

HOUSE RECORD

Second Year of the 158th General Court Calendar and Journal of the 2004 Session

Vol. 26

Concord, N.H.

Thursday, May 6, 2004

No. 37

HOUSE JOURNAL No. 14 (cont.)

Wednesday, May 5, 2004

Rep. Hess moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 15

Thursday, May 6, 2004

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.

Bestow upon this honorable House today, O Lord, wisdom, courage, skill, compassion, and a love of country, that all the citizens of our beloved New Hampshire may be proud of their elected representatives and inspired to participate in the democratic traditions celebrated in this hallowed chamber.

Be with all those today who stand in harm's way to protect and defend us with honor and courage. Amen.

Rep. David H. Russell led the Pledge of Allegiance.

The National Anthem was sung by Maura Quinn, a senior at the University of New Hampshire.

LEAVES OF ABSENCE

Reps. Flanagan, Gionet, Joseph Harris, Sandra Harris, Lefebvre, Moore and Pitts, the day, illness.

Reps. Timothy Allen, Bergin, Corbin, Daniels, DeJoie, Duffy, Dumaine, Jeffrey Gilbert, Hatch, Itse, Lawton, McRae, Movsesian, Reardon, Herbert Richardson, Royce, Slack, Paul Smith, Peter Sullivan, Winchell and Woodward, the day, important business.

Rep. Dalrymple, the day, illness in the family.

INTRODUCTION OF GUESTS

John and Greta Olmstead, and Lorena Perez, guests of Rep. Thomas. James Dean, guest of Rep. Dudley.

SENATE MESSAGES REQUESTS CONCURRENCE WITH AMENDMENTS

HB 730-FN-L, establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases. (Amendment printed SJ 04/01/04)

Rep. Gilman moved that the House concur and spoke in favor.

Adopted.

HB 1298, establishing a committee to study local dispute resolution for public employee labor relations. (Amendment printed SJ 04/08/04)

Rep. Gilman moved that the House concur and spoke in favor.

Adopted.

HB 1326, establishing a study committee to examine the classification of consumer and display fireworks. (Amendments printed SJ 04/22/04)

Rep. Welch moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Welch, Knowles, Bemis and Bicknell.

HB 1162, relative to school district policies on bullying. (Amendment printed SJ 04/22/04)

Rep. Stephen L'Heureux moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Mark Carter, Naro, Carson and Jean.

HB 176, relative to listing candidates on ballots. (Amendment printed SJ 04/22/04)

Rep. Whalley moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Drisko, Whalley, Reeves and Dorsett.

HB 1411-FN-A, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system. (Amendments SJ 4/29/04)

Reps. Edwin Smith and Kurk moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Edwin Smith, Candace Bouchard, Waterhouse and Robert Wheeler.

HB 1401-FN, limiting the use of traffic signal preemption devices. (Amendments printed SJ 04/29/04)

Rep. Packard moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Packard, Royce, Letourneau and Ferland.

REGULAR CALENDAR

SB 109, adopting the model Drug Dealer Liability Act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Bette R. Lasky for Judiciary: This bill as amended creates a drug dealer liability act to provide a civil remedy for persons injured as a result of illegal drug use. This act will enable these people to recover economic and non-economic damages from those in the illegal drug market. This bill also intends to hold liable, to the extent possible, those in the drug distribution chain who most profit from this illegal activity. In addition, it is hoped that the creation of this act will be a deterrent to those thinking of entering the illegal drug market by making their activities considerably less profitable. Vote 11-4.

Amendment (1192h)

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

1 New Chapter; Model Drug Dealer Liability Act. Amend RSA by inserting after chapter 318-B the following new chapter:

CHAPTER 318-C

MODEL DRUG DEALER LIABILITY ACT

318-C:1 Title. This chapter may be cited as the Drug Dealer Liability Act.

318-C:2 Purpose. The purpose of this chapter is to:

I. Provide a civil remedy for damages to persons in a community injured as a result of illegal drug use. These persons include parents, employers, insurers, governmental entities, and others who pay for drug treatment or employee assistance programs, as well as infants injured as a result of exposure to drugs in utero ("drug babies"). The chapter will enable them to recover damages from those persons in the community who have joined the illegal drug market.

II. Shift, to the extent possible, the cost of the damage caused by the existence of the illegal drug market in a community to those who illegally profit from that market.

III. Establish the prospect of substantial monetary loss as a deterrent to those who have not yet entered into the illegal drug distribution market.

IV. Establish an incentive for drug users to identify and seek payment for their own drug treatment from those dealers who have sold drugs to the user in the past.

318-C:3 Findings. The legislature finds and declares all of the following:

I. Every community in the country is affected by the marketing and distribution of illegal drugs. A vast amount of state and local resources are expended in coping with the financial, physical, and emotional toll that results from the existence of the illegal drug market. Families, employers, insurers, and society in general bear the substantial costs of coping with the marketing of illegal drugs. Drug babies and parents, particularly those of adolescent illegal drug users, suffer significant non-economic injury as well.

II. Although the criminal justice system is an important weapon against the illegal drug market, the civil justice system can and must also be used. The civil justice system can provide an avenue of compensation for those who have suffered harm as a result of the marketing and distribution of illegal drugs. The persons who have joined the illegal drug market should bear the cost of the harm caused by that market in the community.

III. The threat of liability under this chapter serves as an additional deterrent to a recognizable segment of the illegal drug network. A person who has non-drug related assets, who markets illegal drugs at the workplace, who encourages friends to become users, among others, is likely to decide that the added cost of entering the market is not worth the benefit. This is particularly true for a first-time casual dealer who has not yet made substantial profits. This act provides a mechanism for the cost of the injury caused by illegal drug use to be borne by those who benefit from illegal drug dealing.

IV. This chapter imposes liability against all participants in the illegal drug market, including small dealers, particularly those in the workplace, who are not usually the focus of criminal investigations. The small dealers increase the number of users and are the people who become large dealers. These small dealers are most likely to be deterred by the threat of liability.

V. A parent of an adolescent illegal drug user often expends considerable financial resources, typically in the tens of thousands of dollars, for the child's drug treatment. Local and state governments provide drug treatment and related medical services made necessary by the distribution of illegal drugs. The treatment of drug babies is a considerable cost to local and state governments. Insurers pay large sums for medical treatment relating to drug addiction and use. Employers suffer losses as a result of illegal drug use by employees due to lost productivity, employee drug-related workplace accidents, employer contributions to medical plans, and the need to establish and maintain employee assistance programs. Large employers, insurers, and local and state governments have existing legal staffs that can bring civil suits against those involved in the illegal drug market, in appropriate cases, if a clear legal mechanism for liability and recovery is established.

VI. Drug babies, who are clearly the most innocent and vulnerable of those affected by illegal drug use, are often the most physically and mentally damaged due to the existence of an illegal drug market in a community. For many of these babies, the only hope is extensive medical and psychological treatment, physical therapy, and special education. All of these potential remedies are expensive. These babies, through their legal guardians and through court appointed guardians ad litem, should be able to recover damages from those in the community who have entered and participated in the marketing of the types of illegal drugs that have caused their injuries.

VII.(a) In theory, civil actions for damages for distribution of illegal drugs can be brought under existing law. They are not. Several barriers account for this. Under existing tort law, only those dealers in the actual chain of distribution to a particular user could be sued. Drug babies, parents of adolescent illegal drug users, and insurers are not likely to be able to identify the chain of distribution to a particular user. Furthermore, drug treatment experts largely agree that users are unlikely to identify and bring suit against their own dealers, even after they have recovered, given the present requirements for a civil action.

(b) Recovered users are similarly unlikely to bring suit against others in the chain of distribution, even if they know the user. A user is unlikely to know other dealers in the chain of distribution. Unlike the chain of distribution for legal products, in which records identifying the parties to each transaction in the chain are made and shared among the parties, the distribution of illegal drugs is clandestine. Its participants expend considerable effort to keep the chain of distribution secret.

VIII. Those involved in the illegal drug market in a community are necessarily interrelated and interdependent, even if their identity is unknown to one another. Each new dealer obtains the benefit of the existing illegal drug distribution system to make illegal drugs available to him or her. In addition, the existing market aids a new entrant by the prior development of people as users. Many experts on the illegal drug market agree that all participants are ultimately likely to be indirectly related. That is, beginning with any one dealer, given the theoretical ability to identify every person known by that dealer to be involved in illegal drug trafficking, and in turn each of such others know to them, and so on, the illegal drug market in a community would ultimately be fully revealed.

IX. Market liability has been created with respect to legitimate products by judicial decision in some states. It provides for civil recovery by plaintiffs who are unable to identify the particular manufacturer of the product that is claimed to have caused them harm, allowing recovery from all manufacturers of the product who participated in that particular market. The market liability theory has been shown to be destructive of market initiative and product development when applied to legitimate markets. Because of its potential for undermining markets, this chapter expressly adopts a legislatively crafted form of liability for those who intentionally join the illegal drug market. The liability established by this chapter grows out of, but is distinct from, existing judicially crafted market liability.

X. The prospect of a future suit for the costs of drug treatment may drive a wedge between prospective dealers and their customers by encouraging users to turn on their

dealers. Therefore, liability for those costs, even to the user, is imposed under this chapter as long as the user identifies and brings suit against his or her own dealers.

XI. Allowing dealers who face a civil judgment for their illegal drug marketing to bring suit against their own sources for contribution may also drive a wedge into the relationships among some participants in the illegal drug distribution network.

XII. While not all persons who have suffered losses as a result of the marketing of illegal drugs will pursue an action for damages, at least some individuals, guardians of drug babies, government agencies that provide treatment, insurance companies, and employers will find such an action worthwhile. These persons deserve the opportunity to recover their losses. Some new entrants to retail illegal drug dealing are likely to be deterred even if only a few of these suits are actually brought.

318-C:4 Definitions. As used in this chapter:

I. "Illegal drug" means any drug which is a schedule I-IV drug under RSA 318-B.

II. "Illegal drug market" means the support system of illegal drug related operations, from production to retail sales, through which an illegal drug reaches the user.

III. "Illegal drug market target community" is the area described under RSA 318-C:9.

IV. "Individual drug user" means the individual whose illegal drug use is the basis of an action brought under this chapter.

V. "Level 1 offense" means possession of $\frac{1}{4}$ ounce or more, but less than 4 ounces, or distribution of less than one ounce of an illegal drug other than marijuana, or possession of one pound or more or 25 plants or more, but less than 4 pounds or 50 plants, or distribution of more than $\frac{1}{2}$ pound but less than one pound of marijuana.

VI. "Level 2 offense" means possession of 4 ounces or more, but less than 8 ounces, or distribution of one ounce or more, but less than 2 ounces, of an illegal drug other than marijuana, or possession of 4 pounds or more or 50 plants or more but less than 8 pounds or 75 plants or distribution of one pound or more but less than 5 pounds of marijuana.

VII. "Level 3 offense" means possession of 8 ounces or more, but less than 16 ounces, or distribution of 2 ounces or more, but less than 4 ounces, of an illegal drug other than marijuana, or possession of 8 pounds or more or 75 plants or more, but less than 16 pounds or 100 plants, or distribution of 5 pounds or more but less than 10 pounds of marijuana.

VIII. "Level 4 offense" means possession of 16 ounces or more or distribution of 4 ounces or more of an illegal drug other than marijuana, or possession of 16 pounds or more or 100 plants or more or distribution of 10 pounds or more of marijuana.

IX. "Participate in the illegal drug market" means to distribute, possess with an intent to distribute, commit an act intended to facilitate the marketing or distribution of, or agree to distribute, possess with an intent to distribute, or commit an act intended to facilitate the marketing and distribution of an illegal drug. "Participate in the illegal drug market" does not include the purchase or receipt of an illegal drug for personal use only.

X. "Person" means an individual, governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized by the laws of this state, another state, or foreign country.

XI. "Period of illegal drug use" means, in relation to the individual drug user, the time of the individual's first use of an illegal drug to the accrual of the cause of action. The period of illegal drug use is presumed to commence 2 years before the cause of action accrues unless the defendant proves otherwise by clear and convincing evidence.

XII. "Place of illegal drug activity" means, in relation to the individual drug user, each house of representatives' legislative district in which the individual possesses or uses an illegal drug or in which the individual resides, attends school, or is employed during the period of the individual's illegal drug use, unless the defendant proves otherwise by clear and convincing evidence.

XIII. "Place of participation" means, in relation to a defendant in an action brought under this chapter, each house of representatives' legislative district in which the person

participates in the illegal drug market or in which the person resides, attends school, or is employed during the period of the person's participation in the illegal drug market.

318-C:5 Liability for Participation in the Illegal Drug Market.

I. A person who knowingly participates in the illegal drug market within this state is liable for civil damages as provided in this chapter. A person may recover damages under this chapter for injury resulting from an individual's use of an illegal drug.

II. A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency or the state is not liable for participating in the illegal drug market, if the participation is in furtherance of an official investigation.

318-C:6 Recovery of Damages.

I. One or more of the following persons may bring an action for damages caused by an individual's use of an illegal drug:

- (a) A parent, legal guardian, child, spouse, or sibling of the individual drug user.
- (b) An individual who was exposed to an illegal drug in utero.
- (c) An employer of the individual drug user.
- (d) A medical facility, insurer, governmental entity, employer, or other entity

that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user.

(e) A person injured as a result of the willful, reckless, or negligent actions of an individual drug user.

II. A person entitled to bring an action under this section may seek damages from a person convicted of a drug offense or a person who knowingly distributed, or knowingly participated in the chain of distribution of, the illegal drug that was actually used by the individual drug user and that was the proximate cause of the recoverable losses.

II-a. No governmental entity may bring an action against a person until after that person has been convicted of a criminal act related to the possession, manufacture, or distribution of drugs.

III. A person entitled to bring an action under this section may recover all of the following damages:

(a) Economic damages, including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the illegal drug use.

(b) Non-economic damages, including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services and consortium, and other non-pecuniary losses proximately caused by an individual's use of an illegal drug.

(c) Reasonable attorney fees.

(d) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

318-C:7 Limited Recovery of Damages.

I. An individual drug user shall not bring an action for damages caused by the use of an illegal drug, except as otherwise provided in this paragraph. An individual drug user may bring an action for damages caused by the use of an illegal drug only if all of the following conditions are met:

(a) The individual personally discloses to narcotics enforcement authorities, more than 6 months before filing the action, all of the information known to the individual regarding all that individual's sources of illegal drugs;

(b) The individual has not used an illegal drug within the 6 months before filing the action; and

(c) The individual continues to remain free of the use of an illegal drug throughout the pendency of the action.

II. A person entitled to bring an action under this section may seek damages only from a person who distributed, or is in the chain of distribution of, an illegal drug that was actually used by the individual drug user.

III. A person entitled to bring an action under this section may recover only the following damages:

(a) Economic damages, including, but not limited to, the cost of treatment, rehabilitation, and medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, accidents or injury, and any other pecuniary loss proximately caused by the person's illegal drug use.

(b) Reasonable attorney fees.

(c) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

318-C:8 Third Party Cases. A third party shall not pay damages awarded under this chapter, or provide a defense or money for a defense, on behalf of an insured under a contract of insurance or indemnification.

318-C:9 Illegal Drug Market Target Community. A person whose participation in the illegal drug market constitutes the following level offense shall be considered to have the following illegal drug market target community:

I. For a level 1 offense, the New Hampshire house of representatives' legislative district in which the defendant's place of participation is situated.

