

HOUSE RECORD

Second Year of the 160th General Court Calendar and Journal of the 2008 Session

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Wednesday, May 7, 2008

No. 38

HOUSE JOURNAL No. 13 (cont.)

Wednesday, April 30, 2008

RECESS

(Rep. Daniel Eaton in the Chair)

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 185, 399, 1130, 1191, 1232, 1240, 1245, 1247, 1278, 1348, 1447, 1451, 1480, 1485, 1591, 1643 and 1652 and Senate Bills numbered 366 and 502.

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

ENROLLED BILL AMENDMENTS

SB 315, preventing the fraudulent use of the names of financial institutions. (Amendment printed SJ 5-8-08)
Adopted.

SCR 10, urging the New Hampshire delegation to actively seek an increase in federal funding for wastewater treatment facility improvements. (Amendment printed SJ 5-8-08)
Adopted.

RECESS

(Rep. Lasky in the Chair)

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 172, 315, 666, 740, 1157, 1294, 1295, 1297, 1338, 1382, 1448, 1569, 1604 and 1631 and Senate Bills numbered 326, 349, 371, 376, 442, 444, 446, 449, 462, 466, 486 and 525.

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

RECESS

Rep. Wallner moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 14

Wednesday, May 7, 2008

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 the member from Holderness, Representative Sid Lovett.

The Serenity Prayer

God, give us grace to accept with serenity the things that cannot be changed, courage to change the things that should be changed, and the wisdom to distinguish the one from the other.

Amen.

MOMENT OF SILENCE

A moment of silence was observed for the victims of the cyclone that struck Myanmar earlier this week.

Rep. Robert Introne, member from Londonderry, led the Pledge of Allegiance.

The National Anthem was sung by the member from Salem, Representative Marilinda Garcia and her Aunt, Desiree Tidwell.

LEAVES OF ABSENCE

Reps. Peter Cote, Drisko, Goyette, Humphries, Stephen Johnson and Lisle, the day, illness.

Reps. Abbott, DeChane, Domingo, Fletcher, James Garrity, Patrick Garrity, Howard, Sally Kelly, Bennett Moore and Perry, the day, important business.

Reps. Guthrie and Mickelonis, the day, illness in the family.

Rep. Jill Hammond, the day, death in the family.

INTRODUCTION OF GUESTS

Alejandro Urrutia, guest of Reps. John Knowles and Mary Ann Knowles. Maura Fay, daughter of Rep. Flockhart. Grace Hopkins, daughter of Rep. Jillette. David Garcia and Santa Garcia, Richard Tidwell and Ryan Tidwell, parents and cousins of Rep. Garcia.

Margaret Carlson, guest of Rep. Mack. Beatriz Pastor, guest of Rep. Bleyler. Josh Handelsman and Adam Schulz, guests of Rep. Rous. Hon. Carol Holden, former member from Amherst, guest of the Hillsborough County delegation.

SENATE MESSAGES

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 267, relative to certain small loans. (Amendment printed SJ 2-14-08)

Rep. Reardon moved that the House concur.

Rep. Houde spoke in favor and yielded to questions.

Adopted.

Rep. Roberts declared a conflict of interest on **HB 267**, and did not participate.

HB 589-FN, relative to the calculation of concurrent and consecutive terms of imprisonment. (Amendment printed SJ 4-17-08)

Rep. William Knowles moved that the House concur and spoke in favor.
Adopted.

HB 1276, establishing a committee to study revisions to the auctioneers' practice act. (Amendment printed SJ 4-17-08)

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

HB 1313, relative to voting by the chairman of the retirement system board of trustees. (Amendment printed SJ 4-24-08)

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

HB 1394-FN, relative to procedures for approvals of nursing education programs. (Amendment printed SJ 4-24-08)

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

HB 1396-FN, relative to requiring prescriptions to be ordered pursuant to a practitioner-patient relationship. (Amendment printed SJ 5-1-08)

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

HB 1505-FN, establishing the New Hampshire birth conditions program. (Amendments printed 5-1-08)

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

HB 1513-FN, relative to an evidence-based prescription drug education program. (Amendment printed SJ 5-1-08)

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

HB 1371, extending certain studies. (Amendment printed SJ 5-1-08)

Rep. Michael Rollo moved that the House concur and spoke in favor.
Adopted.

HB 1414-FN, increasing the fee for bail commissioners. (Amendments printed SJ 5-1-08)

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

Reps. Leishman and Nedeau declared conflict of interests on **HB 1414-FN**, and did not participate.

HB 1151, relative to reporting dates for the instream flow pilot program. (Amendment printed SJ 3-27-08)

Rep. Spang moved that the House nonconcur and spoke in favor.
Adopted.

HB 581-FN, relative to the penalty for purposely mistreating service animals. (Amendment printed SJ 4-24-08)

Rep. William Knowles moved that the House nonconcur and request a Committee of

Conference.

Adopted.

The Speaker appointed Reps. Pantelakos, Stevens, Nielsen and Movsesian.

HB 1502-FN, relative to disposal of used needles. (Amendment printed SJ 5-1-08)

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

Adopted.

The Speaker appointed Reps. Beaulieu, Sad, Knox and Dingman.

COMMITTEE REPORTS

CONSENT CALENDAR

Rep. Wallner moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

SB 468, relative to the reinsurance pool and the New Hampshire vaccine association, removed by Rep. Infantine.

Consent Calendar adopted.

SB 301-FN, requiring insurers to cover prescriptions for durable medical equipment filled near the patient's residence. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Stephen P. Spratt for Commerce: This bill extends the definition found in RSA 420-J:7,11c to include durable medical equipment in the department of insurance's standards for geographic accessibility. The bill does not restrict provision of durable medical equipment shipped by postal service or other common or private carrier and excludes devices used exclusively for the delivery of medication. Vote 18-0.

Amendment (1551h)

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

AN ACT relative to durable medical equipment.

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

1 Rulemaking; Durable Medical Equipment. Amend RSA 420-J:7, II(c) to read as follows:

(c) Standards for geographic accessibility, *which shall include standards for access to the provision of durable medical equipment requiring a prescription. However, such standards shall not restrict an insurer's ability to provide prescriptions for durable medical equipment that are shipped to the patient by postal service or other common or private carrier, and shall not apply to durable medical equipment devices used exclusively for the administration of medication.*

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

AMENDED ANALYSIS

This bill requires the insurance commissioner to adopt rules for access to the provision of durable medical equipment requiring a prescription.

SB 369, relative to the towing and storage of motor vehicles. **REFER FOR INTERIM STUDY.**

Rep. Stephen T. DeStefano for Commerce: This bill was requested by the New Hampshire insurance department to give them authority to create a rule relative to storage and towing of automobiles. After the committee worked on the bill it was clear that too many questions were still unanswered so the insurance department asked us to send this bill to study so that a cleaner and clearer bill could be drafted. Vote 17-0.

SB 408, establishing a committee to study reverse mortgages. **INEXPEDIENT TO LEGISLATE.**

Rep. Stephen T. DeStefano for Commerce: The committee feels that reverse mortgages are one of many alternative mortgage products that the consumer should be well educated about prior to committing to a contract that potentially could lead to the loss of their home. The better approach is to insure that those selling this product, other variable rate, negatively amortizing products or conventional loans, is to regulate the mortgage originator that markets the product to consumers. The House has passed and the Senate currently holds another bill that will give the NH banking department the power to regulate the mortgage originator responsible for promoting the product and offer consumer protection from the diverse loan products available in today's market. Vote 18-0.

SB 475*, relative to the definition of advance fees in the real estate practice act. **OUGHT TO PASS.*

Rep. Stephen T. DeStefano for Commerce: This legislation is intended to clarify that electronic publications that charge advance fees for the listing of real estate for sale advertisements are treated the same as traditional newspapers in terms of an exemption within the Real Estate Practice Act. The Real Estate Practice Act does not require newspapers or other publications of general circulation to obtain a real estate license to list property for sales advertisements, and passage of this bill will clarify that electronic publications are on the same level as paper publications. This legislation was requested by the New Hampshire Real Estate Commission. Vote 18-0.

SB 212-FN*, relative to the regulation of home inspectors. **OUGHT TO PASS.*

Rep. Lori A. Movsesian for Criminal Justice and Public Safety: This bill comes to us as a second committee and the policy had already been passed by the full House. The committee reviewed the penalty section and agrees that the penalty is appropriate for the offense. Vote 11-3.

SB 346-FN*, relative to the regulation of fuel gas fitters by the state fire marshal. **OUGHT TO PASS.*

Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: The bill came to us as a second committee and the policy had already passed the full House. The committee reviewed the penalty section and agrees that the penalty is appropriate for the offense. Vote 14-0.

SB 499-FN*, relative to penalties for unauthorized disclosure of confidential matters in legislative ethics proceedings. **OUGHT TO PASS.*

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill came to us as a second committee and the policy had already been passed by the full House. The committee reviewed the penalty section and agrees that the penalty is appropriate for the offense. Vote 14-0.

SB 500-FN*, relative to certain insurance fraud, relative to workers' compensation for employee leasing companies, and establishing a task force on employee misclassification. **OUGHT TO PASS.*

Rep. Ellen Nielsen for Criminal Justice and Public Safety: This bill came to us as a second committee and the policy already had been passed by the full House. The committee reviewed the penalty section and agrees that the penalty is appropriate for the offense. Vote 14-0.

SB 418*, replacing references to "charter school" with "chartered public school". **OUGHT TO PASS.*

Rep. Claire D. Clarke for Education: This bill simply replaces references to "charter school" with "chartered public school." To rectify confusion as to whether charter schools are public or private, this bill clarifies the fact that all charter schools are public schools and that

charter schools already approved prior to the effective date of this act should be referred to as “chartered public schools.” Vote 14-1.

SB 459, establishing an advanced manufacturing education advisory council. **OUGHT TO PASS.**

Rep. Sharon M. Carson for Education: This bill establishes an advanced manufacturing education council which has two purposes. First, the council will advise the New Hampshire department of education in the implementation, evaluation and expansion of advanced manufacturing curriculum. Additionally, it will assist the New Hampshire department of education in acquiring public and private funding to ensure statewide access for all public high school students to advanced manufacturing coursework. The committee supported creating this council and believes this to be a worthwhile endeavor for New Hampshire’s business community and our high school students. Vote 15-0.

SB 538, relative to the community college system of New Hampshire board of trustees and repealing a motor vehicle regulation statute applicable to the community college system. **OUGHT TO PASS.**

Rep. Sharon M. Carson for Education: This bill makes a number of changes to the newly created community college system of New Hampshire board of trustees. It changes the membership from four to eight members of the general public and requires a member from the technology sector. It also states that twelve voting members shall constitute a quorum and requires twelve “yes” votes to elect a new chancellor. Additionally, it repeals RSA 188-F:20 applicable to the motor vehicle regulations to be consistent with other authority assumed by the New Hampshire community college board of trustees. Vote 15-0.

SB 467, relative to taking lobsters and crabs. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carla M. Skinder for Fish and Game: This bill will allow fishermen to place one to four pots, traps or other contrivance for taking or holding lobsters or crabs on a line with one buoy. This bill will help to prevent whale entanglement. With modern technology of GPS, lines that are accidentally cut often can be caught with a grappling hook saving the pots. This bill received no opposition from the fishing industry. The department of fish and game requested this action. Vote 15-0.

Amendment (1137h)

Amend RSA 211:34 as inserted by section 1 of the bill by replacing it with the following:

211:34 Traps on Trawls. No pot, trap or other contrivance for taking or holding lobsters or crabs shall be set or buoyed other than plainly and separately except as hereinbefore provided. When pots, traps, or other contrivances are set on trawls, buoys plainly marked as provided in RSA 211:32 and 33 shall be set on both ends of the trawls. ***Pot or trap trawls used for taking lobsters and crabs which contain less than 5 pots or traps may be plainly marked on one end.***

SB 480, repealing a requirement that the fish and game department publish certain hunting season information in newspapers in each county. **OUGHT TO PASS.**

Rep. Margaret E. Porter for Fish and Game: This bill repeals a requirement in RSA 210:24 mandating that the fish and game department publish open or closed season for furbearing animals, to bring statutes in line with common practice. The department requested this change as public notification is currently enacted via rulemaking, using statewide press releases. Furthermore, some counties no longer have a county-wide newspaper. Vote 15-0.

SB 395, establishing a commission to review New Hampshire's statutes on human immunodeficiency virus education, prevention, and control. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Joan H. Schulze for Health, Human Services and Elderly Affairs: This bill, which establishes a study committee to review New Hampshire's HIV statute, was requested by the department of health and human services. It will provide an opportunity for legislators and stakeholders to review and update New Hampshire's statute in relation to CDC revised guidelines for HIV testing released in 2006. RSA 141-F was enacted in 1988, early in the HIV epidemic, in an environment that was very different from the situation we see today. Passing this legislation will enable a study committee to make recommendations regarding revising and updating the statute with current best practices. This will lead to sound public health policy regarding HIV prevention and control. The committee added a public member who is a consumer of HIV/AIDS services. Vote 17-0.

Amendment (1222h)

Amend subparagraph I(e) as inserted by section 2 of the bill by replacing it with the following:

(e) A consumer, appointed by the governor.

Amend subparagraph I(h) as inserted by section 2 of the bill by replacing it with the following:

(h) A representative of an AIDS service organization, appointed by the executive directors of the AIDS service organizations in New Hampshire.

SB 450, requiring the New Hampshire Citizens Health Initiative to provide an annual summary to the general court. **OUGHT TO PASS.**

Rep. Thomas E. Donovan for Health, Human Services and Elderly Affairs: The committee fully recognized the scope and importance of the work being done by the New Hampshire Citizens Health Initiative and is in full agreement as to how important it is for members of the General Court to have this annual summary of activity of this group for educational purposes. There was no opposing testimony. Vote 16-0.

SB 454, relative to certain changes to the controlled drug act. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Cindy Rosenwald for Health, Human Services and Elderly Affairs: This bill changes the controlled drug statute to reflect current prescribing behaviors and eliminate the limit on the number of units that may be dispensed for a month's supply. The committee amended the bill to incorporate dispensing certain pre-packaged controlled drugs in accordance with a physician's prescription that would represent more than the current 34 day supply limit. The amendment also makes the bill effective on passage. Vote 14-0.

Amendment (1592h)

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

1 Controlled Drug Act; Sale by Pharmacists. Amend RSA 318-B:9, IV to read as follows:

IV. No prescription shall be filled for more than a 34-day supply ~~[or 100 dosage units, whichever is less,]~~ upon any single filling for controlled drugs of schedules II or III; provided, however, that ***for controlled drugs, in schedules II or III, that are commercially packaged for dispensing directly to the patient, such as metered sprays and inhalers, liquids packaged in bottles with calibrated droppers, and certain topical preparations packaged with metered dispensing pumps may be filled for greater than a 34-day supply, but not more than 60 days, utilizing the smallest available product size, in order to maintain the dosing integrity of the commercially packaged containers; and, provided that*** with regard to amphetamines and methylphenidate hydrochloride, a prescription may be filled for up to a 60-day supply if either such prescription specifies it is being used for the treatment of attention deficit disorder, attention deficit disorder with hyperactivity, or narcolepsy.

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

AMENDED ANALYSIS

This bill allows prescriptions for certain controlled drugs to be filled for more than a 34-day supply.

This bill also deletes the limitation of 100 dosage units from current law.

SB 496, establishing a commission to study incentives for providers of home and community-based care. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Suzanne S. Butcher for Health, Human Services and Elderly Affairs: Direct care workers play a vital role to enable the elderly and individuals with physical, mental, and developmental disabilities to live as independently as possible in their homes and communities. High turnover among direct care workers results in inconsistent, disruptive care. This bill establishes a commission to identify and recommend ways to improve recruitment and retention of that workforce. The amendment clarifies that the purpose is to focus on recruitment and retention, and adds both employer and employee members to represent a range of home and community care settings. Vote 15-0.

Amendment (1621h)

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

1 Statement of Purpose.

I. The general court recognizes that the number of people over the age of 85 living in New Hampshire is expected to at least double, reaching nearly 45,000, in 2030 according to the United States Census Bureau. These seniors, and many under age 85, will need assistance if they are to remain in their homes. Many New Hampshire families are caring for their parents, grandparents, and disabled family members but need assistance as they juggle caring for their relatives with work outside the home.

II. The general court recognizes the vital role of direct care workers who enable the elderly and persons with developmental disabilities, physical disabilities, and mental illness to live as independently as possible in their homes and communities, and further recognizes that the pool from which those caregivers are drawn is shrinking. Turnover among these direct care workers ranges from 30 to 80 percent, resulting in inconsistent, disruptive care delivery or, in some cases, no available care at all. Many factors contribute to this high turnover.

III. Therefore, the general court hereby establishes a commission to bring representatives from provider organizations, direct care workers, and appropriate state agencies together to identify and recommend incentives to improve recruitment and retention of these caregivers.

2 Commission Established. There is established a commission to study incentives for providers of home and community-based care.

3 Membership and Compensation.

I. The members of the commission shall be as follows:

- (a) One member of the senate, appointed by the president of the senate.
- (b) One member of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The commissioner of the department of health and human services, or designee.
- (d) The commissioner of the department of labor, or designee.
- (e) Four non-supervisory direct care workers representing workers who serve in a variety of settings, appointed by the governor.
- (f) A representative of the Direct Care Workforce Initiative of the New Hampshire Community Loan Fund, appointed by such organization.
- (g) Two representatives of the Home Care Association of New Hampshire one of whom shall be from a for-profit agency and one from a non-profit agency, appointed by such association.

(h) One representative of the New Hampshire Private Provider Network, appointed by such organization.

(i) One representative of Granite State Independent Living, appointed by such organization.

(j) One representative of Community Support Network, Inc., appointed by such organization.

(k) One representative of New Hampshire Community Behavioral Health Association, appointed by such organization.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

4 Duties. The commission shall identify incentives for providers of care for the elderly and persons with developmental disabilities, physical disabilities, and mental illness that encourage recruitment and retention of non-supervisory direct care workers. The commission's study shall include, but not be limited to, identifying:

I. Employer best practices that contribute to successful direct care worker recruitment and retention.

II. Mechanisms within various public funding streams for implementing provider incentives.

5 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

6 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the oversight committee on health and human services, the governor, and the state library on or before November 1, 2009.

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

SB 509-FN, requiring tobacco cessation therapy under the state Medicaid program. **INEXPEDIENT TO LEGISLATE.**

Rep. Jennifer Daler for Health, Human Services and Elderly Affairs: This bill would have required the Medicaid program to provide for smoking cessation therapy. The committee feels the bill is unnecessary because Medicaid is already providing reimbursements for licensed counselors and all pharmaceutical therapies for smoking cessation. The state currently spends \$38,000 each month for prescription drugs to help Medicaid patients quit smoking. The bill would, therefore, put in statute what is already being done through rules. An amendment was brought to the public hearing by the sponsor that would have had the unintended consequence of allowing doctors to double bill the program, once for the general visit and once for smoking cessation counseling. Medicaid does not discriminate by diagnosis, and counseling may be done as part of any visit. The department will evaluate and improve educational materials and outreach to providers, ensuring that they are made aware of what is available, which is a very comprehensive benefit program. Vote 17-0.

SCR 6, urging the federal government to create a simplified process for short-term admissions to nursing homes for the purpose of respite care. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert G. Bridgham for Health, Human Services and Elderly Affairs: This concurrent resolution urges the United States Congress to develop a simple, streamlined process for short-term admission to nursing homes, supporting the use of available nursing home beds for respite care. Beds for respite care are needed in New Hampshire. Currently any admission to a nursing home requires completion of an extensive (60 page) "minimum data set." Vote 17-0.

Amendment (1587h)

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

Whereas, there is an acute need for safe and appropriate short-term placements where elderly and disabled citizens can stay while their home caregivers have a period of respite from providing home-based care; and

SCR 11, supporting the application of Taiwan for observer status at the World Health Organization. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This is a non-binding resolution supporting Taiwan's application for observer status at the World Health Organization. Communicable disease transmission knows no boundaries or political entities. SARS, for example, needs to be detected as early as possible. The World Health Organization serves as a public health organization on a world wide basis. Participation with WHO protects other countries as well as Taiwan. The United States government supported this proposal for several years. The committee unanimously supports the resolution. Vote 17-0.

Amendment (1236h)

Amend the second paragraph after the title by replacing it with the following:

Whereas, the first chapter of the World Health Organization's (WHO) charter sets the goal of attaining the highest possible level of health for all persons; and

Amend the second paragraph after the resolving clause by replacing it with the following:

That the senate clerk shall send copies of this resolution to the President of the United States; to the United States Secretary of State; to the United States Secretary of Health and Human Services; to the director-general of the World Health Organization in Geneva, Switzerland; and to the Director-General of the Taipei Economic and Cultural Office in Boston.

SJR 1, prohibiting the department of health and human services from adopting proposed administrative rule He-P 1906.02. **OUGHT TO PASS.**

Rep. Barbara C. French for Health, Human Services and Elderly Affairs: This joint resolution prohibits the department from adopting administrative rule HE-P 1906.02, relative to imposing administrative fines on those persons in charge who are found to be in violation of the indoor smoking act. The Joint Legislative Committee on Administrative Rules (JLCAR) determined that the department's authority to impose such fines was uncertain, and further determined that there was unclear legislative intent relative to penalties for non-compliance with the indoor smoking act; that is, it was unclear whether the penalties contemplated were intended to be criminal or civil penalties. Companion bill, SB 532, relative to administrative fines under the indoor smoking act, specifically grants the department authority to impose administrative fines on those persons in charge who are found to be in violation of the indoor smoking act. Vote 17-0.

SB 445, changing the procedure for recommending persons for initial appointment as marital masters. **OUGHT TO PASS.**

Rep. Gail C. Morrison for Judiciary: This bill is the last of a series of housekeeping bills requested by the judicial branch. It reflects the changes brought about with the coming of the family court system. Previously, marital masters were nominated utilizing the rules of the superior court. They are now nominated under the rules of the family division and this bill codifies that change. Also, the bill corrects a constitutional oversight restoring the role of the supreme court by requiring its concurrence in the choice of any name submitted to the governor as a candidate for marital master. Vote 15-0.

SB 352-FN, relative to shoreland protection. **OUGHT TO PASS WITH AMENDMENT.** Rep. Donald A. Brueggemann for Resources, Recreation and Development: As it came to us from the Senate, this bill dealt only with giving appeals of department of environmental services decisions relating to protected shoreland to the wetlands council. The amendment makes several corrections to the shoreland protection act adopted in 2007. Primary among these was an inconsistency relative to small lots that pits a required woodland buffer against a minimization of impervious surfaces – both of which are critical to shoreland protection. The addition of a section that specifically outlines standards for lots with one-half acre or less of land within the woodland buffer and clarification of how vegetation may and may not be altered eliminated this conflict while allowing for reasonable development. A secondary issue was the clarification and simplification of the requirements for increased development of impervious surfaces on a given lot. Other issues that are addressed include: 1) provisions for removal of dead or unsafe tree limbs; 2) the allowance under strictly controlled conditions for the application of pesticides and herbicides to eliminate invasive species and 3) the notification of abutters of a shoreland permit application. These changes were developed in concert with builders, conservation organizations, the department of environmental services and legislators. Vote 15-2.

Amendment (1607h)

Amend the bill by replacing all after section 6 with the following:

7 Appeals. Amend RSA 482-A:10, XVIII to read as follows:

XVIII. If a permit is granted with respect to any activity proposed to be undertaken in or adjacent to a prime wetland as mapped, designated, and filed pursuant to RSA 482-A:15, the conservation commission or local governing body may ***request reconsideration by the department and, if aggrieved by the decision or reconsideration,*** appeal said decision to the ~~[superior]~~ ***wetlands council and the supreme*** court in the manner prescribed in this section. The filing of a request for reconsideration shall automatically stay the effectiveness of the department's decision relating to said prime wetland. Said stay shall remain in force until the department has issued its decision after reconsideration.

8 Unaltered State; Definition. RSA 483-B:4, XXIV-a is repealed and reenacted to read as follows:

XXIV-a. "Unaltered state" means native vegetation allowed to grow without cutting, limbing, trimming, pruning, mowing, or other similar activities.

9 Natural Woodland Buffer. RSA 483-B:9, V(b)(2)(A) is repealed and reenacted to read as follows:

(A)(i) For lots with one-half acre or less of land within the natural woodland buffer, the vegetation within at least 25 percent of the area outside the waterfront buffer shall be maintained in an unaltered state. Owners of lots legally developed prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an unaltered state. The percentage of area maintained in an unaltered state on nonconforming lots shall not be decreased.

(ii) For lots with greater than one-half acre of land within the natural woodland buffer, the vegetation within at least 50 percent of the area outside the waterfront buffer, exclusive of impervious surfaces, shall be maintained in an unaltered state. Owners of lots legally developed prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an unaltered state. The percentage of area maintained in an unaltered state on nonconforming lots shall not be decreased.

10 Addition of Tree Limbs. RSA 483-B:9, V(b)(2)(C) is repealed and reenacted to read as follows:

(C) Dead, diseased, or unsafe, trees, limbs, saplings, or shrubs that pose an imminent hazard to structures or have the potential to cause personal injury may be

removed regardless of any requirements that pertain to the natural woodland buffer under this chapter. Such exemptions shall not be used to contravene the intent of the law.

