. **OUGHT TO PASS WITH AMENDMENT**

Rep. Keith R. Herman for Legislative Administration: The proposed amendment to CACR 21 would ask the public to change the state constitution to increase legislator's salary from \$100/year to \$1,000/year. This recommendation comes from a study committee asked to review methods of reimbursing legislators for expenses incurred by serving in the legislature. After several months of meetings it was determined any mechanism to reimburse legislators for expenses would be cumbersome, unfair, and unconstitutional since the constitution provides no mechanism for payment of expenses. While there was much discussion whether \$1,000/year is the "right" amount, it was generally agreed that the increase is reasonable and justifiable. Vote 11-3.

Amendment (2057h)

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

RELATING TO: compensation for members of the general court.

PROVIDING THAT: members of the general court shall be compensated \$2,000 for each biennium for their services, with presiding officers receiving \$2,500.

Amend the bill by replacing all after the title with the following:

I. That article 15 of the second part of the constitution be amended to read as follows:

[Art.] 15 [Compensation of the Legislature.] The presiding officers of both houses of the legislature, shall severally receive out of the state treasury as compensation in full for their services for the term elected the sum of [~~\$250~~] **\$2,500**, and all other members thereof, seasonably attending and not departing without license, the sum of [~~\$200~~] **\$2,000** and each member shall receive mileage for actual daily attendance on legislative days, but not after the legislature shall have been in session for 45 legislative days or after the first day of July following the annual assembly of the legislature, whichever occurs first; provided, however, that, when a special session shall be called by the governor or by a 2/3 vote of the then qualified members of each branch of the general court, such officers and members shall receive for attendance an additional compensation of \$3 per day for a period not exceeding 15 days and the usual mileage. Nothing herein shall prevent the payment of additional mileage to members attending committee meetings or on other legislative business on nonlegislative days.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2002.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2002 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2002 session of the general court shall be approved.

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

Are you in favor of amending article 15 of the second part of the constitution to read as follows?:

[Art.] 15 [Compensation of the Legislature.] The presiding officers of both houses of the legislature, shall severally receive out of the state treasury as compensation in full for their services for the term elected the sum of [~~\$250~~] **\$2,500**, and all other members thereof, seasonably attending and not departing without license, the sum of [~~\$200~~] **\$2,000** and each member shall receive mileage for actual daily attendance on legislative days but, not after the legislature shall have been in session for 45 legislative days or after the first day of July following the annual assembly of the legislature, whichever occurs first; provided, however, that, when a special session shall be called by the governor or by a 2/3 vote of the then qualified members of each branch of the general court, such officers and members shall receive for attendance an additional compensation of \$3 per day for a period not exceeding 15 days and the usual mileage. Nothing herein shall prevent the payment of additional mileage to members attending committee meetings or on other legislative business on nonlegislative days.

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 2002 General Court" shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

AMENDED ANALYSIS

This constitutional amendment-concurrent resolution provides that members of the general court shall be compensated \$2,000 each biennium for their services, with presiding officers receiving \$2,500.

Adopted.

Rep. Clark requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 169 NAYS 177

YEAS 169

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Holbrook, Robert
Nedeau, Stephen	Rosen, Ralph	Russell, David	Thomas, John
Wendelboe, Fran			

CARROLL

Dickinson, Howard	Kenney, Joseph	Patten, Betsey	Philbrick, Donald
Stevens, Stanley	Sullivan, P Judith	Torressen, Gary	

CHESHIRE

Allen, Peter	Avery, Stephen	Burnham, Daniel	Dexter, Judson
Espieffs, Peter	Hunt, John	Liebl, George	Manning, Joseph
Mitchell, McKim	Royce, H Charles	Slack, Pamela Russell	Weed, Charles
Zerba, Roger			

COOS

Gallus, John	Horton, Lynn	Landers, Dana	Mears, Edgar
Rozek, Michael	Stohl, Eric	Tholl, John Jr	

GRAFTON

Almy, Susan	Barker, Robert	Cooney, Mary	Ham, Bonnie
Lovett, Sid	Naro, Debra	Nordgren, Sharon	Pawlek, Marion

Scanlan, David
Williams, Burton

Scovner, Nancy

Sokol, Hilda

Teschner, Douglass

HILLSBOROUGH

Artz, Lawrence

Baroody, Benjamin

Batula, Peter

Bergin, Peter

Bragdon, Peter

Bruno, Pierre

Buckley, Raymond

Chabot, Robert

Christensen, D L Chris

Daigle, Robert

Drabinowicz, A Theresa

Fletcher, Richard

Gargas, Carolyn

Ginsburg, Ruth

Gleneck, David

Golding, William

Gonzalez, Carlos

Greenberg, Gary

Hall, Betty

Hall, Charles

Jean, Claudette

Jean, Loren

Konys, Christine

LaFlamme, Paul

Leach, Edward

McDonough-Wallace,
Alice

McHugh, Claire

Melcher, Harold

Mercer, Robert

Milligan, Robert

O'Connell, Timothy

Reeves, Sandra

Sargent, Maxwell

Schulze, Joan

Shaw, Barbara

Spiess, Paul

Tate, Joan

Vaillancourt, Steve

Wheeler, Robert

White, John

MERRIMACK

Brewster, Richard

Clarke, Claire

Cummings, Raymond

Fraser, Leo Jr

French, Barbara

Hager, Elizabeth

Hutchinson, John

Jacobson, Alf

L'Heureux, Stephen

MacKay, James

Maxfield, Roy

Moore, Carol

Perkins, Randy

Rodd, Beth

Wallner, Mary Jane

Yeaton, Charles

ROCKINGHAM

Belanger, Ronald

Bishop, Franklin

Bowles, Raimond

Camm, Kevin

Cooney, Richard

Corbin, Corey

Dalrymple, Janeen

DiFruscia, Anthony

Dowling, Patricia

Downing, Michael

Fesh, Bob

Flanders, John Sr

Francoeur, Sheila

Gilbert, Jeffrey

Gilbert, Karl

Giordano, Ronald

Gleason, John

Griffin, Mary

Hill, Jonathan

Holland, James Jr

Kobel, Rudolph

Langley, Jane

Langone, John

Letourneau, Robert

McGuire, Robert

McKinney, Betsy

Micklon, Stephanie

Moore, Benjamin

Morse, Charles

Nowe, Ronald

Rausch, James

Reardon, Neil

Sapareto, Frank

Shultis, Elizabeth

Sloan, Stephen

Splaine, James

Stritch, C Donald

Trueman, Raymond

Welch, David

Weyler, Kenneth

Zolla, William

STRAFFORD

Albert, Russell	Berube, Roger	Bickford, David	Callaghan, Frank
Cossette, Larry	Dunlap, Patricia	Estabrook, Iris	Ferland, Paul
Goodwin, Earle	Grassie, Anne	Johnson, Nancy	Pelletier, Arthur
Snyder, Clair	Woodill, Rodney		

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Flint, Gordon Sr
Franklin, Peter	Harris, Joseph	Harris, Sandra	Leone, Richard
Phinizy, James			

NAYS 177

BELKNAP

Flanders, Donald	Johnson, William	Lawton, David	Millham, Alida
Rice, Thomas Jr	Salatiello, Thomas	Wood, Jane	

CARROLL

Babson, David Jr	Bradley, Jeb	Mock, Henry	Quimby, Lee
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CHESHIRE

Edwards, Dana	Emerson, Susan	Fairbanks, Chandler	McGuirk, Paul
Meador, David	Pratt, Irene	Pratt, John	Richardson, Barbara
Roberts, William	Smith, Edwin		

COOS

Davis, Perley	Woodward, David
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GRAFTON

Akins, Ralph	Alger, John	Benn, Bernard	Cobb, John
Dudley, Terri	Gabler, William	Gilman, G Michael	Giuda, Robert
Marshall, Gene	Mirski, Paul	Solow, Martha	Sova, Charles

Ward, Brien

HILLSBOROUGH

Allan, Nelson	Alukonis, David	Andosca, Mary	Balboni, Michael
Balcom, John	Bellavance, Paul	Bergeron, Jean-Guy	Bouchard, David
Brundige, Robert	Calawa, Leon Jr	Cardin, Lori	Carlson, Donald
Clayton, William	Clegg, Robert Jr	Clemons, Jane	Cote, David
Cote, Peter	Coughlin, Pamela	Craig, James	Desrosiers, William
Dionne, David	Dionne, Kimberley	Dokmo, Cynthia	Drisko, Richard
Dyer, Merton	Elliott, Larry	Fields, Dennis	Ford, Nancy
Foster, Linda	Furman, Christine	Goley, Jeffrey	Gorman, Mary
Goulet, Maurice	Graham, John	Guinta, Frank	Herman, Keith
Holden, Randolph	Hopper, Gary	Johnson, Lionel	Kacavas, John
Keye, Harvey	Kurk, Neal	L'Heureux, Robert	LaRose, Richard
Lasky, Bette	Leishman, Peter	Martel, Andre	Martin, Mary Ellen
McRae, Karen	Messier, Irene	Moran, Edward	Movsesian, Lori
Palangas, Eric	Panagopoulos, Nicholas	Pappas, Marc	Pepino, Leo
Peterson, Andrew	Rowe, Robert	Souza, Kathleen	Sullivan, Peter
Sweeney, Cynthia	Tahir, Saghir	Thompson, Rob	Thulander, O Alan