II. For a level 2 offense, the target community described in paragraph I plus all New Hampshire house of representative's legislative districts with a border contiguous to that target community.

III. For a level 3 offense, the target community described in paragraph II plus all New Hampshire house of representatives' legislative districts with a border contiguous to that target community.

IV. For a level 4 offense, the state.

318-C:10 Joinder of Parties.

I. Two or more persons may join in one action under this chapter as plaintiffs if their respective actions have at least one place of illegal drug activity in common and if any portion of the period of illegal drug use overlaps with the period of illegal drug use for every other plaintiff.

II. Two or more persons may be joined in one action under this chapter as defendants if those persons are liable to at least one plaintiff.

III. A plaintiff need not be interested in obtaining and a defendant need not be interested in defending against all the relief demanded. Judgment may be given for one or more plaintiffs according to their respective rights to relief and against one or more defendants according to their respective liabilities.

318-C:11 Comparative Responsibility.

I. An action by an individual drug user is governed by the principles of comparative responsibility. Comparative responsibility attributed to the plaintiff does not bar recovery but diminishes the award of compensatory damages proportionally, according to the measure of responsibility attributed to the plaintiff.

II. The burden of proving the comparative responsibility of the plaintiff is on the defendant, which shall be shown by clear and convincing evidence.

III. Comparative responsibility shall not be attributed to a plaintiff who is not an individual drug user.

318-C:12 Contribution Among and Recovery from Multiple Defendants. A person subject to liability under this chapter has a right of action for contribution against another person subject to liability under this chapter. Contribution may be enforced either in the original action or by a separate action brought for that purpose. A plaintiff may seek recovery in accordance with this chapter and existing law against a person whom a defendant has asserted a right of contribution.

318-C:13 Standard of Proof; Effect of Criminal Drug Conviction.

I. Proof of participation in the illegal drug market in an action brought under this chapter shall be shown by clear and convincing evidence. Except as otherwise provided in this chapter, other elements of the cause of action shall be shown by a preponderance of the evidence.

II. A person against whom recovery is sought who has a criminal conviction pursuant to RSA 318-B or other state drug laws or the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, 84 Stat. 1236, codified at 21 U.S.C. 801 et seq., is estopped from denying participation in the illegal drug market. Such a conviction is also prima facie evidence of the person's participation in the illegal drug market during the 2 years preceding the date of an act giving rise to a conviction.

III. The absence of a criminal drug conviction of a person against whom recovery is sought does not bar an action against that person.

318-C:14 Prejudgment Attachment and Execution on Judgments.

I. A plaintiff under this chapter, subject to paragraph II, may request an ex parte prejudgment attachment order from the court against all assets of a defendant sufficient to satisfy a potential award. If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

II. Any assets sought to satisfy a judgment under this chapter that are named in a forfeiture action or have been seized for forfeiture by any state or federal agency may not be used to satisfy a judgment unless and until the assets have been released following the conclusion of the forfeiture action or released by the agency that seized the assets.

318-C:15 Statute of Limitations.

I. Except as otherwise provided in this section, a claim under this chapter shall not be brought more than 2 years after the cause of action accrues. A cause of action accrues under this chapter when a person who may recover has reason to know of the harm from illegal drug use that is the basis for the cause of action and has reason to know that the illegal drug use is the cause of the harm.

II. For a plaintiff, the statute of limitations under this section is tolled while the individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that the individual cannot reasonably be expected to seek recovery under this chapter or as otherwise provided by law. For a defendant, the statute of limitations under this section is tolled until 6 months after the individual potential defendant is convicted of a criminal drug offense or as otherwise provided by law.

III. The statute of limitations under this chapter for a claim based on participation in the illegal drug market that occurred prior to the effective date of this chapter does not begin to run until the effective date of this chapter.

318-C:16 Representation of Governmental Entities: Stay of Action.

I. A prosecuting attorney may represent the state or a political subdivision of the state in an action brought under this chapter.

II. Upon the filing of an action under this chapter, the plaintiff shall give immediate notice in writing and provide a copy of the writ to the attorney general. The attorney general shall notify the United States Department of Justice or other appropriate federal agency of such action.

III. On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this chapter shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

318-C:17 Effect on Existing Laws. The provisions of this chapter are not intended to alter the law regarding intra-family tort immunity.

318-C:18 Severability. If any provision of this chapter or the application of any provision to any person or circumstance is held invalid, the remainder of this chapter and the

application of such provision to any other person or circumstance shall not be affected by that invalidation.

2 Effective Date. This act shall take effect January 1, 2005.

Rep. Almy spoke against and yielded to questions.

Rep. Soltani spoke in favor.

Rep. Soltani requested a roll call; sufficiently seconded.

The question being adoption of the committee amendment.

YEAS 204 NAYS 139

YEAS 204

BELKNAP

Ahern, Omer Jr	Bartlett, Gordon	Boyce, Laurie	Dewhirst, Glenn
Fitzgerald, James	Flanders, Donald	Holbrook, Robert	Laflam, Robert
Nedeau, Stephen	Rice, Thomas	Russell, David	Thomas, John
Wendelboe, Fran	Whalley, Michael		

CARROLL

Babson, David Jr	Brown, Carolyn	Kenney, Bettie	McConkey, Mark
Merrow, Harry	Mock, Henry	Patten, Betsey	Philbrick, Donald
Stevens, Stanley			

CHESHIRE

Laurent, John	Manning, Joseph	Richardson, Barbara	Smith, Edwin
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COOS

Guay, Lawrence	King, Frederick	Pratt, Leighton	Stohl, Eric
Tholl, John Jr			

GRAFTON

Alger, John	Barker, Robert	Dorsett, Andrew	Dudley, Terri
Gilman, G Michael	Giuda, Robert	Ham, Bonnie	Maybeck, Margie
Naro, Debra	Sorg, Gregory	Williams, Burton	

HILLSBOROUGH

Adams, Jarvis	Arnold, Thomas Jr	Artz, Lawrence	Balboni, Michael
Balcom, John	Baroody, Benjamin	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Brassard, Paul	Brundige, Robert	Carter, Jeffrey
Carter, Mark	Cernota, Albert	Chabot, Robert	Christensen, D L
			Chris
Christiansen, Lars	Clayton, William	Clemons, Jane	Coughlin, Pamela
Craig, James	Crane, Elenore Casey	Desmarais, Vivian	Dionne, Kimberley
Dokmo, Cynthia	Drisko, Richard	Elliott, Larry	Emerton, Larry
Fields, Dennis	Fletcher, Richard	Ford, Nancy	Gargas, Carolyn
Gibson, John	Gonzalez, Carlos	Gorman, Mary	Goyette, Peter Jr
Graham, John	Greenberg, Gary	Hall, Charles	Hallyburton, Margaret
Hansen, Ryan	Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr
Hinkle, Peyton	Holden, Randolph	Hopper, Gary	Hunter, Bruce
Infantine, William	Jasper, Shawn	Kurk, Neal	L'Heureux, Robert
Laflamme, Charles	LaFlamme, Paul	Lasky, Bette	Lawrence, James
Lessard, Rudy	Malloy, Chris	McHugh, Claire	Mercer, Robert
Michon, Stephen	Mooney, Maureen	Moran, Edward	Mosher, William
O'Brien, Lori	Palangas, Eric	Price, Pamela	Reeves, Sandra
Ross, Lawrence	Rowe, Robert	Scanlon, Michael	Stepanek, Stephen
Tahir, Saghir	Wheeler, Robert		

MERRIMACK

Anderson, Eric	Blanchard, Elizabeth	Currier, David	DeStefano, Stephen
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Dunne, Christopher
Hager, Elizabeth
Kennedy, Richard
Lockwood, Priscilla
Soltani, Tony

Field, William
Hess, David
L'Heureux, Stephen
MacKay, James

Foley, Albert
Jacobson, Alf
Langer, Ray
Oliver, James

Fraser, Leo Jr
Kenison, Leon
Leber, William
Seldin, Gloria

ROCKINGHAM

Belanger, Ronald
Camm, Kevin
DiFruscia, Anthony
Flanders, John Sr
Gleason, John
Headd, James
Ingram, Russell
Katsakiores, George
Langone, John
McMahon, Charles
Priestley, Anne
Ruffner, Walter
Waterhouse, Kevin
Wiley, Robert

Bishop, Franklin
Carson, Sharon
Dodge, Robert
Francoeur, Sheila
Gould, Kenneth
Holland, James Jr
Introne, Robert
Katsakiores, Phyllis
Letourneau, Robert
Morris, Richard
Quandt, Matthew
Stone, Joseph
Weare, E Albert

Bridle, Russell
Casey, Kimberley
Dowd, John
Gilbert, Karl
Griffin, Mary
Hughes, Daniel
Johnson, Robert
Kobel, Rudolph
Manning, John
Noyes, Richard
Rausch, James
Vallone, Matthew
Welch, David

Cady, Harriet
Cooney, Richard
Fesh, Bob
Gillick, Thomas
Hamel, Albert
Hutchinson, Karen
Johnson, Rogers
Langley, Jane
McKinney, Betsy
Packard, Sherman
Roessner, Kurt
Varrell, Thomas
Weyler, Kenneth

STRAFFORD

Bemis, Alan
Eason, Timothy
Twombly, James

Berube, Roger
Hofemann, Roland
Woods, Phyllis

Brown, Julie
Musler, George

Cataldo, Sam
Newton, Clifford

SULLIVAN

Donovan, Thomas

Leone, Richard

Rodeschin, Beverly

NAYS 139

BELKNAP

Allen, Janet

Clark, Charles

Pilliod, James

CARROLL

Dickinson, Howard

Olimpio, J Lisbeth

CHESHIRE

Allen, Peter
Espieffs, Peter
Meader, David
Pratt, John
Weed, Charles

Dexter, Judson
Fish, Douglas
Mitchell, McKim
Robertson, Timothy

Dunn, James
Hunt, John
Parkhurst, Henry
Tilton, Anna

Eaton, Daniel
Liebl, George
Pratt, Irene
Webber, Amy

COOS

Brady, Mark

Mears, Edgar

Poulin, Richard

Theberge, Robert

GRAFTON

Akins, Ralph
Cooney, Mary
Hammond, Lee
Sokol, Hilda

Almy, Susan
Densmore, Edward
Ingbretson, Paul
Solomon, Peter

Benn, Bernard
Diamond, Estelle
Nordgren, Sharon

Bleyler, Ruth
Eaton, Stephanie
Scovner, Nancy

HILLSBOROUGH

Allan, Nelson
Buhlman, David
Hagan, Barbara
Johnson, Lionel
Luebker, Bernard

Beaton, William
Carlson, Donald
Haley, Robert
Katsiantonis, Thomas
Martin, Mary Ellen

Bruno, Pierre
Cote, David
Irwin, Anne-Marie
Kopka, Angeline
Messier, Irene

Buckley, Raymond
Cote, Peter
Jean, Claudette
Leach, Edward
Ober, Russell III

Pappas, Christopher	Pappas, Marc	Pepino, Leo	Pilotte, Maurice
Schulze, Joan	Slocum, Lee	Souza, Kathleen	Spiess, Paul
Sullivan, Francis	Tate, Joan	Vaillancourt, Steve	Wheeler, James

MERRIMACK

Bouchard, Candace	Brueggemann, Donald	Clarke, Claire	Davis, Frank
French, Barbara	Hamm, Christine	Marple, Richard	Maxfield, Roy
McCormick, Tom	Nutter, Edward	Osborne, Jessie	Owen, Derek
Potter, Frances	Reed, Dennis	Rodd, Beth	Rush, Deanna
Wallner, Mary Jane			

ROCKINGHAM

Abbott, Dennis	Allen, Mary	Bicknell, Elbert	Blanchard, MaryAnn
Clark, Vivian	Coes, Betsy	Kelley, Jane	Major, Norman
McCann, Richard	McEachern, Paul	Norelli, Terie	Pantelakos, Laura
Putnam, Ed II	Robertson, Carl	Shultis, Elizabeth	Smith, Donald
Splaine, James	Tufts, J Arthur	Weldy, Norman Jr	Zolla, William

STRAFFORD

Albert, Russell	Bickford, David	Creteau, Irene	Dunlap, Patricia
Grassie, Anne	Harrington, Michael	Heon, Richard	Hollinger, Jeffrey
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Pelletier, Arthur	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Wall, Janet		

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Flint, Gordon Sr	Franklin, Peter	Jones, Constance	Phinizy, James

and the committee amendment was adopted.

Rep. Hopper offered a floor amendment (1482h), spoke in favor and yielded to questions.
Rep. Whalley spoke in favor.

Floor Amendment (1482h)

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

AN ACT adopting the model Drug Dealer Liability Act and permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Sexual Assault; Testimony and Evidence. Amend RSA 632-A:6 by inserting after paragraph IV the following new paragraph:

V. At the request of a sexual assault victim who is 16 years of age or younger, and with the approval of the prosecutor, the court shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

AMENDED ANALYSIS

This bill adopts the model Drug Dealer Liability Act, which has been adopted by the bipartisan American Legislative Exchange Council.

This bill provides that the court, upon the request of a sexual assault victim who is 16 years of age or younger, and with the approval of the prosecutor, shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

Floor amendment (1482h) adopted.

Report adopted and ordered to third reading.

SB 449, relative to fluoridation of municipally-owned public water systems. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Thomas J. Gillick for the Majority of Municipal and County Government This bill addresses a matter that was raised by the New Hampshire Supreme Court over an issue with the Manchester Water Works. The question was whether municipalities that received their water supply from another municipality must have a say as to using fluoride in the public water supply or not. The New Hampshire Supreme Court stated that RSA 485:14 is unclear in that there is no provision to allow voters outside the municipal boundaries to have a say in whether fluoride is introduced or not. In its ruling the court gave the legislature time to consider amending RSA 485:14. We as a committee felt that given this option, it is our duty to address this issue. Once we researched the issue we uncovered the fact that there are many aspects to this complex issue. There are many multi-municipality agreements that range from large to small population base users, similar to multi-town school districts. For example, in one of the multi-municipality agreements the receiving community consists of only ten users. Previously in RSA 485:14 only single town municipalities were allowed to vote on the issue of using fluoride in their public water supply. We have established a method that enables all municipalities to have their preference counted in the aggregate with respect to the use of fluoride in their public water supply. We accomplished this by expanding the ability of these other municipalities using the water supply to have a voting right by changing the verbiage from singular to plural and revising the referendum process. The amendment further revises RSA 485:14 by defining a municipality as having one hundred or more user connections served by the public water supply. Along with changing the referendum process already in RSA 31:17-a, 44:16 and 52:23 which pertain to single municipality public water supplies, we added RSA 485:14-a which pertains to multi-municipality public water supply referendum process. The Municipal and County Government Committee worked hard to address the issue of the voting rights of the multi-municipality users of public water supplies. Vote 9-3.

Rep. Nancy K. Johnson for the Minority of Municipal and County Government: The minority does not agree that a municipality should be defined as only those that have more than 100 water connection users. There are no municipalities receiving water from the City of Manchester, Water Works Department with less than 100 connections. The number "100" is arbitrary and unnecessary and could affect other municipalities in the future. The amendment offered by the minority simply eliminates the definition of municipalities to those with 100 or more water connections.

Majority Amendment (1333h)

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

1 Use of Fluoride; Public Water Systems Serving More Than One Political Subdivision. RSA 485:14 is repealed and reenacted to read as follows:

485:14 Use of Fluoride. No fluoride shall be introduced into the public water supply unless and until the municipality or municipalities using said waters have held a public hearing as to the introduction of fluoride into the public water supply of said municipality or municipalities, and the registered voters of such municipality or municipalities have approved such action pursuant to RSA 44:16, RSA 31:17-a, RSA 52:23 or RSA 485:14-a. For purposes of this section "municipality" means a municipality that has 100 or more user connections that are served from the public water supply.