11 Impervious Surfaces. RSA 483-B:9, V(g)(1)-(4) is repealed and reenacted to read as follows:

(1) Subject to subparagraph (2), no more than 30 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces.

(2) If the impervious surface area will exceed 20 percent, a stormwater management system shall be implemented and maintained which is designed to infiltrate increased stormwater from development occurring after the effective date of this paragraph in accordance with rules established by the department under RSA 485-A:17. In addition, if the natural tree and sapling cover in the waterfront buffer does not meet the 50-point minimum score of RSA 483-B:9, V(a)(2)(D) in any segment, then such segment shall be planted, as determined by rule of the department, with native trees, saplings, or natural ground cover in sufficient quantity, type, and location either to meet the minimum score or to provide at least an equivalent level of protection as provided by the minimum score and shall be maintained in accordance with RSA 483-B:9, V(a).

(3) Property owners and developers are encouraged to seek creative solutions that utilize low impact development techniques.

12 Pesticides. RSA 483-B:9, V(a)(2)(A) is repealed and reenacted to read as follows:

(A) No chemicals shall be applied, including pesticides or herbicides of any kind except as allowed under special permit issued by the division of pesticide control under rules adopted by the pesticide control board under RSA 541-A, or fertilizers of any kind except those specified in RSA 483-B:9, II(d).

13 Abutter; Definition. RSA 483-B:4, I is repealed and reenacted to read as follows:

I. "Abutter" means any person who owns property that is immediately contiguous to the property on which the proposed work will take place, or who owns flowage rights on such property. The term does not include those properties separated by a public road or more than $\frac{1}{4}$ mile from the limits of the proposed work. If contiguous properties are owned by the person who is proposing the work, then the term includes the person owning the next contiguous property, subject to the $\frac{1}{4}$ mile limitation.

14 New Paragraph; Permit Application; Copies of Receipts. Amend RSA 483-B:5-a by inserting after paragraph IV the following new paragraph:

IV-a. At the time of the permit application, the applicant shall provide postal receipts or copies, verifying that the governing body of the municipality or municipalities in which the property is located and all abutters have been notified of the application by certified mail.

15 New Paragraph; Purpose Statement. Amend RSA 483-B:1 by inserting after paragraph I-a the following new paragraph:

I-b. Scientific evidence has confirmed that even small areas of impervious surface coverage can have deleterious impacts on water quality and the aesthetic beauty of our lakes and rivers if not properly contained or managed within each watershed. These impacts are known to reduce recreational opportunity, reduce property values, and pose human health risks.

16 Repeal. RSA 482-A:10, X-XVII relative to appeals, is repealed.

17 Unaltered State; Definition. RSA 483-B:4, XXIV-b is repealed and reenacted to read as follows:

XXIV-b. "Unaltered state" means native vegetation allowed to grow without cutting, limbing, trimming, pruning, mowing, or other similar activities.

18 New Paragraph; Permit Application; Copies of Receipts. Amend RSA 483-B:5-b by inserting after paragraph IV the following new paragraph:

IV-a. At the time of the permit application, the applicant shall provide postal receipts or copies, verifying that the governing body of the municipality or municipalities in

which the property is located and all abutters have been notified of the application by certified mail.

19 Repeal. Section 26 of HB 1601-FN-A of the 2008 legislative session, relative to repeal and readoption of rules, is repealed.

20 Repeal and Readoption of Rules.

I. Notwithstanding the provisions of RSA 541-A, the commissioner of the department of environmental services shall immediately repeal administrative rules chapter Env-Wq 1400 adopted March 24, 2008 pursuant to RSA 483-B:17.

II. Notwithstanding the provisions of RSA 541-A, the commissioner of the department of environmental services shall immediately readopt the administrative rules that were in effect prior to the effective date of the rules repealed under paragraph I. Such rules shall be effective as rules of the department and shall remain in effect until rules are adopted under paragraph IV, or are otherwise repealed or amended or have expired in accordance with RSA 541-A.

III. The commissioner of the department of environmental services shall notify in writing the director of legislative services of the dates of repeal and readoption of rules under paragraphs I and II.

IV. The commissioner of the department of environmental services may adopt rules to be in effect as of July 1, 2008 that are the same as the rules repealed under paragraph I, except that the commissioner shall modify the date references in the rules to take into account the July 1, 2008 effective date. Such rule adoption shall be exempt from the rulemaking provisions of RSA 541-A, provided the commissioner adopts the rules and files them with the office of legislative services prior to July 1, 2008. The rules shall expire on July 1, 2016 unless readopted, amended, or repealed pursuant to RSA 541-A.

V. The commissioner of the department of environmental services shall prepare, and the director of the office of legislative services shall publish in the rulemaking register, one or more notices, as necessary, to clearly state which rules will be in effect during affected time periods.

21 Effective Date.

I. If HB 1601-FN-A of the 2008 legislative session becomes law, sections 1-7, 13, and 15-16 of this act shall take effect July 1, 2008; sections 9-12, and 17-18 of this act shall take effect July 1, 2008 at 12:01 a.m.; sections 19-20 of this act shall take effect upon its passage; and sections 8 and 14 of this act shall not take effect.

II. If HB 1601-FN-A of the 2008 legislative session does not take effect, sections 17-20 of this act shall not take effect and the remainder of this act shall take effect July 1, 2008.

22 Effective Date.

I. Sections 1-20 of this act shall take effect as provided in section 21 of this act.

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

AMENDED ANALYSIS

This bill:

I. Gives the wetlands council jurisdiction over appeals of department of environmental services decisions relating to protected shorelands.

II. Requires that certain percentages of vegetation within the natural woodland buffer remain unaltered.

III. Allows the placement of certain herbicides within a waterfront buffer with a special permit.

IV. Requires that shoreland permit applicants provide notice to abutters.

V. Extends the reporting dates for the instream flow pilot program.

VI. Integrates the provisions of HB 1601-FN-A into the provisions of this bill, if HB 1601-FN-A becomes law.

SCR 7, urging the United States Department of Defense and Congress to restore full services to the Manchester Veterans Administration Hospital. **OUGHT TO PASS.**

Rep. Alfred P. Baldasaro for State-Federal Relations and Veterans Affairs: The committee believes this resolution is a win-win for all New Hampshire veterans, where the State of New Hampshire gets its message out to Washington, DC to take care of all veterans in New Hampshire. Since 1999, our veterans have been bussed into Vermont and Massachusetts for specialized military treatment. Our veterans deserve better and should be treated at their own facility in times of emergency. Vote 10-0.

SB 413, authorizing the department of resources and economic development to retain the administrative fee for certain disposals of state lands. **OUGHT TO PASS WITH AMENDMENT.**

Rep. William A. Hatch for Ways and Means: When there is a sale of real property by the department of resources and economic development, as happens in other departments now, this bill will allow the long-range capital planning and utilization committee to waive or approve an administrative fee of less than \$1100 when appropriate. It will also allow the fee to be deposited into a separate account for the purchase and improvement of lands in the forest improvement fund under RSA 227-G:5, II(b). Vote 15-0.

Amendment (1499h)

Amend RSA 4:40, III-a as inserted by section 1 of the bill by replacing it with the following:

III-a. All state agencies shall charge an administrative fee for the disposal of real property under this section. The administrative fee shall be at least \$1,100 and shall be subject to the approval of the long range capital planning and utilization committee, ***except that the committee may waive or approve a fee less than \$1,100 in appropriate circumstances.*** The revenue from the administrative fees shall be deposited into the general, highway, turnpike, or fish and game fund, depending on which fund initially purchased the property, ***except that for disposals of real property by the department of resources and economic development the administrative fee shall be deposited into the non-lapsing forest improvement fund established in RSA 227-G:5, II(b), for the purchase and improvement of areas suitable for state reservations.***

AMENDED ANALYSIS

This bill allows the long range capital planning and utilization committee to lower or waive the administrative fee charged agencies in the disposal of state lands, and provides that the administrative fees for disposal of state lands by the department of resources and economic development shall be deposited in the forest improvement fund.

SB 439, relative to money transmitters and mortgage servicing companies. **OUGHT TO PASS.**

Rep. Christine C. Hamm for Ways and Means: This bill was filed by request of the banking department to provide technical changes to current money transmitter and mortgage services legislation. These changes include adding holders of second mortgage loans to the definition of "mortgage servicing company," raising the licensing cap from \$4,000 to \$5,000, providing mechanisms to streamline oversight by the banking commission, and ensuring that a licensee maintains a net worth of the lesser of its average daily outstanding money transmissions for the prior calendar year or \$1,000,000. The increase in the licensing cap is needed because the largest companies are costing more to license than the rest. Vote 15-0.

COMMITTEE REPORTS

REGULAR CALENDAR

SB 312-FN, relative to insurance coverage for obesity and morbid obesity. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS.**

Rep. Stephen P. Spratt for the Majority of Commerce: The committee heard a similar bill in the first year of the biennium (HB 894) which the House has voted to send to Interim Study. While the committee heard testimony regarding the benefits of bariatric surgery in

particular, it also heard testimony and saw documentation regarding the potential risks and cost of the procedure. Although the committee recognizes the potential benefits of the procedure, given the extent of the unknowns the committee felt it was premature to mandate such procedures and instead recommended a full mandate review by the New Hampshire insurance department evaluating social, medical and cost functions of obesity treatments. Vote 13-5.

Rep. Marshall E. Quandt for the Minority of Commerce: The minority of the committee disagrees with the majority and believes that health care insurance plans should cover treatment for morbid obesity when it is medically necessary. A number of studies show that these procedures pay for themselves in 3-4 years. The testimony was clear and compelling for cost savings and quality of life. As a result, the patients are healthier, with reduced medication costs, reduced doctors' visits and reduced testing that many morbidly obese patients undergo to manage other related conditions (such as diabetes, hypertension, reflux disease, sleep apnea, some forms of cancer, incontinence and infertility to name a few). Retrospective studies (one going back 7 years) show that deaths from diabetes, heart disease and cancer are significantly reduced. Excluding treatment for morbid obesity from insurance coverage is no different than excluding coverage for cancer, heart disease or multiple sclerosis. The minority is not trying to introduce a new program, but to put what was covered back into the insurance plans that were taken away while increasing your premiums and reducing your coverage. Up until 3 years ago, health insurers covered bariatric surgery in their comprehensive medical policies in New Hampshire. When one excluded it and required purchase of a special rider, others followed suit. Yet, the same insurers still cover these procedures in the policies sold to groups in Maine and Massachusetts as well as the state employees health insurance plan which many of you belong. Sending this bill for a cost-benefit study is redundant and is unnecessarily cruel to the residents of NH who deserve the same services provided others in neighboring states. The cost and efficacy research has been done, the insurers know what their experience is in other states, and moreover, Medicare and Medicaid already cover these procedures. This is no different than in 1997 when the NH legislature had to mandate that insurance companies cover diabetes services and supplies (RSA 415:6-e) as medically necessary for treatment. Once again, it is necessary for the legislature to require that insurers recognize the needs of their subscribers by compelling insurers to cover bariatric surgery when it is medically necessary. The minority believes this is a David and Goliath battle between insurance companies' bottom lines and a true cost savings measure for health insurance while increasing the quality of life for our constituents that need this surgery.

Reps. McEachern and Lee Quandt spoke against.

Reps. Warren and Mark Clark spoke against and yielded to questions.

Reps. Spratt and Reardon spoke in favor.

Rep. Reardon requested a roll call; sufficiently seconded.

YEAS 167 NAYS 179

YEAS 167

BELKNAP

Boyce, Laurie
Millham, Alida
Tilton, Franklin

Clark, Charles
Morrison, Gail
Tobin, William

Flanders, Donald
Pilliod, James
Wendelboe, Fran

Heald, Bruce
Thomas, John

CARROLL

Bridgham, Robert
Chandler, Gene
Martin, James

Brown, Carolyn
Cunningham, Howard
Morrow, Harry

Buco, Thomas
Denley, William
Patten, Betsey

Butler, Edward
Knox, J. David

CHESHIRE

Allen, Peter
Dunn, J. Timothy
Lerandeau, Alfred
Weber, Lucy

Burridge, Delmar
Eaton, Daniel
Mitchell, Bonnie

Butterworth, Timothy
Hunt, John
Richardson, Barbara

Chase, William
Johnson, Jane
Roberts, Kris

COOS

Hatch, William
Theberge, Robert

King, Frederick

Merrick, Scott

Stohl, Eric

GRAFTON

Aguiar, James
Bulis, Lyle
Ingbretson, Paul
Nordgren, Sharon
Williams, Burton

Almy, Susan
Eaton, Stephanie
Laliberte, Suzanne
Pierce, David

Benn, Bernard
Estes, Carole
Matheson, Robert
Preston, Philip

Bleyler, Ruth
Harding, A Laurie
McLeod, Martha
Sorg, Gregory

HILLSBOROUGH

Baroody, Benjamin
Coughlin, Pamela
Emerton, Larry
Hansen, Ryan
Irwin, Anne-Marie
Kurk, Neal
Martineau, Jesse
O'Connell, Timothy
Pilotte, Maurice
Rowe, Robert
Stepanek, Stephen

Barry, Richard
Daler, Jennifer
Foster, Linda
Hawkins, Ken
Jasper, Shawn
L'Heureux, Robert
Messier, Irene
Ober, Lynne
Price, Pamela
Schulze, Joan
Vaillancourt, Steve

Clemons, Jane
Daniels, Gary
Goley, Jeffrey
Hebert, Roger
Judy, Jean
Leishman, Peter
Mooney, Maureen
Ober, Russell III
Reeves, Sandra
Smith, David

Cote, David
Elliott, Nancy
Graham, John
Hinkle, Peyton
Kopka, Angeline
Long, Patrick
Movsesian, Lori
Peterson, Andy
Rosenwald, Cindy
Spratt, Stephen

MERRIMACK

Anderson, Eric

Davis, Frank
Hager, Elizabeth
MacKay, James
Reardon, Tara
Shurtleff, Stephen
Webb, Leigh

Beauchesne, Suzanne
DeStefano, Stephen
Hess, David
McMahon, Patricia
Reed, Dennis
Tupper, Frank
Williams, Robert

Bouchard, Candace
French, Barbara
Kidder, David
Owen, Derek
Richardson, Gary
Wallner, Mary

Brueggemann, Donald
Gile, Mary
Lockwood, Priscilla
Potter, Frances
Ryan, Jim
Walz, Mary

ROCKINGHAM

Bedrick, Jason
Elliott, Robert
Griffin, Mary
Kappler, Lawrence
McMahon, Charles
Reagan, John

Belanger, Ronald
Fesh, Bob
Grote, Otto
Major, Norman
Nevins, Christopher
Sanders, Elisabeth

Brown, C. Pennington
Garcia, Marilinda
Headd, James
McKenna, Daniel
Pantelakos, Laura

Devine, James
Gould, Kenneth
Itse, Daniel
McKinney, Betsy
Priestley, Anne

STRAFFORD

Brown, Julie
Hofemann, Roland

Brown, Larry
Hubbard, Pamela

Fargo, Thomas
Kaen, Naida

Grassie, Anne
Knowles, William

Miller, Joseph
Sprague, Dale

Rous, Emma
Vachon, Dennis

Smith, Marjorie

Spang, Judith

SULLIVAN

Ferland, Brenda
Rodeschin, Beverly

Franklin, Peter
Skinder, Carla

Houde, Matthew

Phinizy, James

NAYS 179

BELKNAP

Arsenault, Beth
Wood, Jane

Nedeau, Stephen

Reever, Judith

Russell, David

CARROLL

Ahlgren, Christopher

Heard, Virginia

Stevens, Stanley

CHESHIRE

Butcher, Suzanne
Pelkey, Stephen
Weed, Charles

Butynski, William
Plifka, Stanley Jr

Espieffs, Peter
Robertson, Timothy

Parkhurst, Henry
Sad, Tara

COOS

Ingersoll, Paul Sr
Thomas, Yvonne

Merrick, Evalyn

Remick, William

Tholl, John Jr

GRAFTON

Cooney, Mary
Hammond, Lee

Dingman, Vernon III
Lovett, Sid

Friedrich, Carol
Mulholland, Catherine

Gionet, Edmond
Solomon, Peter

HILLSBOROUGH

Batula, Peter
Bergin, Peter
Clark, Mark
Edwards, Andrew
Forest, Armand
Hackel, Paul
Harvey, Suzanne
Jean, Claudette
Knowles, Mary Ann
Manney, Pamela

Beaulieu, Jane
Chase, Claudia
Crane, Elenore Casey
Essex, David
Gargasz, Carolyn
Haefner, Robert
Hogan, Edith
Kaelin, Michael
Lasky, Bette
Marshall, Seth

Beck, Catriona
Christensen, Chris
Day, Russell
Farley, Michael
Ginsburg, Ruth
Haley, Robert
Hopper, Gary
Kelley, John
Levesque, Melanie
Matarazzo, Anthony
Sr

Bergeron, Jean-Guy
Christiansen, Lars
Dokmo, Cynthia
Fontas, Jeffrey
Gorman, Mary
Hall, Betty
Infantine, William
Knowles, John
Mack, Ron
McRae, Karen

O'Brien, Michael Sr
Shattuck, Gilman
Soucy, Connie
Sysyn, Mary
Winters, Joel

O'Neil, James
Shaw, Barbara
Spaulding, Jayne
Tahir, Saghir

Renzullo, Andrew
Shaw, Kimberly
Sullivan, Daniel
Ulery, Jordan

Scannell, David
Simon, Anthony
Sullivan, Francis
Villeneuve, Maurice

MERRIMACK

Baxley, Maureen
DeJoie, John
Hamm, Christine

Blanchard, Elizabeth
Ehlers, Eileen
Kjellman, Eleanor

Brown, Carole
Foosse, Robert
Osborne, Jessie

Clarke, Claire
Greco, Vincent
Porter, Margaret

Tilton, Joy	Glynn Wheeler, Deborah	Yeaton, Charles
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ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bettencourt, David	Bishop, Franklin
Borden, David	Cali-Pitts, Jacqueline	Camm, Kevin	Carson, Sharon
Case, Frank	Casey, Kimberley	Charron, Gene	Day, Judith
DiFruscia, Anthony	Emiro, Frank	Flanders, John Sr	Flockhart, Eileen
Gleason, John	Henson, John	Hutchinson, Karen	Ingram, Russell
Introne, Robert	Katsakiores, George	Katsakiores, Phyllis	Kennedy, James
Kepner, Susan	Lister, Charlotte	Lund, Howie	Mann, Maureen
Marsh, Michael	McEachern, Paul	Moody, Marcia	Moore, Benjamin
Nord, Susi	Nowe, Ronald	Packard, Sherman	Pearson, Mark
Petterson, Don	Powers, James	Quandt, Marshall	Quandt, Matthew
Rausch, James	Robertson, Carl	Russell, Trinka	Serlin, Christopher
Snow, Richard	Splaine, James	Stiles, Nancy	Weare, Everett
Webber, James	Welch, David	Wells, Roger	Weyler, Kenneth
Wickson, Rick	Winchell, George		

STRAFFORD

Berube, Roger	Brennan, William	Brown, Jennifer	Browne, Brendon
Burke, Rachel	Cyr, James	Goodwin, Earle	Hutz, Sarah
Oppenheimer, Kay	Rollo, Deanna	Rollo, Michael	Schmidt, Peter
Snec, Robert	Wall, Janet	Warren, Nancy	Watson, Robert

SULLIVAN

Cloutier, John	Converse, Larry	Donovan, Thomas	Gagnon, Raymond
Gottling, Suzanne	Jillette, Arthur Jr	Nielsen, Ellen	

and the majority committee report failed.
Rep. Emerson did not vote and notified the Clerk that she wished to be recorded in favor.
Rep. Lee Quandt moved Ought to Pass.

MOTION TO LAY ON THE TABLE

Rep. Reardon moved that **SB 312-FN**, relative to insurance coverage for obesity and morbid obesity, be laid on the table.
On a division vote, 149 members having voted in the affirmative and 199 in the negative, the motion failed.

The question now being adoption of the minority committee report of Ought to Pass.
Rep. Winters requested a roll call; sufficiently seconded.

YEAS 209 NAYS 139

YEAS 209

BELKNAP

Arsenault, Beth	Millham, Alida	Nedeau, Stephen	Pilliod, James
Reever, Judith	Russell, David	Wood, Jane	

CARROLL

Ahlgren, Christopher	Buco, Thomas	Cunningham, Howard	Heard, Virginia
Knox, J. David	Stevens, Stanley		

CHESHIRE

Allen, Peter
Dunn, J. Timothy
Plifka, Stanley Jr

Burridge, Delmar
Espieffs, Peter
Robertson, Timothy

Butcher, Suzanne
Parkhurst, Henry
Sad, Tara

Butynski, William
Pelkey, Stephen
Weed, Charles

COOS

Ingersoll, Paul Sr
Tholl, John Jr

Merrick, Evalyn
Thomas, Yvonne

Remick, William

Theberge, Robert

GRAFTON

Bulis, Lyle
Gionet, Edmond
Mulholland, Catherine

Cooney, Mary
Hammond, Lee
Solomon, Peter

Dingman, Vernon III
Ingretson, Paul

Friedrich, Carol
Lovett, Sid

HILLSBOROUGH

Batula, Peter
Bergin, Peter
Christiansen, Lars
Day, Russell
Farley, Michael
Ginsburg, Ruth
Haefner, Robert
Hebert, Roger
Judy, Jean
Knowles, Mary Ann
Mack, Ron

Beaulieu, Jane
Brunelle, Michael
Clark, Mark
Dokmo, Cynthia
Fontas, Jeffrey
Goley, Jeffrey
Haley, Robert
Hogan, Edith
Kaelin, Michael
Lasky, Bette
Manney, Pamela

Beck, Catriona
Chase, Claudia
Coughlin, Pamela
Edwards, Andrew
Forest, Armand
Gorman, Mary
Hall, Betty
Hopper, Gary
Kelley, John
Leishman, Peter
Marshall, Seth

Bergeron, Jean-Guy
Christensen, Chris
Crane, Elenore Casey
Essex, David
Gargasz, Carolyn
Hackel, Paul
Harvey, Suzanne
Jean, Claudette
Knowles, John
Levesque, Melanie
Matarazzo, Anthony
Sr

McRae, Karen
Renzullo, Andrew
Shaw, Barbara
Spaulding, Jayne
Tahir, Saghir

Messier, Irene
Scannell, David
Shaw, Kimberly
Sullivan, Daniel
Ulery, Jordan

O'Brien, Michael Sr
Schulze, Joan
Simon, Anthony
Sullivan, Francis
Villeneuve, Maurice

O'Neil, James
Shattuck, Gilman
Soucy, Connie
Sysyn, Mary

MERRIMACK

Baxley, Maureen
DeJoie, John
Hamm, Christine

Blanchard, Elizabeth
Ehlers, Eileen
Kjellman, Eleanor
Glynn

Brown, Carole
Foote, Robert
Lockwood, Priscilla

Clarke, Claire
Greco, Vincent
Osborne, Jessie

Porter, Margaret
Wheeler, Deborah

Richardson, Gary
Yeaton, Charles

Tilton, Joy

Walz, Mary

ROCKINGHAM

Allen, Mary
Borden, David
Carson, Sharon
Day, Judith
Fesh, Bob
Henson, John
Katsakiores, Phyllis
Lund, Howie
McKenna, Daniel

Baldasaro, Alfred
Brown, C. Pennington
Case, Frank
Devine, James
Flanders, John Sr
Hutchinson, Karen
Kennedy, James
Mann, Maureen
Moody, Marcia

Bettencourt, David
Cali-Pitts, Jacqueline
Casey, Kimberley
DiFruscia, Anthony
Flockhart, Eileen
Introne, Robert
Kepner, Susan
Marsh, Michael
Moore, Benjamin

Bishop, Franklin
Camm, Kevin
Charron, Gene
Emiro, Frank
Grote, Otto
Katsakiores, George
Lister, Charlotte
McEachern, Paul
Nevins, Christopher

Nord, Susi
Pearson, Mark
Quandt, Matthew
Snow, Richard
Webber, James
Wickson, Rick

Nowe, Ronald
Pettersen, Don
Robertson, Carl
Splaine, James
Welch, David
Winchell, George

Packard, Sherman
Powers, James
Russell, Trink
Stiles, Nancy
Wells, Roger

Pantelakos, Laura
Quandt, Marshall
Serlin, Christopher
Weare, Everett
Weyler, Kenneth

STRAFFORD

Berube, Roger
Brown, Larry
Goodwin, Earle
Oppenheimer, Kay
Spang, Judith
Watson, Robert

Billian, Deborah
Browne, Brendon
Hubbard, Pamela
Rollo, Deanna
Srnc, Robert

Brennan, William
Burke, Rachel
Hutz, Sarah
Rollo, Michael
Wall, Janet

Brown, Jennifer
Cyr, James
Miller, Joseph
Schmidt, Peter
Warren, Nancy

SULLIVAN

Cloutier, John
Gagnon, Raymond

Converse, Larry
Gottling, Suzanne

Donovan, Thomas
Jillette, Arthur Jr

Franklin, Peter
Nielsen, Ellen

NAYS 139

BELKNAP

Boyce, Laurie
Morrison, Gail
Wendelboe, Fran

Clark, Charles
Thomas, John

Flanders, Donald
Tilton, Franklin

Heald, Bruce
Tobin, William

CARROLL

Bridgham, Robert
Denley, William

Brown, Carolyn
Martin, James

Butler, Edward
Morrow, Harry

Chandler, Gene
Patten, Betsey

CHESHIRE

Butterworth, Timothy
Johnson, Jane
Roberts, Kris

Chase, William
Lerandeau, Alfred
Weber, Lucy

Eaton, Daniel
Mitchell, Bonnie

Hunt, John
Richardson, Barbara

COOS

Hatch, William

King, Frederick

Merrick, Scott

Stohl, Eric

GRAFTON

Aguiar, James
Eaton, Stephanie
Matheson, Robert
Preston, Philip

Almy, Susan
Estes, Carole
McLeod, Martha
Sorg, Gregory

Benn, Bernard
Harding, A Laurie
Nordgren, Sharon
Williams, Burton

Bleyler, Ruth
Laliberte, Suzanne
Pierce, David

HILLSBOROUGH

Baroody, Benjamin
Daler, Jennifer
Foster, Linda
Hinkle, Peyton
Kopka, Angeline
Martineau, Jesse

Barry, Richard
Daniels, Gary
Graham, John
Infantine, William
Kurk, Neal
Mooney, Maureen

Clemons, Jane
Elliott, Nancy
Hansen, Ryan
Irwin, Anne-Marie
L'Heureux, Robert
Movsesian, Lori

Cote, David
Emerton, Larry
Hawkins, Ken
Jasper, Shawn
Long, Patrick
O'Connell, Timothy

Ober, Lynne
Price, Pamela
Smith, David
Winters, Joel

Ober, Russell III
Reeves, Sandra
Spratt, Stephen

Peterson, Andy
Rosenwald, Cindy
Stepanek, Stephen

Pilotte, Maurice
Rowe, Robert
Vaillancourt, Steve

MERRIMACK

Anderson, Eric

Beauchesne,
Suzanne

Bouchard, Candace

Brueggemann, Donald

Davis, Frank
Hager, Elizabeth
McMahon, Patricia
Reed, Dennis
Wallner, Mary

DeStefano, Stephen
Hess, David
Owen, Derek
Ryan, Jim
Webb, Leigh

French, Barbara
Kidder, David
Potter, Frances
Shurtleff, Stephen
Williams, Robert

Gile, Mary
MacKay, James
Reardon, Tara
Tupper, Frank

ROCKINGHAM

Bedrick, Jason
Gleason, John
Ingram, Russell
McKinney, Betsy
Reagan, John

Belanger, Ronald
Gould, Kenneth
Itse, Daniel
McMahon, Charles
Sanders, Elisabeth

Elliott, Robert
Griffin, Mary
Kappler, Lawrence
Priestley, Anne

Garcia, Marilinda
Headd, James
Major, Norman
Rausch, James

STRAFFORD

Brown, Julie
Kaen, Naida
Sprague, Dale

Fargo, Thomas
Knowles, William
Vachon, Dennis

Grassie, Anne
Rous, Emma

Hofemann, Roland
Smith, Marjorie

SULLIVAN

Ferland, Brenda
Skinder, Carla

Houde, Matthew

Phinizy, James

Rodeschin, Beverly

and the minority committee report was adopted.