MERRIMACK

Anderson, Eric	Bouchard, Candace	Colcord, J D	Daneault, Gabriel
Davis, Frank	Dunne, Christopher	Feuerstein, Martin	Gile, Mary
Greco, Vincent	Hess, David	Kennedy, Richard	Langer, Ray
Leber, William	Lockwood, Priscilla	Potter, Frances	Reardon, Tara
Rush, Deanna	Soltani, Tony	Swindlehurst, John	Whalley, Michael
Winter, Steven			

ROCKINGHAM

Blanchard, MaryAnn	Bridle, Russell	Carson, Sharon	Case, Margaret
Chalbeck, Kevin	Clark, Martha Fuller	Clark, Vivian	Coes, Betsy
Cox, Russell	Dearborn, Bruce	Dumaine, Dudley	Hamel, Albert
Henderson, Warren	Introne, Robert	Itse, Daniel	Johnson, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kelley, William

Major, Norman	Norelli, Terie	O'Neil, Michael	Palermo, Diane
Pitts, Jacqueline	Power, Lucille	Priestley, Anne	Putnam, Ed II
Quandt, Marshall	Quandt, Matthew	Robertson, Carl	Ruffner, Walter
Stone, Joseph	Varrell, Thomas	Weatherspoon, Jacquelyne	Whittier, John

STRAFFORD

Brennan, William	Brown, Julie	DeChane, Marlene	Harrington, Michael
Heon, Richard	Kaen, Naida	Knowles, William	Lent, Donald
McCarthy, Gerald	Proulx, Raymond	Reid, Christopher	Rollo, Michael
Smith, Marjorie	Taylor, Kathleen	Twombly, James	Wall, Janet
Woods, Phyllis			

SULLIVAN

Jones, Constance	Odell, Bob	Rodeschin, Beverly
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and the report failed.

Rep. Herman moved Inexpedient to Legislate.

Rep. Buckley requested a roll call; sufficiently seconded.

The question being adoption of Inexpedient to Legislate.

YEAS 262 NAYS 84

YEAS 262

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Flanders, Donald
Holbrook, Robert	Johnson, William	Lawton, David	Millham, Alida
Nedeau, Stephen	Rice, Thomas Jr	Rosen, Ralph	Russell, David
Salatiello, Thomas	Thomas, John	Wendelboe, Fran	Wood, Jane

CARROLL

Babson, David Jr	Bradley, Jeb	Kenney, Joseph	Mock, Henry
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Patten, Betsey
Torressen, Gary

Philbrick, Donald

Quimby, Lee

Stevens, Stanley

CHESHIRE

Dexter, Judson

Edwards, Dana

Emerson, Susan

Fairbanks, Chandler

Hunt, John

Liebl, George

Manning, Joseph

Mitchell, McKim

Pratt, Irene

Richardson, Barbara

Roberts, William

Royce, H Charles

Smith, Edwin

COOS

Davis, Perley

Gallus, John

Horton, Lynn

Rozek, Michael

Stohl, Eric

Tholl, John Jr

Woodward, David

GRAFTON

Akins, Ralph

Alger, John

Barker, Robert

Benn, Bernard

Cobb, John

Dudley, Terri

Gabler, William

Gilman, G Michael

Giuda, Robert

Marshall, Gene

Mirski, Paul

Scanlan, David

Solow, Martha

Sova, Charles

Ward, Brien

Williams, Burton

HILLSBOROUGH

Allan, Nelson

Alukonis, David

Andosca, Mary

Artz, Lawrence

Balboni, Michael

Balcom, John

Batula, Peter

Bellavance, Paul

Bergeron, Jean-Guy

Bergin, Peter

Bouchard, David

Brundige, Robert

Bruno, Pierre

Buckley, Raymond

Calawa, Leon Jr

Cardin, Lori

Carlson, Donald

Christensen, D L Chris

Clegg, Robert Jr

Clemons, Jane

Cote, David

Cote, Peter

Coughlin, Pamela

Craig, James

Desrosiers, William

Dionne, David

Dionne, Kimberley

Dokmo, Cynthia

Drisko, Richard

Dyer, Merton

Elliott, Larry

Fields, Dennis

Ford, Nancy

Foster, Linda

Furman, Christine

Gargasz, Carolyn

Ginsburg, Ruth

Gleneck, David

Golding, William

Goley, Jeffrey

Gonzalez, Carlos

Gorman, Mary

Goulet, Maurice

Greenberg, Gary

Guinta, Frank

Hall, Charles

Herman, Keith

Holden, Randolph

Hopper, Gary

Jean, Loren

Johnson, Lionel

Kacavas, John

Keye, Harvey

Konys, Christine

Kurk, Neal

L'Heureux, Robert

LaRose, Richard	Lasky, Bette	Leach, Edward	Leishman, Peter
Martel, Andre	Martin, Mary Ellen	McDonough-Wallace, Alice	McRae, Karen
Mercer, Robert	Messier, Irene	Moran, Edward	Movsesian, Lori
O'Connell, Timothy	Palangas, Eric	Panagopoulos, Nicholas	Pappas, Marc
Pepino, Leo	Peterson, Andrew	Reeves, Sandra	Rowe, Robert
Souza, Kathleen	Sweeney, Cynthia	Tahir, Saghir	Tate, Joan
Thompson, Rob	Thulander, O Alan	Wheeler, Robert	

MERRIMACK

Anderson, Eric	Bouchard, Candace	Colcord, J D	Cummings, Raymond
Daneault, Gabriel	Dunne, Christopher	Feuerstein, Martin	Fraser, Leo Jr
Gile, Mary	Greco, Vincent	Hager, Elizabeth	Hess, David
Hutchinson, John	Kennedy, Richard	L'Heureux, Stephen	Langer, Ray
Leber, William	Lockwood, Priscilla	MacKay, James	Potter, Frances
Reardon, Tara	Rush, Deanna	Soltani, Tony	Swindlehurst, John
Whalley, Michael	Winter, Steven		

ROCKINGHAM

Blanchard, MaryAnn	Bowles, Raimond	Bridle, Russell	Camm, Kevin
Carson, Sharon	Case, Margaret	Chalbeck, Kevin	Clark, Martha Fuller
Clark, Vivian	Coes, Betsy	Cooney, Richard	Cox, Russell
Dalrymple, Janeen	Dearborn, Bruce	DiFruscia, Anthony	Downing, Michael
Dumaine, Dudley	Fesh, Bob	Flanders, John Sr	Francoeur, Sheila
Gilbert, Jeffrey	Giordano, Ronald	Gleason, John	Griffin, Mary
Hamel, Albert	Henderson, Warren	Hill, Jonathan	Holland, James Jr
Introne, Robert	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kelley, William	Kobel, Rudolph
Langley, Jane	Langone, John	Letourneau, Robert	Major, Norman
McGuire, Robert	McKinney, Betsy	Micklon, Stephanie	Moore, Benjamin
Morse, Charles	Norelli, Terie	O'Neil, Michael	Palermo, Diane
Pitts, Jacqueline	Power, Lucille	Priestley, Anne	Quandt, Marshall
Quandt, Matthew	Rausch, James	Robertson, Carl	Ruffner, Walter
Sapareto, Frank	Sloan, Stephen	Splaine, James	Stone, Joseph

Stritch, C Donald

Varrell, Thomas

Weatherspoon,
Jacquelyne

Welch, David

Weyler, Kenneth

Whittier, John

Zolla, William

STRAFFORD

Albert, Russell

Brennan, William

Brown, Julie

Callaghan, Frank

Cossette, Larry

DeChane, Marlene

Dunlap, Patricia

Ferland, Paul

Harrington, Michael

Knowles, William

Lent, Donald

McCarthy, Gerald

Proulx, Raymond

Reid, Christopher

Rollo, Michael

Smith, Marjorie

Taylor, Kathleen

Twombly, James

Wall, Janet

Woods, Phyllis

SULLIVAN

Flint, Gordon Sr

Jones, Constance

Leone, Richard

Odell, Bob

Rodeschin, Beverly

NAYS 84

BELKNAP

None

CARROLL

Dickinson, Howard

Sullivan, P Judith

CHESHIRE

Allen, Peter

Avery, Stephen

Burnham, Daniel

Espiefs, Peter

McGuirk, Paul

Meader, David

Pratt, John

Slack, Pamela Russell

Weed, Charles

Zerba, Roger

COOS

Landers, Dana

Mears, Edgar

GRAFTON

Almy, Susan

Cooney, Mary

Ham, Bonnie

Lovett, Sid

Naro, Debra	Nordgren, Sharon	Pawlek, Marion	Scovner, Nancy
Sokol, Hilda	Teschner, Douglass		

HILLSBOROUGH

Baroody, Benjamin	Bragdon, Peter	Chabot, Robert	Clayton, William
Daigle, Robert	Drabinowicz, A Theresa	Fletcher, Richard	Graham, John
Hall, Betty	Jean, Claudette	LaFlamme, Paul	McHugh, Claire
Melcher, Harold	Milligan, Robert	Sargent, Maxwell	Schulze, Joan
Shaw, Barbara	Spiess, Paul	Sullivan, Peter	Vaillancourt, Steve
White, John			

MERRIMACK

Brewster, Richard	Clarke, Claire	Davis, Frank	French, Barbara
Jacobson, Alf	Maxfield, Roy	Moore, Carol	Perkins, Randy
Rodd, Beth	Wallner, Mary Jane	Yeaton, Charles	

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Corbin, Corey	Dowling, Patricia
Gilbert, Karl	Nowe, Ronald	Putnam, Ed II	Reardon, Neil
Shultis, Elizabeth	Trueman, Raymond		

STRAFFORD

Berube, Roger	Bickford, David	Estabrook, Iris	Goodwin, Earle
Grassie, Anne	Heon, Richard	Johnson, Nancy	Kaen, Naida
Pelletier, Arthur	Snyder, Clair	Woodill, Rodney	

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Franklin, Peter
Harris, Joseph	Harris, Sandra	Phinizy, James	

and Inexpedient to Legislate was adopted.