2 New Section; Referendum for Public Water Systems Serving More Than One Political Subdivision. Amend RSA 485 by inserting after section 14 the following new section:

485:14-a Referendum Procedure for Public Water Systems Serving More Than One Political Subdivision.

I. Upon the written application of the aggregate of 10 percent of the registered voters in all of the towns served by a water system, presented to the clerk of the town owning the

water system at least 90 days before the day prescribed for an annual town meeting or city election, the clerk shall forward a copy of the petition to each town served by the water system. Upon receipt of the petition, the selectmen of the town shall insert on the warrant or the official ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves multiple towns does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said towns. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than the aggregate of 10 percent of the registered voters of all of the towns.

II. In this section:

(a) "Town" means town as defined in RSA 21:5.

(b) "Selectmen" means selectmen as defined in RSA 21:28.

3 Referendum on the use of Fluoride. RSA 31:17-a is repealed and reenacted to read as follows:

31:17-a Referendum. Upon the written application of 10 percent of the registered voters in a town, presented to the selectmen or one of them at least 15 days before the day prescribed for an annual town meeting, the selectmen shall insert in their warrant for such meeting an article relative to the use of fluoride in the public water system for said town. If the town has an official ballot, the town clerk shall insert on such ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said town; or if fluoride has prior to said vote, been introduced, such use shall be discontinued until such time as the registered voters of the town shall, by majority vote, approve the use of fluoride. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than 10 percent of the registered voters of said town. The procedure for a referendum on the use of fluoride in a town that is part of public water system serving more than one municipality shall be the procedure in RSA 485:14-a.

4 Public Water Supplies; Referendum on the use of Fluoride. RSA 44:16 is repealed and reenacted to read as follows:

44:16 Public Water Supplies. Upon the written application of 10 percent of the registered voters in any city, presented to the city clerk prior to the municipal election, the city clerk shall insert on the ballot to be used at said election the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality at said election does not approve the use of fluoride in the public water system for said city, no fluoride shall be introduced into the public water system. If fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the city shall, by majority vote, approve the use of such fluoride. After such popular referendum, the city clerk shall not insert the aforementioned question relative to the use of fluoride in the public water system on the ballot to be used at the municipal election for a minimum period of 3 years from the date of the last popular referendum, and only upon written application at that time of not less than 10 percent of the registered voters of said

city. The procedure for a referendum on the use of fluoride in a city that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

5 Public Water; Referendum on the use of Fluoride. RSA 52:23 is repealed and reenacted to read as follows:

52:23 Public Water. Upon the written application of 10 percent of the registered voters in any village water district, presented to the commissioners or one of them at least 15 days before the day prescribed for an annual meeting of the district, the commissioners shall insert in their warrant for such meeting an article relative to the use of fluoride in the water system for said district, and the district clerk shall prepare a ballot for said meeting with the following question: "Shall fluoride be used in the district water system?" Beside the question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves only one municipality does not approve the use of fluoride in the district water system, no fluoride shall be introduced into the district water system; or if fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the district shall, by majority vote, approve of the use of fluoride. After such popular referendum, the commissioners shall not insert an article relative to the use of fluoride in the district water system in the warrant nor shall the district clerk prepare such a ballot for a minimum period of 3 years from the date of the last popular referendum of the district and only upon written application at that time of not less than 10 percent of the registered voters of said district. The procedure for a referendum on the use of fluoride in a village district that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

6 Applicability. Any public water system serving more than one municipality which introduced fluoride into the water supply prior to July 1, 2004 may continue the use of fluoride until a referendum under RSA 485:14-a has taken place.

7 Effective Date. This act shall take effect July 1, 2004.

AMENDED ANALYSIS

This bill:

I. Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.

II. Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.

III. Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.

Majority amendment adopted.

Rep. Patten offered a floor amendment (1440h).

Floor Amendment (1440h)

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 8:

7 Special Procedure; Municipalities Receiving Water From the City of Manchester, Water Works Department.

I. Notwithstanding RSA 485:14-a, the secretary of state shall place the following question on the September 2004 state primary election ballot and on a separate ballot for undeclared voters for the city of Manchester and other municipalities receiving water from the city of Manchester, water works department: "Shall fluoride be used in the Manchester public water system?"

II. When the secretary of state has received the returns on the question in paragraph I, he or she shall examine, record, and total such returns and shall declare the outcome.

III. The secretary of state shall forward one copy of the outcome to the clerk of the city of Manchester.

IV. The city of Manchester, water works department, may continue to use fluoride until the secretary of state notifies the Manchester city clerk of the outcome of the question in paragraph I. If a majority of those voting in all of the municipalities combined does not approve the use of fluoride in the Manchester public water system, the use of fluoride shall be discontinued.

V. To the extent that there is an additional expense for printing the question, the expense shall be paid by the city of Manchester, water works department.

AMENDED ANALYSIS

This bill:

I. Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.

II. Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.

III. Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.

IV. Creates a procedure for a vote in the September 2004 state primary election on the use of fluoride in the municipalities served by the city of Manchester, water works department.

Rep. Paul Harrington spoke in favor.

Floor amendment (1440h) adopted.

Rep. Nancy Johnson offered the minority amendment (1445h) and spoke in favor.

Reps. Osborne and Schmidt spoke against.

Rep. Hagan spoke in favor and yielded to questions.

On a division vote, 97 members having voted in the affirmative and 238 in the negative, the minority amendment (1445h) failed.

Majority committee report adopted and ordered to third reading.

Rep. James Craig declared a conflict of interest and did not participate.

SB 533, relative to licensing requirements for certain recreation and child care programs.

OUGHT TO PASS WITH AMENDMENT

Rep. Dudley D. Dumaine for Municipal and County Government: This bill clarifies that municipal recreation programs and similar programs offered by the Boys and Girls Club, Girls Inc., YMCA, YWCA, and any school or church group shall continue to be exempt from the childcare licensing requirements under RSA 170-E. The programs offered by these entities provide recreation and youth development opportunities that fill a tremendous community need and are valued by the children and families they serve. Many municipal recreation programs throughout the state are having participants sign in and out when attending the programs to keep track of the children. A problem arises when the Department of Health and Human Services guidelines called "School Age Program Exemptions" kick in. These guidelines for employees set up parameters to show the difference between a recreational or a childcare program. A municipal program instituted a procedure for keeping track of the children that were at the facilities by signing in and out, which the committee endorsed. This procedure did not restrict the child's ability to come and go, but made the municipal recreational program possibly subject to all childcare licensing requirements. Implementation of childcare rules would force many municipal programs and the clubs that are currently exempt to shut down and greatly limit access for all children to those recreational activities. Testimony was received suggesting a study committee be formed to define "recreation programs". This subject was studied in depth in SB 580, Chapter 400:1, and Laws of 1994. The definition was so specific in nature as not to include part-time

summer camps or recreational programs. The committee felt that another study committee on this subject was not necessary at this time. Vote 16-0.

Amendment (1219h)

Amend RSA 170-E:3, I(g) as inserted by section 1 of the bill by replacing it with the following:

(g) Any recreation program ~~[of the Boys Club; Girls Club]~~ ***offered by the Boys and Girls Club***; Girls, Inc.; YMCA; YWCA; and any school or church group.

Adopted.

Report adopted and ordered to third reading.

BILLS REMOVED FROM CONSENT CALENDAR MAY 5, 2004

SB 478-FN, relative to penalties for DWI offenses. OUGHT TO PASS WITH AMENDMENT

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: The bill as it came from the Senate contained several increases in penalties for driving while intoxicated and added the requirement of attendance to the State Operated Multiple Offender Program for Aggravated DWI. The committee amendment, while maintaining the increased penalties in many areas, also provides for the ability of the courts to order treatment and supervision while permitting the deferment and/or suspension of jail time based upon satisfactory completion of the ordered treatment and any follow-up treatment/counseling required. It also allows a person who has been sentenced to the Multiple Offender Program to attend an approved private program should a slot in the Multiple Offender Program not be available. First offense DWI has been increased from a violation to a Class B Misdemeanor, which allows only for an increased fine without the possibility of jail with the provision that the charge can be reduced to a violation upon petition to the court after a period of 1 year thus removing a criminal charge from the person's record. The primary direction of the committee amendment is to utilize the carrot and a stick approach with higher penalties imposed if participation in treatment and counseling isn't undertaken and completed. Vote 15-2.

Amendment (1370h)

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

1 Penalties for Intoxication or Under Influence of Drug Offenses. Amend RSA 265:82-b, I to read as follows:

I. Except as otherwise provided in this section:

(a) Any person who is convicted of any offense under RSA 215-A:11, I or RSA 265:82 shall be:

(1) Guilty of a ~~[violation]~~ ***class B misdemeanor***;

(2) Fined not less than ~~[\$350]~~ ***\$500***;

(3) Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the commissioner of health and human services; ~~and~~

(4) The person's driver's license or privilege to drive shall be revoked for not less than 9 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. The court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) within 45 days after conviction, or as soon thereafter as any extenuating circumstances approved by the department of health and human services allow;

(5) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate; and

(6) The court in which the person was convicted may reduce the conviction to a violation upon a motion filed by either party at least one year after the date of the conviction. In deciding whether to reduce the conviction to a violation, the court may consider the person's subsequent driving record, any evidence of drug or alcohol treatment, the hardship that having a criminal record may cause for the person, and any other factors that the court deems relevant.

(b) Any person who is convicted of any aggravated DWI offense under RSA 215-A:11, II, or RSA 265:82-a, except as provided in subparagraph (c), shall be:

(1) Guilty of a ***class A*** misdemeanor;

(2) Fined not less than \$500;

(3) ~~[Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program or an equivalent 7 day residential intervention program approved by the commissioner of health and human services; and]~~ ***Sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall be in no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order;***

(4) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) ~~[within 45 days after conviction, or]~~ as soon thereafter as any circumstances approved by the department of health of human services allow;

(5) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other test as the court may deem appropriate; and

(6) A person who leaves the relevant driver intervention program required by subparagraph II(a)(3) before completion and fails to return and complete it as soon as extenuation circumstances approved by the department of health and human services allow or who fails to begin following treatment recommendations within the time required by subparagraph II(a)(3) shall be in

contempt of court and shall serve a minimum of 14 days in the county correctional facility.

(c) Any person who is convicted of aggravated DWI under RSA 215-A:11, II(a)(1) or II(b)(1), or RSA 265:82-a, I(b) or II(b), shall be:

(1) Guilty of a class B felony;

(2) Fined not less than \$1,000;

(3) ~~[Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program]~~ **Sentenced to a mandatory sentence of not less than 21 consecutive days of which 14 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive 24-hour periods served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services, and the remainder of the sentence may be deferred at the court's discretion. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence;** and

(4) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) ~~[within 45 days after conviction, or]~~ as soon thereafter as any extenuating circumstances approved by the department of health and human services allow.

2 Penalties for Intoxication or Under Influence of Drug Offenses. Amend RSA 265:82-b, II(a)-(b) to read as follows:

(a) For a second offense:

(1) The person shall be guilty of a **class A** misdemeanor.

(2) The person shall be fined not less than \$500.

(3)(A) **If the complaint alleges that the prior conviction occurred within 2 years preceding the date of the second offense,** the person shall be sentenced to a mandatory sentence of not less than ~~[10]~~ **37** consecutive days of which ~~[3]~~ **30** consecutive 24-hour periods shall be served in the county correctional facility ~~[and]~~ **followed by 7** consecutive 24-hour periods ~~[shall]~~ **to** be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b within 21 days after conviction, except that in circumstances where the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned ~~[the first available space]~~ **to an equivalent 7-day residential intervention program approved by the commissioner of health and human services.** The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center **or equivalent** program

within 60 days after the person has completed serving the required [7] **30** consecutive 24-hour periods [at the center] or such other time as the court may order.

(B) If the complaint alleges that the prior conviction occurred more than 2 but not more than 10 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order.

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years.

(5) The person shall pay a fee to the commissioner, as established under RSA 126-A:43, for the costs of the state-operated, 7-day multiple DWI offender intervention detention center program prior to license restoration. ***If the person attends an approved equivalent 7-day residential intervention program, the fees and costs shall be paid to the program.***

(6) A person who leaves the program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, or who fails to begin following treatment recommendations within the time required by subparagraph II(a)(3) shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility.

(7) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

(b) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) except that:

(1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until the provisions of RSA 263:65-a and all other requirements under law are met.

(2) ~~[If the person has completed the state-operated 7-day multiple DWI offender intervention detention center program as required under subparagraph (a)(3) upon conviction for a prior offense,]~~ The person shall be sentenced to ***a mandatory sentence of not less than [30] 180 consecutive days of which [23] 30 consecutive 24-hour periods shall be served in the county correctional facility [and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, and]*** ***following which*** the person shall complete at the person's own expense a residential treatment program of at least 28 days duration or an intensive course

of substance abuse treatment based upon a formal evaluation by a licensed alcohol and other drug counselor and approved by the department of health and human services before the driver's license may be restored. ***The remainder of the sentence may be deferred for a period of up to 2 years. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence.***

(3) ~~[A person who leaves the multiple DWI offender program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility]~~ ***The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.***

3 Effective Date. This act shall take effect January 1, 2005.

Adopted.

Reps. Bruno and Cady spoke against.

Rep. Craig spoke against and yielded to questions.

Reps. Tholl and Welch spoke in favor.

MOTION TO LAY ON THE TABLE

Rep. Michael Harrington moved that ***SB 478-FN***, relative to penalties for DWI offenses, be laid on the table.

Rep. Welch requested a roll call; sufficiently seconded.

The question being to lay SB 478-FN on the table.