Ordered to third reading.

Rep. Emerson did not vote and notified the Clerk that she wished to be recorded against.

Rep. Boutin declared a conflict of interest and did not participate on any vote on ***SB 312-FN***.

SB 394, establishing an economic development advisory council. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Edward A. Butler for Commerce: This bill establishes an advisory council of businesses representing a broad spectrum of New Hampshire's economy to assist the state division of economic development. It will be charged with helping to establish goals, measurements and strategic planning efforts related to the economic development of our state. As with other such councils it will be a conduit to the division for input from those working, and with practical experience, in various industries and will allow dissemination of information from the division back to the community. The department of resources and economic development (DRED) brought this bill forward in part because it will begin the process to develop the next 10 year economic planning effort. This council will help to bring more public input into that planning process. There was no testimony in opposition to this bill during committee hearings. The amendment adds three business sector representatives who requested inclusion. Vote 11-7.

Amendment (1235h)

Amend RSA 12-A:22-a, II and III as inserted by section 1 of the bill by replacing it with the following:

II. The advisory council shall consist of the director of the division of economic development, 3 at-large members who have an interest in economic development, and a representative of each of the following:

- (a) A chamber of commerce.
- (b) The manufacturing sector.
- (c) The field of higher education.
- (d) A venture capital formation expert or specialist.
- (e) A workforce development organization.
- (f) The biotechnology sector.
- (g) The information technology or software sector.
- (h) Commercial real estate or real estate development.
- (i) A regional or municipal development official.
- (j) The insurance, banking, or financial services sector.
- (k) The retail sector.
- (l) The travel and tourism sector.
- (m) The forest-based products sector.
- (n) An electric utility or energy-related interest.
- (o) An economist.
- (p) The telecommunications sector.
- (q) The governor's office.
- (r) A senator, appointed by the president of the senate.
- (s) A house member, appointed by the speaker of the house of representatives.
- (t) One representative of organized labor.
- (u) The residential building community.
- (v) A state or local housing agency.

III. Members of the council, except for the legislative members, shall be nominated by the commissioner of the department of resources and economic development and appointed by the governor for a term of 3 years and until their successors are appointed and qualified. When nominating and appointing individuals to the advisory council, the commissioner and governor shall ensure that each New Hampshire county has at least one representative on the council at any given time. Initial appointments made by the governor shall be for staggered terms of one, 2, or 3 years.

Amendment adopted.

Committee report adopted and ordered to third reading.

SB 426, establishing a committee to study the current definition of the term "community benefit" applicable to nonprofit health care providers. **OUGHT TO PASS.**

Rep. Stephen P. Spratt for Commerce: The study committee established by this bill will examine the definition of "community benefit" for uniformity and transparency. It was recommended by a study committee looking at healthcare costs to small businesses last year. Non-profit health care providers in this state are required to provide "community benefit." While numerous local hospitals are supporting significant local services, the report and fulfillment of this requirement varies state-wide. This brings into question whether these services are adequate, consistent, efficacious, or truly beneficial. Vote 11-6.

Committee report adopted and ordered to third reading.

SB 540-FN, relative to New Hampshire HealthFirst, an affordable, wellness-based health insurance plan for small employers. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. Tara G. Reardon for the Majority of Commerce: New Hampshire HealthFirst is a health insurance wellness based plan to be designed by a small business advisory board in conjunction with insurance carriers and an actuary. The premium for this plan will be targeted at 10% of the median income for New Hampshire for the prior year. The committee

amendment provides for an actuarial review prior to rate development, clarifies the charge of the advisory board to work toward the 10% goal in formulating the plan, and the corresponding rate will still be subject to the department's provision regarding rate setting. The public hearing on this matter was compelling, small business owners offered passionate testimony about the need to stabilize rates and their desire to be able to continue to offer insurance at an affordable rate. The subcommittee, industry representatives and the department of insurance met several times to set standards acceptable to all parties. New Hampshire HealthFirst recognizes prevention, wellness and care management in a medical home and focuses on a predictable premium to reverse the trend of declining benefits and loss of coverage in the small group market. Vote 15-2.

Rep. Charles L. Clark for the Minority of Commerce: Although well intended, SB 540 as amended, delegates our lawmaking function to an advisory committee made up of essentially purchasers of the health plan. Sounds good, but its much like asking the players on the field to change places with ticket purchasers in the stands. Plan design is an insurance company function. Purchasers of plans influence design by their buying choices. A goal of SB 540, as amended, is to enhance competition by facilitating comparison to a standard plan. We believe that it well may do the opposite by making pre-existing competing insurance plans illegal because of Section VIII b of the proposed statute. Most importantly this bill creates a two-tiered system; Section IX provides for specific exemptions that will apply only to the standard plan. The Rhode Island Plan, which this plan is modeled after, mandates an extensive medical underwriting questionnaire for all participants. SB 468 which eliminates the reinsurance pool also eliminates medical underwriting. Tools available only to the standard plan will create a substantial competitive advantage for the standard plan. It is quite likely that in the near future the standard plan may become the only plan. Finally, the "target base rate" conflicts with the "cost of healthcare" (trend). The target rate based on 10% of the median annual wage will likely increase at a lesser rate than the cost of health care (trend). This can create serious disruptions in the health insurance marketplace and has not been adequately addressed.

Majority Amendment (1565h)

Amend RSA 420-G:4-b, III as inserted by section 1 of the bill by replacing it with the following:

III. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the requirements for the standard wellness plan. Before adopting rules, the commissioner shall convene a standing advisory committee to include representatives of small employers, business groups and associations of small employers, consumers who obtain their coverage through the small employer market, one representative, appointed by the speaker of the house of representatives and one member of the senate, appointed by the president of the senate. The advisory committee shall, at least once every 3 years, make recommendations to the insurance commissioner on the requirements for the standard wellness plan. The standard wellness plan requirements shall be established so that small employer health insurance carriers would be reasonably expected to set the plan's health coverage plan rate, as defined in RSA 420-G:4, I(c), at or below the target rate of 10 percent of the prior year's median statewide wage as reported by the United States Department of Labor. In order to assist the advisory committee in making its recommendations, the commissioner shall engage an actuarial expert at the expense of the small employer carriers that are subject to RSA 420-G:4-b, II to confirm that the proposed standard wellness plan requirements are reasonable in relation to the target health plan coverage rate. The plan shall include benefit structure, cost sharing requirements, and provider payment initiatives consistent with the incentive required in RSA 420-G:46, IV. The committee shall recommend an out-of-pocket maximum for the standard wellness plan. Throughout the process of developing its recommendations, the advisory committee shall consult with interested health carriers,

health insurance producers, health care providers, the actuarial expert retained by the commissioner, and, as necessary and appropriate, other available experts.
Amend RSA 420-G:4-b, VI and VII as inserted by section 1 of the bill by replacing them with the following:

VI. The plan shall be made available in accordance with this section on October 1, 2009, or as soon thereafter as practicable and shall be reviewed and revised as necessary, but no less frequently than once every 3 years after the date of initial offer.

VII.(a) Small employer carriers shall be required to file their standard wellness plan rates 60 days prior to the date on which the plan is to be made available. If at least one small employer carrier files a health coverage plan rate at or below the stated target, then each carrier subject to RSA 420-G:4-b, II shall offer the standard wellness plan at its own filed and approved rate. If no small employer carrier files a health coverage plan rate at or below the stated target, then the commissioner shall hold a hearing on the reasonableness of the proposed standard wellness plan benefits in relation to the target health plan coverage rate to determine whether small employer carriers subject to RSA 420-G:4-b, II shall be required to offer the standard wellness plan at a health coverage plan rate equal to the target rate or whether changes should be made to the standard wellness plan requirements to adjust benefits or cost sharing requirements.

(b) Between plan revisions, carriers may request rate adjustments with appropriate supporting documentation. However, the commissioner shall not grant any rate adjustment in excess of the carrier's overall small group trend.

(c) All small employer carrier filings made in accordance with this section shall be subject to approval under RSA 420-G:4, I(h).

Majority committee amendment adopted.

Rep. Charles Clark offered floor amendment (1722h).

Floor Amendment (1722h)

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

AN ACT establishing an advisory committee for New Hampshire HealthFirst standard wellness plan for small employers.

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

1 New Section; New Hampshire HealthFirst; Advisory Committee on a Standard Wellness Plan for Small Employers. Amend RSA 420-G by inserting after section 4-a the following new section:

420-G:4-b New Hampshire HealthFirst; Advisory Committee on a Standard Wellness Plan for Small Employers.

I. The purpose of this section is to:

(a) Promote the availability of more affordable health coverage in the small employer market by engaging consumers, health care providers, insurers, and small employers to address the underlying costs of health care through better care management and more efficient utilization of health care services without increasing overall cost sharing requirements or reducing coverage for services essential to health and wellness.

(b) Develop a standard wellness plan for small employers that is offered on a guaranteed issue basis to all small employers in the state.

(c) Enhance competition among health carriers in the small employer market by facilitating comparison of a standard plan.

II. The commissioner shall convene a standing advisory committee to include representatives of small employers, business groups and associations of small employers, consumers who obtain their coverage through the small employer market, one representative, appointed by the speaker of the house of representatives and one member of the senate, appointed by the president of the senate. The advisory committee shall on October 1, 2009 and at least once every 3 years thereafter, make recommendations to the insurance commissioner on the requirements for the standard wellness plan. Prior to

making these recommendations, the advisory committee shall consult with interested health carriers, health insurance producers, health care providers, and, as necessary and appropriate, other available experts. In making its recommendations, the advisory committee shall be guided by the following principles:

(a) The proposed standard wellness plan shall include benefit structure, cost sharing requirements, and provider payment initiatives to promote the delivery of quality care. The committee shall recommend an out-of-pocket maximum for the standard wellness plan.

(b) The advisory committee shall ensure that the proposed standard wellness plan creates incentives for consumers, health care providers, employers, and/or health carriers to:

- (1) Promote wellness.
- (2) Promote primary care, preventive care, and a medical home model.
- (3) Manage and coordinate care for persons with chronic health conditions or acute illness.
- (4) Promote the use of cost effective care.
- (5) Promote quality of care by the use of evidence-based, best practice standards and patient-centered care.

(c) To the extent practicable, the plan shall be designed to permit health carriers to utilize existing programs to meet the requirements for the standard wellness plan.

III. The advisory group shall submit the proposed plan and recommendations for legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, and the governor on or before October 1, 2009 and the plan shall be reviewed and revised as necessary, but no less frequently than once every 3 years thereafter and a report made at that time.

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

AMENDED ANALYSIS

This bill requires the insurance commissioner to convene an advisory committee to develop New Hampshire HealthFirst, a standard wellness plan for small employers.

Rep. Charles Clark spoke in favor.

Rep. Reardon spoke against.

On a division vote, 106 members having voted in the affirmative and 227 in the negative, floor amendment (1722h) failed.

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

Rep. Charles Clark spoke against.

Rep. Reardon spoke in favor and yielded to questions.

Rep. Daniel Eaton requested a roll call; sufficiently seconded.

YEAS 259 NAYS 93

YEAS 260

BELKNAP

Arsenault, Beth
Pilliod, James

Flanders, Donald
Reever, Judith

Millham, Alida
Wood, Jane

Morrison, Gail

CARROLL

Ahlgren, Christopher
Chandler, Gene
Martin, James

Bridgham, Robert
Cunningham, Howard

Buco, Thomas
Heard, Virginia

Butler, Edward
Knox, J. David

CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Dunn, J. Timothy	Eaton, Daniel
Espieffs, Peter	Hunt, John	Lerandean, Alfred	Mitchell, Bonnie
Parkhurst, Henry	Plifka, Stanley Jr	Richardson, Barbara	Roberts, Kris
Robertson, Timothy	Sad, Tara	Weber, Lucy	Weed, Charles

COOS

Hatch, William	Ingersoll, Paul Sr	Merrick, Evalyn	Merrick, Scott
Remick, William	Stohl, Eric	Theberge, Robert	Thomas, Yvonne

GRAFTON

Aguiar, James	Almy, Susan	Andersen, Gene	Benn, Bernard
Bleyler, Ruth	Bulis, Lyle	Cooney, Mary	Estes, Carole
Friedrich, Carol	Gionet, Edmond	Hammond, Lee	Harding, A Laurie
Laliberte, Suzanne	Lovett, Sid	Matheson, Robert	McLeod, Martha
Mulholland, Catherine	Nordgren, Sharon	Pierce, David	Preston, Philip
Solomon, Peter	Williams, Burton		

HILLSBOROUGH

Baroody, Benjamin	Barry, Richard	Batula, Peter	Beaulieu, Jane
Beck, Catriona	Bergin, Peter	Brunelle, Michael	Campbell, David
Chase, Claudia	Clemons, Jane	Cote, David	Crane, Elenore
			Casey
Daler, Jennifer	Daniels, Gary	Dokmo, Cynthia	Edwards, Andrew
Essex, David	Farley, Michael	Fontas, Jeffrey	Forest, Armand
Foster, Linda	Gargas, Carolyn	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Graham, John	Hackel, Paul	Haefner, Robert
Haley, Robert	Hall, Betty	Harvey, Suzanne	Hebert, Roger
Holden, Randolph	Irwin, Anne-Marie	Jean, Claudette	Judy, Jean
Kaelin, Michael	Kelley, John	Knowles, John	Knowles, Mary Ann
Kopka, Angeline	L'Heureux, Robert	Lasky, Bette	Leishman, Peter
Levesque, Melanie	Long, Patrick	Mack, Ron	Marshall, Seth
Martineau, Jesse	Messier, Irene	Moran, Edward	Movsesian, Lori
O'Brien, Michael Sr	O'Connell, Timothy	O'Neil, James	Peterson, Andy
Pilote, Maurice	Rosenwald, Cindy	Scannell, David	Schulze, Joan
Shattuck, Gilman	Shaw, Barbara	Shaw, Kimberly	Simon, Anthony
Spratt, Stephen	Sullivan, Daniel	Sullivan, Francis	Sysyn, Mary
Tahir, Saghir	Villeneuve, Maurice		

MERRIMACK

Anderson, Eric	Baxley, Maureen	Beauchesne, Suzanne	Blanchard, Elizabeth
Bouchard, Candace	Brown, Carole	Brueggemann, Donald	Clarke, Claire
Davis, Frank	DeJoie, John	DeStefano, Stephen	Ehlers, Eileen
Foose, Robert	French, Barbara	Gile, Mary	Greco, Vincent
Hager, Elizabeth	Hamm, Christine	Kidder, David	Kjellman, Eleanor
			Glynn
Lockwood, Priscilla	Mackay, James	McMahon, Patricia	Osborne, Jessie
Owen, Derek	Porter, Margaret	Potter, Frances	Reardon, Tara
Richardson, Gary	Ryan, Jim	Shurtleff, Stephen	Tilton, Joy
Tupper, Frank	Wallner, Mary	Walz, Mary	Webb, Leigh
Wheeler, Deborah	Williams, Robert	Yeaton, Charles	

ROCKINGHAM

Belanger, Ronald	Bishop, Franklin	Borden, David	Brown, C. Pennington
Cali-Pitts, Jacqueline	Case, Frank	Casey, Kimberley	Charron, Gene
Day, Judith	Devine, James	DiFruscia, Anthony	Elliott, Robert
Fesh, Bob	Flockhart, Eileen	Garcia, Marilinda	Grote, Otto
Henson, John	Kappler, Lawrence	Kennedy, James	Kepner, Susan
Lister, Charlotte	Major, Norman	Mann, Maureen	Marsh, Michael
McEachern, Paul	McKenna, Daniel	McKinney, Betsy	Moody, Marcia
Nevins, Christopher	Nord, Susi	Pantelakos, Laura	Petterson, Don
Powers, James	Quandt, Marshall	Quandt, Matthew	Rausch, James
Robertson, Carl	Russell, Trinka	Serlin, Christopher	Snow, Richard
Splaine, James	Stiles, Nancy	Webber, James	Wells, Roger

STRAFFORD

Berube, Roger	Billian, Deborah	Brennan, William	Brown, Jennifer
Brown, Julie	Brown, Larry	Burke, Rachel	Cyr, James
Fargo, Thomas	Goodwin, Earle	Grassie, Anne	Hubbard, Pamela
Hutz, Sarah	Kaen, Naida	Knowles, William	Miller, Joseph
Oppenheimer, Kay	Rollo, Deanna	Rollo, Michael	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Spang, Judith	Sprague, Dale
Srnc, Robert	Vachon, Dennis	Wall, Janet	Warren, Nancy
Watson, Robert			

SULLIVAN

Cloutier, John	Converse, Larry	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Gagnon, Raymond	Gottling, Suzanne	Houde, Matthew
Jillette, Arthur Jr	Nielsen, Ellen	Phinizy, James	Skinder, Carla

NAYS 93

BELKNAP

Allen, Janet	Boyce, Laurie	Clark, Charles	Heald, Bruce
Nedeau, Stephen	Russell, David	Thomas, John	Tilton, Franklin
Tobin, William	Wendelboe, Fran		

CARROLL

Brown, Carolyn	Denley, William	Merrow, Harry	Patten, Betsey
Stevens, Stanley			

CHESHIRE

Johnson, Jane	Pelkey, Stephen
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COOS

King, Frederick	Tholl, John Jr
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GRAFTON

Dingman, Vernon III	Eaton, Stephanie	Ingbertson, Paul	Sorg, Gregory
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HILLSBOROUGH

Bergeron, Jean-Guy	Christensen, Chris	Christiansen, Lars
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Clark, Mark

Coughlin, Pamela
Francoeur, Bea
Hogan, Edith
Kurk, Neal
Mooney, Maureen
Reeves, Sandra
Soucy, Connie
Vaillancourt, Steve

Day, Russell
Hansen, Ryan
Hopper, Gary
Lawrence, James
Ober, Lynne
Renzullo, Andrew
Spaulding, Jayne
Winters, Joel

Elliott, Nancy
Hawkins, Ken
Infantine, William
Manney, Pamela
Ober, Russell III
Rowe, Robert
Stepanek, Stephen

Emerton, Larry
Hinkle, Peyton
Jasper, Shawn
McRae, Karen
Price, Pamela
Smith, David
Ulery, Jordan

MERRIMACK

Boutin, David

Hess, David

Reed, Dennis

ROCKINGHAM

Allen, Mary
Camm, Kevin
Gleason, John
Hutchinson, Karen
Katsakiores, George
Nowe, Ronald
Reagan, John
Weyler, Kenneth

Baldasaro, Alfred
Carson, Sharon
Gould, Kenneth
Ingram, Russell
Katsakiores, Phyllis
Packard, Sherman
Sanders, Elisabeth
Wickson, Rick

Bedrick, Jason
Emiro, Frank
Griffin, Mary
Introne, Robert
Lund, Howie
Pearson, Mark
Weare, Everett
Winchell, George

Bettencourt, David
Flanders, John Sr
Headd, James
Itse, Daniel
McMahon, Charles
Priestley, Anne
Welch, David

STRAFFORD

Hofemann, Roland

SULLIVAN

Rodeschin, Beverly

and the majority committee report was adopted.

Ordered to third reading.

Rep. Emerson did not vote and notified the Clerk that she wished to be recorded against.

SB 355-FN, relative to room and board scholarships for children of firefighters and police officers killed in the line of duty. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Judith E. Day for the Majority of Education: RSA 187-A:20-a established a tuition waiver in the university system for children of fire fighters and police officers who die in the line of duty, and created the "chancellor's scholarship endowment trust fund," overseen by the state treasurer, to receive private donations for room and board expenses for such students. SB 355-FN repeals this fund and instead proposes giving these students \$2,500 per year from the general fund to apply to room and board expenses (currently about \$7,000). The original legislation provides a vehicle for private donations, and the committee heard testimony that the trust fund was never activated because private funds were contributed directly. Rather than take money from the general fund, the committee believes that activating the fund to receive donations could result in more money being available per student. Current law allots \$2,500 for room and board money for a military child whose parent died while on active duty, but does not extend this benefit to National Guard members serving within the state. Vote 12-2.

Rep. Sharon M. Carson for the Minority of Education: This bill tried to correct a problem that emerged with legislation passed in 2004. RSA 187 A:20-a established a program that paid the tuition of the children of firefighters and police officers killed in the line of duty. It also created a privately financed trust fund to be established by the state treasurer to cover room and board costs. For some unknown reason, that part of the program fell through the

cracks and was never established. The minority strongly believes that to entrust the same entity to now implement the same provision is unacceptable. The state must ensure that directions are made very clear so that this does not happen again. We have the financial obligation to make sure that room and board costs are covered and not to depend on charitable organizations to do our job. We also have the moral obligation to the children of New Hampshire's fallen heroes, and we, as a state, should do the right thing and help these students pursuing an education at our state's colleges and universities by providing them with the financial assistance we promised.

LAID ON THE TABLE

Rep. Daniel Eaton moved that **SB 355-FN**, relative to room and board scholarships for children of firefighters and police officers killed in the line of duty, be laid on the table. Adopted.

REGULAR CALENDAR (CONT'D)

SB 415, relative to the effective date of the compulsory school attendance law. **OUGHT TO PASS.**

Rep. Barbara E. Shaw for Education: This bill amends the effective date relative to compulsory school attendance to June 30, 2009. Vote 11-3.
Committee report adopted and ordered to third reading.

The House recessed at 12:25 p.m.

RECESS

(Speaker Norelli in the Chair)

The House reconvened at 1:35 p.m.