HB 414, relative to the adoption of instream flow rules. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Richard T. Cooney for the Majority of Resources, Recreation and Development: This bill would require the Department of Environmental Services (DES) to develop a statewide management plan before any instream flow rules could take effect. These rules have been in preparation for several years and would, in effect, determine who could withdraw water from rivers and streams and how much could be withdrawn and when. These rules would impact many users of the waters, including agriculture, public water supplies, business, ski areas, recreation, and wildlife. They are designed to protect the instream flows to prevent long term damage to any of these areas and would require a "sharing of the pain" of low flow conditions. In the last session of the legislature, the importance of these rules was recognized and a study committee was formed by the passage of SB 330. This committee was to oversee the development of the rules and to introduce additional legislation, if needed. The rules have seen several drafts and public hearings where a great deal of input from the various interested parties. At present, it is proposed to have a two river "pilot" projects to check out the rules. Included would be the development of a Water Management Plan for each river. This plan would cover the entire watershed of the river and would be in place before any enforcement activities would be conducted. The study committee has introduced legislation for this session to specify this approach and would require legislative review before any enforcement activity could occur. The majority of the committee felt that requiring a statewide management plan before any rule development would not be necessary and would effectively stop the rule process. The study committee approach would only require plans for 2 watersheds and would allow the learning process about rules to proceed. The study committee will also be looking at the cost of these programs and at the financial impact to affected water users. In addition, legislative oversight would continue throughout the process. The House will have an opportunity to consider this legislation this year. Vote 13-4.

Rep. Pierre W. Bruno for the Minority of Resources, Recreation and Development: The minority feels that HB 414 addresses the need for a comprehensive and holistic approach toward statewide river management. The minority considers that the administrative instream flow rules, currently being developed by the Department of Environmental Services, have been predicated upon insufficient information. Existing statute establishes implementation of such rules only for rivers or river segments in the designated rivers program. This is a fragmented approach that does not involve river watersheds that are not in the program. Those rivers cannot be accurately evaluated without considering the management of all of the tributaries and segments that comprise it. Implementation of rules in this manner would be disproportionate in cost to water users only in the portions of rivers that are designated.

On a division vote, 303 members having voted in the affirmative and 35 in the negative, the majority report was adopted.

SB 101-FN, relative to mooring permits and fees. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. David M. Lawton for the Majority of Resources, Recreation and Development: This bill seeks to change the way in which New Hampshire lakes are added to the state moorings program. The majority of the Resources Committee believes that this change is unnecessary since the present method is working soundly. Currently, the authority to add lakes to the program rests solely with the legislature. If SB 101-FN were passed, this legislative authority would be completely by-passed and replaced by a costly Department of Safety hearing process. The committee believes that the legislature is the best avenue for citizens who wish to add new lakes to the state moorings program. It is the duty and responsibility of this "General Court" to strike a balance between the interests of shorefront property owners on a particular lake and the users of lake resources throughout the state. Since this legislative route has been proven to work well in the past there doesn't seem to be any reason to turn over this responsibility to the Department of Safety at this time Vote 10-7.

Rep. Judith T. Spang for the Minority of Resources, Recreation and Development: There are currently 969 lakes and ponds in New Hampshire where moorings are largely unregulated. This bill improves upon the current legislative process for reviewing entrance of lakes into the existing moorings program by substituting a hearing process which is less cumbersome, allows for hearings on location and in season, and provides for decision-making by professionals with expertise and familiarity with the lake in question. Majority report adopted.

HB 762-FN-A, increasing the tobacco tax to allow for a healthy families trust fund and for increased funding for the tobacco use prevention fund. **INEXPEDIENT TO LEGISLATE**

Rep. Kevin L. Camm for Ways and Means: A majority of the committee felt that the objectives of this bill relative to teen smoking were certainly worthwhile. However, for the following reasons regarding the funding (a 50 cent increase to the cigarette tax), we voted ITL: our cigarette sales are very high (per capita) due to the impact of cross border sales; collateral damage primarily to border community businesses and resulting state tax revenues, where not convincingly addressed; damage such as lost business profits, rooms & meals, gasoline, beer and wine; and employment. Should Health and Human Services determine this program is a priority, they should first offer to incorporate the program and its associated costs in the department's budget with their other requests. This tax increase (96%) hits our low and moderate-income smokers the hardest, those that can least afford it. In reality, this program will not reduce their reliance on smoking but will certainly lower their disposable income. And finally this bill will establish another dedicated fund. Vote 11-7.

Rep. Martha Fuller Clark spoke against.

Rep. Hess spoke in favor and yielded to questions.

Rep. Alukonis requested a roll call; sufficiently seconded.

The question being adoption of the report.

YEAS 236 NAYS 108

YEAS 236

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Flanders, Donald
Holbrook, Robert	Lawton, David	Millham, Alida	Nedeau, Stephen
Rice, Thomas Jr	Russell, David	Salatiello, Thomas	Thomas, John
Wendelboe, Fran			

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
Mock, Henry	Patten, Betsey	Philbrick, Donald	Quimby, Lee
Stevens, Stanley	Sullivan, P Judith	Torressen, Gary	

CHESHIRE

Avery, Stephen	Dexter, Judson	Emerson, Susan	Hunt, John
McGuirk, Paul	Meader, David	Roberts, William	Royce, H Charles
Smith, Edwin			

COOS

Davis, Perley	Gallus, John	Horton, Lynn	Landers, Dana
Mears, Edgar	Tholl, John Jr	Woodward, David	

GRAFTON

Alger, John	Barker, Robert	Cobb, John	Dudley, Terri
Gabler, William	Gilman, G Michael	Giuda, Robert	Marshall, Gene
Mirski, Paul	Scanlan, David	Sova, Charles	Teschner, Douglass
Ward, Brien	Williams, Burton		

HILLSBOROUGH

Alukonis, David	Artz, Lawrence	Balboni, Michael	Balcom, John
Baroody, Benjamin	Batula, Peter	Bergeron, Jean-Guy	Bouchard, David
Bragdon, Peter	Brundige, Robert	Bruno, Pierre	Calawa, Leon Jr
Carlson, Donald	Chabot, Robert	Christensen, D L Chris	Clayton, William
Clegg, Robert Jr	Clemons, Jane	Coughlin, Pamela	Desrosiers, William
Dionne, David	Dionne, Kimberley	Dokmo, Cynthia	Drabinowicz, A Theresa
Drisko, Richard	Dyer, Merton	Elliott, Larry	Fields, Dennis
Fletcher, Richard	Ford, Nancy	Gargasz, Carolyn	Gleneck, David
Golding, William	Goley, Jeffrey	Gonzalez, Carlos	Gorman, Mary
Goulet, Maurice	Graham, John	Greenberg, Gary	Guinta, Frank
Hall, Charles	Herman, Keith	Holden, Randolph	Hopper, Gary
Jean, Loren	Johnson, Lionel	Kurk, Neal	L'Heureux, Robert
LaFlamme, Paul	LaRose, Richard	Leach, Edward	Leishman, Peter
Martel, Andre	McRae, Karen	Mercer, Robert	Messier, Irene
Milligan, Robert	Moran, Edward	O'Connell, Timothy	Palangas, Eric
Panagopoulos, Nicholas	Pappas, Marc	Pepino, Leo	Peterson, Andrew
Reeves, Sandra	Rowe, Robert	Sargent, Maxwell	Souza, Kathleen

Spiess, Paul
Thulander, O Alan

Sweeney, Cynthia
Vaillancourt, Steve

Tate, Joan
Wheeler, Robert

Thompson, Rob

MERRIMACK

Anderson, Eric
Dunne, Christopher
Hutchinson, John
Leber, William
Soltani, Tony

Colcord, J D
Feuerstein, Martin
Kennedy, Richard
Lockwood, Priscilla
Swindlehurst, John

Cummings, Raymond
Fraser, Leo Jr
L'Heureux, Stephen
MacKay, James
Whalley, Michael

Daneault, Gabriel
Hess, David
Langer, Ray
Maxfield, Roy
Winter, Steven

ROCKINGHAM

Belanger, Ronald
Camm, Kevin
Clark, Vivian
Cox, Russell
Dowling, Patricia
Flanders, John Sr
Gleason, John
Hill, Jonathan
Johnson, Robert
Kelley, William
Letourneau, Robert
Moore, Benjamin
Palermo, Diane
Quandt, Matthew
Sloan, Stephen
Welch, David

Bishop, Franklin
Carson, Sharon
Coes, Betsy
Dalrymple, Janeen
Downing, Michael
Francoeur, Sheila
Griffin, Mary
Holland, James Jr
Johnson, Rogers
Kobel, Rudolph
Major, Norman
Morse, Charles
Priestley, Anne
Rausch, James
Stone, Joseph
Weyler, Kenneth

Bowles, Raimond
Case, Margaret
Cooney, Richard
Dearborn, Bruce
Dumaine, Dudley
Gilbert, Jeffrey
Hamel, Albert
Introne, Robert
Katsakiores, George
Langley, Jane
McGuire, Robert
Nowe, Ronald
Putnam, Ed II
Reardon, Neil
Stritch, C Donald
Whittier, John