YEAS 114 NAYS 231

YEAS 114

BELKNAP

Dewhirst, Glenn

Wendelboe, Fran

CARROLL

Mock, Henry

Philbrick, Donald

CHESHIRE

Dexter, Judson

Eaton, Daniel

Liebl, George

Parkhurst, Henry

Pratt, John

Robertson, Timothy

Smith, Edwin

Tilton, Anna

Webber, Amy

COOS

Brady, Mark

Guay, Lawrence

GRAFTON

Bleyler, Ruth

Dorsett, Andrew

Dudley, Terri

Ham, Bonnie

Hammond, Lee

Ingbretson, Paul

HILLSBOROUGH

Allan, Nelson

Arnold, Thomas Jr

Artz, Lawrence

Balboni, Michael

Bergeron, Jean-Guy

Brassard, Paul

Bruno, Pierre

Buckley, Raymond

Cernota, Albert

Christensen, D L

Clayton, William

Clemons, Jane

Chris

Craig, James

Elliott, Larry

Fields, Dennis

Gibson, John

Gonzalez, Carlos

Hagan, Barbara

Hall, Charles

Hawkins, Ken

Haytayan, Harry Jr
LaFlamme, Paul
Martin, Mary Ellen
Palangas, Eric
Slocum, Lee

Holden, Randolph
Lawrence, James
Messier, Irene
Pepino, Leo
Souza, Kathleen

Hunter, Bruce
Leach, Edward
Mooney, Maureen
Scanlon, Michael
Sweeney, Cynthia

Johnson, Lionel
Luebker, Bernard
Ober, Russell III
Schulze, Joan
Vaillancourt, Steve

MERRIMACK

Bouchard, Candace
Hamm, Christine
McCormick, Tom

Davis, Frank
Hess, David
Soltani, Tony

Dunne, Christopher
Marple, Richard

French, Barbara
Maxfield, Roy

ROCKINGHAM

Blanchard, MaryAnn
Cooney, Richard
Hutchinson, Karen
Langley, Jane
McMahon, Charles
Rausch, James
Zolla, William

Cady, Harriet
DiFruscia, Anthony
Ingram, Russell
McCann, Richard
Priestley, Anne
Smith, Donald

Camm, Kevin
Fesh, Bob
Johnson, Robert
McEachern, Paul
Putnam, Ed II
Splaine, James

Clark, Vivian
Francoeur, Sheila
Johnson, Rogers
McKinney, Betsy
Quandt, Matthew
Weyler, Kenneth

STRAFFORD

Bickford, David
Heon, Richard
Kaen, Naida
Vachon, Dennis

Campbell, W Packy
Hofemann, Roland
Keans, Sandra
Wall, Janet

Cataldo, Sam
Hollinger, Jeffrey
Rollo, Deanna
Woods, Phyllis

Harrington, Michael
Johnson, Nancy
Twombly, James

SULLIVAN

Donovan, Thomas

Ferland, Brenda

Phinizy, James

NAYS 231

BELKNAP

Ahern, Omer Jr
Clark, Charles
Laflam, Robert
Russell, David

Allen, Janet
Fitzgerald, James
Nedeau, Stephen
Thomas, John

Bartlett, Gordon
Flanders, Donald
Pilliod, James
Whalley, Michael

Boyce, Laurie
Holbrook, Robert
Rice, Thomas

CARROLL

Babson, David Jr
Kenney, Bettie
Patten, Betsey

Brown, Carolyn
McConkey, Mark
Stevens, Stanley

Derby, Mark
Merrow, Harry

Dickinson, Howard
Olimpio, J Lisbeth

CHESHIRE

Allen, Peter
Hunt, John
Mitchell, McKim

Dunn, James
Laurent, John
Pratt, Irene

Espieffs, Peter
Manning, Joseph
Richardson, Barbara

Fish, Douglas
Meador, David
Weed, Charles

COOS

King, Frederick
Stohl, Eric

Mears, Edgar
Theberge, Robert

Poulin, Richard
Tholl, John Jr

Pratt, Leighton

GRAFTON

Akins, Ralph
Benn, Bernard
Eaton, Stephanie
Naro, Debra
Solomon, Peter

Alger, John
Cooney, Mary
Gilman, G Michael
Nordgren, Sharon
Sorg, Gregory

Almy, Susan
Densmore, Edward
Giuda, Robert
Scovner, Nancy
Williams, Burton

Barker, Robert
Diamond, Estelle
Maybeck, Margie
Sokol, Hilda

HILLSBOROUGH

Adams, Jarvis
Batula, Peter

Balcom, John
Beaton, William

Baroody, Benjamin
Brundige, Robert

Barry, J Gail
Buhlman, David

Carlson, Donald	Carter, Jeffrey	Carter, Mark	Chabot, Robert
Christiansen, Lars	Cote, David	Cote, Peter	Coughlin, Pamela
Crane, Elenore	Desmarais, Vivian	Dionne, Kimberley	Dokmo, Cynthia
Casey			
Drisko, Richard	Emerton, Larry	Fletcher, Richard	Ford, Nancy
Gargas, Carolyn	Gorman, Mary	Goyette, Peter Jr	Graham, John
Greenberg, Gary	Haley, Robert	Hallyburton, Margaret	Hansen, Ryan
Harrington, Paul	Hinkle, Peyton	Infantine, William	Irwin, Anne-Marie
Jasper, Shawn	Jean, Claudette	Katsiantonis, Thomas	Kopka, Angeline
Kurk, Neal	L'Heureux, Robert	Laflamme, Charles	Lasky, Bette
Lessard, Rudy	Malloy, Chris	McHugh, Claire	Mercer, Robert
Michon, Stephen	Moran, Edward	Mosher, William	O'Brien, Lori
Pappas, Christopher	Pappas, Marc	Pilotte, Maurice	Price, Pamela
Reeves, Sandra	Ross, Lawrence	Rowe, Robert	Shaw, Barbara
Spiess, Paul	Stepanek, Stephen	Sullivan, Francis	Tahir, Saghir
Tate, Joan	Wheeler, James	Wheeler, Robert	

MERRIMACK

Anderson, Eric	Blanchard, Elizabeth	Brueggemann, Donald	Clarke, Claire
Currier, David	DeStefano, Stephen	Field, William	Foley, Albert
Fraser, Leo Jr	Hager, Elizabeth	Jacobson, Alf	Kenison, Leon
Kennedy, Richard	L'Heureux, Stephen	Langer, Ray	Leber, William
Lockwood, Priscilla	MacKay, James	Nutter, Edward	Oliver, James
Osborne, Jessie	Owen, Derek	Potter, Frances	Rodd, Beth
Rush, Deanna	Seldin, Gloria	Wallner, Mary Jane	

ROCKINGHAM

Abbott, Dennis	Allen, Mary	Belanger, Ronald	Bicknell, Elbert
Bishop, Franklin	Bridle, Russell	Carson, Sharon	Casey, Kimberley
Coes, Betsy	Dodge, Robert	Dowd, John	Flanders, John Sr
Gilbert, Karl	Gillick, Thomas	Gleason, John	Gould, Kenneth
Griffin, Mary	Hamel, Albert	Headd, James	Holland, James Jr
Hughes, Daniel	Introne, Robert	Katsakiores, George	Katsakiores, Phyllis
Kelley, Jane	Kobel, Rudolph	Langone, John	Letourneau, Robert
Major, Norman	Manning, John	Morris, Richard	Norelli, Terie
Noyes, Richard	Packard, Sherman	Pantelakos, Laura	Robertson, Carl
Roessner, Kurt	Ruffner, Walter	Scamman, Stella	Shultis, Elizabeth
Stone, Joseph	Tufts, J Arthur	Vallone, Matthew	Waterhouse, Kevin
Weare, E Albert	Welch, David	Weldy, Norman Jr	Wiley, Robert

STRAFFORD

Albert, Russell	Bemis, Alan	Berube, Roger	Brown, Julie
Creteau, Irene	Dunlap, Patricia	Easson, Timothy	Grassie, Anne
Knowles, William	Miller, Joseph	Musler, George	Pelletier, Arthur
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Spang, Judith	Taylor, Kathleen		

SULLIVAN

Allison, David	Burling, Peter	Cloutier, John	Flint, Gordon Sr
Franklin, Peter	Jones, Constance	Leone, Richard	Rodeschin, Beverly

and the motion to lay SB 478-FN on the table failed.

The question now being adoption of the committee report.

Rep. Bemis requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

YEAS 199 NAYS 146

YEAS 199

BELKNAP

Ahern, Omer Jr
Flanders, Donald
Rice, Thomas

Allen, Janet
Holbrook, Robert
Russell, David

Bartlett, Gordon
Laflam, Robert
Thomas, John

Fitzgerald, James
Nedeau, Stephen
Whalley, Michael

CARROLL

Brown, Carolyn
McConkey, Mark

Derby, Mark
Merrow, Harry

Dickinson, Howard
Patten, Betsey

Kenney, Bettie
Stevens, Stanley

CHESHIRE

Allen, Peter
Laurent, John
Smith, Edwin

Dunn, James
Manning, Joseph
Webber, Amy

Fish, Douglas
Pratt, Irene
Weed, Charles

Hunt, John
Richardson, Barbara

COOS

King, Frederick
Tholl, John Jr

Mears, Edgar

Pratt, Leighton

Stohl, Eric

GRAFTON

Akins, Ralph
Cooney, Mary
Hammond, Lee
Sokol, Hilda

Alger, John
Densmore, Edward
Naro, Debra
Solomon, Peter

Almy, Susan
Diamond, Estelle
Nordgren, Sharon
Sorg, Gregory

Barker, Robert
Gilman, G Michael
Scovner, Nancy
Williams, Burton

HILLSBOROUGH

Adams, Jarvis
Beaton, William
Carter, Jeffrey

Allan, Nelson
Brassard, Paul
Carter, Mark

Balcom, John
Brundige, Robert
Chabot, Robert

Batula, Peter
Buckley, Raymond
Christensen, D L
Chris

Cote, David

Cote, Peter

Coughlin, Pamela

Crane, Elenore
Casey
Drisko, Richard
Gargasz, Carolyn
Hall, Charles
Haytayan, Harry Jr

Desmarais, Vivian
Fields, Dennis
Goyette, Peter Jr
Hallyburton,
Margaret
Hinkle, Peyton
Jean, Claudette
McHugh, Claire
O'Brien, Lori
Reeves, Sandra
Sweeney, Cynthia

Dionne, Kimberley
Fletcher, Richard
Graham, John
Hansen, Ryan

Dokmo, Cynthia
Ford, Nancy
Greenberg, Gary
Harrington, Paul

Jasper, Shawn
Malloy, Chris
Mosher, William
Price, Pamela
Stepanek, Stephen

Infantine, William
Kurk, Neal
Mercer, Robert
Pepino, Leo
Ross, Lawrence
Tahir, Saghir

Irwin, Anne-Marie
L'Heureux, Robert
Michon, Stephen
Pilotte, Maurice
Rowe, Robert
Wheeler, Robert

MERRIMACK

Anderson, Eric

Blanchard, Elizabeth

Brueggemann,
Donald

Currier, David

Fraser, Leo Jr
Jacobson, Alf
Langer, Ray
Oliver, James
Rodd, Beth

Hager, Elizabeth
Kenison, Leon
Leber, William
Osborne, Jessie
Rush, Deanna

Hamm, Christine
Kennedy, Richard
Lockwood, Priscilla
Owen, Derek
Seldin, Gloria

Hess, David
L'Heureux, Stephen
MacKay, James
Potter, Frances
Wallner, Mary Jane

ROCKINGHAM

Abbott, Dennis
Carson, Sharon
Dodge, Robert
Gillick, Thomas

Allen, Mary
Casey, Kimberley
Dowd, John
Gleason, John

Bicknell, Elbert
Clark, Vivian
Flanders, John Sr
Gould, Kenneth

Bishop, Franklin
Coes, Betsy
Gilbert, Karl
Griffin, Mary

Hamel, Albert
Johnson, Robert
Kobel, Rudolph
Manning, John
Noyes, Richard
Scamman, Stella
Weare, E Albert

Headd, James
Johnson, Rogers
Langone, John
McKinney, Betsy
Packard, Sherman
Stone, Joseph
Welch, David

Holland, James Jr
Katsakiores, George
Letourneau, Robert
Morris, Richard
Pantelakos, Laura
Tufts, J Arthur
Weldy, Norman Jr

Introne, Robert
Katsakiores, Phyllis
Major, Norman
Norelli, Terie
Ruffner, Walter
Waterhouse, Kevin
Wiley, Robert

STRAFFORD

Albert, Russell
Creteau, Irene
Pelletier, Arthur
Smith, Marjorie

Bemis, Alan
Dunlap, Patricia
Rollo, Deanna
Snyder, Clair

Berube, Roger
Knowles, William
Rous, Emma
Taylor, Kathleen

Brown, Julie
Musler, George
Schmidt, Peter
Wall, Janet

SULLIVAN

Allison, David
Franklin, Peter

Burling, Peter
Jones, Constance

Cloutier, John
Leone, Richard

Flint, Gordon Sr
Rodeschin, Beverly

NAYS 146

BELKNAP

Boyce, Laurie
Wendelboe, Fran

Clark, Charles

Dewhirst, Glenn

Pilliod, James

CARROLL

Babson, David Jr

Mock, Henry

Olimpio, J Lisbeth

Philbrick, Donald

CHESHIRE

Dexter, Judson
Meader, David
Robertson, Timothy

Eaton, Daniel
Mitchell, McKim
Tilton, Anna

Espiefs, Peter
Parkhurst, Henry

Liebl, George
Pratt, John

COOS

Brady, Mark

Guay, Lawrence

Poulin, Richard

Theberge, Robert

GRAFTON

Benn, Bernard
Eaton, Stephanie
Maybeck, Margie

Bleyler, Ruth
Giuda, Robert

Dorsett, Andrew
Ham, Bonnie

Dudley, Terri
Ingbretson, Paul

HILLSBOROUGH

Arnold, Thomas Jr
Barry, J Gail
Carlson, Donald
Clemons, Jane
Gibson, John
Haley, Robert
Johnson, Lionel
LaFlamme, Paul
Lessard, Rudy
Mooney, Maureen
Pappas, Christopher
Shaw, Barbara
Sullivan, Francis

Artz, Lawrence
Bergeron, Jean-Guy
Cernota, Albert
Craig, James
Gonzalez, Carlos
Hawkins, Ken
Katsiantonis, Thomas
Lasky, Bette
Luebkert, Bernard
Moran, Edward
Pappas, Marc
Slocum, Lee
Tate, Joan

Balboni, Michael
Bruno, Pierre
Christiansen, Lars
Elliott, Larry
Gorman, Mary
Holden, Randolph
Kopka, Angeline
Lawrence, James
Martin, Mary Ellen
Ober, Russell III
Scanlon, Michael
Souza, Kathleen
Vaillancourt, Steve

Baroody, Benjamin
Buhlman, David
Clayton, William
Emerton, Larry
Hagan, Barbara
Hunter, Bruce
Laflamme, Charles
Leach, Edward
Messier, Irene
Palangas, Eric
Schulze, Joan
Spiess, Paul
Wheeler, James

MERRIMACK

Bouchard, Candace
Dunne, Christopher
Marple, Richard
Soltani, Tony

Clarke, Claire
Field, William
Maxfield, Roy

Davis, Frank
Foley, Albert
McCormick, Tom

DeStefano, Stephen
French, Barbara
Nutter, Edward

ROCKINGHAM

Belanger, Ronald	Blanchard, MaryAnn	Bridle, Russell	Cady, Harriet
Camm, Kevin	Cooney, Richard	DiFruscia, Anthony	Fesh, Bob
Francoeur, Sheila	Hughes, Daniel	Hutchinson, Karen	Ingram, Russell
Kelley, Jane	Langley, Jane	McCann, Richard	McEachern, Paul
McMahon, Charles	Priestley, Anne	Putnam, Ed II	Quandt, Matthew
Rausch, James	Robertson, Carl	Roessner, Kurt	Shultis, Elizabeth
Smith, Donald	Splaine, James	Vallone, Matthew	Weyler, Kenneth
Zolla, William			

STRAFFORD

Bickford, David	Campbell, W Packy	Cataldo, Sam	Easson, Timothy
Grassie, Anne	Harrington, Michael	Heon, Richard	Hofemann, Roland
Hollinger, Jeffrey	Johnson, Nancy	Kaen, Naida	Keans, Sandra
Miller, Joseph	Spang, Judith	Twombly, James	Vachon, Dennis
Woods, Phyllis			

SULLIVAN

Donovan, Thomas Ferland, Brenda Phinizy, James
and the committee report was adopted.
Ordered to third reading.

The House recessed at 12:40 p.m.

RECESS

The House reconvened at 1:45 p.m.

SENATE MESSAGES REQUESTS CONCURRENCE WITH AMENDMENTS

HB 1299, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. (Amendment printed SJ 04/22/04)
Rep. Patten moved that the House concur and spoke in favor.
Adopted.