REGULAR CALENDAR (CONT'D)

SB 530-FN-A-L, relative to kindergarten aid. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Linda T. Foster for the Majority of Finance: Last year the legislature voted to require school districts to offer kindergarten as part of an adequate education. SB 530, as amended by the Finance Committee, offers flexibility, options, and incentives to the 12 communities that currently do not provide public kindergarten as a component of an adequate education. Without SB 530, districts must offer public kindergarten by September 2008 and would have fewer transition options. The bill extends the existing construction grant that covers 75 percent of the actual cost of constructing kindergarten facilities. It also allows a construction grant that covers 100 percent of the actual cost of a basic code-compliant kindergarten facility. School districts that displace pupils from existing classroom space in order to provide kindergarten programs are eligible for these grants to cover the costs incurred in constructing or renovating new classroom space for the displaced pupils. Transition grants are also available to cover 100 percent of the cost of leasing and set up of temporary classrooms. All these grants include the cost of furniture, fixtures, and equipment for the kindergarten program. In addition to allowing districts to contract with another public school district that provides a state-approved program, the bill allows districts to contract with a private entity, in accordance with RSA 198:48-a, provided that the private kindergarten program meets or exceeds state standards. SB 530 does not change the provisions for per pupil allocation grants. All provisions for transition grants, however, are extended for four years. The Department of Education testified that with the possible exception of 2 districts, space already exists in the other districts which could be adapted for this purpose. SB 530 as amended will allow the 12 school districts not yet offering public

kindergarten time to make sound local decisions that insure the permanent opportunity for a public kindergarten education for every New Hampshire 5-year old. Vote 13-9.

Rep. Neal M. Kurk for the Minority of Finance: The minority believes that the bill as amended by the majority is unconstitutional. In funding the new kindergarten mandate adopted last year, the bill fails to pay for the entire cost imposed on the twelve school districts which have not voluntarily chosen to offer public kindergarten, thus violating Article 28-a of our state constitution. Specifically, the four-year transition period, even the most generous of the state-funded options available to these school districts to pay for kindergarten facilities doesn't cover the land, site preparation or core facilities' cost. The bill also removes the "no means no" statutory protection currently provided to taxpayers. The bill repeals RSA 32:8 and 32:11 with respect to kindergarten costs. These sections bar school boards, among other things, from spending money beyond that authorized by taxpayers. As a result, if the taxpayers of the school district do not vote funds to pay for construction costs, the school board is required to override the taxpayers and spend money taxpayers have not authorized. This is a very undesirable precedent. In effect, the bill orders the twelve school districts over a four-year period to construct kindergarten facilities. Forcing the state and municipalities to do significant construction and spend millions of dollars at a time when our economy is at a standstill is fiscally irresponsible. Universal kindergarten could have been required without the construction and financial mandates. Because of its constitutional problems and its reduction of local control and taxpayers' rights, the minority cannot support this bill.

Majority Amendment (1564h)

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

1 Kindergarten Construction Program. Amend RSA 198:15-r to read as follows:

198:15-r Kindergarten Construction Program Established.

I. There is established in the department of education a kindergarten construction program ***to provide certain construction grants which shall be available to eligible school districts*** [~~For the period beginning July 1, 1997, and ending June 30, 2008, the commissioner of education shall make grants available to eligible districts~~] that currently do not operate a public kindergarten program. ***These grants shall be available until all school districts in the state operate a kindergarten program within an approved public school. Such eligible districts shall receive, at their election, either:***

(a) A construction grant to cover 75 percent of the actual cost of construction of kindergarten facilities, exclusive of site acquisition and core facilities[.] ; ***or***

(b) A construction grant to cover 100 percent of the actual cost of the design and construction of a basic code compliant kindergarten facility, but shall not include site acquisition and core facilities. In this subparagraph, "basic code compliant kindergarten facility" means a new building or an addition to an existing building that the commissioner of the department of education determines satisfies the minimum standards for school approval for a kindergarten program and all applicable building code standards. The commissioner shall establish specifications pursuant RSA 198:15-s, IV for such a basic code compliant facility.

II. A school district that displaces pupils from an existing classroom space in order to use such space to provide a kindergarten program shall be eligible for a construction grant under subparagraphs I(a) or (b) to cover the costs incurred in constructing or renovating new classroom space for the displaced pupils.

III. Grants under subparagraphs I(a) or (b) shall also cover the cost of initial furniture, fixtures, and equipment needed to operate a kindergarten program.

IV.(a) In addition to the grants available under paragraph I, the commissioner of the department of education shall make classroom transition grants available to eligible school districts that currently do not operate a public kindergarten program, and that begin operation of such a program as of the

beginning of the 2008-2009 or 2009-2010 school years, to cover 100 percent of the actual cost of leasing and set up of temporary classrooms, including but not limited to portable classrooms or privately-owned space, for a single lease period with a maximum term of 4 years. The temporary classrooms may be used for grades other than kindergarten to the extent that those grades are displaced in order to make room for kindergarten classes. Classroom transition grants shall also cover the cost of initial furniture, fixtures, and equipment needed to operate a kindergarten program. Classroom transition grants shall be limited to an amount that, in the discretion of the commissioner of the department of education, is not excessive or unreasonable.

(b) A school district that currently does not operate a public kindergarten program may, for a period not to exceed 4 years, contract with a private entity to provide a kindergarten program in accordance with 198:48-a, provided that the kindergarten program meets or exceeds the minimum standards for school approval as adopted by the department of education.

(c) A school district may elect to proceed under either subparagraph (a) or (b), or a combination of both, provided that the maximum time period that a school district may proceed under either subparagraph (a) or (b), or the combination of both, shall not exceed 4 years.

V. A school district may contract with another school district to provide a public kindergarten program that meets or exceeds the minimum standards for school approval as adopted by the department of education.

VI. The provisions of RSA 32:8 and RSA 32:11 shall not apply to costs incurred by a school district under this section.

~~[H.]~~ **VII.** Nothing in this subdivision shall prohibit the inclusion of the site and related facilities that are not eligible for funding by the state under this subdivision as part of kindergarten construction costs from being included in a regular building aid funding request as provided in RSA 198:15-b. However, no school district which receives **any** funding ~~[for a kindergarten construction project]~~ under this subdivision shall be eligible to receive school building aid under RSA 198:15-b for the same project.

~~[H.]~~ **VIII.** Kindergarten facilities constructed under this subdivision shall be the property of the school district or the city maintaining a school department.

~~[IV. Nothing in this section shall prohibit a district from receiving a construction grant for a public kindergarten building if the district chooses to utilize a mixed alternative and public kindergarten program.]~~

IX. A district shall not be deemed ineligible from receiving the full amount of a construction or transition grant for which it is otherwise eligible as a result of the district already expending funds for construction or transition costs related to providing a kindergarten program beginning in the 2008-2009 or 2009-2010 school years.

2 New Section; Kindergarten Adequate Education Grants. Amend RSA 198 by inserting after section 48-a the following new section:

198:48-b Kindergarten Adequate Education Grants. Notwithstanding any provision of law to the contrary:

I. A school district which operates kindergarten in any school year in which the adequate education grant provided pursuant to RSA 198:42 does not include a count of kindergarten students, shall receive an additional adequate education grant based on the number of pupils attending kindergarten in the district as of the beginning of the school year.

II. The per pupil amount of the additional education grant provided in this section shall be \$1,200 for the 2008 school year. Starting in the school year that commences in the fall of 2009, a school district which operates kindergarten in any school year in which the adequate education grant provided pursuant to RSA 198:42 does not include a count of

kindergarten students, shall receive an additional adequate education grant calculated pursuant to the adequate education grant formula provided in RSA 198 based on the number of pupils attending kindergarten in the district as of the beginning of the school year. Once pupils enrolled in an approved kindergarten program have been counted in the average daily membership, school districts shall receive, for each such pupil, an adequate education grant calculated in accordance with RSA 198:41 and RSA 198:42. School districts that receive kindergarten adequate education grants under this section shall not be eligible to receive any other per pupil adequate education grant.

3 Kindergarten Implementation Plan. A school district that is unable to provide a public kindergarten program as of the beginning of the 2008-2009 school year shall notify the commissioner of the department of education on or before July 15, 2008. No later than December 1, 2008, such district shall submit to the commissioner a plan which has been approved by the local school board, and which sets forth the school district's plan for providing a public kindergarten program no later than the beginning of the 2009-2010 school year. The plan shall include detailed benchmarks and timetables for providing kindergarten classrooms, curriculum, staffing, and equipment as established by the commissioner.

4 Alternative Kindergarten Programs. RSA 198:48-a, III is repealed and reenacted to read as follows:

III. A local plan for an alternative kindergarten program shall be approved by the school board. A local plan for an alternative kindergarten program shall be submitted to the commissioner of the department of education at times established by the commissioner.

5 Repeal. The following are repealed:

I. 2001, 287:6, II, relative to the kindergarten construction grant program.

II. RSA 198:15-r, IV, relative to classroom transition grants.

III. RSA 198:15-s, I, relative to eligibility for the kindergarten construction grant program.

6 Effective Date.

I. Paragraph I of section 5 of this act shall take effect June 30, 2008.

II. Paragraph II of section 5 of this act shall take effect July 1, 2013.

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

AMENDED ANALYSIS

This bill:

I. Extends the kindergarten construction aid program until all school districts in the state operate a kindergarten program.

II. Allows a school district to elect a construction grant to cover either 75 percent of the actual cost of construction of kindergarten facilities or 100 percent of the actual cost of design and construction of a basic code compliant kindergarten facility.

III. Provides classroom transition grants to eligible school districts which do not operate a public kindergarten program and which begin operation of such a program as of the beginning of the 2008-2009 or 2009-2010 school years for the actual cost of leasing and set up of temporary classrooms.

IV. Requires that a school district providing a public kindergarten program as of the beginning of the 2009-2010 school year shall receive, in that same year, an additional adequate education grant amount based on the number of pupils attending kindergarten in the district as of the beginning of the school year.

V. Requires certain school districts to submit a kindergarten implementation plan to the commissioner of the department of education detailing the district's plan to provide a public kindergarten program no later than the beginning of the 2009-2010 school year.

Majority committee amendment adopted.

Rep. Hess offered floor amendment (1697h).

Floor Amendment (1697h)

Amend RSA 198:15-r, I(a)-(b) as inserted by section 1 of the bill by replacing them with the following:

(a) A construction grant to cover 75 percent of the actual cost of construction of kindergarten facilities, ~~[exclusive of]~~ **including** site acquisition and core facilities~~[-]~~ ; **or**

(b) A construction grant to cover 100 percent of the actual cost of the design and construction of a basic code compliant kindergarten facility, and shall include site acquisition and core facilities. In this subparagraph, "basic code compliant kindergarten facility" means a new building or an addition to an existing building that the commissioner of the department of education determines satisfies the minimum standards for school approval for a kindergarten program and all applicable building code standards. The commissioner shall establish specifications pursuant RSA 198:15-s, IV for such a basic code compliant facility.

Amend RSA 198:15-r as inserted by section 1 of the bill by deleting RSA 198:15-r, VI and renumbering RSA 198:15-r, VII-IX to read as RSA 198:15-r, VI-VIII, respectively.

Rep. Hess spoke in favor.

Rep. Rous spoke against.

On a division vote, 139 members having voted in the affirmative and 191 in the negative, floor amendment (1697h) failed.

MOTION TO PRINT DEBATE

Rep. Wendelboe moved that the debate on floor amendment (1697h) to **SB 530-FN-A-L**, relative to kindergarten aid, be printed in the Permanent Journal.

Rep. Hess requested a roll call; sufficiently seconded.

YEAS 157 NAYS 177

YEAS 157

BELKNAP

Allen, Janet	Clark, Charles	Flanders, Donald	Heald, Bruce
Millham, Alida	Nedeau, Stephen	Pilliod, James	Russell, David
Thomas, John	Tilton, Franklin	Tobin, William	Wendelboe, Fran

CARROLL

Ahlgren, Christopher	Brown, Carolyn	Chandler, Gene	Denley, William
Knox, J. David	Martin, James	Morrow, Harry	Patten, Betsey
Stevens, Stanley			

CHESHIRE

Hunt, John	Johnson, Jane	Pelkey, Stephen
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COOS

King, Frederick	Remick, William	Stohl, Eric	Tholl, John Jr
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GRAFTON

Andersen, Gene	Bulis, Lyle	Cooney, Mary	Dingman, Vernon III
Gionet, Edmond	Ingbretson, Paul	Sorg, Gregory	Williams, Burton

HILLSBOROUGH

Barry, Richard	Batula, Peter	Beck, Catriona	Bergeron, Jean-Guy
Christensen, Chris	Christiansen, Lars	Coughlin, Pamela	Crane, Elenore Casey

Daniels, Gary
Emerton, Larry
Hawkins, Ken
Hopper, Gary
Knowles, Mary Ann
Manney, Pamela
Moran, Edward
Peterson, Andy
Rowe, Robert
Spaulding, Jayne
Ulery, Jordan

Day, Russell
Gargasz, Carolyn
Hinkle, Peyton
Infantine, William
Kurk, Neal
McRae, Karen
O'Connell, Timothy
Price, Pamela
Simon, Anthony
Stepanek, Stephen
Villeneuve, Maurice

Dokmo, Cynthia
Graham, John
Hogan, Edith
Jasper, Shawn
L'Heureux, Robert
Messier, Irene
Ober, Lynne
Reeves, Sandra
Smith, David
Sullivan, Francis

Elliott, Nancy
Haefner, Robert
Holden, Randolph
Knowles, John
Lawrence, James
Mooney, Maureen
Ober, Russell III
Renzullo, Andrew
Soucy, Connie
Tahir, Saghir

MERRIMACK

Anderson, Eric
DeJoie, John
MacKay, James

Bouchard, Candace
Hess, David
Osborne, Jessie

Boutin, David
Kidder, David
Reed, Dennis

Brown, Carole
Lockwood, Priscilla

ROCKINGHAM

Allen, Mary
Bettencourt, David
Camm, Kevin
Charron, Gene
Elliott, Robert
Garcia, Marilinda
Grote, Otto
Introne, Robert
Katsakiores, Phyllis
McKinney, Betsy
Packard, Sherman
Quandt, Matthew
Sanders, Elisabeth
Welch, David

Baldasaro, Alfred
Bishop, Franklin
Carson, Sharon
Dalrymple, David
Emiro, Frank
Gleason, John
Headd, James
Itse, Daniel
Lund, Howie
McMahon, Charles
Pearson, Mark
Rausch, James
Splaine, James
Weyler, Kenneth

Bedrick, Jason
Borden, David
Case, Frank
Devine, James
Fesh, Bob
Gould, Kenneth
Hutchinson, Karen
Kappler, Lawrence
Major, Norman
Nevins, Christopher
Priestley, Anne
Reagan, John
Stiles, Nancy
Winchell, George

Belanger, Ronald
Cali-Pitts, Jacqueline
Casey, Kimberley
DiFruscia, Anthony
Flanders, John Sr
Griffin, Mary
Ingram, Russell
Katsakiores, George
McEachern, Paul
Nowe, Ronald
Quandt, Marshall
Robertson, Carl
Weare, Everett

STRAFFORD

Brown, Julie

Fargo, Thomas

Watson, Robert

SULLIVAN

Ferland, Brenda

Rodeschin, Beverly

NAYS 177

BELKNAP

Arsenault, Beth

Morrison, Gail

Reever, Judith

Wood, Jane

CARROLL

Bridgham, Robert
Heard, Virginia

Buco, Thomas

Butler, Edward

Cunningham, Howard

CHESHIRE

Allen, Peter
Butynski, William

Burridge, Delmar
Chase, William

Butcher, Suzanne
Dunn, J. Timothy

Butterworth, Timothy
Eaton, Daniel

Espiefs, Peter
Plifka, Stanley Jr
Sad, Tara

Lerandeau, Alfred
Richardson, Barbara
Weber, Lucy

Mitchell, Bonnie
Roberts, Kris
Weed, Charles

Parkhurst, Henry
Robertson, Timothy

COOS

Hatch, William
Thomas, Yvonne

Merrick, Evalyn

Merrick, Scott

Theberge, Robert

GRAFTON

Aguiar, James
Estes, Carole
Laliberte, Suzanne
Mulholland, Catherine
Solomon, Peter

Almy, Susan
Friedrich, Carol
Lovett, Sid
Nordgren, Sharon

Benn, Bernard
Hammond, Lee
Matheson, Robert
Pierce, David

Bleyler, Ruth
Harding, A Laurie
McLeod, Martha
Preston, Philip

HILLSBOROUGH

Baroody, Benjamin
Cote, David
Farley, Michael
Ginsburg, Ruth
Hall, Betty
Jean, Claudette
Kopka, Angeline
Long, Patrick
Movsesian, Lori
Rosenwald, Cindy
Shaw, Barbara
Sysyn, Mary

Brunelle, Michael
Daler, Jennifer
Fontas, Jeffrey
Goley, Jeffrey
Harvey, Suzanne
Jeady, Jean
Lasky, Bette
Mack, Ron
O'Brien, Michael Sr
Scannell, David
Shaw, Kimberly
Vaillancourt, Steve

Campbell, David
Edwards, Andrew
Forest, Armand
Hackel, Paul
Hebert, Roger
Kaelin, Michael
Leishman, Peter
Marshall, Seth
O'Neil, James
Schulze, Joan
Spratt, Stephen
Winters, Joel

Clemons, Jane
Essex, David
Foster, Linda
Haley, Robert
Irwin, Anne-Marie
Kelley, John
Levesque, Melanie
Martineau, Jesse
Pilotte, Maurice
Shattuck, Gilman
Sullivan, Daniel

MERRIMACK

Baxley, Maureen
Clarke, Claire
French, Barbara
Kjellman, Eleanor
Glynn
Reardon, Tara
Tilton, Joy
Webb, Leigh

Beauchesne, Suzanne
Davis, Frank
Gile, Mary
Owen, Derek

Richardson, Gary
Tupper, Frank
Wheeler, Deborah

Blanchard, Elizabeth
Ehlers, Eileen
Greco, Vincent
Porter, Margaret

Ryan, Jim
Wallner, Mary
Williams, Robert

Brueggemann, Donald
Foose, Robert
Hamm, Christine
Potter, Frances

Shurtleff, Stephen
Walz, Mary
Yeaton, Charles

ROCKINGHAM

Brown, C. Pennington
Kepner, Susan
McKenna, Daniel
Pettersen, Don
Snow, Richard

Day, Judith
Lister, Charlotte
Moody, Marcia
Powers, James
Webber, James

Flockhart, Eileen
Mann, Maureen
Nord, Susi
Russell, Trinkia

Henson, John
Marsh, Michael
Pantelakos, Laura
Serlin, Christopher

STRAFFORD

Berube, Roger
Burke, Rachel
Hubbard, Pamela
Miller, Joseph
Rous, Emma

Billian, Deborah
Cyr, James
Hutz, Sarah
Oppenheimer, Kay
Schmidt, Peter

Brennan, William
Goodwin, Earle
Kaen, Naida
Rollo, Deanna
Smith, Marjorie

Brown, Jennifer
Hofemann, Roland
Knowles, William
Rollo, Michael
Spang, Judith

Sprague, Dale

Vachon, Dennis

Wall, Janet

Warren, Nancy

SULLIVAN

Cloutier, John

Converse, Larry

Donovan, Thomas

Franklin, Peter

Gagnon, Raymond

Gottling, Suzanne

Houde, Matthew

Jillette, Arthur Jr

Nielsen, Ellen

Skinder, Carla

and the motion failed.

Rep. Emerson did not vote and notified the Clerk that she wished to be recorded against.

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

Rep. Stepanek spoke against.

Reps. Leishman and Rous spoke in favor.

Rep. Daniel Eaton requested a roll call; sufficiently seconded.

YEAS 200 NAYS 137

YEAS 200

BELKNAP

Arsenault, Beth

Morrison, Gail

Reever, Judith

Wood, Jane

CARROLL

Bridgham, Robert

Buco, Thomas

Butler, Edward

Cunningham, Howard

Heard, Virginia

Knox, J. David

CHESHIRE

Allen, Peter

Burridge, Delmar

Butcher, Suzanne

Butterworth, Timothy

Butynski, William

Chase, William

Dunn, J. Timothy

Eaton, Daniel

Espiefs, Peter

Lerandeau, Alfred

Mitchell, Bonnie

Plifka, Stanley Jr

Richardson, Barbara

Roberts, Kris

Robertson, Timothy

Sad, Tara

Weber, Lucy

Weed, Charles

COOS

Hatch, William

Merrick, Evalyn

Merrick, Scott

Theberge, Robert

Thomas, Yvonne

GRAFTON

Aguiar, James

Almy, Susan

Benn, Bernard

Bleyler, Ruth

Cooney, Mary

Estes, Carole

Friedrich, Carol

Hammond, Lee

Harding, A Laurie

Laliberte, Suzanne

Lovett, Sid

Matheson, Robert

McLeod, Martha

Mulholland, Catherine

Nordgren, Sharon

Preston, Philip

Solomon, Peter

HILLSBOROUGH

Baroody, Benjamin

Beck, Catriona

Brunelle, Michael

Campbell, David

Chase, Claudia

Clemons, Jane

Cote, David

Daler, Jennifer

Edwards, Andrew

Essex, David

Farley, Michael

Fontas, Jeffrey

Forest, Armand

Foster, Linda

Gargas, Carolyn

Ginsburg, Ruth

Goley, Jeffrey

Gorman, Mary

Hackel, Paul

Haley, Robert

Hall, Betty

Harvey, Suzanne

Hebert, Roger

Irwin, Anne-Marie

Jean, Claudette
Knowles, Mary Ann
Levesque, Melanie
Martineau, Jesse
O'Neil, James
Schulze, Joan
Simon, Anthony
Sysyn, Mary

Jeudy, Jean
Kopka, Angeline
Long, Patrick
Movsesian, Lori
Pilotte, Maurice
Shattuck, Gilman
Spratt, Stephen

Kaelin, Michael
Lasky, Bette
Mack, Ron
O'Brien, Michael Sr
Rosenwald, Cindy
Shaw, Barbara
Sullivan, Daniel

Knowles, John
Leishman, Peter
Marshall, Seth
O'Connell, Timothy
Scannell, David
Shaw, Kimberly
Sullivan, Francis

MERRIMACK

Baxley, Maureen
Brown, Carole
DeJoie, John
Gile, Mary
Kidder, David

Beauchesne, Suzanne
Brueggemann, Donald
Ehlers, Eileen
Greco, Vincent
Kjellman, Eleanor
Glynn

Blanchard, Elizabeth
Clarke, Claire
Foose, Robert
Hager, Elizabeth
McMahon, Patricia

Bouchard, Candace
Davis, Frank
French, Barbara
Hamm, Christine
Osborne, Jessie

Owen, Derek
Richardson, Gary
Tupper, Frank
Wheeler, Deborah

Porter, Margaret
Ryan, Jim
Wallner, Mary
Williams, Robert

Potter, Frances
Shurtleff, Stephen
Walz, Mary
Yeaton, Charles

Reardon, Tara
Tilton, Joy
Webb, Leigh

ROCKINGHAM

Borden, David
Casey, Kimberley
Grote, Otto
Marsh, Michael
Nord, Susi
Russell, Trinkia
Stiles, Nancy

Brown, C. Pennington
Day, Judith
Henson, John
McEachern, Paul
Pantelakos, Laura
Serlin, Christopher
Webber, James

Cali-Pitts, Jacqueline
DiFruscia, Anthony
Kepner, Susan
McKenna, Daniel
Petterson, Don
Snow, Richard

Case, Frank
Flockhart, Eileen
Mann, Maureen
Moody, Marcia
Powers, James
Splaine, James

STRAFFORD

Berube, Roger
Burke, Rachel
Hubbard, Pamela
Miller, Joseph
Rous, Emma
Sprague, Dale
Watson, Robert

Billian, Deborah
Cyr, James
Hutz, Sarah
Oppenheimer, Kay
Schmidt, Peter
Vachon, Dennis

Brown, Jennifer
Fargo, Thomas
Kaen, Naida
Rollo, Deanna
Smith, Marjorie
Wall, Janet

Brown, Larry
Goodwin, Earle
Knowles, William
Rollo, Michael
Spang, Judith
Warren, Nancy

SULLIVAN

Cloutier, John
Gagnon, Raymond
Nielsen, Ellen

Converse, Larry
Gottling, Suzanne
Phinizy, James

Donovan, Thomas
Houde, Matthew
Skinder, Carla

Franklin, Peter
Jillette, Arthur Jr

NAYS 137

BELKNAP

Allen, Janet
Millham, Alida
Thomas, John

Clark, Charles
Nedeau, Stephen
Tilton, Franklin

Flanders, Donald
Pilliod, James
Tobin, William

Heald, Bruce
Russell, David
Wendelboe, Fran

CARROLL

Ahlgren, Christopher Martin, James	Brown, Carolyn Merrow, Harry	Chandler, Gene Patten, Betsey	Denley, William Stevens, Stanley
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CHESHIRE

Hunt, John	Johnson, Jane	Parkhurst, Henry	Pelkey, Stephen
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COOS

King, Frederick	Remick, William	Stohl, Eric	Tholl, John Jr
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GRAFTON

Andersen, Gene Gionet, Edmond	Bulis, Lyle Ingretson, Paul	Dingman, Vernon III Sorg, Gregory	Eaton, Stephanie Williams, Burton
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HILLSBOROUGH

Barry, Richard	Batula, Peter	Bergeron, Jean-Guy	Christensen, Chris
Christiansen, Lars	Coughlin, Pamela	Crane, Elenore Casey	Daniels, Gary
Day, Russell	Elliott, Nancy	Emerton, Larry	Graham, John
Haefner, Robert	Hawkins, Ken	Hinkle, Peyton	Hogan, Edith
Holden, Randolph	Hopper, Gary	Infantine, William	Jasper, Shawn
Kurk, Neal	L'Heureux, Robert	Lawrence, James	Manney, Pamela
McRae, Karen	Messier, Irene	Mooney, Maureen	Moran, Edward
Ober, Lynne	Ober, Russell III	Peterson, Andy	Price, Pamela
Reeves, Sandra	Renzullo, Andrew	Rowe, Robert	Smith, David
Soucy, Connie	Spaulding, Jayne	Stepanek, Stephen	Tahir, Saghir
Ulery, Jordan	Vaillancourt, Steve	Villeneuve, Maurice	Winters, Joel

MERRIMACK

Anderson, Eric MacKay, James	Boutin, David Reed, Dennis	Hess, David	Lockwood, Priscilla
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ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Bishop, Franklin	Camm, Kevin	Carson, Sharon
Charron, Gene	Dalrymple, David	Devine, James	Elliott, Robert
Emiro, Frank	Fesh, Bob	Flanders, John Sr	Garcia, Marilinda
Gleason, John	Gould, Kenneth	Griffin, Mary	Headd, James
Hutchinson, Karen	Ingram, Russell	Introne, Robert	Itse, Daniel
Kappler, Lawrence	Katsakiores, George	Katsakiores, Phyllis	Lister, Charlotte
Lund, Howie	Major, Norman	McKinney, Betsy	McMahon, Charles
Nevins, Christopher	Nowe, Ronald	Packard, Sherman	Pearson, Mark
Priestley, Anne	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reagan, John	Robertson, Carl	Sanders, Elisabeth	Weare, Everett
Welch, David	Weyler, Kenneth	Winchell, George	

STRAFFORD

Brennan, William	Brown, Julie	Hofemann, Roland
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SULLIVAN

Ferland, Brenda
and the majority committee report was adopted.
Ordered to third reading.