Bridle, Russell
Chalbeck, Kevin
Corbin, Corey
DiFruscia, Anthony
Fesh, Bob
Giordano, Ronald
Henderson, Warren
Itse, Daniel
Katsakiores, Phyllis
Langone, John
McKinney, Betsy
O'Neil, Michael
Quandt, Marshall
Sapareto, Frank
Varrell, Thomas
Zolla, William

STRAFFORD

Albert, Russell
Brown, Julie
Harrington, Michael
Reid, Christopher
Woods, Phyllis

Berube, Roger
Callaghan, Frank
Heon, Richard
Rollo, Michael

Bickford, David
Cossette, Larry
Knowles, William
Twombly, James

Brennan, William
Ferland, Paul
McCarthy, Gerald
Wall, Janet

SULLIVAN

Flint, Gordon Sr	Jones, Constance	Leone, Richard	Odell, Bob
Phinizy, James	Rodeschin, Beverly		

NAYS 108

BELKNAP

Johnson, William	Rosen, Ralph	Wood, Jane
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CARROLL

None

CHESHIRE

Allen, Peter	Burnham, Daniel	Edwards, Dana	Espieffs, Peter
Fairbanks, Chandler	Liebl, George	Manning, Joseph	Mitchell, McKim
Pratt, Irene	Pratt, John	Richardson, Barbara	Slack, Pamela Russell
Weed, Charles	Zerba, Roger		

COOS

Rozek, Michael	Stohl, Eric
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GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Cooney, Mary
Ham, Bonnie	Lovett, Sid	Naro, Debra	Nordgren, Sharon
Pawlek, Marion	Scovner, Nancy	Sokol, Hilda	Solow, Martha

HILLSBOROUGH

Allan, Nelson	Andosca, Mary	Bellavance, Paul	Bergin, Peter
Buckley, Raymond	Cardin, Lori	Cote, David	Cote, Peter
Craig, James	Daigle, Robert	Foster, Linda	Furman, Christine
Ginsburg, Ruth	Hall, Betty	Jean, Claudette	Kacavas, John
Keye, Harvey	Konys, Christine	Lasky, Bette	Martin, Mary Ellen

McDonough-Wallace, Alice	McHugh, Claire	Melcher, Harold	Movsesian, Lori
Schulze, Joan	Shaw, Barbara	Sullivan, Peter	White, John

MERRIMACK

Bouchard, Candace	Brewster, Richard	Clarke, Claire	Davis, Frank
French, Barbara	Gile, Mary	Greco, Vincent	Jacobson, Alf
Moore, Carol	Perkins, Randy	Potter, Frances	Reardon, Tara
Rodd, Beth	Rush, Deanna	Wallner, Mary Jane	Yeaton, Charles

ROCKINGHAM

Blanchard, MaryAnn	Clark, Martha Fuller	Gilbert, Karl	Micklon, Stephanie
Norelli, Terie	Pitts, Jacqueline	Power, Lucille	Robertson, Carl
Ruffner, Walter	Shultis, Elizabeth	Splaine, James	Trueman, Raymond
Weatherspoon, Jacquelyne			

STRAFFORD

DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris	Goodwin, Earle
Grassie, Anne	Johnson, Nancy	Kaen, Naida	Lent, Donald
Pelletier, Arthur	Proulx, Raymond	Smith, Marjorie	Snyder, Clair
Taylor, Kathleen	Woodill, Rodney		

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Franklin, Peter
Harris, Joseph	Harris, Sandra		

and the report was adopted.

Rep. Tahir declared a conflict of interest and did not participate.

HCR 14, declaring the New Hampshire supreme court's Claremont decisions to be an unconstitutional violation of the separation of powers mandate under part I, article 37 of the New Hampshire constitution. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE**

Rep. Robert Giuda for the Majority of Ways and Means: The Claremont decisions raise two important questions. First, should it be the policy of this state to settle for mere adequacy in education, as the New Hampshire Supreme Court directs, or should our goal be excellence. The

second, and far more important question, is whether we will maintain the people's right to a government based upon a separation of powers among the branches of government, or whether we will allow one branch of government, the judiciary, to assume authority that belongs to the other branches.

Our system of government is based upon a system of checks and balances. One of these checks and balances is the separation of powers among the three branches. In the Claremont decisions, the New Hampshire Supreme Court violated the separation of powers by directing the other branches to pass legislation establishing a system of public education based upon certain parameters drawn from a decision by the Supreme Court of Kentucky.

HCR 14 does not reject the theory of judicial review. It does not assert that the Legislature, or the Governor, can "overrule" court decisions, or that courts cannot review legislation affecting education or tax policy. Rather, HCR 14 simply affirms the well settled proposition that the power of judicial review is not the power to direct the other branches to pass legislation and that, consequently, the directives by the Supreme Court in the Claremont decisions that the legislature is required to pass certain legislation based upon parameters set forth by the court are not binding upon the legislature. Vote 9-7.

Rep. Susan W. Almy for the Minority of Ways and Means: The minority of the committee objects strongly to the vote of OTP/A on HCR 14. By voting for this resolution, members of the majority are saying that the citizens of our state do not have the right to petition the courts for redress of their constitutional rights. The Supreme Court has not, as the majority believe, told the legislature how to fund education, but only that education, a constitutional right, must be funded, and funded in a fair and equitable manner. It is the opinion of the minority that HCR 14 is an affront to the doctrine of separation of powers. As an HCR this bill has no force of law. The minority questions the purpose of this legislation.

Amendment (2059h)

Amend the resolution by replacing all after the resolving clause with the following:

That the legislature hereby finds and declares that the school tax structure in effect prior to the Claremont II decision is constitutional and shall continue to be used until such time as modified by the representative branches.

Adopted.

Rep. Sapareto offered a floor amendment.

Floor Amendment (2210h)

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

A RESOLUTION declaring it to be wrongful for the judiciary, either directly or indirectly, to define an adequate education or the cost of an adequate education.

Amend the resolution by replacing the first paragraph after the title with the following:

Whereas, the members of the executive and legislative branches of the state of New Hampshire, having made and subscribed an oath to God and to the state and its constitution, or

alternatively, by affirming under the pains and penalties of perjury, their allegiance to the state of New Hampshire and its constitution pursuant to part II, article 84 of said constitution, hereby find that the New Hampshire supreme court decisions in the Claremont cases were wrong and that the supreme court does not have the power to tell the legislature whether and how to set educational policy and whether and how much to spend on education and that, accordingly, these aspects of the Claremont I and Claremont II decisions and any and all consequences that flow therefrom do not have the force and effect of the law.

Amend the resolution by replacing subparagraph (b) of the fourth paragraphs after the title with the following:

(b) The legislative power vested exclusively in the general court by part II, article 2 includes the power and discretion to determine whether and how to set educational policy and whether and how much to spend on education. Therefore, the legislature finds that it is wrongful for the judiciary, either directly or indirectly, to define educational adequacy or the cost of educational adequacy.

(See, e.g., Coleman v. School District of Rochester, "The courts may not declare acts of the legislature void on the sole issue whether they are 'wholesome and reasonable.' The legislature is to judge whether they are for 'the benefit and welfare' of the state.")

Amend the resolution by replacing all after the resolving clause with the following:

That the legislature hereby finds and declares that the school tax structure in effect prior to the Claremont II decision may continue to be used until such time as modified by the representative branches, and has been modified by the representative branches.

AMENDED ANALYSIS

This house concurrent resolution declares that it is wrongful for the judiciary, either directly or indirectly, to define an adequate education or the cost of an adequate education.

Reps. Sapareto and Giuda spoke in favor.

Rep. Herman spoke in favor, yielded to questions and requested a roll call; sufficiently seconded.

The question being adoption of the Sapareto floor amendment.

YEAS 212 NAYS 134

YEAS 212

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Flanders, Donald
Holbrook, Robert	Lawton, David	Millham, Alida	Nedeau, Stephen
Rice, Thomas Jr	Rosen, Ralph	Russell, David	Thomas, John

Wendelboe, Fran

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
Mock, Henry	Patten, Betsey	Philbrick, Donald	Quimby, Lee
Stevens, Stanley	Sullivan, P Judith	Torressen, Gary	

CHESHIRE

Avery, Stephen	Dexter, Judson	Edwards, Dana	Emerson, Susan
Fairbanks, Chandler	Hunt, John	Liebl, George	Pratt, John
Roberts, William	Royce, H Charles	Smith, Edwin	

COOS

Gallus, John	Horton, Lynn	Rozek, Michael	Stohl, Eric
Tholl, John Jr	Woodward, David		

GRAFTON

Alger, John	Barker, Robert	Cobb, John	Dudley, Terri
Gabler, William	Gilman, G Michael	Giuda, Robert	Ham, Bonnie
Marshall, Gene	Mirski, Paul	Scanlan, David	Sova, Charles
Teschner, Douglass	Ward, Brien		

HILLSBOROUGH

Allan, Nelson	Alukonis, David	Artz, Lawrence	Balboni, Michael
Balcom, John	Batula, Peter	Bergeron, Jean-Guy	Bouchard, David
Bragdon, Peter	Brundige, Robert	Bruno, Pierre	Buckley, Raymond
Calawa, Leon Jr	Carlson, Donald	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Clegg, Robert Jr	Coughlin, Pamela	Daigle, Robert
Desrosiers, William	Dionne, Kimberley	Dyer, Merton	Elliott, Larry
Fields, Dennis	Fletcher, Richard	Furman, Christine	Gargasz, Carolyn
Gleneck, David	Golding, William	Gonzalez, Carlos	Goulet, Maurice
Graham, John	Greenberg, Gary	Guinta, Frank	Hall, Charles
Herman, Keith	Holden, Randolph	Hopper, Gary	Jean, Loren