BILLS REMOVED FROM CONSENT CALENDAR MAY 5, 2004(CONT'D.)
SB 153, adopting the nurse licensure compact. **OUGHT TO PASS WITH AMENDMENT**
Rep. Judson K. Dexter for Executive Departments and Administration: This is the second time this committee has dealt with this legislation. Two years ago, the committee and the New Hampshire Board of Nursing felt that it was unclear as to who had the authority to license nurses in New Hampshire, and therefore, could negatively impact the quality of nursing care for the people of New Hampshire. Additionally, the licensing fee structure would penalize New Hampshire nurses that did not want to be included in the compact. SB 153, with amendment addresses those concerns and now has the unanimous support of the New Hampshire Board of Nursing. The amended language continues to grant total autonomy to the New Hampshire Board of Nursing with regard to licensing. And while the Board of Nursing made it clear that the fees for licensing are going to increase independent of this legislation, the language in the bill allows the board to assess an additional licensing fee to those nurses who want an interstate nurse's license under the compact and, therefore, not penalize nurses who want only a New Hampshire license. Vote 13-6.

Amendment (1355h)

Amend RSA 326-B:4-a, XVIII as inserted by section 2 of the bill by replacing it with the following:

XVIII. The implementation and coordination of the nurse licensure compact adopted in RSA 326-B:34. The board shall use model rules developed for the nurse licensure compact by the National Council of State Boards of Nursing as the basis for adopting rules which shall be modified as necessary to comply with state statutes.

Amend RSA 326-B:8-a, IV and V as inserted by section 6 of the bill by replacing it with the following:

IV. A registered nurse or a licensed practical nurse, holding a valid license from a remote state, shall register and shall provide such information as the board may require prior to the time when that individual is physically present and practicing in New Hampshire. The board shall require a criminal background check as part of the registration requirement.

V. A registered nurse or a licensed practical nurse, possessing a valid license from a remote state, shall apply for nurse licensure in New Hampshire as provided for in this chapter when that nurse or licensed practical nurse changes his or her residency to New Hampshire. The nurse or licensed practical nurse may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in New Hampshire for a period not to exceed 30 days. The former home state license shall no longer be valid upon the issuance of a New Hampshire license.

Amend the bill by replacing section 7 with the following:

7 Effective Date. This act shall take effect July 1, 2005.

Adopted.

Report adopted and ordered to third reading.

SB 407-FN-L, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting. **OUGHT TO PASS WITH AMENDMENT**

Rep. Nancy K. Johnson for Municipal and County Government: The process for adopting a default budget that was implemented for SB 2 towns/school districts has come under attack for a number of years. The committee has tried to find various solutions to the "one size fits all" concept that was envisioned in the original passage of RSA 40:13. The manipulation of the bottom line figure for the default budget is evident. So the committee has adopted a process, which needs to be implemented by a vote of the SB 2 towns/school district at the local level that will make the default budget math transparent by the Department of Revenue Administration and will mirror what the current budget forms required for an operating budget. This bill clarifies the default budget and requires the development of the default budget to be clearly demonstrated by the governing body, including identifying one-time expenditures on this new form. In addition a new option is made available in official ballot voting municipalities by the legislative body, to authorize the budget committee, if there is one, to develop the default budget. Vote 14-0.

Amendment (1308h)

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

1 Use of Official Ballot; Operating Budget. Amend RSA 40:13, IX-XI to read as follows:

IX.(a) "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI, and exclusive of other appropriations voted separately.

(b) *"Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the*

succeeding budget, as determined by the governing body, unless the provisions of RSA 40:14-b are adopted, of the local political subdivision.

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved ~~[the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or reduced by one time expenditures contained in the operating budget,]~~ ***the default budget*** or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved. ~~[For the purposes of this paragraph, one time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision.]~~

XI. The ~~[amount of the previous year's operating budget, as adjusted pursuant to paragraph X,]~~ ***default budget*** shall be disclosed ~~[to the voters at the first session]~~ ***at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, unless the provisions of RSA 40:14-b are adopted, shall demonstrate how the default budget amount was determined by showing the appropriations contained in the operating budget authorized for the previous year and the reductions and increases and one-time expenditures as defined under paragraph IX(b) on a default budget form created by the department of revenue administration.*** This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, ***unless the provisions of RSA 40:14-b are adopted,*** acting on relevant new information at any time before the ballots are printed, ***provided the governing body, unless the provisions of RSA 40:14-b are adopted, completes an amended default budget form.*** The wording of the second session ballot question concerning the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$_____? Should this article be defeated, the ~~[operating]~~ ***default*** budget shall be \$_____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

2 Municipal Budget Law; Budget Preparation. Amend RSA 32:5, VII to read as follows:

VII.(a) The governing body shall post certified copies of the budget with the warrant for the meeting. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

3 New Section; Default Budget Determined by Budget Committee. Amend RSA 40 by inserting after section 14-a the following new section:

40:14-b Default Budget Determined by Budget Committee.

I. A local political subdivision which has adopted the official ballot referenda form of meeting pursuant to RSA 40:14 and has also adopted a municipal budget committee pursuant to RSA 32:14 may delegate the determination of the default budget to the budget committee instead of the governing body.

II. A vote under this section may be taken simultaneously with the adoption of RSA 40:13 or any time after the adoption of RSA 40:13.

(a) If the vote is taken simultaneously with the adoption of RSA 40:13, a separate question shall be placed on the warrant for the annual meeting following the procedures in RSA 40:14.

(b) If the vote is taken after the adoption of RSA 40:13, the question shall be placed on the warrant of the annual meeting by the governing body or by petition under the procedures set out in RSA 39:3 or RSA 197:6. A public hearing on the question shall be held by the local governing body following the procedures in RSA 40:14, IV. A vote to adopt the question shall conform with RSA 40:14, VI.

(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 40:14-b to delegate the determination of the default budget to the municipal budget committee which has been adopted under RSA 32:14?"

III. The provisions of this section may be rescinded following the procedures set out in RSA 40:14, VII, except that the wording of the question shall be: "Shall we rescind the provisions of RSA 40:14-b, as adopted by the (local political subdivision) on (date of adoption), so that the default budget will be determined by the governing body instead of the budget committee?"

4 Budget Committee; Duties. Amend RSA 32:16, I to read as follows:

I. To prepare the budget as provided in RSA 32:5, ***and if authorized under RSA 40:14-b, a default budget under RSA 40:13, IX(b)*** for submission to each annual or special meeting of the voters of the municipality, and, if the municipality is a town, the budgets of any school district or village district wholly within the town, unless the warrant for such meeting does not propose any appropriation.

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

Rep. Patten offered a floor amendment (1472h).

Floor Amendment (1472h)

Amend the bill by replacing section 2 with the following:

2 Municipal Budget Law; Budget Preparation. Amend RSA 32:5, VII to read as follows:

VII.(a) The governing body shall post certified copies of the budget with the warrant for the meeting. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

(b) The governing body in official ballot referenda jurisdictions operating under RSA 40:13 shall post certified copies of the default budget form or any amended default budget form with the proposed operating budget and the warrant.

Rep. Patten spoke in favor.

Floor amendment (1472h) adopted.

Report adopted and ordered to third reading.

SPECIAL ORDER

SB 302-FN-L, making technical corrections to the education funding formula. **REFER FOR INTERIM STUDY**

Rep. Joseph E. Stone for Finance: This bill represents the work of the study committee on education funding established under HB 608 of last session. It provides for a one-year transition period in FY 05 in order to grant some relief to communities whose current state education grants are scheduled to decrease significantly under HB 608. Because the study

committee did not increase education funding above the budgeted \$428 million, the bill shifts money around. Using a reverse Robin Hood approach, the bill reduces the increases given to property poor communities and transfers them to middle tier communities. No property poor community receives less in FY 05 than it did in FY 04, and no middle tier community receives less than 74% of its FY 04 grant. Finance is working on a different approach to education funding, but needs more time, especially in light of recent gubernatorial statements. Its unanimous recommendation for interim study is designed to provide that time and allow a floor amendment to be considered when the bill is before the House next week. Vote 22-0.

Rep. Kurk spoke against.

Report failed.

Rep. Kurk moved Ought to Pass with Amendment and offered a floor amendment (1494h)

Floor Amendment (1494h)

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

AN ACT relative to education funding and relative to the tobacco tax.

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

1 Statewide Enhanced Education Tax. Amend RSA 76:3 to read as follows:

76:3 Statewide Enhanced Education Tax. Beginning July 1, 2005, and every fiscal year thereafter, the uniform statewide enhanced education tax rate shall be set at a rate which shall raise \$363,677,547 based on the most recent available state equalized valuation ~~[and such]~~ **as released in the year in which the rate is calculated. Such** rate shall be imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F. The commissioner of the department of revenue administration shall set the rate ~~[which shall be effective for the fiscal year in which the calculation is made]~~ **pursuant to RSA 76:8 and RSA 76:9.**

2 Assessment; Commissioner's Warrant; Commissioner's Report. Amend RSA 76:8, I to read as follows:

I. The commissioner of revenue administration shall annually calculate the proportion of **uniform** statewide enhanced education tax to be raised by each municipality by multiplying the uniform **statewide enhanced** education ~~[property]~~ tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII ~~[for the preceding year, except]~~ **as released in the year in which the rate is calculated, excluding property taxable subject to** ~~[property taxable under]~~ RSA 82 or RSA 83-F.

3 School Money; Education Trust Fund. 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 ~~[statewide enhanced education property tax hardship relief under RSA 198:55]~~ **low and moderate income homeowners property tax relief under RSA 198:56-198:61.** The state treasurer shall deposit into this fund immediately upon receipt:

4 State Aid for Educational Adequacy; Definitions. Amend RSA 198:38, IX to read as follows:

IX. "Transportation cost" means the cost of transporting pupils in grades kindergarten through grade 8, **excluding educationally disabled pupils**, to and from school as reported by school districts on the DOE-25 form.

5 State Aid for Educational Adequacy; Definitions. Amend RSA 198:38, XI to read as follows:

XI. "Calculated rate" means the total revenue raised statewide by the local education tax **from the second year preceding the year in which the calculation is made** multiplied by 1,000, and then divided by the ~~[total]~~ statewide **total** equalized valuation **from**

the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and RSA 83-F.

6 State Aid for Educational Adequacy; Local Equalization Aid; Per Pupil Valuation. RSA 198:40 is repealed and reenacted to read as follows:

198:40 Local Equalization Aid. Beginning July 1, 2004, and every fiscal year thereafter, local equalization aid shall be calculated by the department as follows:

I. The statewide total equalized valuation of all municipalities from the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and RSA 83-F, shall be divided by the total statewide average daily membership in residence from the second school year preceding the year in which the calculation is made. The result shall be the statewide average equalized valuation per pupil.

II. The equalized valuation of all property in a municipality from the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and RSA 83-F, shall be divided by the average daily membership in residence in the municipality from the second school year preceding the year in which the calculation is made. The result shall be the local equalized valuation per pupil.

III. Eligibility for local equalization aid under this paragraph shall be determined as follows:

(a) If a municipality's local equalized valuation per pupil as calculated in paragraph II is equal to, or greater than, the statewide average equalized valuation per pupil as calculated in paragraph I, no local equalization aid shall be available.

(b) If a municipality's local equalized valuation per pupil as calculated in paragraph II is less than the statewide average equalized valuation per pupil as calculated in paragraph I, the municipality shall be entitled to receive local equalization aid in an amount equal to the following: subtract the local equalized valuation per pupil as calculated in paragraph II from the statewide average equalized valuation per pupil as calculated in paragraph I. This amount shall be multiplied by the calculated rate, and the product shall be divided by 1,000. The result shall be multiplied by the average daily membership in residence in such municipality from the second school year preceding the year in which the calculation is made and shall be available to a municipality as local equalization aid.

7 Targeted Per Pupil Aid; State Enhanced Education Aid. Amend RSA 198:40-a and 198:40-b to read as follows:

198:40-a Targeted Per Pupil Aid.

I. A municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to [200] **150** percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, shall be eligible to receive targeted per pupil aid for such municipality's transportation costs as reported on the DOE-25 form, and for such municipality's educationally disabled pupils, pupils eligible for free or reduced-price meals, and English for speakers of other languages which shall be determined by multiplying the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, by the calculated rate. The product shall be divided by 1,000 resulting in a per pupil amount which shall be available to a municipality as follows:

(a) The per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in residence of educationally disabled pupils in the municipality ***from the second school year preceding the year in which the calculation is made.*** This amount shall be available as targeted aid for educationally disabled pupils in the municipality.

(b) ~~(1) For the 2005 fiscal year, the per pupil amount calculated in paragraph I, less \$300, shall be multiplied by the average daily membership in residence eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality.~~

~~(2) For the 2006 fiscal year and every fiscal year thereafter,]~~ The per pupil

amount calculated in paragraph I shall be multiplied by the ~~[average daily membership in residence]~~ **head count of pupils in residence from the second school year preceding the year in which the calculation is made** eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality. ***In this subparagraph, "residence" means the municipality in which such pupils reside.***

(c) The per pupil amount calculated in paragraph I shall be multiplied by the ~~[average daily membership in attendance]~~ **headcount of pupils in attendance** receiving English for speakers of other languages services ~~[in the municipality]~~ **from the second school year preceding the year in which the calculation is made.** This amount shall be available as targeted aid for ~~[pupils in the]~~ **a municipality** ~~[receiving]~~ **providing** English for speakers of other languages **services.** ~~[In this subparagraph "average daily membership in attendance" shall be as defined in RSA 189:1 d, III.]~~

(d) ***Effective July 1, 2007, no municipality shall count the same pupil in subparagraphs (a)-(c) more than once.***

(e) A municipality eligible to receive targeted per pupil aid under this paragraph shall also receive 100 percent of transportation costs in such municipality.

II. A municipality with a local equalized valuation per pupil, as calculated in RSA 198:40, II, which is greater than ~~[200]~~ **150** percent of the statewide average equalized valuation per pupil as calculated in RSA 198:40, I shall not receive targeted per pupil aid under this section.

198:40-b State Enhanced Education Aid. Beginning July 1, 2004, and every fiscal year thereafter, state enhanced education aid shall be calculated by the department as follows:

I. Divide the ~~[total]~~ statewide **total** equalized valuation of all municipalities ~~[excluding utilities, as determined by the department of revenue administration]~~ **for the year preceding the year in which the calculation is made, excluding property taxable subject to RSA 82 and RSA 83-F,** by the total statewide average daily membership in residence **from the second school year preceding the year in which the calculation is made.** The result shall be the statewide average equalized valuation per pupil.

II. Divide the equalized valuation of all property in a municipality ~~[excluding utilities, as determined by the department of revenue administration]~~ **for the year preceding in the year in which the calculation is made, excluding property taxable subject to RSA 82 and RSA 83-F,** by the average daily membership in residence in the municipality **from the second school year preceding the year in which the calculation is made.** The result shall be the local equalized valuation per pupil.

III. Eligibility for state enhanced education aid under this paragraph shall be determined as follows:

(a) If a municipality's local equalized valuation per pupil as calculated in paragraph II is greater than or equal to the statewide average equalized valuation per pupil as calculated in paragraph I, no state enhanced aid shall be available.

(b) If a municipality's local equalized valuation per pupil as calculated in paragraph II is less than the statewide average equalized valuation per pupil as calculated in paragraph I, the municipality shall be entitled to receive state enhanced education aid in an amount equal to the following: subtract the local equalized valuation per pupil as calculated in paragraph II from the statewide average equalized valuation per pupil as calculated in paragraph I. This amount shall be multiplied by the statewide enhanced education tax **rate** imposed statewide in the fiscal year in which this calculation is made, and the product shall be divided by 1,000. The result shall be multiplied by the average daily membership in residence in such municipality **from the second school year preceding the year in which the calculation is made** and shall be available to a municipality as state enhanced education aid.