Rep. Pierce did not vote and notified the Clerk that he wished to be recorded in favor.
Rep. Emerson did not vote and notified the Clerk that she wished to be recorded against.

MOTION TO PRINT DEBATE

Rep. Wendelboe moved that the debate on ***SB 530-FN-A-L***, relative to kindergarten aid, be printed in the Permanent Journal.

On a division vote, 207 members having voted in the affirmative and 134 in the negative, the motion was adopted.

Rep. Dokmo declared a conflict of interest and did not participate on any vote on ***SB 530-FN-A-L***,

DEBATE ON SB 530-FN-A-L

Majority Committee Amendment Adopted

Rep. Hess offered Floor Amendment (1697h)

Rep. Hess: Thank you very much, Madam Speaker. This bill has been improved upon in part but greatly and disturbingly made far worse than it was when you and I voted on it on the floor several weeks ago. It has been improved upon in two particulars. Number one, the Finance committee majority deemed it appropriate to allow these twelve school districts, who are having kindergarten imposed upon them, to contract with private entities to provide that kindergarten education for the four years of transition. Good idea, cost effective, avoids the need to build capital improvements during that transition period. Takes advantage of resources, training, and experience that already exists in these communities, good idea. The second improvement that the Finance committee made to this bill was to extend the transition period to four years, not long enough in the opinion of this member, but longer than three years, giving the school districts a little bit more time to implement this situation. But this bill was made far worse by the amendment that House Finance made to the provision repealing the “no means no” statutes contained in the municipal budget act. It was bad enough to repeal those statutes with respect to the transition period and temporary classrooms contained in the bill. Senate Finance went beyond that and in funding kindergarten mandated assistance the Finance committee repealed those two statutes, RSA 32:8 and RSA 32:11 with respect to every expenditure on creating and establishing and implementing kindergarten. I hope you all have had a chance to see a document out on the table in the anteroom. It simply repeats in total the language of RSA 32:8 and 32:11. RSA 32: 11 deals with emergency expenditures and over-expenditures and creates a mechanism for allowing that to occur outside a regular town meeting. Let me read to you what this bill will repeal with regard to kindergarten. Limitations on expenditures: no school board shall pay any money for any purpose in excess of the amount appropriated by the legislative body or for any purpose for which no appropriation has been made. RSA 32:8 says school board members, school administrators cannot spend any more money on any subject that was not approved by the voters of the school district, by the taxpayers of the school district, by the citizens of the school district. With this bill, we are repealing that statutory language as to kindergarten. That means that the twelve school boards affected by this bill, are not only empowered to spend money that was not approved by their taxpayers, but are indeed required to spend money that has not been voted on by their taxpayers, not approved by their taxpayers, not agreed to by their citizens. I can think of no more horrible, big brother approach to government than that. If you take away the local vote, you take away the local control and that is exactly what this bill does. It also in my opinion violates the provisions of both 28:a of the constitution and the requirements that the supreme court has imposed on the Claremont Decisions which says that anything the state mandates, the state has to pay for or anything that constitutes an adequate education, the state has to pay for. One of the other things the bill as passed by the Finance committee doesn’t do is it specifically excludes site acquisition and core facility costs from the amount of funds that the state will be

contributing towards these new kindergarten facilities. If you have a situation where you will have a school with plenty of adjacent space and a functioning septic system on city water, that's not a problem, but there are a number of these school districts, Litchfield jumps out at me and I think Pelham has the same situation, in which the school districts will basically have to build an entirely new structure on an entirely separate parcel of land because their schools already overcrowd the lots in which they are located or their septic systems or other systems are near failure or at failure. The bill before you does not cover those costs. The amendment that I am suggesting to you does expressly cover those costs. Let me tell you why I think the bill without this amendment violates 28:a. I will read the appropriate provisions of 28:a. I am fairly familiar with it having been one of the original co-sponsors in the 1984 constitutional convention and frankly having written the language that is in the constitution. "The state shall not mandate or assign any new expanded or modified programs to any political subdivision in such a way as to necessitate additional local expenditures unless such programs or responsibilities are fully funded by the state or unless such programs or responsibilities are approved for funding by a vote of the local legislative body...." This amendment restores both of those factors. It provides full funding for the expanded program or the new program of kindergarten and it removes the restriction that would allow the imposition of these costs on our local communities without a local vote. I urge you to adopt this amendment. It doesn't do anything else to the kindergarten bill, it doesn't change the terms of the transition period, and it doesn't do anything else to any of the language. It addressed these two critical horrible shortcomings of the bill. I thank you for your attention.

Speaker: The question before the House is on the adoption of floor amendment (1697h) on SB 530. The Chair recognizes the member from Durham, Representative Rous.

Rep. Rous: Thank you, Madam Speaker. Colleagues, I am going to speak specifically to the elements of the amendment and I think that subsequent speakers will address some of the issues in the bill as a whole. SB 530 is consistent with existing statute on kindergarten construction, that's RSA 198:15-r. The 75% construction grant has always excluded site acquisition and core facilities, but funding for that portion of construction projects is available through the regular building aid funding requests as provided in RSA 198:15b and these provisions are consistent with the shared state and local responsibility for providing education. Construction is not mandated by this bill and many districts will meet their space needs with existing space or through construction projects already under consideration. I would add that Litchfield needs a total new school. It has for quite a while and site acquisition would be for the entire school not simply for kindergarten. I don't think we should be looking to kindergarten aid to solve needs that have been in existence for a long period of time. In regards to the 28:a issue, the policy committees and the Finance committee have repeatedly responded to the 28:a assertion. The constitutional basis for an adequate education and the local rule in providing education predates the adoption of 28:a by a long time so 28:a arguably has no application in this case, but in addition this bill eliminates any 28:a concern by providing options to the districts for 100% funding of construction and furnishing and for operation through adequacy grants. I would ask you to support the policy committee, to support the Finance committee which has thoroughly vetted these questions already and to vote no on this amendment.

Speaker: The question before the House is on the adoption of floor amendment (1697h) on SB 530. A division has been requested. Will members please take their seats? The House will be attentive to the state of the vote. 139 members having voted in the affirmative and 191 in the negative, floor amendment (1697h) fails. The question before the House is on the adoption of the majority committee report of Ought to Pass with Amendment on SB 530. The Chair recognizes the member from Amherst, Representative Stepanek.

Rep. Stepanek: Thank you, Madam Speaker. Ladies and Gentlemen of the General Court, what we have before us today is an unconstitutional bill which is setting a horrible precedent for the future. We have in our state constitution a requirement under 28:a which states and

I quote, "The state shall not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision unless such programs or responsibilities are fully funded by the state or unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision." Now, it has been said today that this 28:a does not apply because we have been doing school long before 28:a was passed back in 1984, I believe. However, kindergarten was never part of that. Kindergarten was mandated and it was mandated last year. Therefore, under 28:a it is a new program. As a new program, it is required to be fully funded by the state. This is not being fully funded. We have two plans in this bill. Plan one funds 75% of the actual construction costs, not 100%. It has been said that this law is the same and is consistent with what we have been doing in the past and that is true. What we have been doing in the past and the past law was an enticement for the communities to voluntarily add kindergarten. That is not on the table. They have been mandated to have kindergarten. This law does not cover the 28:a issue. The second plan funds 100% of the actual costs of a basic co-compliant facility. We affectionately call this in Finance the Quonset hut facility. It does not however cover the cost of the land, site prep, any improvements to the septic system, the electrical system, the plumbing system and so on. Therefore, neither plan is fully funded by the state. Therefore, this plan and this bill violates 28:a of the New Hampshire Constitution. This bill also, as you have heard, repeals "no means no" statute protection currently provided to the taxpayers of this state. This in effect says that the state can say to the local school boards, you will build and staff these kindergarten facilities and the town will be required to pay the unfunded costs with no warrant articles, no votes by the town citizens, just pay the bill. Since the state is not fully funding this expense and since by repealing "no means no", the local subdivisions are being prevented from voting and approving or not approving this program. This again, violates 28:a of the New Hampshire Constitution. Repealing "no means no" takes us down a very dangerous and very slippery slope. Whenever the state has a program they want to force onto the local communities for their own good, they will cite this bill again and again to repeal "no means no." If the state was, in fact, fully funding this program as the constitution requires it to do, why is it necessary to repeal "no means no?" Whether you agree or not, with kindergarten mandates you should oppose this bill as it is written. Please support our New Hampshire Constitution as you pledged that you would when you took your oath of office. Please support your constituents' rights. Please vote no on this bill.

Speaker: The question before the House is on the adoption of the majority committee report of Ought to Pass with Amendment. The Chair recognizes the member from Milford, Representative Leishman.

Rep. Leishman: Thank you, Madam Speaker. Good afternoon, members of the House. As one of the original sponsors of the kindergarten bill, I want to compliment the members of Finance who worked through a compromise that works, I believe, for everyone, especially as a Rep that is coming from a community that I hate to admit does not have public kindergarten. I want to thank the Representative from Hooksett who pointed out all of those good things that I think Finance did with the compromise. In my community, which I'll stick specifically to, we have had several, I think, over the last decades votes to support or not to support public kindergarten. Yes, it's always failed, but the community has always been in favor of public kindergarten. What this amendment does and quite specifically, as the Representative from Hooksett said, it gives flexibility to those communities that don't have public kindergarten, but on top of that it allows those communities to send these kids out to private kindergartens that pass state standards for private kindergarten. It's not a voucher system as some people have mentioned to me in the halls, this money would be directly funneled from the school district to, again, those private kindergartens that do support state standards and those standards that the local school districts have adopted. Now, in my community of Milford, the superintendent and I spoke this morning and they feel that this extension would give them adequate time to bring kindergarten online by 2010. All of us, I

think, in this room support kindergarten. I think it's about time the five year old kids of this state get public kindergarten that is supported by this body and supported by the Senate and again I want to thank my friend from Hooksett that outlined out all those good things that this amendment does. Thank you.

Speaker: The question before the House is the adoption of the majority committee report of Ought to Pass as Amended on SB 530. The Chair recognizes the member from Durham, Representative Rous.

Rep. Rous: Madam Speaker and colleagues, I would simply add that the education committee has reviewed the changes made in Finance, particularly this change that would allow an interim use of private kindergarten as one option among several for local districts to use as they make the transition to full free public kindergarten for all five year olds in New Hampshire. Knowing that these private programs will be subject to the alternate kindergarten program statutes that are already on the books that they will require certified teachers, curriculum and support services that are coordinated with the district elementary grades, provision of transportation, that all of that will have to be approved by the local school board and reviewed by the department of education. The education committee felt that this was sound policy to use as an interim step and we support this change. Thank you.

Speaker: The question before the House is the adoption of the majority committee report of Ought to Pass as Amended on SB 530. A division has been requested. Will members please take their seats? Representative Daniel Eaton has requested a roll call. Is that sufficiently seconded? It is sufficiently seconded; this will be a roll call vote. The House will be attentive to the state of the vote. 200 having voted in the affirmative and 137 in the negative, the majority committee report is adopted.

REGULAR CALENDAR (CONT'D)

SB 539-FN-L, relative to the cost of an adequate education and provision of fiscal capacity disparity aid. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Daniel A. Eaton for the Majority of Finance: In fulfillment of the state's constitutional obligation to cost an adequate education, SB 539 applies the recommendations of the Joint Legislative Committee on Costing an Adequate Education's final report to arrive at a costing methodology. Using the school approval standards referenced in HB 927 (RSA 193-E:2, Chapter 270, 2007) to define an adequate education, the bill establishes a per pupil cost for adequacy that includes both a universal amount and differential aid for special education students, English language learners, at risk students, and for schools with higher concentrations of low income students. All of the factors noted above were determined by the Education committee to be part of education adequacy. The Finance committee honored the work of the policy committee, and working with the language proposed by the House Education committee and adopted by the General Court on April 16, 2008, it also provides fiscal disparity aid in addition to adequacy aid. The Finance committee made technical corrections to clarify how the Department of Education should apply the provisions of the bill and how adequacy funds would flow between school districts of residence and attendance when the two differ. In recognition of the impact the new funding formulas will have on school districts, and in an effort to avoid financial dislocations that will affect school districts' budgeting, the committee included a two year transition limiting the reduction of aid to any towns or cities resulting from adoption of the costing formula – including for towns known as donor towns. A transition period will allow school districts whose funding will be altered by this formula time to adjust their budgets and their allocation and use of resources. This allows all school districts to attain adequate funding while protecting districts during the transition period against disruptive reductions in education funding in those instances where the legislation's adequacy computations may ultimately reduce the amount of state education funds allocated to a district. In order to allow school districts that receive large increases in aid the opportunity to plan for and integrate programs to be supported by those substantial

increases into their educational systems, a 15% cap or “collar” on annual increases for two years was included for cities and towns that will receive more aid than their 2009 statewide aid as a result of the formula. While some individuals have raised questions about the constitutionality of this transition plan, the Attorney General believes it is defensible. In addition, nothing in this bill changes tax proportionality. Just as the legislature in the past depended upon commissions to assist in defining adequacy and determining costing, SB 539 creates two committees to assist the legislature in the continuing process of reviewing and amending as necessary the policies around adequacy and educational funding. A Joint Legislative Oversight Committee on Accountability for an Adequate Education will review the assessment and assistance methods, reporting requirements, and other methods of accountability presently being used by the Department of Education and local school districts to determine whether such methods, programs, and standards will ensure the delivery of an adequate education. A Joint Legislative Committee on Fiscal Capacity, Transition Aid, and Diseconomies of Scale will study the need for providing fiscal capacity and transition aid to municipalities, as well as additional aid to address the lack of economies of scale in small school districts. These committees will report back to the legislature by December 01, 2008 so that the next legislature may make appropriate adjustments in these important areas. The new costing based on this bill does not go into effect until the 2009 school year. Using current data, the estimated cost of the bill is expected to be \$940 million per year for the 2010-2011 biennium, and about \$975 million per year (prior to adding in the inflation adjustment factor as required in the bill) for the 2010-2013 biennium. However, it is important to note that the exact figures will likely differ as more current figures are inserted into the formula and the next legislature determines what other adjustments should be made based on the reports of the two commissions noted above. Vote 13-9.

Rep. Neal M. Kurk for the Minority of Finance: This bill is the majority’s effort to meet the Supreme Court’s mandate that the legislature determine the cost of a constitutionally adequate education. The cost of the bill is \$939 million for each year of the next biennium. There is no provision for paying for the additional \$128 million burden that the bill imposes on state taxpayers. Rather, the majority chose to put off that hard work until the next budget—that is, until after the fall elections. The majority thus significantly increases the fiscal problems facing the state in the next biennium. The majority’s adequacy formula relies to an excessive degree—about \$180 million or almost 20% of the total \$939 million cost—on one factor: students who are eligible for free and reduced-price lunch (FRL). Here’s why: for those schools in which FRL-eligible students are 12% or more of the total school population, every student in the school—not just the FRL eligible students—is counted in calculating the amount of state funding given to the school. The effect is to incorporate in the basic cost of an adequate education a factor that, when used to such a great extent, becomes a method of targeting state aid. The Finance committee was given no evidence to justify either this approach or the amount of the per pupil stipend. The majority thus inappropriately inflates the basic cost of an adequate education. Rather than deal in the bill with this issue and the issue of accountability for the effective use of these funds, the majority establishes two commissions to study these and other issues. The best that can be said of the bill is that it holds school districts harmless—but only for two years. Those districts that would receive less state aid in FY 2010 and FY 2011 under the majority formula would be guaranteed the amount they received in FY 2009. Donor towns purportedly have their excess statewide education property tax rebated. But after two years, the taxpayers in all these communities would be hit hard. The worst is that two of the bill’s provisions are clearly unconstitutional. The donor town tax rebates have previously been ruled unconstitutional because they violate the requirement of our constitution that all taxes be proportional. The 15% cap on the increase in state aid in FY 2010 and FY 2011 is also unconstitutional. Transitioning to full adequacy aid is not the same as full adequacy aid, and our Supreme Court has ruled more than once that the state must pay, from day one, the full cost of a constitutionally adequate education. For these reasons the minority is unable to support this bill as amended.

Majority Amendment (1574h)

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

1 Statement of Purpose.

I. The general court finds that the cost of the opportunity for an adequate education for public school students, as established in this act, is based upon the definition of the opportunity for an adequate education enacted in the 2007 Laws of New Hampshire, chapter 270. The methodologies for costing, determination of resources, and elements of cost included in this act are intended to and do fulfill the state's duty under the Encouragement of Literature clause of the New Hampshire constitution to deliver the opportunity for an adequate education.

II. The individual components of the cost were selected on the basis of their effectiveness in delivering educational opportunity and after extensive review, debate and discussion by the joint legislative oversight committee on costing an adequate education and the general court. The legislative process consisted of obtaining information from professional educators, government officials, education policy and finance experts, and the public on the establishment of the cost of an adequate education.

III. The joint legislative oversight committee on costing issued detailed findings and recommendations on the composition of the cost of an adequate education and how the funds for an adequate education should be allocated and accounted for in order to ensure that the educational needs of all public school students are met. These findings and recommendations were submitted to the general court and are an integral basis of the costing determinations reflected in this act.

IV. The cost of the opportunity for an adequate education consists of several elements. All such elements must be provided in order to ensure the delivery of the state's constitutional duty. The universal cost represents the per pupil resources necessary to provide an adequate education where no additional aid is necessary to cover the increased costs of providing that opportunity to students who have special education needs, who have limited English language proficiency or are in schools with significant concentrations of economically disadvantaged students. The universal cost represents the costs attributable only to the subset of education that is included in the definition in RSA 193-E:2-a.

V. The general court further finds that additional aid, referred to as differentiated aid, is also required to fulfill the state's constitutional duty to provide the opportunity for an adequate education for certain students. This act allocates such differentiated aid to special education students, English language learners, and students in schools with significant concentrations of economically disadvantaged students, the latter category based upon eligibility for federally-provided free and reduced-price lunch programs and the concentration of such eligible students in a school.

VI. In determining the need for differentiated aid in addition to providing the universal cost for an adequate education, the general court recognizes that the resources needed to provide the opportunity for an adequate education are not the same for all students or at all schools.

VII. The general court recognizes that special education students face unique challenges that require educational support and instructional resources in addition to those provided by the universal cost. After reviewing the findings of the joint legislative oversight committee and conducting its own inquiry into forms of special education funding and the laws relevant to such funding mechanisms, the general court finds that each special education student should receive additional funding above the universal cost. This per pupil amount is not dependent upon a student's level of disability or learning environment because the general court wishes to encourage the placement of special education students in the least restrictive learning environment possible.

VIII. After reviewing the findings of the legislative oversight committee, including its survey of services provided to English language learners throughout the country and in

New Hampshire, the general court finds that additional funding is required to provide English language learners with the opportunity for an adequate education. Accordingly, the general court finds that an amount should be distributed to each pupil receiving English language instruction in a district. This supplemental amount is based upon providing one teacher per 70 students receiving English language instruction and is in-line with funding provided throughout the United States to English language learners.

IX. The joint legislative oversight committee report recognized that economically disadvantaged students require supplemental funding in addition to the universal cost amount. During its deliberations, the committee heard testimony and thoroughly reviewed studies, research, and data about the challenges that school districts face when educating economically disadvantaged students and all pupils in schools with significant concentrations of economically disadvantaged pupils, as well as the costs and considerations involved in implementing programs designed to overcome those obstacles. As encouraged by the committee report, the general court reviewed the committee's conclusions and used the legislative process to craft a funding mechanism that would provide the opportunity for an adequate education to all pupils in schools with significant concentrations of economically disadvantaged pupils. The general court further finds it necessary to provide additional aid to economically disadvantaged pupils in schools without significant concentrations of economically disadvantaged pupils to provide them with the opportunity for an adequate education.

X. The general court recognizes that the adequacy and need-based formula implemented by this legislation will significantly alter the manner in which funds for public education are distributed to school districts. In recognition of the impact and scope of these changes, and in an effort to avoid financial dislocations, the general court finds that the formula should be phased into operation over the course of 2 years. In consultation with school funding experts, the general court determines that a transition period will allow school districts whose funding will be altered by this formula time to adjust their budgets and their allocation and use of resources. Accordingly, for the fiscal years 2010 and 2011, the general court determines that the new funding system enacted as part of this legislation should be phased in a manner that allows all school districts to attain adequate funding while protecting districts during the transition period against disruptive reductions in funding in those instances where the legislation's adequacy computations may ultimately reduce the amount of state education funds allocated to a district.

XI. The general court recognizes that certain communities lack the relative wealth and fiscal capacity to fund local education to the extent desired by those communities. For this reason, the general court finds it appropriate to provide money above the cost of the opportunity for an adequate education based upon the fiscal capacity and relative need of certain communities.

XII. This act is not intended to stand in isolation from the other statutes and rules relating to educating New Hampshire students as required by state and federal law.

2 Commissioner's Warrant. RSA 76:8, II is repealed and reenacted to read as follows:

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.

3 Adequate Education. Amend the subdivision heading preceding RSA 198:38 to read as follows:

~~[State Aid for Educational Equality]~~ **Adequate Education**; Education Trust Fund

4 Adequate Education; Definitions. RSA 198:38 is repealed and reenacted to read as follows:

198:38 Definitions.

I. "Average daily membership in attendance" or "ADMA" means the aggregate half-day membership of pupils in kindergarten through grade 12 attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance shall include any pupil who is a resident of New Hampshire educated at public expense, including any pupil whose school district provides his or her education through a private or out-of-district placement.

II. "Commissioner" means the commissioner of the department of education.

III. "Department" means the department of education.

IV. "Determination year" means the fiscal year that was 3 years prior to the fiscal year for which aid is to be determined. Unless otherwise indicated, determination year data shall be used to calculate aid.

V. "Educationally disabled child" or "educationally disabled pupil" shall mean "educationally disabled child" as defined in RSA 186-C:2, I.

VI. "English language learner" means a child who has a predominant language other than English or who is educationally disadvantaged by a limited English proficiency, and who is receiving regularly scheduled English language instruction. For the purposes of RSA 198:40-a, the department shall calculate the number of English language learners using ADMA data. The department shall use the ADMA of all pupils receiving English language learner services as of October 2006 in calculating 2006-2007 ADMA data.

VII. "Pupils eligible for a free or reduced-price meal" means pupils in grade 1 through grade 12 who are eligible for the federal free or reduced-price meal program. For the purposes of RSA 198:40-a, the department shall calculate the concentration of pupils eligible for free or reduced-price meals using ADMA data. The department shall use the ADMA of pupils eligible for a free or reduced-price meal as of October 2006 in calculating ADMA concentrations for 2006-2007 ADMA data.

VIII. "School district" means school district as defined in RSA 194:1 and shall include cooperative school districts as defined in RSA 195:1, I.

5 Cost of an Opportunity for an Adequate Education. RSA 198:40-a is repealed and reenacted to read as follows:

198:40-a Cost of an Opportunity for an Adequate Education.

I. Beginning July 1, 2009, and for every biennium thereafter, the annual cost of providing the opportunity for an adequate education as defined in RSA 193-E:2-a shall be \$3,450 per pupil attending a public school, plus any applicable differentiated aid for which a pupil is eligible. Differentiated aid shall be calculated as follows:

(a) An additional \$431 per pupil in kindergarten through grade 12 eligible for the federal free and reduced-price meal program who attends a public school in which less than 12 percent of the pupils reported in the school's ADMA in the determination year are eligible for the federal free and reduced-price meal program.