Johnson, Lionel	Kurk, Neal	L'Heureux, Robert	LaFlamme, Paul
LaRose, Richard	Martel, Andre	Martin, Mary Ellen	McHugh, Claire
McRae, Karen	Mercer, Robert	Messier, Irene	Milligan, Robert
Moran, Edward	O'Connell, Timothy	Panagopoulos, Nicholas	Pappas, Marc
Pepino, Leo	Reeves, Sandra	Sargent, Maxwell	Shaw, Barbara
Souza, Kathleen	Spiess, Paul	Tahir, Saghir	Tate, Joan
Thompson, Rob	Thulander, O Alan	Wheeler, Robert	

MERRIMACK

Anderson, Eric	Colcord, J D	Cummings, Raymond	Dunne, Christopher
Fraser, Leo Jr	Hutchinson, John	Jacobson, Alf	Kennedy, Richard
L'Heureux, Stephen	Langer, Ray	Leber, William	Lockwood, Priscilla
MacKay, James	Maxfield, Roy	Soltani, Tony	Swindlehurst, John
Whalley, Michael	Winter, Steven		

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Bridle, Russell	Camm, Kevin
Carson, Sharon	Chalbeck, Kevin	Clark, Vivian	Corbin, Corey
Cox, Russell	Dalrymple, Janeen	Dearborn, Bruce	DiFruscia, Anthony
Dowling, Patricia	Dumaine, Dudley	Fesh, Bob	Flanders, John Sr
Francoeur, Sheila	Gilbert, Jeffrey	Gilbert, Karl	Giordano, Ronald
Gleason, John	Griffin, Mary	Hamel, Albert	Henderson, Warren
Hill, Jonathan	Holland, James Jr	Introne, Robert	Itse, Daniel
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph
Langley, Jane	Langone, John	Letourneau, Robert	Major, Norman
McKinney, Betsy	Moore, Benjamin	Morse, Charles	Nowe, Ronald
O'Neil, Michael	Palermo, Diane	Power, Lucille	Priestley, Anne
Putnam, Ed II	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reardon, Neil	Robertson, Carl	Ruffner, Walter	Sapareto, Frank
Sloan, Stephen	Stone, Joseph	Stritch, C Donald	Trueman, Raymond
Varrell, Thomas	Welch, David	Weyler, Kenneth	Whittier, John
Zolla, William			

STRAFFORD

Albert, Russell
Harrington, Michael

Bickford, David
Twombly, James

Cossette, Larry
Woods, Phyllis

Ferland, Paul

SULLIVAN

Jones, Constance

Leone, Richard

Odell, Bob

Rodeschin, Beverly

NAYS 134

BELKNAP

Johnson, William

Salatiello, Thomas

Wood, Jane

CARROLL

None

CHESHIRE

Allen, Peter

Burnham, Daniel

Espieffs, Peter

Manning, Joseph

McGuirk, Paul

Meader, David

Mitchell, McKim

Pratt, Irene

Richardson, Barbara

Slack, Pamela Russell

Weed, Charles

Zerba, Roger

COOS

Davis, Perley

Landers, Dana

Mears, Edgar

GRAFTON

Akins, Ralph

Almy, Susan

Benn, Bernard

Cooney, Mary

Lovett, Sid

Naro, Debra

Nordgren, Sharon

Pawlek, Marion

Scovner, Nancy

Sokol, Hilda

Solow, Martha

Williams, Burton

HILLSBOROUGH

Andosca, Mary

Baroody, Benjamin

Bellavance, Paul

Bergin, Peter

Cardin, Lori

Clayton, William

Clemons, Jane

Cote, David

Cote, Peter

Craig, James

Dionne, David

Dokmo, Cynthia

Drabinowicz, A Theresa

Drisko, Richard

Ford, Nancy

Foster, Linda

Ginsburg, Ruth

Goley, Jeffrey

Gorman, Mary

Hall, Betty

Jean, Claudette	Kacavas, John	Keye, Harvey	Konys, Christine
Lasky, Bette	Leach, Edward	Leishman, Peter	McDonough-Wallace, Alice
Melcher, Harold	Movsesian, Lori	Palangas, Eric	Peterson, Andrew
Rowe, Robert	Schulze, Joan	Sullivan, Peter	Sweeney, Cynthia
Vaillancourt, Steve	White, John		

MERRIMACK

Bouchard, Candace	Brewster, Richard	Clarke, Claire	Daneault, Gabriel
Davis, Frank	Feuerstein, Martin	French, Barbara	Gile, Mary
Greco, Vincent	Hager, Elizabeth	Moore, Carol	Perkins, Randy
Potter, Frances	Reardon, Tara	Rodd, Beth	Rush, Deanna
Wallner, Mary Jane	Yeaton, Charles		

ROCKINGHAM

Blanchard, MaryAnn	Bowles, Raimond	Case, Margaret	Clark, Martha Fuller
Coes, Betsy	Cooney, Richard	Downing, Michael	Johnson, Robert
Kelley, William	McGuire, Robert	Micklon, Stephanie	Norelli, Terie
Pitts, Jacqueline	Shultis, Elizabeth	Splaine, James	Weatherspoon, Jacquelyne

STRAFFORD

Berube, Roger	Brennan, William	Brown, Julie	Callaghan, Frank
DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris	Goodwin, Earle
Grassie, Anne	Heon, Richard	Johnson, Nancy	Kaen, Naida
Knowles, William	Lent, Donald	McCarthy, Gerald	Pelletier, Arthur
Proulx, Raymond	Reid, Christopher	Rollo, Michael	Smith, Marjorie
Snyder, Clair	Taylor, Kathleen	Wall, Janet	Woodill, Rodney

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Flint, Gordon Sr
Franklin, Peter	Harris, Joseph	Harris, Sandra	Phinizy, James

and the floor amendment was adopted.

The question now being adoption of the amended report.

Reps. William Kelley, Jacobson, McGuirk, John Pratt and Spiess spoke against.

Reps. Alukonis, Leone and Mock spoke in favor.

Rep. Scanlan requested a roll call; sufficiently seconded.

YEAS 188 NAYS 152

YEAS 188

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Czech, Stanley	Flanders, Donald
Holbrook, Robert	Lawton, David	Nedeau, Stephen	Rice, Thomas Jr
Rosen, Ralph	Russell, David	Thomas, John	Wendelboe, Fran

CARROLL

Babson, David Jr	Bradley, Jeb	Dickinson, Howard	Kenney, Joseph
Mock, Henry	Patten, Betsey	Quimby, Lee	Stevens, Stanley
Sullivan, P Judith	Torressen, Gary		

CHESHIRE

Dexter, Judson	Edwards, Dana	Emerson, Susan	Fairbanks, Chandler
Hunt, John	Liebl, George	Roberts, William	Royce, H Charles
Smith, Edwin			

COOS

Gallus, John	Horton, Lynn	Rozek, Michael	Stohl, Eric
Tholl, John Jr			

GRAFTON

Alger, John	Barker, Robert	Cobb, John	Dudley, Terri
Eaton, Stephanie	Gabler, William	Gilman, G Michael	Giuda, Robert
Ham, Bonnie	Marshall, Gene	Mirski, Paul	Scanlan, David
Sova, Charles	Teschner, Douglass	Ward, Brien	

HILLSBOROUGH

Allan, Nelson	Alukonis, David	Artz, Lawrence	Balboni, Michael
Batula, Peter	Bergeron, Jean-Guy	Bouchard, David	Bragdon, Peter
Brundige, Robert	Bruno, Pierre	Calawa, Leon Jr	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Clegg, Robert Jr	Coughlin, Pamela
Desrosiers, William	Dionne, Kimberley	Dyer, Merton	Elliott, Larry
Fields, Dennis	Fletcher, Richard	Furman, Christine	Gleneck, David
Golding, William	Gonzalez, Carlos	Goulet, Maurice	Graham, John
Greenberg, Gary	Guinta, Frank	Hall, Charles	Herman, Keith
Holden, Randolph	Hopper, Gary	Jean, Loren	Kurk, Neal
L'Heureux, Robert	LaFlamme, Paul	LaRose, Richard	Martel, Andre
Martin, Mary Ellen	McHugh, Claire	McRae, Karen	Mercer, Robert
Milligan, Robert	Moran, Edward	Pappas, Marc	Pepino, Leo
Reeves, Sandra	Sargent, Maxwell	Souza, Kathleen	Tahir, Saghir
Tate, Joan	Thompson, Rob	Thulander, O Alan	Vaillancourt, Steve
Wheeler, Robert			

MERRIMACK

Anderson, Eric	Cummings, Raymond	Dunne, Christopher	Hutchinson, John
Kennedy, Richard	L'Heureux, Stephen	Langer, Ray	Leber, William
MacKay, James	Soltani, Tony	Swindlehurst, John	Whalley, Michael
Winter, Steven			