~~[IV.(a) In any fiscal year, if the amount raised by the statewide enhanced education~~

~~property tax in any municipality, except an unincorporated place or a town with an average daily membership in residence of one or less, exceeds the amount necessary to fund all local education costs, excluding repayment of bond principal and construction costs, as determined in such municipality's duly adopted school district budget, the excess shall be remitted to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.~~

~~(b) The amount of such excess to be remitted shall not include any income derived from the investment of funds by the municipal treasurers under RSA 41:29 and RSA 48:16. Any funds remaining after full payment of the excess tax required in subparagraph (a) shall become available for unrestricted use by the municipality.~~

~~(c) The commissioner of the department of revenue administration shall collect from the municipality the excess tax and pay the excess tax over to the state treasurer for deposit in the education trust fund established in RSA 198:39.~~

~~(d) The commissioner of the department of revenue administration shall calculate the excess amount owed by each municipality pursuant to subparagraph (a).]~~

[V] IV. In any fiscal year, a municipality shall appropriate all state enhanced education aid funds received under this section to pay for local education costs before raising any additional local education tax revenues [locally].

8 New Section; School Money; Consumer Price Index Adjustments. Amend RSA 198 by inserting after section 40-c the following new section:

198:40-d Consumer Price Index Adjustments; Transition Grants.

I. For the 2006 fiscal year, and every fiscal year thereafter, the transition grant as calculated under this section shall be adjusted as follows:

(a) Multiply the total state aid for education as calculated in RSA 198:40-c, I for the previous year by 100 percent plus the average annual rate of inflation for the 3 immediately preceding calendar years, as measured by the northeast region consumer price index (CPI) for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The result shall be the CPI-adjusted total state aid for education. In any fiscal year, the CPI-adjusted total state aid for education shall not be less than 100 percent of the CPI-adjusted total state aid for education in the previous fiscal year.

(b) Divide the CPI-adjusted total state aid for education by the total state aid for education pursuant to RSA 198:40-c, I. The result shall be the adjustment factor.

(c) Multiply the municipality's total grant amount as calculated pursuant to RSA 198:40, RSA 198:40-a, and RSA 198:40-b by the adjustment factor.

II. For fiscal years 2005 through 2007, a municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to 150 percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, and which is scheduled to receive less than 90 percent of the grant such municipality received in the previous fiscal year, shall receive a transition grant in an amount sufficient to increase the municipality's education grant to 90 percent of the amount received by such municipality in the previous fiscal year. If a municipality has a local equalized valuation per pupil which is greater than 150 percent of the statewide average equalized valuation per pupil, such municipality's transition grant shall be zero.

9 Determination of Education Grants. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Determination of Education Grants.

I. Except as provided in paragraph II, the department of education shall determine the amount of the education grant for the municipality by adding all sums received by a municipality under RSA 198:40, RSA 198:40-a, and RSA 198:40-b, as adjusted pursuant to RSA 198:40-d.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the education grant for each municipality as the lesser of the

following:

- (a) The amount calculated in accordance with paragraph I of this section; or
- (b) The total amount paid for items of current education expense as determined

by the department of education.

III. The department of education shall notify municipalities of the estimated amount of aid to which they are entitled for the following school year by November 1.

10 School Money; Distribution of Education Grants. Amend RSA 198:42, II to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA ~~[198:40-e]~~ **198:41** is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education ~~[according to the following formula: from the amount calculated in accordance with RSA 198:40-e, subtract the aggregate amount of the statewide enhanced education tax warrants to be issued by the commissioner of revenue administration for municipalities reported pursuant to RSA 76:9 for the next tax year]~~. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of education grants.

11 Excess Statewide Enhanced Education Property Tax Payment. RSA 198:46, I is repealed and reenacted to read as follows:

I. In any fiscal year, if the amount raised by the statewide enhanced education tax in any municipality, except an unincorporated place or a municipality with an average daily membership in residence of one or less, exceeds the amount necessary to fund all local education costs, excluding repayment of bond principal and construction costs, as determined in such municipality's duly adopted school district budget, the excess shall be remitted to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

12 Alternative Kindergarten Programs. Amend RSA 198:48-a, VII-VIII to read as follows:

VII.(a) For each fiscal year through June 30, 2003, an ~~[adequate]~~ education grant of \$1200 per pupil shall be distributed to school districts, from the education trust fund created in RSA 198:39, for the education of its resident kindergarten pupils enrolled in an approved alternative kindergarten program established under this section.

(b) Once pupils enrolled in an approved alternative kindergarten program have been counted in the average daily membership in residence, school districts shall receive, for each such pupil, an ~~[adequate]~~ education grant calculated in accordance with RSA 198:41.

VIII. Notwithstanding the provisions of this section, alternative kindergarten programs which were approved and in effect prior to April 29, 1999 may continue to operate and shall continue to receive per pupil ~~[adequate]~~ education grant amounts in accordance with RSA 198:41.

13 Repeal. The following are repealed:

I. RSA 198:40-c, II, relative to the consumer price index adjustment for total state aid for education.

II. RSA 198:40-c, IV, relative to the pro rata reduction in total state aid to education.

14 Tobacco Tax; Tax Imposed Effective July 1, 2004. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of ~~[52]~~ **69** cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages

containing the cigarettes in which such products usually are sold at retail. The word “package” as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

15 Tobacco Tax; Tax Imposed Effective July 1, 2005. RSA 78:7 is repealed and reenacted to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of 59 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word “package” as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

16 Tobacco Tax; Tax Imposed Effective July 1, 2006. RSA 78:7 is repealed and reenacted to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of 52 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word “package” as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

17 Applicability. Section 14 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 90 days after the effective date of this act. The tax rate effective July 1, 2004 shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

18 Education Property Tax; Rate Established. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of \$4.92 on each \$1000 of the value of taxable property is hereby imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F.

19 Assessment; Commissioner’s Warrant; Commissioner’s Report. RSA 76:8 and 76:9 are repealed and reenacted to read as follows:

76:8 Commissioner’s Warrant.

I. The commissioner of revenue administration shall annually calculate the proportion of education property tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

II. The commissioner shall issue a warrant under the commissioner’s hand and official seal for the amount computed in paragraph I to the selectmen or assessors of each municipality by December 15 directing them to assess such sum and pay it to the municipality for the use of the school district or districts and, if there is an excess education tax payment due pursuant to RSA 198:46, directing them to assess the amount of the excess payment and pay it to the department of revenue administration for deposit in the education trust fund. Such sums shall be assessed at such times as may be prescribed for other taxes

assessed by such selectmen or assessors of the municipality.

III. Municipalities are authorized to assess local property taxes necessary to fund school district appropriations not funded by the education property tax, by distributions from the education trust fund under RSA 198:39, or by other revenue sources.

76:9 Commissioner's Report. The commissioner of revenue administration shall report to the governor, the speaker of the house of representatives, the president of the senate, and the commissioner of education each year on or before October 1, a statement of the education property tax warrants to be issued for the tax year commencing April 1 of the succeeding year.

20 Utility Property Tax; Exemption. RSA 83-F:9 is repealed and reenacted to read as follows:

83-F:9 Exemption From State Education Property Tax. Persons and property subject to taxation under this chapter shall not be subject to tax under RSA 76:3; provided, however, that nothing in this chapter shall be construed to exempt such persons or property from local school, municipal, district, or county taxation under RSA 76.

21 School Boards, Teachers; Definitions Amended. RSA 189:1-d is repealed and reenacted to read as follows:

189:1-d Definitions. In this chapter:

I. "Attendance" means full-time participation in a program of instruction under the direction of a teacher employed by the school district. Educationally disabled home educated pupils educated at school district expense under the direction of a teacher employed by the school district shall be included.

II. "Membership" means pupils of whom attendance is expected, whether a pupil is present or absent on any given day.

III. "Average daily membership in attendance" means the aggregate half-day membership of pupils attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance for preschool and kindergarten pupils shall be divided by the number of instructional days offered to higher-level elementary grades.

IV. "Average daily membership in residence" means the average daily membership in attendance of pupils who are legal residents of the school district pursuant to RSA 193:12 or RSA 193:27, IV and are attending any public school, or who are attending any charter school or private school program approved by the department of education at the expense of the school district.

22 School Money; Definitions; Education Trust Fund; Determination of Per Pupil Adequate Education Cost; Determination of Adequate Education Grants. RSA 198:38-41 are repealed and reenacted to read as follows:

198:38 Definitions. In this subdivision:

I. "Municipality" means a city, town, or unincorporated place.

II. "School district" means school district as defined in RSA 194:1 or RSA 195:1.

III. "Elementary school" means a school with any of the grades kindergarten through 8.

IV. "High school" means a school with any of the grades 9 through 12.

V. "Base expenditure per pupil" for each school district that operates an elementary school means the amounts calculated in accordance with RSA 198:40, I(a).

VI. "Average base cost per pupil of an elementary school pupil" means the amount as determined in accordance with RSA 198:40.

VII. "Weighted pupils" means resident pupils weighted as follows:

(a) Every pupil, including kindergarten pupils, 1.0.

(b) A high school pupil, an additional weight of 0.2.

(c) An educationally disabled child, an additional weight of 1.0.

(d)(1) Additional weights based on pupils eligible to receive a free or reduced-price meal shall be calculated by multiplying each municipality's elementary average daily

membership in residence by the percentage of elementary pupils eligible to receive a free or reduced-price meal in the district of residence, and multiplied by:

(A) If the district percent is less than or equal to the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, zero.

(B) If the district percentage is greater than the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, the lesser of 1.0 or a number equal to 5 times the difference between the district percentage and the state average percentage multiplied by 0.85.

(2) If the elementary average daily membership of the district of residence is less than 10, the percentage of elementary pupils eligible to receive a free or reduced-price meal shall be equal to the percentage eligible in that district in which the majority of the elementary pupils attend.

(e) Each pupil who is home educated pursuant to a program approved under RSA 193-A shall be added as follows:

(1) 0.1 for each home educated pupil participating in a public school activity; and

(2) An additional 0.15 for each academic course taken in a public school, provided that no co-curricular activity, as defined by the department of education, shall count as an academic course under this subparagraph.

VIII. "Educationally disabled child" means an educationally disabled child as defined in RSA 186-C:2, I.

IX. "Average daily membership in attendance" means average daily membership in attendance as defined in RSA 189:1-d, III.

X. "Average daily membership in residence" and "resident pupils" mean the average daily membership in residence as defined in RSA 189:1-d, IV except that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

XI. "Transportation costs" means the cost of transporting pupils in kindergarten through grade 8, excluding educationally disabled pupils, to and from school as reported by school districts on the DOE-25 form.

XII. "Adequate education cost" means the amount calculated for a municipality in accordance with RSA 198:41, I(a) and (b). In a cooperative school district, the adequate education cost shall equal the sum of the adequate education costs of the municipalities whose pre-existing school districts constitute the cooperative school district.

198:39 Education Trust Fund Created and Invested.

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. The state treasurer shall deposit into this fund immediately upon receipt:

(a) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-A:20-a, relative to business profits taxes.

(b) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-E:14, relative to business enterprise tax.

(c) Funds collected and paid over to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-A:26, III relative to the tax on motor vehicle rentals.

(d) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78:32, relative to tobacco taxes.

(e) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-B:13, relative to real estate transfer taxes.

(f) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-F:7, I, relative to the utility property tax.

(g) The full amount of excess education property tax payments from the department of revenue administration pursuant to RSA 198:46.

(h) All moneys due the fund in accordance with RSA 284:21-j, relative to sweepstakes.

(i) Tobacco settlement funds in the amount of \$40,000,000 annually.

(j) The school portion of any revenue sharing funds distributed pursuant to RSA 31-A:4 which were apportioned to school districts in the property tax rate calculations in 1998.

(k) Any other moneys appropriated from the general fund.

II. The education trust fund shall be nonlapsing. The state treasurer shall invest that part of the fund which is not needed for immediate distribution in short-term interest-bearing investments. The income from these investments shall be returned to the fund.

198:40 Determination of Per Pupil Adequate Education Cost and Adequate Education Grant.

I. For the biennium beginning July 1, 1999, and every biennium thereafter, the cost per pupil shall be established using the following formula:

(a) The department of education shall calculate the base expenditure per pupil for each school district that operates an elementary school by subtracting from the total expenditures at the elementary school level, tuition to other school districts or approved educational programs, capital costs and debt service on such costs, special education costs, food service costs, transportation costs, adult/continuing education and community services costs, and federal revenues not otherwise deducted. For each school district, this amount shall be divided by the average daily membership in attendance at the elementary school level to attain the base expenditure per pupil.

(b) The adequate education grant amount shall be calculated as follows:

(1) The department of education shall identify those school districts where 40 to 60 percent of the elementary pupils enrolled in the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above.

(2) From the school districts identified in subparagraph I(b)(1) of this section, the department of education shall then identify those school districts that have the lowest base expenditure per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified in subparagraph I(b)(1) of this section.

(3) The department of education shall calculate the average base cost per pupil of an adequate education at the elementary school level by multiplying the base expenditure per pupil of each school district identified in subparagraph I(b)(2) of this section by the average daily membership in attendance at each of the selected school districts, and add the results across all districts selected. This sum shall then be divided by the total average daily membership in attendance at the elementary school level in all of the selected school districts and the result shall be multiplied by .9025.

II. The weighted average daily membership in residence for each municipality shall be calculated by combining the elementary average daily membership in residence with the weighted high school average daily membership in residence, the average daily membership in residence resulting from educationally disabled children, and the additional average daily membership in residence resulting from elementary pupils eligible to receive a free or reduced-price meal. The statewide weighted average daily membership in residence of pupils shall be calculated by combining the weighted average daily membership in residence of each municipality in the state.

III. The statewide cost of an adequate education for all pupils shall be calculated by multiplying the average base per pupil cost of an adequate education by the statewide weighted average daily membership in residence of pupils and then adding 100 percent of

transportation costs as defined in RSA 198:38, XI.

198:41 Determination of Adequate Education Grants.

I. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for the municipality as follows:

- (a) Multiply the average base cost per pupil of an elementary pupil by the weighted average daily membership in residence for the municipality; and
- (b) Add to the product of subparagraph (a), 100 percent of the municipality's apportioned transportation costs as defined in RSA 198:38, XI;
- (c) Subtract from the sum of subparagraph (b) the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for each municipality as the lesser of the two following calculations:

- (a) The amount calculated in accordance with paragraph I of this section; or
- (b) The total amount paid for items of current education expense as determined by the department of education minus the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

23 School Money; Distribution of Education Grants. RSA 198:42, II is repealed and reenacted to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA 198:41 is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of education grants.

24 School Money; Targeted Education Grants. RSA 198:45-a is repealed and reenacted to read as follows:

198:45-a Targeted Education Grants.

I. In this section:

(a) "Median family income" and "median home value" shall be as defined in the most recent census data published for New Hampshire counties and municipalities by the United States Census Bureau, United States Department of Commerce. County values shall be used for unincorporated places not reported in the census data.

(b) "Total equalized valuation" shall mean the most recent available total equalized valuation, including utilities and railroads, as determined by the department of revenue administration.

(c) "Adjustment percentage" shall mean the percentage which will result in a total targeted education grant distribution in a fiscal year that will match, as nearly as possible without exceeding, the appropriation in such fiscal year for targeted education grants.