(b) An additional \$863 per pupil in a public school in which at least 12 percent but less than 24 percent of pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(c) An additional \$1,725 per pupil in a public school in which at least 24 percent but less than 36 percent of pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(d) An additional \$2,588 per pupil in a public school in which at least 36 percent but less than 48 percent of the pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(e) An additional \$3,450 per pupil in a public school in which 48 percent or more of the pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

II. In addition to the amount in paragraph I, an additional \$675 for each pupil reported in the public school's ADMA in the determination year who is an English language learner and who is receiving English language instruction.

III. In addition to the amounts in paragraphs I and II, an additional \$1,856 for each pupil reported in the public school's ADMA in the determination year who is receiving special education.

IV. (a) The sum total calculated under paragraphs I-III of this section shall be used to determine the cost of an adequate education which shall be used in each year of the biennium.

(b) The department shall allocate the cost of an adequate education for each municipality by totaling the cost of an adequate education as determined in RSA 198:40-a, I-III for all children who reside in that municipality.

(c) Prior to or coinciding with the first disbursement of each fiscal year under RSA 198:42, the department shall notify a school district of the cost of an adequate education for the pupils in each school within its jurisdiction sorted by the pupil's municipality of residence. In addition, the department shall furnish to each school district a report showing the cost of an adequate education for pupils who are residents of that school district sorted by a pupil's school of attendance.

V. The department shall notify school districts of the estimated amounts of grants by the November 15 preceding the fiscal year for which aid is determined. The commissioner shall provide to the general court all data or reports requested by the general court in a form which the general court determines will facilitate the calculations required in this section.

6 Use of Differentiated Aid. RSA 198:40-b is repealed and reenacted to read as follows:
198:40-b Use of Differentiated Aid.

I. A school district which receives differentiated aid under RSA 198:40-a, I(b)-(e) for schools within its jurisdiction, shall separately account for such aid as part of its financial accounting procedures. Differentiated aid shall only be used to provide enhanced programs in schools within its jurisdiction for which such aid has been allocated that are known to improve pupil achievement, including but not limited to: pre-kindergarten programs, full-day kindergarten programs, extended learning time, professional development opportunities for teachers, hiring of additional instructional and non-instructional personnel, programs designed to reduce class size, parental involvement programs, additional technology resources, drop out prevention programs, principal incentive programs, and curriculum enrichment programs. The school district shall determine which programs are most needed and most appropriate for their pupils. The department shall annually review and update the list of approved programs from which a school district may choose.

II. A school district which receives differentiated aid under RSA 198:40-a, I(b)-(e) for use in schools within its jurisdiction shall annually submit a report to the commissioner documenting for each school within its jurisdiction for which such aid has been allocated, the enhanced programs selected for implementation, an explanation of the specific educational needs which the program is intended to address, an explanation of how the program will be implemented in the school, and an estimate of the cost of implementing the program. The commissioner shall review these reports to ensure that differentiated aid will be used to provide programs approved under paragraph I.

III. A school district which receives differentiated aid for schools within its jurisdiction pursuant to RSA 198:40-a, I-III shall direct such aid to the schools for which such aid was calculated. A school district which receives differentiated aid for pupils that attend schools in another school district, shall direct such aid to the school district where its pupils are being educated. Any differentiated aid directed from one school district to another pursuant to this paragraph shall be a credit against any existing financial liability between the school districts.

7 School Money; Fiscal Capacity Disparity Aid. RSA 198:40-c is repealed and reenacted to read as follows:

198:40-c Fiscal Capacity Disparity Aid.

I. In addition to aid for the cost of the opportunity for an adequate education provided under RSA 198:40-b, each biennium the department shall calculate fiscal capacity disparity aid and provide that amount of aid in each year of the biennium to a municipality's school districts and to charter schools approved under RSA 194-B:3-a as follows:

(a) The department shall calculate the equalized valuation per pupil for each municipality in the state and shall sort the results into quartiles based on equalized valuation per pupil and shall divide all quartiles in half. If there are an uneven number of municipalities in a quartile or half quartile, the department shall make the lower quartile or half quartile the one with fewer municipalities.

(b) A municipality with an equalized valuation per pupil in the lower half of the lowest quartile and which has a median family income which is less than the state average median family income shall receive fiscal capacity disparity aid in the amount of \$2,000 multiplied by the municipality's average daily membership in residence.

(c) A municipality with an equalized valuation per pupil in the upper half of the lowest quartile which has a median family income which is less than the state average median family income shall receive fiscal capacity disparity aid in the amount of \$1,250 multiplied by the municipality's average daily membership in residence shall be distributed pursuant to RSA 198:42.

(d) A charter school approved under RSA 194-B:3-a shall receive \$2,000 per pupil multiplied by the number of pupils enrolled. The calculation of charter school enrollment and aid distribution shall be pursuant to RSA 194-B:11, I(c).

II. Except as otherwise provided in this section, aid shall be distributed pursuant to RSA 198:42.

III. In this section:

(a) "Equalized valuation per pupil" means a municipality's equalized valuation, including properties subject to taxation under RSA 82 and RSA 83-F, as determined by the department of revenue administration, that was the basis for the local tax assessment in the determination year, divided by the school district's kindergarten through grade 12 average daily membership in residence, as defined in RSA 189:1-d for the determination year, provided that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

(b) "Median family income" means the most recent census data published for New Hampshire counties and municipalities by the United States Census Bureau, United States Department of Commerce, as of October 1 preceding the beginning of the biennium for which aid is to be determined.

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

198:40-d Consumer Price Index Adjustment. Beginning July 1, 2011 and every biennium thereafter, the department of education shall adjust the sum of the amounts determined under RSA 198:40-a based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the 3 calendar years ending 18 months before the beginning of the biennium for which the calculation is to be performed.

9 School Money; Determination of Grants and Excess Tax. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Determination of Grants and Excess Tax.

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 education grant for the municipality as follows:

(a) Add the per pupil cost of providing the opportunity for an adequate education for which each pupil is eligible pursuant to RSA 198:40-a, I-III, and from such amount;

(b) Subtract 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, and from such amount; and

(c) Add the fiscal capacity disparity aid pursuant to RSA 198:40-c.

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 2 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.

III. For the fiscal years beginning July 1, 2009 and July 1, 2010, the department of education shall not:

(a) Distribute a total education grant on behalf of all pupils who reside in a municipality that exceeds that municipality's total education grant for the 2009 fiscal year by more than 15 percent; or

(b) Reduce the total state aid for an adequate education provided on behalf of all pupils who reside in a municipality to an amount less than that municipality's total state aid for an adequate education received in the 2009 fiscal year.

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

I. A municipality in which education property tax revenue collected exceeds the amount necessary to fund the cost of an adequate education in a fiscal year as determined in RSA 198:40-a, shall collect and remit such excess to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

11 School Attendance; Duty of Parent; Version Effective July 1, 2009. Amend RSA 193:1, I(c) to read as follows:

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and [equitable] **adequate** education grants under RSA 198:41;

12 Charter and Open Enrollment Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I. **(a)** There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For [any other] **a** charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department.

(b) For any charter school authorized by the state board of education pursuant to RSA 194-B:3-a, the state shall pay tuition **pursuant to RSA 198:40-a and RSA 198:40-c** directly to the charter school for each pupil who is a resident of this state in attendance at such charter school [as follows:

~~(a) For the fiscal year beginning July 1, 2006, \$3,598 annual tuition.~~

~~(b) For every fiscal year thereafter, the department of education shall determine the tuition rate by adjusting for the average annual percentage rate of inflation based on the northeast region consumer price index for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The average shall be based on the 4 calendar years ending 18 months before the beginning of the fiscal year for which the tuition rate is to be determined].~~

(c) **Notwithstanding RSA 198:42**, the commissioner of the department of education shall calculate and distribute charter school tuition payments as set forth herein. The first payment shall be 30 percent of the per pupil amount multiplied by the number of eligible pupils present on the first day of the current school year. Such payment shall be made no later than 15 days after the department of education receives the attendance report. The December 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on November 1, and the March 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on February 1. To calculate the final payment, the commissioner of the department of education shall multiply the per pupil amount by the average daily membership in attendance for the full school year, and subtract the total amount of the first 3 payments made. The remaining balance shall be the final payment. Eligible charter schools shall report membership in accordance with RSA 189:1-d. In this subparagraph, "membership" shall be as defined in RSA 189:1-d, II. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year.

(d) The source of funds for payments under this section shall be moneys from the education trust fund established in RSA 198:39.

13 Joint Legislative Oversight Committee on Accountability for An Adequate Education.

I. There is hereby established the joint legislative oversight committee on accountability for an adequate education. The members of the committee shall be as follows:

(a) Three members of the house of representatives, which shall include 2 members of the house education committee and one member of the house finance committee, appointed by the speaker of the house of representatives.

(b) Three members of the senate, which shall include 2 members of the senate education committee and one member of the senate finance committee, appointed by the president of the senate.

II. The committee shall review and study the assessment and assistance methods, reporting requirements, and other methods of accountability presently being used by the department of education and local school districts to determine whether such methods, programs, and standards will ensure the delivery of an adequate education as set forth in RSA 193-E:2-a.

III. Following a public hearing, the committee shall report its findings and recommendations concerning the sufficiency of existing statutory law to provide accountability for the delivery of the opportunity for an adequate education as defined in RSA 193-E:2-a, and the possible need for additional legislation, to the governor, the speaker of the house of representatives, the president of the senate, and the state librarian no later than November 15, 2008.

14 Joint Legislative Committee on Fiscal Capacity, Transition Aid, and Diseconomies of Scale.

I. There is hereby established a joint legislative committee on fiscal capacity, transition aid and diseconomies of scale. The members of the committee shall be as follows:

(a) Six members of the house of representatives, which shall include 2 members of the house finance committee, 2 members of the house ways and means committee, and 2 at-large members, appointed by the speaker of the house of representatives.

(b) Six members of the senate, which shall include 2 members of the senate finance committee, 2 members of the senate ways and means committee, and 2 at-large members, appointed by the president of the senate.

II. The committee shall study the need for providing fiscal capacity and transition aid to municipalities, as well as additional aid to address the lack of economies of scale in small school districts, and the source of funds for such aid.

III. Following a public hearing, the committee shall report its findings and recommendations concerning the need for fiscal capacity disparity aid, transition aid, and small school district aid, and the need for additional legislation, to the governor, the speaker of the house of representatives, the president of the senate, and the state librarian no later than December 1, 2008.

15 References Amended. Amend the following RSA sections by replacing “statewide enhanced education tax” with “education tax”: RSA 21-J:14-h; RSA 76:3; RSA 76:8, I; RSA 76:8, III; RSA 76:9; RSA 83-F:9; RSA 198:46; RSA 198:47; RSA 198:57, III(a); and RSA 198:57, IV(c).

16 Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

17 Repeal. The following are repealed:

I. 2005, 257:8, relative to determination of grants and excess enhanced education property tax payments.

II. 2005, 257:23, I, relative to the July 1, 2009 effective date for 2005, 257:8.

III. RSA 198:41, III as inserted by section 9 of this act, relative to total education grants distributed in the 2010 and 2011 fiscal years.

18 Effective Date.

I. Paragraphs I and II of section 17 of this act shall take effect June 30, 2009.

II. Section 8 and paragraph III of section 17 of this act shall take effect July 1, 2011.

III. The remainder of this act shall take effect July 1, 2009.

AMENDED ANALYSIS

This bill:

I. Determines the per pupil cost of the opportunity for an adequate education which includes differentiated aid distributed to schools based on the number of pupils receiving special education services, or eligible for a free or reduced-price lunch, or who are English language learners.

II. Requires schools receiving differentiated aid to use it to implement enhanced programs known to improve pupil achievement.

III. Establishes a joint legislative oversight committee on accountability for an adequate education.

IV. Provides fiscal capacity disparity aid, in addition to aid for the cost of the opportunity for an adequate education, based on a municipality’s equalized valuation, including utilities, per pupil and median family income.

V. Provides fiscal capacity disparity aid to state-approved charter school.

VI. Provides aid to certain municipalities for the 2010 and 2011 fiscal years by ensuring that no school district receives a total education grant exceeding that district's total education grant for the 2009 fiscal year by more than 15 percent and that no school district's total education grant is less than its total education grant for the 2009 fiscal year during that time period.

Rep. Vaillancourt spoke against.

Rep. Foose spoke in favor.

Rep. Vaillancourt requested a roll call; sufficiently seconded.

YEAS 174 NAYS 165

YEAS 174

BELKNAP

Arsenault, Beth

Morrison, Gail

Reever, Judith

Wood, Jane

CARROLL

Bridgham, Robert
Heard, Virginia

Buco, Thomas

Butler, Edward

Cunningham, Howard

CHESHIRE

Allen, Peter
Butynski, William
Espiefs, Peter
Plifka, Stanley Jr
Sad, Tara

Burridge, Delmar
Chase, William
Lerandeau, Alfred
Richardson, Barbara
Weber, Lucy

Butcher, Suzanne
Dunn, J. Timothy
Mitchell, Bonnie
Roberts, Kris
Weed, Charles

Butterworth, Timothy
Eaton, Daniel
Parkhurst, Henry
Robertson, Timothy

COOS

Hatch, William
Theberge, Robert

Merrick, Evalyn
Thomas, Yvonne

Merrick, Scott

Remick, William

GRAFTON

Aguiar, James
Cooney, Mary
Harding, A Laurie
McLeod, Martha
Preston, Philip

Almy, Susan
Estes, Carole
Laliberte, Suzanne
Mulholland, Catherine
Solomon, Peter

Benn, Bernard
Friedrich, Carol
Lovett, Sid
Nordgren, Sharon

Bleyler, Ruth
Hammond, Lee
Matheson, Robert
Pierce, David

HILLSBOROUGH

Baroody, Benjamin
Clemons, Jane
Essex, David
Ginsburg, Ruth
Haefner, Robert
Jean, Claudette
Kopka, Angeline
Mack, Ron
O'Neil, James
Schulze, Joan

Beck, Catriona
Cote, David
Fontas, Jeffrey
Goley, Jeffrey
Harvey, Suzanne
Kaelin, Michael
Lasky, Bette
Marshall, Seth
Pilotte, Maurice
Shattuck, Gilman

Campbell, David
Daler, Jennifer
Forest, Armand
Gorman, Mary
Hebert, Roger
Knowles, John
Leishman, Peter
Movsesian, Lori
Rosenwald, Cindy
Shaw, Kimberly

Chase, Claudia
Edwards, Andrew
Foster, Linda
Hackel, Paul
Irwin, Anne-Marie
Knowles, Mary Ann
Levesque, Melanie
O'Brien, Michael Sr
Scannell, David
Spratt, Stephen

MERRIMACK

Baxley, Maureen
Brown, Carole
Foose, Robert
Hamm, Christine
Potter, Frances
Tilton, Joy
Webb, Leigh

Beauchesne, Suzanne
Brueggemann, Donald
French, Barbara
McMahon, Patricia
Richardson, Gary
Tupper, Frank
Wheeler, Deborah

Blanchard, Elizabeth
Davis, Frank
Gile, Mary
Osborne, Jessie
Ryan, Jim
Wallner, Mary
Williams, Robert

Bouchard, Candace
DeStefano, Stephen
Greco, Vincent
Owen, Derek
Shurtleff, Stephen
Walz, Mary
Yeaton, Charles

ROCKINGHAM

Brown, C. Pennington
Flockhart, Eileen
Kepner, Susan
McKenna, Daniel

Cali-Pitts, Jacqueline
Gould, Kenneth
Lister, Charlotte
Nord, Susi

Casey, Kimberley
Grote, Otto
Mann, Maureen
Pantelakos, Laura

Day, Judith
Henson, John
Marsh, Michael
Pettersson, Don

Powers, James
Webber, James

Russell, Trinka

Serlin, Christopher

Snow, Richard

STRAFFORD

Berube, Roger
Burke, Rachel
Hubbard, Pamela
Oppenheimer, Kay
Schmidt, Peter
Warren, Nancy

Billian, Deborah
Cyr, James
Hutz, Sarah
Rollo, Deanna
Smith, Marjorie

Brown, Jennifer
Fargo, Thomas
Knowles, William
Rollo, Michael
Spang, Judith

Brown, Larry
Goodwin, Earle
Miller, Joseph
Rous, Emma
Wall, Janet

SULLIVAN

Cloutier, John
Franklin, Peter
Jillette, Arthur Jr

Converse, Larry
Gagnon, Raymond
Nielsen, Ellen

Donovan, Thomas
Gottling, Suzanne
Phinizy, James

Ferland, Brenda
Houde, Matthew
Skinder, Carla

NAYS 165

BELKNAP

Allen, Janet
Nedeau, Stephen
Tilton, Franklin

Clark, Charles
Pilliod, James
Tobin, William

Flanders, Donald
Russell, David
Wendelboe, Fran

Millham, Alida
Thomas, John

CARROLL

Ahlgren, Christopher
Knox, J. David
Stevens, Stanley

Brown, Carolyn
Martin, James

Chandler, Gene
Merrow, Harry

Denley, William
Patten, Betsey

CHESHIRE

Hunt, John

Johnson, Jane

Pelkey, Stephen

COOS

King, Frederick

Stohl, Eric

Tholl, John Jr

GRAFTON

Andersen, Gene
Gionet, Edmond

Bulis, Lyle
Ingretson, Paul

Dingman, Vernon III
Sorg, Gregory

Eaton, Stephanie
Williams, Burton

HILLSBOROUGH

Barry, Richard
Brunelle, Michael
Crane, Elenore Casey
Elliott, Nancy
Graham, John
Hawkins, Ken
Hopper, Gary
Kurk, Neal
Manney, Pamela
Mooney, Maureen
Ober, Russell III
Renzullo, Andrew

Batula, Peter
Christensen, Chris
Daniels, Gary
Emerton, Larry
Haley, Robert
Hinkle, Peyton
Infantine, William
L'Heureux, Robert
Martineau, Jesse
Moran, Edward
Peterson, Andy
Rowe, Robert

Bergeron, Jean-Guy
Christiansen, Lars
Day, Russell
Farley, Michael
Hall, Betty
Hogan, Edith
Jasper, Shawn
Lawrence, James
McRae, Karen
O'Connell, Timothy
Price, Pamela
Shaw, Barbara

Bergin, Peter
Coughlin, Pamela
Dokmo, Cynthia
Gargas, Carolyn
Hansen, Ryan
Holden, Randolph
Jeudy, Jean
Long, Patrick
Messier, Irene
Ober, Lynne
Reeves, Sandra
Simon, Anthony

Smith, David
Sullivan, Daniel
Ulery, Jordan

Soucy, Connie
Sullivan, Francis
Vaillancourt, Steve

Spaulding, Jayne
Sysyn, Mary
Villeneuve, Maurice

Stepanek, Stephen
Tahir, Saghir
Winters, Joel

MERRIMACK

Anderson, Eric
Ehlers, Eileen

Boutin, David
Hager, Elizabeth

Clarke, Claire
Hess, David

DeJoie, John
Kjellman, Eleanor
Glynn
Reed, Dennis

Lockwood, Priscilla

MacKay, James

Porter, Margaret

ROCKINGHAM

Allen, Mary
Bettencourt, David
Carson, Sharon
Devine, James
Fesh, Bob
Griffin, Mary
Introne, Robert
Katsakiores, Phyllis
McEachern, Paul
Nowe, Ronald
Quandt, Marshall
Robertson, Carl
Weare, Everett

Baldasaro, Alfred
Bishop, Franklin
Case, Frank
DiFruscia, Anthony
Flanders, John Sr
Headd, James
Itse, Daniel
Kennedy, James
McKinney, Betsy
Packard, Sherman
Quandt, Matthew
Sanders, Elisabeth
Welch, David

Bedrick, Jason
Borden, David
Charron, Gene
Elliott, Robert
Garcia, Marilinda
Hutchinson, Karen
Kappler, Lawrence
Lund, Howie
McMahon, Charles
Pearson, Mark
Rausch, James
Splaine, James
Weyler, Kenneth

Belanger, Ronald
Camm, Kevin
Dalrymple, David
Emiro, Frank
Gleason, John
Ingram, Russell
Katsakiores, George
Major, Norman
Nevins, Christopher
Priestley, Anne
Reagan, John
Stiles, Nancy
Winchell, George

STRAFFORD

Brennan, William
Vachon, Dennis

Brown, Julie
Watson, Robert

Hofemann, Roland

Sprague, Dale

SULLIVAN

Rodeschin, Beverly

and the majority committee amendment was adopted.

Rep. Emerson did not vote and notified the Clerk that she wished to be recorded against.

Rep. DeJoie offered floor amendment (1661h).

Floor Amendment (1661h)

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

1 Statement of Purpose.

I. The general court finds that the cost of the opportunity for an adequate education for public school students, as established in this act, is based upon the definition of the opportunity for an adequate education enacted in the 2007 Laws of New Hampshire, chapter 270. The methodologies for costing, determination of resources, and elements of cost included in this act are intended to and do fulfill the state's duty under the Encouragement of Literature clause of the New Hampshire constitution to deliver the opportunity for an adequate education.

II. The individual components of the cost were selected on the basis of their effectiveness in delivering educational opportunity and after extensive review, debate and discussion by the joint legislative oversight committee on costing an adequate education and the general court. The legislative process consisted of obtaining information from professional educators, government officials, education policy and finance experts, and the public on the establishment of the cost of an adequate education.

III. The joint legislative oversight committee on costing issued detailed findings and recommendations on the composition of the cost of an adequate education and how the funds

for an adequate education should be allocated and accounted for in order to ensure that the educational needs of all public schools students are met. These findings and recommendations were submitted to the general court and are an integral basis of the costing determinations reflected in this act.

IV. The cost of the opportunity for an adequate education consists of several elements. All such elements must be provided in order to ensure the delivery of the state's constitutional duty. The universal cost represents the per pupil resources necessary to provide an adequate education where no additional aid is necessary to cover the increased costs of providing that opportunity to students who have special education needs, who have limited English language proficiency or are in schools with significant concentrations of economically disadvantaged students. The universal cost represents the costs attributable only to the subset of education that is included in the definition in RSA 193-E:2-a.

V. The general court further finds that additional aid, referred to as differentiated aid, is also required to fulfill the state's constitutional duty to provide the opportunity for an adequate education for certain students. This act allocates such differentiated aid to special education students, English language learners, and students in schools with significant concentrations of economically disadvantaged students, the latter category based upon eligibility for federally-provided free and reduced-price lunch programs and the concentration of such eligible students in a school.

VI. In determining the need for differentiated aid in addition to providing the universal cost for an adequate education, the general court recognizes that the resources needed to provide the opportunity for an adequate education are not the same for all students or at all schools.

VII. The general court recognizes that certain communities lack the relative wealth and fiscal capacity to fund local education to the extent desired by those communities. For this reason, the general court finds it appropriate to provide money above the cost of the opportunity for an adequate education based upon the fiscal capacity and relative need of certain communities.

VIII. The general court also finds that to preserve the advantages inherent in our system of funding public education it is desirable for our property tax system to evolve to henceforth allow a reasonable adjustment in statewide education property taxes levied on owner occupied homestead property, in the form of a homestead exemption, to the statewide property tax.

IX. This act is not intended to stand in isolation from the other statutes and rules relating to educating New Hampshire students as required by state and federal law.

2 Application of Receipts; Excess Education Tax Payments. Amend RSA 6:12, I(b)(65) to read as follows:

(65) Money received under RSA 77-A, RSA 77-E, RSA 78, RSA 78-A, RSA 78-B, RSA 83-F, ~~[RSA 198:46,]~~ and from the sweepstakes fund, which shall be credited to the education trust fund under RSA 198:39.

3 Reference Deleted; Cooperative Assessment Districts; Purpose. Amend RSA 21-J:14-h to read as follows:

21-J:14-h Purpose. The general court finds that the encouragement and support of the establishment of multi-jurisdictional assessing districts is in the state's interest in order to ensure the accuracy and fairness of valuations of real property for the purposes of administration of ~~[the statewide enhanced education tax,]~~ county property taxes, school district property taxes, municipal property taxes, the distribution of various forms of state aid, and the equalization of property values among jurisdictions. The general court further recognizes that many municipalities do not have sufficient numbers of real estate parcels, sufficient varieties of real property, or sufficient levels of new development to make it practical or economical to engage full-time, trained, and certified assessing professionals. The general court further finds that the state has a vested interest in encouraging and supporting the establishment of cooperative assessing districts which can efficiently and

economically provide full-time, trained, and certified assessing professionals to serve the municipalities which elect to create and join said districts.

4 Education Property Tax. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax.

I. An annual education property tax at the uniform rate of \$5.50 on each \$1,000 of the value of taxable property is hereby imposed on all persons and property taxable pursuant to RSA 72, RSA 73, and subject to the exemption under RSA 76-A, except property subject to tax under RSA 82 and RSA 83-F.

II. Taxes due under this section shall be paid to the department of revenue administration. A municipality's tax collector, or other authorized municipal official, shall act as an agent of the department of revenue administration for the purpose of collecting and forwarding taxes due under this section. The commissioner of the department of revenue administration shall collect all taxes due and certify such amount to the state treasurer for deposit into the education trust fund established in RSA 198:39.