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Bridle, Russell	Camm, Kevin
Carson, Sharon	Chalbeck, Kevin	Clark, Vivian	Corbin, Corey
Cox, Russell	Dalrymple, Janeen	Dearborn, Bruce	DiFruscia, Anthony
Dowling, Patricia	Dumaine, Dudley	Fesh, Bob	Flanders, John Sr
Francoeur, Sheila	Gilbert, Jeffrey	Gilbert, Karl	Giordano, Ronald
Griffin, Mary	Hamel, Albert	Henderson, Warren	Hill, Jonathan
Holland, James Jr	Introne, Robert	Itse, Daniel	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane
Langone, John	Letourneau, Robert	Major, Norman	McKinney, Betsy
Moore, Benjamin	Morse, Charles	Nowe, Ronald	O'Neil, Michael

Palermo, Diane
Quandt, Marshall
Ruffner, Walter
Varrell, Thomas
Zolla, William

Power, Lucille
Quandt, Matthew
Sloan, Stephen
Welch, David

Priestley, Anne
Rausch, James
Stone, Joseph
Weyler, Kenneth

Putnam, Ed II
Reardon, Neil
Stritch, C Donald
Whittier, John

STRAFFORD

Albert, Russell
Twombly, James

Bickford, David
Woods, Phyllis

Cossette, Larry

Harrington, Michael

SULLIVAN

Jones, Constance

Leone, Richard

Odell, Bob

Rodeschin, Beverly

NAYS 152

BELKNAP

Johnson, William

Millham, Alida

Salatiello, Thomas

Wood, Jane

CARROLL

Philbrick, Donald

CHESHIRE

Allen, Peter
Manning, Joseph
Pratt, Irene
Zerba, Roger

Avery, Stephen
McGuirk, Paul
Pratt, John

Burnham, Daniel
Meader, David
Richardson, Barbara

Espieffs, Peter
Mitchell, McKim
Weed, Charles

COOS

Davis, Perley

Landers, Dana

Mears, Edgar

GRAFTON

Akins, Ralph
Lovett, Sid

Almy, Susan
Naro, Debra

Benn, Bernard
Nordgren, Sharon

Cooney, Mary
Pawlek, Marion

Scovner, Nancy

Sokol, Hilda

Solow, Martha

Williams, Burton

HILLSBOROUGH

Andosca, Mary

Baroody, Benjamin

Bellavance, Paul

Bergin, Peter

Buckley, Raymond

Cardin, Lori

Carlson, Donald

Clayton, William

Clemons, Jane

Cote, David

Cote, Peter

Craig, James

Daigle, Robert

Dionne, David

Dokmo, Cynthia

Drabinowicz, A Theresa

Drisko, Richard

Ford, Nancy

Foster, Linda

Gargasz, Carolyn

Ginsburg, Ruth

Goley, Jeffrey

Gorman, Mary

Hall, Betty

Jean, Claudette

Johnson, Lionel

Kacavas, John

Keye, Harvey

Konys, Christine

Lasky, Bette

Leach, Edward

Leishman, Peter

Melcher, Harold

Messier, Irene

Movsesian, Lori

O'Connell, Timothy

Palangas, Eric

Panagopoulos, Nicholas

Peterson, Andrew

Rowe, Robert

Schulze, Joan

Shaw, Barbara

Spiess, Paul

Sullivan, Peter

Sweeney, Cynthia

White, John

MERRIMACK

Bouchard, Candace

Brewster, Richard

Clarke, Claire

Colcord, J D

Daneault, Gabriel

Davis, Frank

Feuerstein, Martin

Fraser, Leo Jr

French, Barbara

Gile, Mary

Greco, Vincent

Hager, Elizabeth

Jacobson, Alf

Lockwood, Priscilla

Maxfield, Roy

Moore, Carol

Perkins, Randy

Potter, Frances

Reardon, Tara

Rodd, Beth

Rush, Deanna

Wallner, Mary Jane

Yeaton, Charles

ROCKINGHAM

Blanchard, MaryAnn

Bowles, Raimond

Clark, Martha Fuller

Coes, Betsy

Cooney, Richard

Downing, Michael

Gleason, John

Johnson, Robert

Kelley, William

McGuire, Robert

Micklton, Stephanie

Norelli, Terie

Pitts, Jacqueline

Robertson, Carl

Sapareto, Frank

Shultis, Elizabeth

Splaine, James

Trueman, Raymond

Weatherspoon,
Jacquelyne

STRAFFORD

Berube, Roger

Brennan, William

Brown, Julie

Callaghan, Frank

DeChane, Marlene	Dunlap, Patricia	Estabrook, Iris	Ferland, Paul
Goodwin, Earle	Heon, Richard	Johnson, Nancy	Kaen, Naida
Lent, Donald	McCarthy, Gerald	Pelletier, Arthur	Proulx, Raymond
Reid, Christopher	Rollo, Michael	Smith, Marjorie	Snyder, Clair
Taylor, Kathleen	Wall, Janet	Woodill, Rodney	

SULLIVAN

Burling, Peter	Cloutier, John	Ferland, Brenda	Flint, Gordon Sr
Franklin, Peter	Harris, Joseph	Harris, Sandra	Phinizy, James

and the amended report was adopted.

Ordered to third reading.

without objection

Without objection, the Speaker ordered the debate on HCR 14 be printed in the Journal.

debate on hcr 14

Rep. Sapareto: Thank you, Mr. Speaker. The only difference in this amendment to what is printed in the other version is at the bottom where it refers to "legislature hereby finds and declares that the school tax structure in effect prior to the Claremont II decision." It says now, "may continue to be used until such time as modified by the representative branches, and has been modified by the representative branches," which it has been. This brings this up-to-date. My intent of this is just to be certain that we are in no way intending to utilize the previous tax structure right now, and it's not in place and we are not raising local property taxes. That is why I have made that change in this amendment.

Rep. Herman: Thank you, Mr. Speaker. I rise in support of the floor amendment in front of you. Originally, I had offered a floor amendment that is in your seat pockets that made several changes to the original committee report. My changes are included in Rep. Sapareto's floor amendment. The changes that are here remove the words "unconstitutional" and "constitutional" throughout the original HCR. There was concern by many members speaking to them that the original bill said that the Supreme Court acted unconstitutionally and they felt that the Supreme Court, and I agree, can't act unconstitutionally. So, wherever those words were in the original HCR 14, my amendment and now Rep. Sapareto's amendment have replaced them and those places are: In the first paragraph of the bill, if you look at Rep. Sapareto's amendment, approximately the 5th line down starting,... " hereby find that the New Hampshire supreme court decisions in the Claremont cases were wrong," previously that had said "were unconstitutional." And the other change in the 4th paragraph of the bill, section b further down "Therefore, the legislature finds that it is wrongful for the judiciary...", originally it had said "unconstitutional for the judiciary." Those are the changes my original amendment was going to make. Rep. Sapareto's floor amendment makes those changes, too, and

then he explains the changes at the bottom. So I would ask you to support Rep. Sapareto's floor amendment.

Speaker: Would the member yield to a question? Rep. Leishman you may inquire.

Rep. Leishman: Thank you, Mr. Speaker . Thank you, Rep. Herman. If I understand this, now many members of the House said you ought to vote for this because it's "feel good" legislation, but if you moved down the path and this proceeds down to a constitutional amendment, Rep. Herman, being from Milford like you and I are both, wouldn't that mean that our town, if we went back to the old way of doing things, would see a \$6 million increase in taxes?

Rep. Herman: Passage of HCR 14 in no way changes any revenues or expenditures by part of this legislature. To change any amount of money that this legislature is spending currently or in the future would require future action of this body. HCR 14 would not result in less money to your taxpayers.

Speaker: Does the member yield to another question? The member yields, Rep. Jacobson you may inquire.

Rep. Jacobson: Thank you, Mr. Speaker. Rep. Herman, I'm interested in the word that you use "wrongful" and "wrong". Now, is the intention of that to be a violation or is it merely a belief?

Rep. Herman: Clearly, it is a belief. That's the purpose of a House Concurrent Resolution.

Rep. Giuda: Thank you, Mr. Speaker. Esteemed members of the House, I rise in support of Rep. Sapareto's amendment. It makes some very clear changes to a bill that is very important to our House and to clarify separation of powers between the judiciary and the legislative. I rise in support. I ask you to do the same. Thank you.

Speaker: Rep. Kelley is recognized.

Rep. William Kelley: Thank you, Mr. Speaker. I rise in opposition to HCR 14 for the plain and simple reason because of my conscience. Sitting in this House for the past three years, I've seen what we haven't done. I have been approached by many, many people today, yesterday, by telephone to try to change my vote on this. I choose not to. What I did do was go to my number one supporter who is my wife, Marge, and I asked her to read the blurb. She gave me a fresh insight on how she saw what the blurb was saying. This is what she said to me. "The blurb written as is, it is an insult in a psychological game to distract from the bottom line; a ploy or scare tactic that intimidates a decision to either or." It is supposed to be our goal to strive for excellence? Can we assure an adequate education thus insuring that adequate is nothing less than excellent? I don't have the answer to that question. I don't believe too many people in this room have that answer. What does this bill do? What does it have to do with the welfare of the children? Does it reflect them? This bill says that not only are the parties in dispute of power, but the parties themselves have a conflict of power within. Have we as a body worked together for the benefit of those who put us here? Lastly, I would like to leave you with this. The almighty dollar does not pay for excellence. The conscience, ethics and obligation of this body is to achieve or accomplish that what's guaranteed every child, to be cherished as the constitution states. I could go into a lot of different things as to why I am standing here, but really it doesn't make any difference. This isn't about separation of power. This is about a statement. Do we really want to get into a fight? If we wanted to get into a fight, we should have done it six years ago which we did not do. Thank you.