II. The department of education shall annually calculate each municipality's targeted education grant as set forth in this paragraph.

(a) The department of education shall calculate the statewide average per pupil target amount as follows:

- (1) Multiply the statewide median family income by 0.5 percent; and

(2) Divide the product by the statewide median home value; and
(3) Multiply the result by the statewide total equalized valuation and divide the product by the statewide average daily membership in residence. The result shall be the statewide average per pupil target amount.

(4) Multiply the statewide average per pupil target amount by 2 and multiply the result by the adjustment percentage.

(b) The department of education shall calculate the local valuation per pupil as follows:

(1) Multiply the average median family income in the municipality by 0.5 percent; and

(2) Divide the product by the median home value in the municipality; and

(3) Multiply the result by the total equalized valuation in the municipality and divide the product by the average daily membership in residence in the municipality. The result shall be the local per pupil amount.

(c) The department of education shall subtract the amount obtained in subparagraph (b) from the amount obtained in subparagraph (a) and multiply the difference by the adjustment percentage. The result, if greater than zero, shall be multiplied by the average daily membership in residence in the municipality and shall be distributed to the municipality as a targeted education grant.

III. The sum of \$10,000,000 shall be appropriated to the education trust fund established in RSA 198:39 for the purpose of providing targeted education grants to school districts. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

IV. Targeted education grants made under this section shall be distributed in accordance with RSA 198:42.

25 Excess Education Property Tax Payment; Subdivision Heading Amended. The subdivision heading immediately preceding RSA 198:46 is repealed and reenacted to read as follows:

Excess Education Property Tax Payment

26 Excess Education Property Tax Payment. RSA 198:46, I is repealed and reenacted to read as follows:

I. Municipalities for which the education property tax exceeds the amount necessary to fund an adequate education determined by RSA 198:40 shall assess and remit such excess amount to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

27 Excess Education Property Tax Payment; Forms. RSA 198:47 is repealed and reenacted to read as follows:

198:47 Forms. The commissioner shall approve and provide forms relative to the reporting and remitting of excess education property tax by the municipalities.

28 Low and Moderate Income Homeowners Property Tax Relief. RSA 198:57, III(a) is repealed and reenacted to read as follows:

(a) Owns a homestead or interest in a homestead subject to the education property tax;

29 Low and Moderate Income Homeowners Property Tax Relief. RSA 198:57, IV(c) is repealed and reenacted to read as follows:

(c) Multiply the lesser of the amount determined in subparagraph (a) or (b) by the current state education property tax rate as shown on the tax bill under RSA 76:11-a;

30 Consumer Price Index Adjustments to the Base Cost Per Pupil Calculation. The base cost per pupil shall be adjusted by the average annual percentage rate of inflation for the 4 immediately preceding calendar years.

31 Repeal. The following are repealed:

I. RSA 198:40-a, relative to targeted per pupil aid.

II. RSA 198:40-b, relative to state enhanced education aid.

III. RSA 198:40-c, relative to total state aid for education.

32 Contingent Applicability. If any provision of sections 1-17 of SB 302-FN-LOCAL of the 2004 legislative session is declared to be contrary to the New Hampshire constitution, or if the applicability thereof to any agency, person, or circumstance is held invalid, then sections 18-31 of this act shall take effect immediately upon the determination of such unconstitutionality or invalidity, and shall remain in effect thereafter.

33 Effective Date.

I. Sections 1 and 15 of this act shall take effect July 1, 2005.

II. Section 16 of this act shall take effect July 1, 2006.

III. Sections 17 and 32 of this act shall take effect upon its passage.

IV. RSA 198:40-a, I(d) as inserted by section 7 of this act shall take effect July 1, 2007.

V. Sections 18-31 of this act shall take effect as provided in section 32 of this act.

VI. The remainder of this act shall take effect July 1, 2004 at 12:01 a.m.

AMENDED ANALYSIS

This bill:

I. For the 2005-2007 fiscal years, allows municipalities to receive 90 percent of the education grant received in the previous fiscal year.

II. Amends certain statutory provisions concerning the distribution of state aid for education.

III. Increases the tobacco tax from 52 to 69 cents for the 2005 fiscal year.

IV. Decreases the tobacco tax from 69 to 59 cents for the 2006 fiscal year.

V. Decreases the tobacco tax from 69 to 52 cents for the 2007 fiscal year and thereafter.

VI. Provides that the education funding formula for the 2004 fiscal year shall take effect if any provision of sections 1-17 of SB 302-FN-LOCAL of the 2004 legislative session is found to be unconstitutional or invalid.

Rep. Camm inquired if floor amendment (1494h) was divisible and requested that Sections 14, 15, 16, and 17 be divided from the remainder of the amendment.

The Speaker ruled that the floor amendment was divisible and that without objection, Sections 14, 15, 16 and 17 be considered at the present time.

Rep. King spoke in favor and yielded to questions.

Rep. Buhlman spoke against and yielded to questions.

Reps. Burling and Jasper spoke in favor and yielded to questions.

Reps. Michael Harrington spoke against.

Reps. Gibson and Price spoke in favor.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of Sections 14, 15, 16 and 17 of floor amendment (1494h).

YEAS 241 NAYS 96

YEAS 241

BELKNAP

Bartlett, Gordon
Flanders, Donald
Rice, Thomas
Whalley, Michael

Boyce, Laurie
Holbrook, Robert
Russell, David

Dewhirst, Glenn
Nedeau, Stephen
Thomas, John

Fitzgerald, James
Pilliod, James
Wendelboe, Fran

CARROLL

Brown, Carolyn
Olimpio, J Lisbeth

Kenney, Bettie
Patten, Betsey

McConkey, Mark
Philbrick, Donald

Merrow, Harry
Stevens, Stanley

CHESHIRE

Allen, Peter
Fish, Douglas

Dexter, Judson
Hunt, John

Dunn, James
Laurent, John

Espieffs, Peter
Liebl, George

Manning, Joseph
Richardson, Barbara

Mitchell, McKim
Smith, Edwin

Parkhurst, Henry
Webber, Amy

Pratt, Irene
Weed, Charles

COOS

King, Frederick
Theberge, Robert

Poulin, Richard
Tholl, John Jr

Pratt, Leighton

Stohl, Eric

GRAFTON

Akins, Ralph
Bleyler, Ruth
Dudley, Terri
Nordgren, Sharon
Williams, Burton

Alger, John
Cooney, Mary
Ham, Bonnie
Scovner, Nancy

Almy, Susan
Densmore, Edward
Hammond, Lee
Sokol, Hilda

Benn, Bernard
Diamond, Estelle
Ingbertson, Paul
Solomon, Peter

HILLSBOROUGH

Allan, Nelson
Batula, Peter
Buckley, Raymond
Chabot, Robert

Arnold, Thomas Jr
Beaton, William
Carlson, Donald
Christensen, D L
Chris

Artz, Lawrence
Brassard, Paul
Carter, Jeffrey
Christiansen, Lars

Balcom, John
Brundige, Robert
Cernota, Albert
Clayton, William

Coughlin, Pamela

Crane, Elenore
Casey

Desmarais, Vivian

Dokmo, Cynthia

Drisko, Richard
Ford, Nancy
Goyette, Peter Jr
Hall, Charles
Hinkle, Peyton
Jasper, Shawn
L'Heureux, Robert
Lessard, Rudy
Messier, Irene
Ober, Russell III
Reeves, Sandra
Stepanek, Stephen
Wheeler, Robert

Emerton, Larry
Gargas, Carolyn
Graham, John
Hallyburton, Margaret
Hunter, Bruce
Johnson, Lionel
Laflamme, Charles
Malloy, Chris
Mooney, Maureen
Pappas, Christopher
Rowe, Robert
Sullivan, Francis

Fields, Dennis
Gibson, John
Greenberg, Gary
Harrington, Paul
Infantine, William
Kopka, Angeline
LaFlamme, Paul
McHugh, Claire
Moran, Edward
Pilotte, Maurice
Shaw, Barbara
Tate, Joan

Fletcher, Richard
Gonzalez, Carlos
Haley, Robert
Haytayan, Harry Jr
Irwin, Anne-Marie
Kurk, Neal
Leach, Edward
Mercer, Robert
Mosher, William
Price, Pamela
Spiess, Paul
Vaillancourt, Steve

MERRIMACK

Anderson, Eric

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann,
Donald

Clarke, Claire
French, Barbara
Jacobson, Alf
Leber, William
Oliver, James
Rodd, Beth

Davis, Frank
Hager, Elizabeth
Kenison, Leon
Lockwood, Priscilla
Osborne, Jessie
Rush, Deanna

DeStefano, Stephen
Hamm, Christine
L'Heureux, Stephen
MacKay, James
Owen, Derek
Seldin, Gloria

Fraser, Leo Jr
Hess, David
Langer, Ray
McCormick, Tom
Potter, Frances
Wallner, Mary Jane

ROCKINGHAM

Blanchard, MaryAnn
Clark, Vivian
Dowd, John
Gilbert, Karl
Griffin, Mary
Hughes, Daniel
Katsakiores, George
Langley, Jane
McEachern, Paul
Packard, Sherman
Rausch, James

Bridle, Russell
Cooney, Richard
Fesh, Bob
Gillick, Thomas
Hamel, Albert
Hutchinson, Karen
Katsakiores, Phyllis
Langone, John
McKinney, Betsy
Pantelakos, Laura
Robertson, Carl

Carson, Sharon
DiFruscia, Anthony
Flanders, John Sr
Gleason, John
Headd, James
Ingram, Russell
Kelley, Jane
Letourneau, Robert
McMahon, Charles
Priestley, Anne
Roessner, Kurt

Casey, Kimberley
Dodge, Robert
Francoeur, Sheila
Gould, Kenneth
Holland, James Jr
Johnson, Robert
Kobel, Rudolph
Major, Norman
Norelli, Terie
Quandt, Matthew
Ruffner, Walter

Scamman, Stella
Waterhouse, Kevin
Wiley, Robert

Splaine, James
Weare, E Albert
Zolla, William

Stone, Joseph
Welch, David

Tufts, J Arthur
Weldy, Norman Jr

STRAFFORD

Bemis, Alan
Dunlap, Patricia
Keans, Sandra
Pelletier, Arthur
Smith, Marjorie
Vachon, Dennis

Berube, Roger
Grassie, Anne
Knowles, William
Rollo, Deanna
Snyder, Clair
Wall, Janet

Brown, Julie
Hofemann, Roland
Musler, George
Rous, Emma
Spang, Judith

Creteau, Irene
Kaen, Naida
Newton, Clifford
Schmidt, Peter
Twombly, James

SULLIVAN

Allison, David
Flint, Gordon Sr

Burling, Peter
Franklin, Peter

Cloutier, John
Jones, Constance

Donovan, Thomas
Rodeschin, Beverly

NAYS 96

BELKNAP

Ahern, Omer Jr

Allen, Janet

Clark, Charles

CARROLL

Babson, David Jr

Derby, Mark

Dickinson, Howard

Mock, Henry

CHESHIRE

Eaton, Daniel
Tilton, Anna

Meador, David

Pratt, John

Robertson, Timothy

COOS

Brady, Mark

Guay, Lawrence

Mears, Edgar

GRAFTON

Barker, Robert
Maybeck, Margie

Dorsett, Andrew
Naro, Debra

Gilman, G Michael
Sorg, Gregory

Giuda, Robert

HILLSBOROUGH

Adams, Jarvis
Bergeron, Jean-Guy
Clemons, Jane
Dionne, Kimberley
Hansen, Ryan
Katsiantonis, Thomas
McElroy, Henry Jr
Pappas, Marc
Slocum, Lee
Wheeler, James

Balboni, Michael
Bruno, Pierre
Cote, David
Elliott, Larry
Hawkins, Ken
Lasky, Bette
Michon, Stephen
Pepino, Leo
Souza, Kathleen

Baroody, Benjamin
Buhlman, David
Cote, Peter
Gorman, Mary
Holden, Randolph
Luebkert, Bernard
O'Brien, Lori
Scanlon, Michael
Sweeney, Cynthia

Barry, J Gail
Carter, Mark
Craig, James
Hagan, Barbara
Jean, Claudette
Martin, Mary Ellen
Palangas, Eric
Schulze, Joan
Tahir, Saghir

MERRIMACK

Currier, David
Kennedy, Richard

Dunne, Christopher
Marple, Richard

Field, William
Nutter, Edward

Foley, Albert
Soltani, Tony

ROCKINGHAM

Abbott, Dennis
Bishop, Franklin
Johnson, Rogers
Putnam, Ed II

Allen, Mary
Cady, Harriet
Manning, John
Smith, Donald

Belanger, Ronald
Camm, Kevin
McCann, Richard
Vallone, Matthew

Bicknell, Elbert
Coes, Betsy
Morris, Richard
Weyler, Kenneth

STRAFFORD

Albert, Russell
Easson, Timothy
Taylor, Kathleen

Bickford, David
Harrington, Michael
Woods, Phyllis

Campbell, W Packy
Hollinger, Jeffrey

Cataldo, Sam
Johnson, Nancy

SULLIVAN

Ferland, Brenda Leone, Richard Phinizy, James
and Sections 14, 15, 16 and 17 of floor amendment (1494h) was adopted.

The question now being adoption of the remainder of floor amendment (1494h).
Rep. James Wheeler requested a roll call; sufficiently seconded.