5 Commissioner's Warrant. RSA 76:8, II is repealed and reenacted to read as follows:

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 department of revenue administration pursuant to RSA 76:3, II. Such sums shall be assessed at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

6 New Chapter; Homestead Exemption. Amend RSA by inserting after chapter 76 the following new chapter:

CHAPTER 76-A

EDUCATION PROPERTY TAX HOMESTEAD EXEMPTION

76-A:1 Definition. In this chapter, "homestead" or "homestead property" means the dwelling owned by a claimant, or in the case of a multi-unit dwelling, the portion of the dwelling, which is used as the claimant's principal place of residence and the claimant's domicile for purposes of RSA 654:1. "Homestead" shall not include land and buildings taxed under RSA 79-A, 79-B, or 79-C or land and buildings or the portion of land and buildings rented or used for commercial or industrial purposes. In this section, dwelling owner includes one or more joint tenants or tenants in common and a trustee of a grantor trust pursuant to sections 671-679 of the United States Internal Revenue Code.

76-A:2 Homestead Exemption.

I. The first \$150,000 of equalized assessed value of the homestead of a qualifying taxpayer shall be exempt from the education property tax due under RSA 76:3.

II. A qualifying taxpayer is an individual who:

(a) On April 1 owns a homestead subject to the education property tax; and

(b) Files a claim certifying, under the pains and penalties of perjury, that such taxpayer qualifies under subparagraph (a) with the selectmen or assessing official on or before April 15 of the current tax year. Claims filed after April 15 each year shall not be considered timely for the current year, but shall be considered filed for the following tax year. The commissioner of the department of revenue administration may, for good cause, accept late filings of homestead exemption claims. The selectmen or local assessing official may waive the filing of a claim and list the homestead exemption for a taxpayer who has been granted a local property tax exemption under RSA 72:39-a and who is reasonably believed to currently qualify for that exemption.

III. Upon receipt of a claim for a homestead exemption under this section, the selectmen or assessing officials shall forward the claim to the commissioner of the department of revenue administration who shall review the claim and grant or deny the claim in writing to the applicant by May 15 following receipt of the claim. Failure of the commissioner to respond shall constitute acceptance of the claim. Accepted claims shall continue from year to year without necessity for refiling unless there is a change in

ownership or use of the property. Accepted claims may at any time be revoked for any tax year or portion thereof following the occurrence of one or more of the following events:

(a) The claimant fails to file a return as required under this section within one year following the close of the tax year for which the exemption is claimed; or

(b) The claimant is no longer qualified under the definition of homestead in RSA 76-A:1 due to a change in ownership or use.

IV. Claims shall be made on forms prescribed by the commissioner of the department of revenue administration and provided to each municipality.

V. The following shall apply to the determination of the amount of property value exempted relative to a homestead which is part of a single tax parcel upon which is located either other dwelling units not owned or occupied by the taxpayer or significant non residential use of the property:

(a) If the tax parcel includes property used for business or other nonresidential use, the exempt homestead amount shall include, in addition to the actual homestead, the lesser of 1,000 square feet of floor area of such nonresidential use property or \$25,000 of equalized value, except that family owned and operated farms which are not owned by a business entity or held in the name of a non-natural person shall be eligible for the full homestead exemption on all property not assessed under RSA 79-A, 79-B, or 79-C.

(b) If the tax parcel includes other dwellings or dwelling units, the value of the homestead exemption relative to the claimed homestead shall be determined by the assessing official as follows:

(1) Divide the value of the tax parcel by the number of dwelling units; or

(2) If the square footage of each dwelling unit is known, multiply the value of the tax parcel by a fraction consisting of the square footage of the claimed homestead divided by the total square footage of all dwelling units in the parcel.

(c) In lieu of the method of determining the amount of homestead exemption in subparagraph (a) or (b), a taxpayer may present competent evidence of a greater proportion of exempt value to the assessing officials. In such instance the taxpayer bears the burden of proving the claimed exemption by the preponderance of the evidence.

(d) The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the enforcement of the homestead exemption under this chapter.

VI. Only one homestead exemption per married couple may be claimed in any tax year.

VII. A taxpayer who knowingly files a false or fraudulent homestead exemption claim shall be guilty of a class A misdemeanor.

7 Adequate Education; Subdivision Heading Amended. Amend the subdivision heading preceding RSA 198:38 to read as follows:

~~[State Aid for Educational Equality]~~ **Adequate Education**; Education Trust Fund

8 Adequate Education; Definitions. RSA 198:38 is repealed and reenacted to read as follows:

198:38 Definitions.

I. "Average daily membership in attendance" or "ADMA" means the aggregate half-day membership of pupils in kindergarten through grade 12 attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance shall include any pupil who is a resident of New Hampshire educated at public expense.

II. "Commissioner" means the commissioner of the department of education.

III. "Department" means the department of education.

IV. "Determination year" means the fiscal year that was 3 years prior to the fiscal year for which aid is to be determined. Unless otherwise indicated, determination year data shall be used to calculate aid.

V. “Educationally disabled child” or “educationally disabled pupil” shall mean “educationally disabled child” as defined in RSA 186-C:2, I.

VI. “English language learner” means a child who has a predominant language other than English or who is educationally disadvantaged by a limited English proficiency, and who is receiving regularly scheduled English language instruction.

VII. “Pupils eligible for a free or reduced-price meal” means pupils in grade 1 through grade 12 who are eligible for the federal free or reduced-price meal program.

VIII. “School district” means school district as defined in RSA 194:1 and shall include cooperative school districts as defined in RSA 195:1, I.

9 Cost of an Opportunity for an Adequate Education. RSA 198:40-a is repealed and reenacted to read as follows:

198:40-a Cost of an Opportunity for an Adequate Education.

I. Beginning July 1, 2009, and for every biennium thereafter, the annual cost of providing the opportunity for an adequate education as defined in RSA 193-E:2-a shall be \$3,450 per pupil attending a public school, plus any applicable differentiated aid for which a pupil is eligible. Differentiated aid shall be calculated as follows:

(a) An additional \$431 per pupil in kindergarten through grade 12 eligible for the federal free and reduced-price meal program who attends a public school in which less than 12 percent of the pupils reported in the school’s ADMA in the determination year are eligible for the federal free and reduced-price meal program.

(b) An additional \$863 per pupil in a public school in which at least 12 percent but less than 24 percent of pupils reported in the school’s ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(c) An additional \$1,725 per pupil in a public school in which at least 24 percent but less than 36 percent of pupils reported in the school’s ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(d) An additional \$2,588 per pupil in a public school in which at least 36 percent but less than 48 percent of the pupils reported in the school’s ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(e) An additional \$3,450 per pupil in a public school in which 48 percent or more of the pupils reported in the school’s ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

II. In addition to the amount in paragraph I, an additional \$675 for each pupil reported in the public school’s ADMA in the determination year who is an English language learner and who is receiving English language instruction.

III. In addition to the amounts in paragraphs I and II, an additional \$1,856 for each pupil reported in the public school’s ADMA in the determination year who is receiving special education.

IV.(a) The sum total calculated under paragraphs I-III of this section shall be used to determine the cost of an adequate education which shall be used in each year of the biennium.

(b) Prior to or coinciding with the first disbursement of each fiscal year under RSA 198:42, the department shall notify a school district of the total amount of funds that have been allocated for each school within its jurisdiction during the fiscal year based on the sum of the school district’s adequate education grant amount plus the amount available to the school district from the education property tax. In addition, the department shall furnish to each municipality a report showing the municipality’s cost of an adequate education sorted by a pupil’s municipality of residence.

V. The department shall notify school districts of the estimated amounts of grants by the November 15 preceding the fiscal year for which aid is determined. The commissioner shall provide to the general court all data or reports requested by the general court in a form which the general court determines will facilitate the calculations required in this section.

10 Use of Differentiated Aid. RSA 198:40-b is repealed and reenacted to read as follows:

198:40-b Use of Differentiated Aid.

I. A school district which receives differentiated aid under RSA 198:40-a, I(b)-(e) for schools within its jurisdiction, shall separately account for such aid as part of its financial accounting procedures. Differentiated aid shall only be used to provide enhanced programs in schools within its jurisdiction for which such aid has been allocated that are known to improve pupil achievement, including but not limited to: pre-kindergarten programs, full-day kindergarten programs, extended learning time, professional development opportunities for teachers, hiring of additional instructional and non-instructional personnel, programs designed to reduce class size, parental involvement programs, additional technology resources, drop out prevention programs, principal incentive programs, and curriculum enrichment programs. The school district shall determine which programs are most needed and most appropriate for their pupils. The programs provided under this paragraph shall supplement but not supplant existing programs. Such enhanced programs shall be approved by the department, and the department shall annually review and update the list of programs.

II. A school district which receives differentiated aid under RSA 198:40-a, I(b)-(e) shall annually submit a report to the commissioner documenting for each school within its jurisdiction for which such aid has been allocated, the enhanced programs selected for implementation, an explanation of the specific educational needs which the program is intended to address, an explanation of how the program will be implemented in the school, and an estimate of the cost of implementing the program.

III. A municipality which receives differentiated aid under RSA 198:40-a shall direct such aid to its school district for use in the schools for which it was allocated.

11 School Money; Fiscal Capacity Disparity Aid. RSA 198:40-c is repealed and reenacted to read as follows:

198:40-c Fiscal Capacity Disparity Aid.

I. In addition to aid for the cost of the opportunity for an adequate education provided under RSA 198:40-b, each fiscal year the department shall provide fiscal capacity disparity aid to a municipality's school districts and to charter schools approved under RSA 194-B:3-a as follows:

(a) The department of revenue administration shall calculate the equalized valuation per pupil for each municipality in the state and shall sort the results into quartiles based on equalized valuation per pupil and shall divide all quartiles in half.

(b) A municipality with an equalized valuation per pupil in the lower half of the lowest quartile and which has a median family income which is less than the state average median family income shall receive fiscal capacity disparity aid in the amount of \$2,000 multiplied by the municipality's average daily membership in residence.

(c) A municipality with an equalized valuation per pupil in the upper half of the lowest quartile which has a median family income which is less than the state average median family income shall receive fiscal capacity disparity aid in the amount of \$1,250 multiplied by the municipality's average daily membership in residence shall be distributed pursuant to RSA 198:42.

(d) A charter school approved under RSA 194-B:3-a shall receive \$2,000 per pupil multiplied by the number of pupils enrolled. The calculation of charter school enrollment and aid distribution shall be pursuant to RSA 194-B:11, I(c).

II. Except as otherwise provided in this section, aid shall be distributed to RSA 198:42.

III. In this section:

(a) "Equalized valuation per pupil" means a municipality's equalized valuation, including properties subject to taxation under RSA 82 and RSA 83-F, as determined by the department of revenue administration, that was the basis for the local tax assessment in the determination year, divided by the school district's average daily membership in residence,

as defined in RSA 189:1-d for the determination year, provided that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

(b) "Median family income" means the most recent census data published for New Hampshire counties and municipalities by the United States Census Bureau, United States Department of Commerce, as of October 1 preceding the beginning of the biennium for which aid is to be determined.

12 New Sections; Sustainability Grants; Targeted Grants; Consumer Price Index Adjustment. Amend RSA 198 by inserting after section 40-c the following new sections:

198:40-d Sustainability Grants.

I. A school district in which the estimated state education aid in any fiscal year is less than the adequate education grant received by such school district in the 2008 fiscal year, plus any education property tax revenues raised pursuant to RSA 76:3 and retained by the municipality in the 2008 fiscal year, the commissioner shall disburse a grant to the municipality pursuant to RSA 198:42 in the amount of the difference.

II. Sustainability grants disbursed under this section shall be a charge against the education trust fund established in RSA 198:39.

III. For the purpose of this section, "state education aid" means the sum of the adequate education grant payments received by a school district pursuant to RSA 198:40-a and fiscal capacity disparity aid received by a school district pursuant to RSA 198:40-c.

198:40-e Targeted Grants. The commissioner shall make targeted grants to municipalities as follows:

I. For the biennium beginning July 1, 2009, and each biennium thereafter, the commissioner shall calculate an education equity index for each municipality that had any resident pupils during the applicable determination year as follows:

(a) Divide one by the sum of:

(1) 0.4 times the statewide average equalized valuation per pupil divided by the equalized valuation per pupil for the municipality;

(2) 0.2 times the statewide median income divided by the municipality's median income;

(3) 0.095 times the percentage of the municipality's pupils in grades one through 12 eligible to receive a free or reduced-price meal during the determination year as reported to the department divided by the statewide percentage of pupils in grades one through 12 eligible to receive a free or reduced-price meal during the determination year as reported to the department;

(4) 0.005 times the percentage of the municipality's pupils in kindergarten through grade 8 identified as English language learners and receiving at least 5 hours per week of special instruction in English during the determination year as reported to the department divided by the statewide percentage of pupils in grades kindergarten through 8 identified as English language learners and receiving at least 5 hours per week of special instruction in English during the determination year;

(5) 0.15 times the statewide average test score on the New England common assessment program divided by the municipality's average test score administered pursuant to 193-C;

(6) 0.075 times the statewide graduation rate for the determination year as reported by the department divided by the municipality's graduation rate for the determination year as reported to the department, where each municipality's graduation rate shall be equal to the graduation rate for the particular high school attended by the municipality's resident pupils that attend high school; and

(7) 0.075 times the statewide percentage of high school graduates that entered directly into postsecondary education in the determination year as reported by the department divided by the percentage of the municipality's high school graduates that entered directly into postsecondary education in the determination year as reported to the department, where each municipality's percentage of high school graduates that entered

directly into postsecondary education in the determination year rate shall be equal to the percentage of such high school graduates for the particular high school attended by the municipality's resident pupils that attend high school.

(b) For the biennium beginning July 1, 2009, and every biennium thereafter, the commissioner shall determine the education equity index for each municipality not later than October 1 in the calendar year preceding the beginning of the biennium for which the education equity index is calculated.

II. In determining the education equity index for any municipality that sends pupils to more than one school or school district, the commissioner shall consider only data from schools or school districts within this state attended by 5 percent or more of the municipality's resident pupils, and the commissioner shall determine each value necessary to calculate the education equity index for such municipality by weighting the corresponding values for each school or school district to which the municipality sends pupils by the number of resident pupils from the municipality that attend such school or school district. If a municipality sends all of its resident pupils that are relevant to the determination of any value necessary to calculate the education equity index for such municipality to one or more schools not operated by any school district, then the municipality shall be assigned the statewide value for such value.

III. Each fiscal year, the commissioner shall determine the amount of state funds remaining after calculating the estimated amount of funds to be paid to school districts under RSA 198:40-a and RSA 198:40-c, and to municipalities under RSA 198:40-d, and distribute such remaining funds as targeted aid to municipalities, except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, as follows:

(a) For each municipality with an education equity index for the applicable fiscal year which is less than 1.2, the commissioner shall determine a number of education equity units equal to the number of resident pupils in the municipality during the applicable determination year multiplied by the excess of 1.2 over the municipality's education equity index for such biennium. Each other municipality shall be assigned zero education equity units for such biennium.

(b) Each municipality shall receive a targeted grant for such fiscal year equal to the total amount of targeted grants for the fiscal year multiplied by a fraction, the numerator of which is the number of education equity units determined for such municipality for the applicable biennium, and the denominator of which is the total number of education equity units determined for all municipalities for such biennium.

IV. The targeted grant amount for each municipality where all school districts therein provide education to all of their pupils by paying tuition to other institutions shall be the lesser of the following:

(a) The amount calculated in accordance with paragraph III of this section; or

(b) The total amount paid for education expense as determined by the commissioner.

V. Targeted grants disbursed under this section shall be a charge against the education trust fund established in RSA 198:39.

198:40-f Consumer Price Index Adjustment. Beginning July 1, 2011 and every biennium thereafter, the department of education shall adjust the sum of the amounts determined under RSA 198:40-a, based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the 3 calendar years ending 18 months before the beginning of the biennium for which the calculation is to be performed.

13 School Money; Determination of Grants. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Determination of Grants.

I. Each fiscal year, the commissioner shall disburse grants in the following order:

- (a) First, the adequate education grant amount determined pursuant to RSA 198:40-a, shall be disbursed to the school district.
- (b) Second, the sustainability grant determined pursuant to RSA 198:40-d shall be disbursed to the municipality.
- (c) Third, the fiscal capacity disparity aid determined pursuant to RSA 198:40-c shall be disbursed to the school district.
- (d) Fourth, the targeted grant amount determined pursuant to RSA 198:40-e shall be disbursed to the municipality. If the amount available for targeted grants in any fiscal year is insufficient to fund all targeted grants due under this section, the amount shall be prorated proportionally among all municipalities entitled to a targeted grant.

II. The department of education shall notify school districts and municipalities of the estimated amounts of grants by November 15 of the year preceding the fiscal year for which aid is determined.

14 School Money; Distribution Schedule. RSA 198:42 is repealed and reenacted to read as follows:

198:42 Grant Distribution Schedule; Appropriation.

I. The grants determined in RSA 198:41 shall be distributed from the education trust fund in 4 payments of 20 percent on September 1, 20 percent on November 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the grant determined in RSA 198:41 shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department.

II. Each fiscal year, the amount necessary to fund the grants under RSA 198:41 is hereby appropriated to the department from the education trust fund created under RSA 198:39. 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 grants.

III. The department of education shall certify the amount of each grant to the state treasurer and direct the payment thereof pursuant to RSA 198:41. When a payment of a grant is made to a school district, the municipality on whose behalf the payment is made shall receive notification from the state treasurer of the amount of the payment made to its school district or districts.

IV. Each fiscal year, the amount necessary to fund charter school tuition payments under RSA 194-B:11, I is hereby appropriated to the department from the education trust fund established under RSA 198:39. The education trust fund shall be used to satisfy the state's obligation under this paragraph. The payment shall be issued regardless of the balance of funds available in the education trust fund.

15 School Attendance; Duty of Parent; Version Effective July 1, 2009. Amend RSA 193:1, I(c) to read as follows:

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and ~~[equitable]~~ **adequate** education grants under RSA 198:41;

16 Cooperative School Districts; State Aid. Amend RSA 195:15 to read as follows:

195:15 State Aid. The state aid to which a cooperative elementary and/or secondary district shall be entitled shall be the total of those shares of the aid to which the pupils attending the cooperative district would have entitled the pre-existing districts, had they remained in the pre-existing districts. ~~[For the purposes of crediting the cooperative district's adequate education cost to the pre-existing districts, each such pre-existing district shall have its adequate education cost under RSA 198:38, VII credited against its share of the cooperative school district budget. However, cooperative school districts formed by 2 or more pre-existing districts whose boundaries approximate those of a single township in which they are located shall be treated as a single school district for the purposes of this section.]~~

17 Excess Education Property Tax Payment; Subdivision Heading Amended. Amend the subdivision heading preceding RSA 198:46 to read as follows:

~~[Excess Education Property Tax Payment]~~ ***Miscellaneous Provisions***

18 Reference Changes. Amend the following RSA provisions by replacing "statewide enhanced education tax" with "education property tax": RSA 76:8, I; RSA 76:8, III; RSA 76:9; RSA 83-F:9; RSA 198:57, III(a); and RSA 198:57, IV(c).

19 Severability. If any provision of this act or the application thereof to any person or circumstance is deemed invalid, the invalidity does not affect the other provisions or applications of the act which can be given effect without the invalid provisions or applications and to this end the provisions of this act are severable.

20 Repeal. The following are repealed:

- I. RSA 198:46, relative to excess education property tax payment.
- II. RSA 198:47, relative to forms for excess education property tax payment.
- III. 2005, 257:8, as amended by 2006, 6:2, relative to targeted aid.
- IV. 2005, 257:23, I relative to the prospective effective date for targeted aid.

21 Applicability. The provisions of RSA 76-A as inserted by section 6 of this act shall apply to claims filed on or after the tax year beginning April 1, 2009.

22 Effective Date.

I. Sections 4-5, 7-14, and paragraphs I-II of section 20 of this act shall take effect April 15, 2009.

II. Section 6 of this act shall take effect January 1, 2009.

III. Section 15 of this act shall take effect July 1, 2009.

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

AMENDED ANALYSIS

This bill:

I. Imposes an education property tax at \$5.50 per \$1,000 of taxable value.

II. Establishes a homestead exemption from the education property tax for the first \$150,000 of assessed value of homestead property.

III. Determines the per pupil cost of the opportunity for an adequate education which includes differentiated aid distributed to schools based on the number of pupils receiving special education services, or eligible for a free or reduced-price lunch, or who are English language learners.

IV. Requires schools receiving differentiated aid to use it to implement enhanced programs known to improve pupil achievement.

V. Provides fiscal capacity disparity aid, in addition to aid for the cost of the opportunity for an adequate education, based on a municipality's equalized valuation, including utilities, per pupil and median family income.

VI. Provides fiscal capacity disparity aid to state-approved charter schools.

VII. Provides sustainability grants to municipalities.

VIII. Provides targeted grants to municipalities based on demonstrated need.

IX. Repeals the provisions governing excess education property tax payments.

Rep. DeJoie spoke in favor.

Rep. Andy Peterson spoke in favor and yielded to questions.

Rep. Marjorie Smith spoke against.

On a division vote, 74 members having voted in the affirmative and 263 in the negative, floor amendment (1661h) failed.

Rep. Weyler offered floor amendment (1668h).

Floor Amendment (1668h)

Amend RSA 198:40-a, I as inserted by section 5 of the bill by replacing it with the following:

I. Beginning July 1, 2009, and for every biennium thereafter, the annual cost of providing the opportunity for an adequate education as defined in RSA 193-E:2-a shall be \$3,450 per pupil attending a public school, plus any applicable differentiated aid for which a pupil is eligible. Differentiated aid shall be calculated as follows:

(a) An additional \$431 for each pupil in kindergarten through grade 12 who is eligible for the federal free and reduced-price meal program, and who attends a public school in which less than 12 percent of the pupils reported in the school's ADMA in the determination year are eligible for the federal free and reduced-price meal program.

(b) An additional \$863 for each pupil who is eligible for the federal free and reduced-price meal program, and who attends a public school in which at least 12 percent but less than 24 percent of pupils reported in the school's ADMA in the determination year are eligible for the federal free or reduced-price meal program.

(c) An additional \$1,725 for each pupil who is eligible for the federal free and reduced-price meal program, and who attends a public school in which at least 24 percent but less than 36 percent of pupils reported in the school's ADMA in the determination year are eligible for the federal free or reduced-price meal program.

(d) An additional \$2,588 for each pupil who is eligible for the federal free and reduced-price meal program, and who attends a public school in which at least 36 percent but less than 48 percent of the pupils reported in the school's ADMA in the determination year are eligible for the federal free or reduced-price meal program.

(e) An additional \$3,450 for each pupil who is eligible for the federal free and reduced-price meal program, and who attends a public school in which 48 percent or more of the pupils reported in the school's ADMA in the determination year are eligible for the federal free or reduced-price meal program.

AMENDED ANALYSIS

This bill:

I. Determines the per pupil cost of the opportunity for an adequate education which includes differentiated aid distributed based on the number of pupils receiving special education services, or eligible for a free or reduced-price lunch, or who are English language learners.

II. Requires schools receiving differentiated aid to use it to implement enhanced programs known to improve pupil achievement.

III. Establishes a joint legislative oversight committee on accountability for an adequate education.

IV. Provides fiscal capacity disparity aid, in addition to aid for the cost of the opportunity for an adequate education, based on a municipality's equalized valuation, including utilities, per pupil and median family income.

V. Provides fiscal capacity disparity aid to state-approved charter school.

VI. Provides aid to certain municipalities for the 2010 and 2011 fiscal years by ensuring that no school district receives a total education grant exceeding that district's total education grant for the 2009 fiscal year by more than 15 percent and that no school district's total education grant is less than its total education grant for the 2009 fiscal year during that time period.

Rep. Weyler spoke in favor.

Reps. Foose and Rous spoke against.

On a division vote, 139 members having voted in the affirmative and 195 in the negative,

floor amendment (1668h) failed.
Rep. Vaillancourt offered floor amendment (1684h).

Floor Amendment (1684h)

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

1 Statement of Purpose.

I. The general court finds that the cost of the opportunity for an adequate education for public school students, as established in this act, is based upon the definition of the opportunity for an adequate education enacted in the 2007 Laws of New Hampshire, chapter 270. The methodologies for costing, determination of resources, and elements of cost included in this act are intended to and do fulfill the state's duty under the Encouragement of Literature clause of the New Hampshire constitution to deliver the opportunity for an adequate education.

II. The individual components of the cost were selected on the basis of their effectiveness in delivering educational opportunity and after extensive review, debate and discussion by the joint legislative oversight committee on costing an adequate education and the general court. The legislative process consisted of obtaining information from professional educators, government officials, education policy and finance experts, and the public on the establishment of the cost of an adequate education.

III. The joint legislative oversight committee on costing issued detailed findings and recommendations on the composition of the cost of an adequate education and how the funds for an adequate education should be allocated and accounted for in order to ensure that the educational needs of all public school students are met. These findings and recommendations were submitted to the general court and are an integral basis of the costing determinations reflected in this act.

IV. The cost of the opportunity for an adequate education consists of several elements. All such elements must be provided in order to ensure the delivery of the state's constitutional duty. The universal cost represents the per pupil resources necessary to provide an adequate education where no additional aid is necessary to cover the increased costs of providing that opportunity to students who have special education needs, who have limited English language proficiency or are in schools with significant concentrations of economically disadvantaged students. The universal cost represents the costs attributable only to the subset of education that is included in the definition in RSA 193-E:2-a.