Speaker: The Chair recognizes the member from New London, Rep. Jacobson.

Rep. Jacobson: Thank you, Mr. Speaker. I would like to request a quorum call.

Speaker: Rep. Jacobson requests a quorum call. The Chair declares a quorum present and recognizes Rep. Jacobson to speak to the committee report of Ought to Pass as Amended.

The House will please be in order.

Rep. Jacobson: First, before I begin I would like to protest the order of which the speakers have been arranged. It violates everything that I know of in order to provide an equal and free discussion. Now, to the question. First of all, I would like to say that there has been a lot of things said about the Claremont II decision that are erroneous. There's not a single sentence in the entire decision that suggests any kind of tax. Secondly, it does not require any kind of uniformity, you can have differing library resources, you can have different classroom sizes. It does not demand that. It actually deals with one question. And that question is, "Shall the citizens of New Hampshire pay for public education in a really proportional and reasonable way?" That's what this decision calls for, and that's all it calls for. Now, there are lot of little references to the constitution and I would like to point to a couple of them. One of them is Part I, Article 12 and what that portion of the constitution calls for is that every citizen in New Hampshire shall pay his just share. That's what that constitutional provision calls for. Now, there's been a lot of discussion about Part II, Article 83 and this proposed HCR focuses on the question of "cherish." But that's the wrong focus. The real focus is this: that it is "the duty of legislators and magistrates" which is to say, it is the duty of this general court and the executive branch, to embrace all the advantages of public education. That's what Part II, Article 83 says. And that is the heart of the matter. Now, it's ironic that in listing all of these parts of the New Hampshire constitution, they left out one important one, Part I, Article 35, which gives to the court that constitutional authority to interpret the laws of the state and the administration of justice. It's there in clear, cold language. Now, this is an HCR and we could adopt 50 of those in any given day. We could adopt ten every day. But an HCR does nothing. And what I don't understand is why the sponsors of this HCR didn't grab the bull by the horns and propose the kind of legislation they talk about in the HCR. That I cannot understand. For example, in the HCR they argue that education funding is at zero dollars. Alright, put that in the legislation. That education funding is at zero dollars. Secondly, you can put in the legislation that the state may supply monies to pay for part of the educational costs of the state. According to them, they don't have to pay for anything but let's put it in. Thirdly, that any funds for public education, not appropriated by the federal government, which I think grants 3% or some such figure, and by the state must be appropriated by the local taxing unit of the school district. Because those are the three things that they argue for in this resolution. I think what should happen is that the sponsors of this resolution should come out with the legislation and then we can debate it. I urge you not to pass this HCR even though your possible voting for it means absolutely nothing beyond the moment. Thank you.

Speaker: The Chair recognizes the member from Hudson, Rep. Alukonis.

Rep. Alukonis: Thank you, Mr. Speaker. There's a quote that I'll never forget, it has stayed with me about 20 years now, and it reminds me of my duties as a legislator, as a local official, and, more importantly, as a citizen. Somewhere, early eighties, mid-eighties, there was a fellow elected member of a board on which I sat that said one night at a public meeting, "If it weren't for that pesky constitution, we would be able to do so much more." That pesky constitution. I was as dumbfounded and offended then as I am now, and I hope that you are and that any other elected official could be at hearing someone utter that phrase. Mr. Speaker, I am not an attorney, nor am I a constitutional scholar but that phrase so long ago led me to read and reread, yet again, over and over again, the state's constitution. I am not an expert, but then again, the constitution was not written for experts. It's written not just for judges and the courts, it was written by ordinary people for the people; it was written for the general public. It was written for us. It is not difficult to understand. Judge it against the legislation which we generate here in this chamber. Judge it against the rules and regulations

which are promulgated by our state agencies. Comparatively, it's a very easy read. Mr. Speaker, we have each taken oaths to uphold and defend the constitution. That duty does not stop at the threshold of being able to interpret and apply the constitution to present day issues and problems. Indeed, it is the responsibility of each and every one of us to interpret and understand that framework. How many times has a member of this House in an address declared that a certain provision of legislation was or was not constitutional? Our own rules call for our vice chairmen to review legislative proposals for their constitutionality relative to Article 28a. Do we seek the court's opinion in everything we do? Does the legislature act only as a consequence of the court's rulings? Of course not. Interpreting the constitution is part of our job. Mr. Speaker, legislators make mistakes. Legislatures make mistakes. Judges make mistakes and, yes, courts, too, make mistakes. If courts didn't make mistakes there wouldn't be courts of appeal. There would be no supreme court. There would be no system of checks and balances. But, Mr. Speaker, courts do make mistakes and I believe in my heart and soul that the court was wrong in Claremont. I am sworn to uphold the constitution and I believe like so many members of this House that the general court must make a statement asserting that error, acknowledging the court's mistake. And so we have the Concurrent Resolution 14. What is HCR 14? It is a statement of legislative and constitutional conscience. Our own rules clearly define what a concurrent resolution is: A concurrent resolution "may be used to put the legislature on record as supporting or disavowing some aspect of national or state policy." It further states that a concurrent resolution does not have the effect of law. HCR 14 is simply and only a statement of belief, of conscience. So, will adoption of HCR 14 reduce or eliminate the state's current level of funding the public schools? No. Will the adoption of HCR 14 wipe away the adequacy, report cards, or other valuable and beneficial educational initiatives which this legislature and governor have enacted over the past few years? No, it will not. Mr. Speaker, as chairman of the Hudson School Board, am I concerned that adoption of HCR 14 will degrade or devalue the education of my 4,125 students or that it will adversely impact or increase the taxes of the 25,000 residents and taxpayers in Hudson. No, I am not. I first sat in this chamber in the early 70's. I was perhaps 11 or 12 years old when my father, like yours before you, served as a member of this House. But unlike yours, Mr. Speaker, mine sat in Division 2. Yes, he was a Democrat. I'm not done yet. He served as a member of this House and a member of the Judiciary Committee. He was a Democrat until 1986 when he switched parties and voted for me, a Republican. I'd like to think that he was following in my footsteps. The first vote I ever cast was in 1980 in the presidential primary for Ronald Reagan. Well, in the aftermath of Claremont, in those hours afterwards, and many times in the years since, my father has repeatedly said to me, "The court cannot do that, they are wrong. The legislature needs to do something." Well, Dad, if you are listening down there in Hudson, you're right and believe me, that's not something I say very often. The court is wrong and today we are doing something by voting in favor of HCR 14. Thank you, Mr. Speaker.

Speaker: The Chair recognizes the member from Walpole, Rep. McGuirk.

Rep. McGuirk: Thank you, Mr. Speaker. Members of the House, I received, as you received just recently, the floor amendment that was just adopted by this House, the Sapareto amendment. Sometimes you have to be very careful with words and how you use words. I am no English major and I never was, I never professed to be. But the paragraph replacing the resolution referring to the funding, it says... "may continue to be used." If it's the intent of this body, here today, to continue the level funding as the honorable member from New London said put it in legislation and put it here before this body for a vote. Now, a lot of us think, or some of you might think, that Claremont II or Claremont I is responsible for our being here today to discuss HCR 14. Let's go back and look at a little bit of history, folks. Now, I'm not up to speed on the court cases that took place that ultimately led to what we term the Augenblick formula. There were school court cases back in the 80's. And out of those cases came an agreement that they would fund education in this state to a certain degree with a certain amount of dollars. Those promises were never kept. I'm proud to say, that there are a few of you as I look around this room who were here back in 1994 when this very body, and I will also say the Senate on the other side of that wall, passed legislation sponsored by my Democratic

leader, Rep. Burling from Cornish, and former Rep. Amanda Merrill from the coast and others to fully fund Augenblick. And as I was surprised back when you folks encouraged me with your votes on the legacy and succession tax, that was a surprise to me back in 1994. It passed both bodies. It was defeated by then sitting Governor Merrill. And here we are today. Struggling, with a decision made by the supreme court to fund education in this state. It's funny how history comes back to bite you. If you can't grab something good in the past and hang onto it and realize the significance of that which was passed, then we end up in the position we are today. So, in closing, watch out for words. You can go back to your constituents tonight, tomorrow or this weekend and say, "Yes, I slapped the supreme court today." I'm not going to do that. I'm going back to my constituents and I'm going to say, "Watch out folks, your property tax bill in 2003, 2004, 2005 might be quite high." Thank you, Mr. Speaker.

Speaker: The Chair recognizes the other member from Walpole, Rep. Pratt.