YEAS 282 NAYS 53

YEAS 282

BELKNAP

Bartlett, Gordon	Boyce, Laurie	Clark, Charles	Dewhirst, Glenn
Fitzgerald, James	Flanders, Donald	Holbrook, Robert	Nedeau, Stephen
Pilliod, James	Rice, Thomas	Russell, David	Thomas, John
Wendelboe, Fran	Whalley, Michael		

CARROLL

Babson, David Jr	Brown, Carolyn	Dickinson, Howard	Kenney, Bettie
McConkey, Mark	Merrow, Harry	Olimpio, J Lisbeth	Patten, Betsey
Philbrick, Donald	Stevens, Stanley		

CHESHIRE

Allen, Peter	Dexter, Judson	Dunn, James	Eaton, Daniel
Espieffs, Peter	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Mitchell, McKim	Parkhurst, Henry
Pratt, Irene	Pratt, John	Richardson, Barbara	Smith, Edwin
Webber, Amy	Weed, Charles		

COOS

Brady, Mark	Guay, Lawrence	King, Frederick	Mears, Edgar
Poulin, Richard	Pratt, Leighton	Stohl, Eric	Theberge, Robert
Tholl, John Jr			

GRAFTON

Akins, Ralph	Alger, John	Almy, Susan	Barker, Robert
Benn, Bernard	Bleyler, Ruth	Cooney, Mary	Densmore, Edward
Diamond, Estelle	Dorsett, Andrew	Dudley, Terri	Ham, Bonnie
Hammond, Lee	Naro, Debra	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Solomon, Peter	Williams, Burton	

HILLSBOROUGH

Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence	Balboni, Michael
Balcom, John	Baroody, Benjamin	Batula, Peter	Beaton, William
Bergeron, Jean-Guy	Brassard, Paul	Brundige, Robert	Bruno, Pierre
Buckley, Raymond	Carlson, Donald	Carter, Jeffrey	Cernota, Albert
Chabot, Robert	Christensen, D L	Christiansen, Lars	Clayton, William
	Chris		
Clemons, Jane	Cote, David	Cote, Peter	Coughlin, Pamela
Craig, James	Crane, Elenore	Desmarais, Vivian	Dokmo, Cynthia
	Casey		
Drisko, Richard	Elliott, Larry	Emerton, Larry	Fields, Dennis
Fletcher, Richard	Ford, Nancy	Gargasz, Carolyn	Gibson, John
Gonzalez, Carlos	Gorman, Mary	Goyette, Peter Jr	Graham, John
Greenberg, Gary	Haley, Robert	Hall, Charles	Hallyburton, Margaret
Harrington, Paul	Haytayan, Harry Jr	Hinkle, Peyton	Hunter, Bruce
Infantine, William	Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette
Johnson, Lionel	Kopka, Angeline	Kurk, Neal	L'Heureux, Robert
Laflamme, Charles	LaFlamme, Paul	Lasky, Bette	Leach, Edward

Lessard, Rudy
Mercer, Robert
Moran, Edward
Pappas, Christopher
Price, Pamela
Shaw, Barbara
Stepanek, Stephen
Wheeler, James

Malloy, Chris
Messier, Irene
Mosher, William
Pappas, Marc
Reeves, Sandra
Slocum, Lee
Sullivan, Francis
Wheeler, Robert

Martin, Mary Ellen
Michon, Stephen
Ober, Russell III
Pepino, Leo
Rowe, Robert
Souza, Kathleen
Tate, Joan

McHugh, Claire
Mooney, Maureen
Palangas, Eric
Pilotte, Maurice
Schulze, Joan
Spiess, Paul
Vaillancourt, Steve

MERRIMACK

Anderson, Eric

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann,
Donald

Clarke, Claire
French, Barbara
Jacobson, Alf
Leber, William
Nutter, Edward
Potter, Frances
Soltani, Tony

Davis, Frank
Hager, Elizabeth
Kenison, Leon
Lockwood, Priscilla
Oliver, James
Rodd, Beth
Wallner, Mary Jane

DeStefano, Stephen
Hamm, Christine
L'Heureux, Stephen
MacKay, James
Osborne, Jessie
Rush, Deanna

Fraser, Leo Jr
Hess, David
Langer, Ray
McCormick, Tom
Owen, Derek
Seldin, Gloria

ROCKINGHAM

Abbott, Dennis
Camm, Kevin
DiFruscia, Anthony
Flanders, John Sr
Gleason, John
Holland, James Jr
Johnson, Robert
Kelley, Jane
Letourneau, Robert
McMahon, Charles
Priestley, Anne
Robertson, Carl
Splaine, James
Waterhouse, Kevin
Wiley, Robert

Bicknell, Elbert
Carson, Sharon
Dodge, Robert
Francoeur, Sheila
Gould, Kenneth
Hughes, Daniel
Johnson, Rogers
Kobel, Rudolph
Major, Norman
Norelli, Terie
Putnam, Ed II
Roessner, Kurt
Stone, Joseph
Welch, David
Zolla, William

Blanchard, MaryAnn
Casey, Kimberley
Dowd, John
Gilbert, Karl
Griffin, Mary
Hutchinson, Karen
Katsakiores, George
Langley, Jane
McEachern, Paul
Packard, Sherman
Quandt, Matthew
Ruffner, Walter
Tufts, J Arthur
Weldy, Norman Jr

Bridle, Russell
Cooney, Richard
Fesh, Bob
Gillick, Thomas
Hamel, Albert
Ingram, Russell
Katsakiores, Phyllis
Langone, John
McKinney, Betsy
Pantelakos, Laura
Rausch, James
Scamman, Stella
Vallone, Matthew
Weyler, Kenneth

STRAFFORD

Albert, Russell
Creteau, Irene
Hollinger, Jeffrey
Knowles, William
Rollo, Deanna
Snyder, Clair
Vachon, Dennis

Bemis, Alan
Dunlap, Patricia
Johnson, Nancy
Musler, George
Rous, Emma
Spang, Judith
Wall, Janet

Berube, Roger
Harrington, Michael
Kaen, Naida
Newton, Clifford
Schmidt, Peter
Taylor, Kathleen

Brown, Julie
Hofemann, Roland
Keans, Sandra
Pelletier, Arthur
Smith, Marjorie
Twombly, James

SULLIVAN

Allison, David
Flint, Gordon Sr

Burling, Peter
Jones, Constance

Cloutier, John
Leone, Richard

Donovan, Thomas
Rodeschin, Beverly

NAYS 53

BELKNAP

Ahern, Omer Jr

Allen, Janet

CARROLL

Derby, Mark

Mock, Henry

CHESHIRE

Meader, David Robertson, Timothy Tilton, Anna

COOS

None

GRAFTON

Gilman, G Michael Giuda, Robert Ingbretson, Paul Maybeck, Margie
Sorg, Gregory

HILLSBOROUGH

Adams, Jarvis Barry, J Gail Carter, Mark Dionne, Kimberley
Hagan, Barbara Hansen, Ryan Hawkins, Ken Holden, Randolph
Katsiantonis, Thomas Luebker, Bernard McElroy, Henry Jr O'Brien, Lori
Scanlon, Michael Sweeney, Cynthia Tahir, Saghir

MERRIMACK

Currier, David Dunne, Christopher Field, William Foley, Albert
Kennedy, Richard Marple, Richard

ROCKINGHAM

Allen, Mary Belanger, Ronald Bishop, Franklin Cady, Harriet
Clark, Vivian Coes, Betsy Manning, John McCann, Richard
Morris, Richard Smith, Donald Weare, E Albert

STRAFFORD

Bickford, David Campbell, W Packy Cataldo, Sam Easson, Timothy
Grassie, Anne Woods, Phyllis

SULLIVAN

Ferland, Brenda Franklin, Peter Phinizy, James
and the remainder of floor amendment (1494h) was adopted.
Rep. Easson voted nay and intended to vote yea.

Rep. Kurk offered a floor amendment (1516h) and spoke in favor.

Floor Amendment (1516h)

Amend the section heading of RSA 198:40-d and the introductory paragraph of RSA 198:40-d, I as inserted by section 8 of the bill by replacing them with the following:

198:40-d Consumer Price Index Adjustments.

I. For the 2006 fiscal year, and every fiscal year thereafter:
Floor amendment (1516h) adopted.

The question now being adoption of the amended committee report.

Rep. Mark Carter spoke against.

Rep. Hager spoke in favor.

Rep. Mark Carter requested a roll call; sufficiently seconded.

The question being adoption of the amended committee report.

YEAS 255 NAYS 69

YEAS 255

BELKNAP

Bartlett, Gordon Dewhirst, Glenn Fitzgerald, James Flanders, Donald
Holbrook, Robert Nedeau, Stephen Pilliod, James Rice, Thomas
Russell, David Thomas, John Wendelboe, Fran Whalley, Michael

CARROLL

Brown, Carolyn Dickinson, Howard Kenney, Bettie McConkey, Mark

Merrow, Harry
Stevens, Stanley

Olimpio, J Lisbeth

Patten, Betsey

Philbrick, Donald

CHESHIRE

Allen, Peter
Espieffs, Peter
Liebl, George
Pratt, Irene
Webber, Amy

Dexter, Judson
Fish, Douglas
Manning, Joseph
Richardson, Barbara
Weed, Charles

Dunn, James
Hunt, John
Mitchell, McKim
Robertson, Timothy

Eaton, Daniel
Laurent, John
Parkhurst, Henry
Smith, Edwin

COOS

King, Frederick
Stohl, Eric

Mears, Edgar
Theberge, Robert

Poulin, Richard
Tholl, John Jr

Pratt, Leighton

GRAFTON

Akins, Ralph
Benn, Bernard
Diamond, Estelle
Nordgren, Sharon
Williams, Burton

Alger, John
Bleyler, Ruth
Dudley, Terri
Scovner, Nancy

Almy, Susan
Cooney, Mary
Ham, Bonnie
Sokol, Hilda

Barker, Robert
Densmore, Edward
Hammond, Lee
Solomon, Peter

HILLSBOROUGH

Allan, Nelson
Batula, Peter
Bruno, Pierre
Chabot, Robert

Arnold, Thomas Jr
Beaton, William
Buckley, Raymond
Christensen, D L
Chris

Artz, Lawrence
Brassard, Paul
Carlson, Donald
Christiansen, Lars

Baroody, Benjamin
Brundige, Robert
Cernota, Albert
Clayton, William

Clemons, Jane
Craig, James

Cote, David
Crane, Elenore
Casey

Cote, Peter
Desmarais, Vivian

Coughlin, Pamela
Dokmo, Cynthia

Drisko, Richard
Fletcher, Richard
Gonzalez, Carlos
Greenberg, Gary
Harrington, Paul
Infantine, William
Johnson, Lionel
Laflamme, Charles
Malloy, Chris
Messier, Irene
Mosher, William
Pilotte, Maurice
Schulze, Joan
Stepanek, Stephen
Wheeler, Robert

Elliott, Larry
Ford, Nancy
Gorman, Mary
Haley, Robert
Haytayan, Harry Jr
Irwin, Anne-Marie
Kopka, Angeline
LaFlamme, Paul
Martin, Mary Ellen
Michon, Stephen
Ober, Russell III
Price, Pamela
Shaw, Barbara
Sullivan, Francis

Emerton, Larry
Gargasz, Carolyn
Goyette, Peter Jr
Hall, Charles
Hinkle, Peyton
Jasper, Shawn
Kurk, Neal
Lasky, Bette
McHugh, Claire
Mooney, Maureen
Palangas, Eric
Reeves, Sandra
Slocum, Lee
Tahir, Saghir

Fields, Dennis
Gibson, John
Graham, John
Hallyburton, Margaret
Hunter, Bruce
Jean, Claudette
L'Heureux, Robert
Leach, Edward
Mercer, Robert
Moran, Edward
Pappas, Christopher
Rowe, Robert
Spiess, Paul
Vaillancourt, Steve

MERRIMACK

Anderson, Eric

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann,
Donald

Clarke, Claire
Fraser, Leo Jr
Hess, David
Langer, Ray
McCormick, Tom
Potter, Frances
Wallner, Mary Jane

Currier, David
French, Barbara
Jacobson, Alf
Leber, William
Oliver, James
Rodd, Beth

Davis, Frank
Hager, Elizabeth
Kenison, Leon
Lockwood, Priscilla
Osborne, Jessie
Rush, Deanna

DeStefano, Stephen
Hamm, Christine
L'Heureux, Stephen
MacKay, James
Owen, Derek
Seldin, Gloria

ROCKINGHAM

Belanger, Ronald
Cooney, Richard
Fesh, Bob
Gillick, Thomas
Hamel, Albert
Johnson, Robert
Kelley, Jane
Major, Norman
Norelli, Terie
Quandt, Matthew
Ruffner, Walter
Tufts, J Arthur
Weyler, Kenneth

Blanchard, MaryAnn
DiFruscia, Anthony
Flanders, John Sr
Gleason, John
Holland, James Jr
Johnson, Rogers
Langley, Jane
McEachern, Paul
Packard, Sherman
Rausch, James
Scamman, Stella
Waterhouse, Kevin
Wiley, Robert

Bridle, Russell
Dodge, Robert
Francoeur, Sheila
Gould, Kenneth
Hughes, Daniel
Katsakiores, George
Langone, John
McKinney, Betsy
Pantelakos, Laura
Robertson, Carl
Splaine, James
Welch, David
Zolla, William

Carson, Sharon
Dowd, John
Gilbert, Karl
Griffin, Mary
Ingram, Russell
Katsakiores, Phyllis
Letourneau, Robert
McMahon, Charles
Priestley, Anne
Roessner, Kurt
Stone, Joseph
Weldy, Norman Jr

STRAFFORD

Bemis, Alan
Dunlap, Patricia
Keans, Sandra
Pelletier, Arthur
Smith, Marjorie
Vachon, Dennis

Berube, Roger
Hofemann, Roland
Knowles, William
Rollo, Deanna
Snyder, Clair
Wall, Janet

Brown, Julie
Hollinger, Jeffrey
Musler, George
Rous, Emma
Spang, Judith

Creteau, Irene
Johnson, Nancy
Newton, Clifford
Schmidt, Peter
Twombly, James

SULLIVAN

Allison, David
Flint, Gordon Sr
Rodeschin, Beverly

Burling, Peter
Franklin, Peter

Cloutier, John
Jones, Constance

Donovan, Thomas
Leone, Richard

NAYS 69

BELKNAP

Ahern, Omer Jr

Allen, Janet

Boyce, Laurie

Clark, Charles

CARROLL

Babson, David Jr

Derby, Mark

Mock, Henry

CHESHIRE

Meador, David

Pratt, John

Tilton, Anna

COOS

Brady, Mark

Guay, Lawrence

GRAFTON

Dorsett, Andrew
Maybeck, Margie

Gilman, G Michael
Naro, Debra

Giuda, Robert
Sorg, Gregory

Ingbretson, Paul

HILLSBOROUGH

Adams, Jarvis
Buhlman, David
Hansen, Ryan
McElroy, Henry Jr
Souza, Kathleen

Balboni, Michael
Carter, Mark
Hawkins, Ken
O'Brien, Lori
Sweeney, Cynthia

Barry, J Gail
Dionne, Kimberley
Katsiantonis, Thomas
Pappas, Marc
Wheeler, James

Bergeron, Jean-Guy
Hagan, Barbara
Luebker, Bernard
Scanlon, Michael

MERRIMACK

Field, William
Soltani, Tony

Kennedy, Richard

Marple, Richard

Nutter, Edward

ROCKINGHAM

Abbott, Dennis
Cady, Harriet
Kobel, Rudolph
Putnam, Ed II

Allen, Mary
Camm, Kevin
Manning, John
Smith, Donald

Bicknell, Elbert
Clark, Vivian
McCann, Richard
Vallone, Matthew

Bishop, Franklin
Coes, Betsy
Morris, Richard
Weare, E Albert

STRAFFORD

Albert, Russell
Easson, Timothy

Bickford, David
Harrington, Michael

Campbell, W Packy
Taylor, Kathleen

Cataldo, Sam
Woods, Phyllis

SULLIVAN

Ferland, Brenda Phinizy, James
and the amended committee report was adopted.
Ordered to third reading.
Rep. Pepino did not vote and notified the Clerk that he wished to be recorded in favor.

PROTEST

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, Rep. Bruno requested that his protest be entered on the Journal.
I, Pierre Bruno, protest the passage of SB 302 because it includes an increase to the cigarette tax which I rejected in an earlier vote. However, I recognize the importance of the passage of the remaining parts of this bill and had to support its passage.

RESOLUTION

Rep. Hess offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Joint Resolution numbered 3 shall be by this resolution read a first and second time by the therein listed title.
Adopted.

INTRODUCTION OF SENATE BILL

First, second reading and referral

SJR 3, urging the United States Supreme Court to retain the words "under God" in the pledge of allegiance. (Judiciary)

RESOLUTION

Rep. Hess offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, May 13, 2004 at 10:00 a.m.
Adopted.

LATE SESSION

Third reading and final passage

SB 109, adopting the model Drug Dealer Liability Act.
SB 449, relative to fluoridation of municipally-owned public water systems.
SB 533, relative to licensing requirements for certain recreation and child care programs.
SB 478-FN, relative to penalties for DWI offenses.
SB 153, adopting the nurse licensure compact.
SB 407-FN-L, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.
SB 302-FN-L, making technical corrections to the education funding formula.

UNANIMOUS CONSENT

Rep. Rowe addressed the House and presented Rep. Mock with a declaration in honor of his birthday.

RECESS MOTION

Rep. Hess moved that the House stand in recess for the purposes of receiving enrolled bill amendments, enrolled bill reports and Senate messages only.

Adopted.

The House recessed at 3:30 p.m.

RECESS