Rep. John Pratt: Thank you, Mr. Speaker. I hope I'm not here to oppose my fellow representative from Walpole. This is about the fifth mental revision of the speech that I've made in the last 30 minutes and I'm going to begin by cutting out the first half. So I'm going to start by saying to me it doesn't really matter whether in the end you favor Claremont I and II or you oppose Claremont I and II. This is not a good resolution and I would like to say why. And I would like to say why by responding if I could to what I thought were very intelligent remarks, very clear remarks by the gentleman from Hudson. If this was a simple resolution that said those that think the court decided correctly, go to the aisles on the right, those that think it decided incorrectly, go to the aisles on the left; if that's what it was, whether this was right or wrong; that would be one thing. But, we have gone beyond that. I commend, frankly, the leadership for drawing back from what was highly dangerous language, highly dangerous language and I think you have done a good thing. But you still have left language in it which is terribly troublesome and or to trouble everyone in this House. Because as it now reads, the first paragraph ends by saying,... "accordingly, these aspects of the Claremont I and Claremont II decisions and any and all consequences that flow therefrom do not have the force and effect of the law." That is to say that this House has decided what laws it deems proper and what laws it deems not to have to obey. And I say to the gentleman from Hudson; he went back to 1980. I go back to 1960. And there arose in the 1960's in the United States a constitutional doctrine called nullification. It was the doctrine that was adopted by the Governor of Arkansas and the legislature of Arkansas when they denied children the right to Little Rock High School. It was the doctrine adopted by Governor Barnett of Mississippi and the legislature of Mississippi when they denied James Meredith the right to go the University of Mississippi. It was the doctrine adopted by George Wallace and legislature of Alabama when they denied admission to the University of Alabama. That doctrine simply says where we believe the court has erred, we will nullify that decision and it will not have the force and effect of law. I don't know exactly if that was the intention of the proponents of this resolution, but that is what it comes down to saying and nobody is clearer on this than the editors of *The Union Leader*. I want to read to you just one paragraph from *The Union Leader*, although it was on the original amendment, I think it still stands. "After all," said *The Union Leader*, "what can the court do should the legislative branch refuse to abide by one of its decisions? Nothing. If lawmakers have the willpower to defy the court, and if the governor refrains from calling out the National Guard to enforce the court's ruling, then the ruling becomes de facto. Null. Void. Which is just what the proponents of HCR 14 want." And they are right. They are absolutely right. And it took President Dwight David Eisenhower to call out the federal troops, the 82nd, to go to Little Rock. And it took President John Kennedy to call out the same 82nd to go to Oxford and to call up the National Guard in Alabama. This is a dangerous road. Now, I've heard that in the end it doesn't mean anything, but I urge caution. I urge caution. What we say does mean something and when we set ourselves up, above the court, which is what we are doing, we are going down a dangerous road. I beg you do not go there. Thank you, Mr. Speaker.

Speaker: The Chair recognizes the member for Sunapee, Rep. Leone.

Rep. Leone: Thank you, Mr. Speaker and colleagues of the House. First, I would like to make one thing clear which perhaps has been brought up today. I have been a member of the Main Street Republicans for the last four years and I want it understood in no way am I representing the Main Street Republicans or am I speaking for them. I am speaking on my own and I am speaking for my constituents in my three towns. I rise today to support HCR 14. I'm not here to argue adequacy or whether the funding should be \$700 million or \$680 million or \$980 million, whatever. I'm here to debate whether it should fund this education thing or not fund it. Right or wrong, to be perfectly candid, my record shows that I have been willing to put most anything on the line, on the table for discussion, in the last four years. I'm not here for that reason, Mr. Speaker. Rather, I'm here to protect the integrity and the sanctity of the property tax. It has been abused long enough during this process. I rise to protect it and the one tax that all our communities need as a common thread or catalyst in maintaining our local schools, local municipalities and pay our county bills. It has been and should continue as our foremost instrument in providing basic, local government services which is commensurate with our ability and propensity to maintain or keep local control --- a very important issue in New Hampshire. It is our common life blood and is applicable to all of us. All of the parties and agencies should keep their hands off. Raiding the local property tax is becoming a serious threat to all of our communities and it needs to stop. We can no longer tear the bricks and mortar from the very foundation that has kept this great state sustainable since its beginning. Mr. Speaker, the local property tax, again, the life blood of our communities, should not serve as a supplement for other programs as currently exists at this time. Rather, it should be the other way around. It needs to carry the bulk of the local burden and then be supplemented by other revenue sources when and if necessary. Otherwise, local control as we have known it will be history. Mr. Speaker, this state has been through a horror story over an educational funding debate for slightly over four years now. Let us pave the way for a solution. We can start that process within the next hour. Now is the time for us to take the first step on the road to a constitutional amendment. HCR 14 is that step. Our constituents have been clamoring to vote for a constitutional amendment to address this issue for some time now. They are weary and we are weary. My heart is telling me that the least restrictive way toward a solution at this time is to extend this courtesy to the wonderful citizens of this state. Only when we truly know the hearts and wishes of the people will we begin to formulate a solution which will have meaning. Based upon the conditions before us, I submit that there are not many other ways. Let our hearts follow HCR 14. Let real freedom ring. Save and bless the state of New Hampshire and God bless America.

Speaker: The Chair recognizes the member from Amherst, Rep. Spiess. The Chair announces that I have taken the previous question.

Rep. Spiess: Thank you, Mr. Speaker. I rise to speak in opposition to HCR 14. I do so mindful that the proponents of this bill have come forward with honest conviction and understandable indignation that this issue has been thrust upon us by a decision of the courts. No one likes to be told by another that we got it wrong, now go make it right. However, Mr. Speaker, this body cannot claim innocence to the sequence of events that led to Claremont I and II. At every point along this tiresome journey, this body has had the opportunity to express its will and to act to define and defend the state's obligations. My opposition to this bill stems from a deep seated belief that a resolution to this conflict will come only from compromise and conciliation, not confrontation and the assessment of blame. I care not what the court does or says. Their action is their prerogative. But I do care very much what we, this body, which most closely represents the interests of the citizens of this state, does. Our action today will define whether we are capable of putting the animus of Claremont behind us and move forward on the important issues of defining adequacy and accountability and thorny dilemma issue of funding. Let us not regress back to a war of words and political posturing. That can serve only to make these important tasks more difficult to accomplish. I believe that each of us are men and women of good will who passionately and energetically pursue our honest beliefs. It demeans us individually and collectively to seek confrontation rather than conciliation, to seek to assess blame

rather than to accept responsibility. Let us gently set aside this bill and define ourselves by our actions and not our words. Thank you.

Speaker: The question before the House is on the adoption of the majority committee report of Ought to Pass as Amended. The Chair recognizes the final speaker, the member from Jackson, Rep. Mock.

Rep. Mock: Thank you, Mr. Speaker. Members of the House, I rise today not to talk about Claremont I, not to talk about Claremont II, I'm here to talk not about shooting a deer over a bag of grain. I'm here to talk about something much more serious, much more concerned with something that you will always hear in every speech that I give from this podium. And that is that thread of fairness. You will never hear me up here condemn anyone of the branches of government and particularly that judiciary for which I have received some kind of a reputation for knowing something about. I rise today to speak briefly about a resolution which is before us which may prove to be one of the most, single most, important judicial reform acts which we may confront this session. A resolution that will separate the wheat from the chaff. A resolution whereby the House can speak clearly and loudly, where the House can exert its legal and moral courage and its authority to act on its on initiatives in solving the complex issues of that decision that I said I would not mention. This resolution simply does this. It affirms the well settled proposition that the power to make laws rests with the people's representatives, you. The power of judicial review, the power of the courts does not possess the authority to direct another branch of government to pass certain legislation. Their power is to answer the question, "Is that law constitutional or is that unconstitutional?" Short and sweet, plain and simple. Another country boy stood up here earlier and said that this HCR meant absolutely nothing and another representative from my committee stood up here and said, "Oh, yes, it does, it means a great deal." They both came from the Judiciary Committee. In this case, I agree with the Democrat. He's right but I agree with him for different reasons. What we are doing here today is changing a philosophy of subservience that has controlled this House for the past three or four years where we have become a body that reacts whether than a body of pro-action. I'll give you an example. Right now, on the table somewhere in this building, there is a proposition to target school districts who are most in need of help financially. Can we, as a legislative body, target additional funds to those districts? Instead of doing it, what have we done? We have asked the court, "May we do this?" Why are always there on bended knees always asking? We are the lawmakers. We should be doing that. All this HCR 14 does is to change the feeling here, change the philosophy, let's get down to work and go forward. Always the court should be there. Always the court should be respected but don't let them write the bill. This bill does not alter any laws and it does not make any laws. It can be summed up this simply. Instead of running around to the court and asking permission to do something, we are trying to tell ourselves, we have the power to do it. Go ahead and do it and then face the constitutional consequences. That sounds fair enough to me, and there's that word, and apparently it sounded quite fair to our founding fathers. The courage to pass this resolution will make the statement that this House has the fortitude to face any interference and any intimidation from the judiciary head on. It will allow us to once again implement the best policies for the education of New Hampshire's children and the best policies for New Hampshire citizens. A founding father of our constitution said this, "Power is the great evil with which we are contending. We have divided power between three branches of government and erected checks and balances to prevent abuse of power. However, where is the check on the power of the judiciary? If we fail to check the power of the judiciary, I predict that we will eventually live under judicial tyranny." Patrick Henry. In conclusion, as the governor so eloquently said this morning, New Hampshire, indeed America, underwent a transformation as a result of September 11th. Let the passage of this resolution be the new spirit, the new commitment, the new energy that the governor reminded us of. And let those principles and that of fairness guide this House in solving the people's problems. Thank you.

RESOLUTION

Rep. Scanlan 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, January 24, 2002 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 124, relative to the confidentiality of abuse and neglect proceedings and establishing a pilot project relative to abuse and neglect hearings in the Grafton county court.

HB 298-FN-L, relative to charter schools and establishing a charter school revolving fund.

HB 560-FN-A, establishing a contributory judicial retirement plan.

HCR 14, declaring it to be wrongful for the judiciary, either directly or indirectly, to define an adequate education or the cost of an adequate education.

RECESS MOTION

Rep. Scanlan moved that the House stand in recess for the purpose of introduction of bills, receiving Senate messages, enrolled bill amendments and enrolled bill reports only.

Adopted.

The House recessed at 4:00 p.m.

RECESS