V. The general court further finds that additional aid, referred to as differentiated aid, is also required to fulfill the state's constitutional duty to provide the opportunity for an adequate education for certain students. This act allocates such differentiated aid to special education students, English language learners, and students in schools with significant concentrations of economically disadvantaged students, the latter category based upon eligibility for federally-provided free and reduced-price lunch programs and the concentration of such eligible students in a school.

VI. In determining the need for differentiated aid in addition to providing the universal cost for an adequate education, the general court recognizes that the resources needed to provide the opportunity for an adequate education are not the same for all students or at all schools.

VII. The general court recognizes that special education students face unique challenges that require educational support and instructional resources in addition to those provided by the universal cost. After reviewing the findings of the joint legislative oversight committee and conducting its own inquiry into forms of special education funding and the laws relevant to such funding mechanisms, the general court finds that each special education student should receive additional funding above the universal cost. This per pupil amount is not dependent upon a student's level of disability or learning environment because the general court wishes to encourage the placement of special education students in the least restrictive learning environment possible.

VIII. After reviewing the findings of the legislative oversight committee, including its survey of services provided to English language learners throughout the country and in New Hampshire, the general court finds that additional funding is required to provide English language learners with the opportunity for an adequate education. Accordingly, the general court finds that an amount should be distributed to each pupil receiving English language instruction in a district. This supplemental amount is based upon providing one teacher per 70 students receiving English language instruction and is in-line with funding provided throughout the United States to English language learners.

IX. The joint legislative oversight committee report recognized that economically disadvantaged students require supplemental funding in addition to the universal cost amount. During its deliberations, the committee heard testimony and thoroughly reviewed studies, research, and data about the challenges that school districts face when educating economically disadvantaged students and all pupils in schools with significant concentrations of economically disadvantaged pupils, as well as the costs and considerations involved in implementing programs designed to overcome those obstacles. As encouraged by the committee report, the general court reviewed the committee's conclusions and used the legislative process to craft a funding mechanism that would provide the opportunity for an adequate education to all pupils in schools with significant concentrations of economically disadvantaged pupils. The general court further finds it necessary to provide additional aid to economically disadvantaged pupils in schools without significant concentrations of economically disadvantaged pupils to provide them with the opportunity for an adequate education.

X. This act is not intended to stand in isolation from the other statutes and rules relating to educating New Hampshire students as required by state and federal law.

2 Commissioner's Warrant. RSA 76:8, II is repealed and reenacted to read as follows:

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.

3 Adequate Education. Amend the subdivision heading preceding RSA 198:38 to read as follows:

~~[State Aid for Educational Equality]~~ **Adequate Education**; Education Trust Fund

4 Adequate Education; Definitions. RSA 198:38 is repealed and reenacted to read as follows:

198:38 Definitions.

I. "Average daily membership in attendance" or "ADMA" means the aggregate half-day membership of pupils in kindergarten through grade 12 attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance shall include any pupil who is a resident of New Hampshire educated at public expense, including any pupil whose school district provides his or her education through a private or out-of-district placement.

II. "Commissioner" means the commissioner of the department of education.

III. "Department" means the department of education.

IV. "Determination year" means the fiscal year that was 3 years prior to the fiscal year for which aid is to be determined. Unless otherwise indicated, determination year data shall be used to calculate aid.

V. "Educationally disabled child" or "educationally disabled pupil" shall mean "educationally disabled child" as defined in RSA 186-C:2, I.

VI. "English language learner" means a child who has a predominant language other than English or who is educationally disadvantaged by a limited English proficiency, and who is receiving regularly scheduled English language instruction. For the purposes of RSA 198:40-a, the department shall calculate the number of English language learners using ADMA data. The department shall use the ADMA of all pupils receiving English language learner services as of October 2006 in calculating 2006-2007 ADMA data.

VII. "Pupils eligible for a free or reduced-price meal" means pupils in grade 1 through grade 12 who are eligible for the federal free or reduced-price meal program. For the purposes of RSA 198:40-a, the department shall calculate the concentration of pupils eligible for free or reduced-price meals using ADMA data. The department shall use the ADMA of pupils eligible for a free or reduced-price meal as of October 2006 in calculating ADMA concentrations for 2006-2007 ADMA data.

VIII. "School district" means school district as defined in RSA 194:1 and shall include cooperative school districts as defined in RSA 195:1, I.

5 Cost of an Opportunity for an Adequate Education. RSA 198:40-a is repealed and reenacted to read as follows:

198:40-a Cost of an Opportunity for an Adequate Education.

I. Beginning July 1, 2009, and for every biennium thereafter, the annual cost of providing the opportunity for an adequate education as defined in RSA 193-E:2-a shall be \$3,450 per pupil attending a public school, plus any applicable differentiated aid for which a pupil is eligible. Differentiated aid shall be calculated as follows:

(a) An additional \$431 per pupil in kindergarten through grade 12 eligible for the federal free and reduced-price meal program who attends a public school in which less than 12 percent of the pupils reported in the school's ADMA in the determination year are eligible for the federal free and reduced-price meal program.

(b) An additional \$863 per pupil in a public school in which at least 12 percent but less than 24 percent of pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(c) An additional \$1,725 per pupil in a public school in which at least 24 percent but less than 36 percent of pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(d) An additional \$2,588 per pupil in a public school in which at least 36 percent but less than 48 percent of the pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

(e) An additional \$3,450 per pupil in a public school in which 48 percent or more of the pupils reported in the school's ADMA in the determination year, are eligible for the federal free or reduced-price meal program.

II. In addition to the amount in paragraph I, an additional \$675 for each pupil reported in the public school's ADMA in the determination year who is an English language learner and who is receiving English language instruction.

III. In addition to the amounts in paragraphs I and II, an additional \$1,856 for each pupil reported in the public school's ADMA in the determination year who is receiving special education.

IV. (a) The sum total calculated under paragraphs I-III of this section shall be used to determine the cost of an adequate education which shall be used in each year of the biennium.

(b) The department shall allocate the cost of an adequate education for each municipality by totaling the cost of an adequate education as determined in RSA 198:40-a, I-III for all children who reside in that municipality.

(c) Prior to or coinciding with the first disbursement of each fiscal year under RSA 198:42, the department shall notify a school district of the cost of an adequate education for the pupils in each school within its jurisdiction sorted by the pupil's municipality of residence. In addition, the department shall furnish to each school district a report showing

the cost of an adequate education for pupils who are residents of that school district sorted by a pupil's school of attendance.

V. The department shall notify school districts of the estimated amounts of grants by the November 15 preceding the fiscal year for which aid is determined. The commissioner shall provide to the general court all data or reports requested by the general court in a form which the general court determines will facilitate the calculations required in this section.

6 Use of Differentiated Aid. RSA 198:40-b is repealed and reenacted to read as follows:
198:40-b Use of Differentiated Aid.

I. A school district which receives differentiated aid under RSA 198:40-a, I(b)-(e) for schools within its jurisdiction, shall separately account for such aid as part of its financial accounting procedures. Differentiated aid shall only be used to provide enhanced programs in schools within its jurisdiction for which such aid has been allocated that are known to improve pupil achievement, including but not limited to: pre-kindergarten programs, full-day kindergarten programs, extended learning time, professional development opportunities for teachers, hiring of additional instructional and non-instructional personnel, programs designed to reduce class size, parental involvement programs, additional technology resources, drop out prevention programs, principal incentive programs, and curriculum enrichment programs. The school district shall determine which programs are most needed and most appropriate for their pupils. The department shall annually review and update the list of approved programs from which a school district may choose.

II. A school district which receives differentiated aid under RSA 198:40-a, I(b)-(e) for use in schools within its jurisdiction shall annually submit a report to the commissioner documenting for each school within its jurisdiction for which such aid has been allocated, the enhanced programs selected for implementation, an explanation of the specific educational needs which the program is intended to address, an explanation of how the program will be implemented in the school, and an estimate of the cost of implementing the program. The commissioner shall review these reports to ensure that differentiated aid will be used to provide programs approved under paragraph I.

III. A school district which receives differentiated aid for schools within its jurisdiction pursuant to RSA 198:40-a, I-III shall direct such aid to the schools for which such aid was calculated. A school district which receives differentiated aid for pupils that attend schools in another school district, shall direct such aid to the school district where its pupils are being educated. Any differentiated aid directed from one school district to another pursuant to this paragraph shall be a credit against any existing financial liability between the school districts.

7 New Section; Consumer Price Index Adjustment. RSA 198:40-c is repealed and reenacted to read as follows:

198:40-c Consumer Price Index Adjustment. Beginning July 1, 2011 and every biennium thereafter, the department of education shall adjust the sum of the amounts determined under RSA 198:40-a based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the 3 calendar years ending 18 months before the beginning of the biennium for which the calculation is to be performed.

8 Transitional Education Aid; Biennium Ending June 30, 2011.

I. A municipality in which the estimated fiscal year 2010 adequate education grant is 85 percent or less than its fiscal year 2009 adequate education grant shall be eligible for transitional education aid for the fiscal year ending June 30, 2010 as follows:

(a) A municipality in the lower half of the lowest quartile with a median family income less than 125 percent of the state average median family income, shall receive transitional educational aid in the amount of 50 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2010 adequate education grant, less

any fiscal capacity disparity aid received by the municipality in the 2010 fiscal year pursuant to RSA 198:40-c.

(b) A municipality in the lower half of the lowest quartile with a median family income between 125 percent and 150 percent of the state average median family income, shall receive transitional education aid in the amount of 25 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2010 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2010 fiscal year pursuant to RSA 198:40-c.

(c) A municipality in the upper half of the lowest quartile with a median family income less than 110 percent of the state average median family income, shall receive transitional education aid in the amount of 50 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2010 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2010 fiscal year pursuant to RSA 198:40-c.

(d) A municipality in the upper half of the lowest quartile with a median family income between 110 percent and 125 percent of the state average median family income, shall receive transitional education aid in the amount of 25 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2010 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2010 fiscal year pursuant to RSA 198:40-c.

(e) A municipality in the lower half of the second lowest quartile with a median family income less than 100 percent of the state average median family income, shall receive transitional education aid in the amount of 50 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2010 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2010 fiscal year pursuant to RSA 198:40-c.

(f) A municipality in the lower half of the second lowest quartile with a median family income between 100 percent and 110 percent of the state average median family income, shall receive transitional education aid in the amount of 25 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2010 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2010 fiscal year pursuant to RSA 198:40-c.

II. A municipality in which the estimated fiscal year 2011 adequate education grant is 85 percent or less than its fiscal year 2009 adequate education grant shall be eligible for transitional education aid for the fiscal year ending June 30, 2011 as follows:

(a) A municipality in the lower half of the lowest quartile with a median family income less than 125 percent of the state average median family income, shall receive transitional educational aid in the amount of 25 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2011 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2011 fiscal year pursuant to RSA 198:40-c.

(b) A municipality in the lower half of the lowest quartile with a median family income between 125 percent and 150 percent of the state average median family income, shall receive transitional education aid in the amount of 12.5 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2011 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2011 fiscal year pursuant to RSA 198:40-c.

(c) A municipality in the upper half of the lowest quartile with a median family income less than 110 percent of the state average median family income, shall receive transitional education aid in the amount of 25 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2011 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2011 fiscal year pursuant to RSA 198:40-c.

(d) A municipality in the upper half of the lowest quartile with a median family income between 110 percent and 125 percent of the state average median family income, shall receive transitional education aid in the amount of 12.5 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2011 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2011 fiscal year pursuant to RSA 198:40-c.

(e) A municipality in the lower half of the second lowest quartile with a median family income less than 100 percent of the state average median family income, shall receive transitional education aid in the amount of 25 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2011 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2011 fiscal year pursuant to RSA 198:40-c.

(f) A municipality in the lower half of the second lowest quartile with a median family income between 100 percent and 110 percent of the state average median family income, shall receive transitional education aid in the amount of 12.5 percent of the difference between its fiscal year 2009 adequate education grant and its fiscal year 2011 adequate education grant, less any fiscal capacity disparity aid received by the municipality in the 2011 fiscal year pursuant to RSA 198:40-c.

III. In this section:

(a) "Equalized valuation per pupil" means a municipality's equalized valuation, including properties subject to taxation under RSA 82 and RSA 83-F, as determined by the department of revenue administration, that was the basis for the local tax assessment in the determination year, divided by the school district's average daily membership in residence, as defined in RSA 189:1-d for the determination year, provided that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

(b) "Median family income" means the most recent census data published for New Hampshire counties and municipalities by the United States Census Bureau, United States Department of Commerce, as of October 1 preceding the beginning of the biennium for which aid is to be determined.

IV. Aid under this section shall be distributed pursuant to RSA 198:42.

9 School Money; Determination of Grants and Excess Tax. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Determination of Grants and Excess Tax.

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 education grant for the municipality as follows:

(a) Add the per pupil cost of providing the opportunity for an adequate education for which each pupil is eligible pursuant to RSA 198:40-a, I-III, and from such amount; and

(b) Subtract 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, and from such amount.

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 2 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.

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

I. A municipality in which education property tax revenue collected exceeds the amount necessary to fund the cost of an adequate education in a fiscal year as determined in RSA 198:40-a, shall collect and remit such excess to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

11 School Attendance; Duty of Parent; Version Effective July 1, 2009. Amend RSA 193:1, I(c) to read as follows:

(c) The relevant school district superintendent has excused a child from attendance because the child is physically or mentally unable to attend school, or has been temporarily excused upon the request of the parent for purposes agreed upon by the school authorities and the parent. Such excused absences shall not be permitted if they cause a serious adverse effect upon the student's educational progress. Students excused for such temporary absences may be claimed as full-time pupils for purposes of calculating state aid under RSA 186-C:18 and ~~[equitable]~~ **adequate** education grants under RSA 198:41;

12 Charter and Open Enrollment Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I.(a) There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For ~~[any other]~~ **a** charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department.

(b) For any charter school authorized by the state board of education pursuant to RSA 194-B:3-a, the state shall pay tuition **pursuant to RSA 198:40-a** directly to the charter school for each pupil who is a resident of this state in attendance at such charter school ~~[as follows:~~

~~(a) For the fiscal year beginning July 1, 2006, \$3,598 annual tuition.~~

~~(b) For every fiscal year thereafter, the department of education shall determine the tuition rate by adjusting for the average annual percentage rate of inflation based on the northeast region consumer price index for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The average shall be based on the 4 calendar years ending 18 months before the beginning of the fiscal year for which the tuition rate is to be determined].~~

(c) **Notwithstanding RSA 198:42**, the commissioner of the department of education shall calculate and distribute charter school tuition payments as set forth herein. The first payment shall be 30 percent of the per pupil amount multiplied by the number of eligible pupils present on the first day of the current school year. Such payment shall be made no later than 15 days after the department of education receives the attendance report. The December 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on November 1, and the March 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on February 1. To calculate the final payment, the commissioner of the department of education shall multiply the per pupil amount by the average daily membership in attendance for the full school year, and subtract the total amount of the first 3 payments made. The remaining balance shall be the final payment. Eligible charter schools shall report membership in accordance with RSA 189:1-d. In this subparagraph, "membership" shall be as defined in RSA 189:1-d, II. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year.

(d) The source of funds for payments under this section shall be moneys from the education trust fund established in RSA 198:39.

13 Joint Legislative Oversight Committee on Accountability for An Adequate Education.

I. There is hereby established the joint legislative oversight committee on accountability for an adequate education. The members of the committee shall be as follows:

(a) Three members of the house of representatives, which shall include 2 members of the house education committee and one member of the house finance committee, appointed by the speaker of the house of representatives.

(b) Three members of the senate, which shall include 2 members of the senate education committee and one member of the senate finance committee, appointed by the president of the senate.

II. The committee shall review and study the assessment and assistance methods, reporting requirements, and other methods of accountability presently being used by the department of education and local school districts to determine whether such methods, programs, and standards will ensure the delivery of an adequate education as set forth in RSA 193-E:2-a.

III. Following a public hearing, the committee shall report its findings and recommendations concerning the sufficiency of existing statutory law to provide accountability for the delivery of the opportunity for an adequate education as defined in RSA 193-E:2-a, and the possible need for additional legislation, to the governor, the speaker of the house of representatives, the president of the senate, and the state librarian no later than November 15, 2008.

14 References Amended. Amend the following RSA sections by replacing “statewide enhanced education tax” with “education tax”: RSA 21-J:14-h; RSA 76:3; RSA 76:8, I; RSA 76:8, III; RSA 76:9; RSA 83-F:9; RSA 198:46; RSA 198:47; RSA 198:57, III(a); and RSA 198:57, IV(c).

15 Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

16 Repeal. The following are repealed:

I. 2005, 257:8, relative to determination of grants and excess enhanced education property tax payments.

II. 2005, 257:23, I, relative to the July 1, 2009 effective date for 2005, 257:8.

17 Effective Date.

I. Section 16 of this act shall take effect June 30, 2009.

II. Section 7 of this act shall take effect July 1, 2011.

III. The remainder of this act shall take effect July 1, 2009.

AMENDED ANALYSIS

This bill:

I. Determines the per pupil cost of the opportunity for an adequate education which includes differentiated aid distributed to schools based on the number of pupils receiving special education services, or eligible for a free or reduced-price lunch, or who are English language learners.

II. Requires schools receiving differentiated aid to use it to implement enhanced programs known to improve pupil achievement.

III. Establishes a joint legislative oversight committee on accountability for an adequate education.

IV. Provides transitional education aid for the biennium ending June 30, 2011 to certain municipalities in which the estimated fiscal year 2010 adequate education grant is 85 percent or less than its fiscal year 2009 adequate education grant.

Rep. Vaillancourt spoke in favor and yielded to questions.

Rep. Foose spoke against.

Rep. Bettencourt requested a roll call; sufficiently seconded.

YEAS 117 NAYS 214

YEAS 117

BELKNAP

Allen, Janet
Nedeau, Stephen
Tobin, William

Clark, Charles
Pilliod, James
Wendelboe, Fran

Flanders, Donald
Russell, David

Millham, Alida
Tilton, Franklin

CARROLL

Brown, Carolyn
Stevens, Stanley

Denley, William

Martin, James

Merrow, Harry

CHESHIRE

Johnson, Jane

Pelkey, Stephen

COOS

Tholl, John Jr

GRAFTON

Bulis, Lyle
Ingbretson, Paul

Dingman, Vernon III
Sorg, Gregory

Eaton, Stephanie
Williams, Burton

Gionet, Edmond

HILLSBOROUGH

Batula, Peter
Christiansen, Lars
Daniels, Gary
Farley, Michael
Hansen, Ryan
Hopper, Gary
Lawrence, James
Matarazzo, Anthony Sr
Moran, Edward
Reeves, Sandra
Smith, David
Ulery, Jordan

Bergeron, Jean-Guy
Clark, Mark
Day, Russell
Francoeur, Bea
Hawkins, Ken
Infantine, William
Long, Patrick
McRae, Karen

Ober, Lynne
Renzullo, Andrew
Soucy, Connie
Vaillancourt, Steve

Bergin, Peter
Coughlin, Pamela
Dokmo, Cynthia
Gargas, Carolyn
Hinkle, Peyton
Kurk, Neal
Manney, Pamela
Messier, Irene

Ober, Russell III
Rowe, Robert
Stepanek, Stephen
Villeneuve, Maurice

Christensen, Chris
Crane, Elenore Casey
Elliott, Nancy
Graham, John
Hogan, Edith
L'Heureux, Robert
Martineau, Jesse
Mooney, Maureen

Peterson, Andy
Simon, Anthony
Tahir, Saghir
Winters, Joel

MERRIMACK

Anderson, Eric
MacKay, James

Boutin, David
Reed, Dennis

Hess, David

Lockwood, Priscilla

ROCKINGHAM

Allen, Mary
Bettencourt, David
Dalrymple, David
Fesh, Bob
Griffin, Mary
Katsakiores, George
McKinney, Betsy
Quandt, Marshall
Weare, Everett

Baldasaro, Alfred
Camm, Kevin
Devine, James
Flanders, John Sr
Ingram, Russell
Katsakiores, Phyllis
McMahon, Charles
Quandt, Matthew
Welch, David

Bedrick, Jason
Case, Frank
DiFruscia, Anthony
Garcia, Marilinda
Itse, Daniel
Lister, Charlotte
Nevins, Christopher
Reagan, John
Winchell, George

Belanger, Ronald
Charron, Gene
Elliott, Robert
Gleason, John
Kappler, Lawrence
Lund, Howie
Priestley, Anne
Sanders, Elisabeth

STRAFFORD

Brown, Julie

Goodwin, Earle

SULLIVAN

Rodeschin, Beverly

NAYS 214

BELKNAP

Arsenault, Beth

Morrison, Gail

Reever, Judith

Wood, Jane

CARROLL

Ahlgren, Christopher
Cunningham, Howard

Bridgham, Robert
Heard, Virginia

Buco, Thomas
Knox, J. David

Chandler, Gene
Patten, Betsey

CHESHIRE

Allen, Peter
Butynski, William
Espieffs, Peter
Parkhurst, Henry
Robertson, Timothy

Burridge, Delmar
Chase, William
Hunt, John
Plifka, Stanley Jr
Sad, Tara

Butcher, Suzanne
Dunn, J. Timothy
Lerandean, Alfred
Richardson, Barbara
Weber, Lucy

Butterworth, Timothy
Eaton, Daniel
Mitchell, Bonnie
Roberts, Kris
Weed, Charles

COOS

Hatch, William
Remick, William

King, Frederick
Stohl, Eric

Merrick, Evalyn
Theberge, Robert

Merrick, Scott
Thomas, Yvonne

GRAFTON

Aguiar, James
Bleyler, Ruth
Hammond, Lee
McLeod, Martha
Preston, Philip

Almy, Susan
Cooney, Mary
Harding, A Laurie
Mulholland, Catherine
Solomon, Peter

Andersen, Gene
Estes, Carole
Laliberte, Suzanne
Nordgren, Sharon

Benn, Bernard
Friedrich, Carol
Matheson, Robert
Pierce, David

HILLSBOROUGH

Baroody, Benjamin
Campbell, David
Daler, Jennifer
Fontas, Jeffrey
Gorman, Mary
Hall, Betty
Irwin, Anne-Marie
Kaelin, Michael
Leishman, Peter
Movsesian, Lori
Pilotte, Maurice
Schulze, Joan
Spratt, Stephen

Barry, Richard
Chase, Claudia
Edwards, Andrew
Foster, Linda
Hackel, Paul
Harvey, Suzanne
Jasper, Shawn
Knowles, John
Levesque, Melanie
O'Brien, Michael Sr
Price, Pamela
Shattuck, Gilman
Sullivan, Francis

Beck, Catriona
Clemons, Jane
Emerton, Larry
Ginsburg, Ruth
Haefner, Robert
Hebert, Roger
Jean, Claudette
Knowles, Mary Ann
Mack, Ron
O'Connell, Timothy
Rosenwald, Cindy
Shaw, Barbara
Sysyn, Mary

Brunelle, Michael
Cote, David
Essex, David
Goley, Jeffrey
Haley, Robert
Holden, Randolph
Jeudy, Jean
Lasky, Bette
Marshall, Seth
O'Neil, James
Scannell, David
Shaw, Kimberly

MERRIMACK

Baxley, Maureen
Brown, Carole
DeJoie, John

Beauchesne, Suzanne
Brueggemann, Donald
DeStefano, Stephen

Blanchard, Elizabeth
Clarke, Claire
Ehlers, Eileen

Bouchard, Candace
Davis, Frank
Foosse, Robert

French, Barbara
Hamm, Christine

Osborne, Jessie
Richardson, Gary
Tupper, Frank
Wheeler, Deborah

Gile, Mary
Kidder, David

Porter, Margaret
Ryan, Jim
Wallner, Mary
Williams, Robert

Greco, Vincent
Kjellman, Eleanor
Glynn

Potter, Frances
Shurtleff, Stephen
Walz, Mary
Yeaton, Charles

Hager, Elizabeth
McMahon, Patricia

Reardon, Tara
Tilton, Joy
Webb, Leigh

ROCKINGHAM

Brown, C. Pennington
Day, Judith
Headd, James
Major, Norman
McKenna, Daniel
Pantelakos, Laura
Rausch, James
Snow, Richard
Weyler, Kenneth

Cali-Pitts, Jacqueline
Emiro, Frank
Henson, John
Mann, Maureen
Moody, Marcia
Pearson, Mark
Robertson, Carl
Splaine, James

Carson, Sharon
Flockhart, Eileen
Kennedy, James
Marsh, Michael
Nord, Susi
Petterson, Don
Russell, Trink
Stiles, Nancy

Casey, Kimberley
Gould, Kenneth
Kepner, Susan
McEachern, Paul
Packard, Sherman
Powers, James
Serlin, Christopher
Webber, James

STRAFFORD

Berube, Roger
Brown, Larry
Fargo, Thomas
Knowles, William
Rollo, Michael
Spang, Judith
Watson, Robert

Billian, Deborah
Browne, Brendon
Hofemann, Roland
Miller, Joseph
Rous, Emma
Sprague, Dale

Brennan, William
Burke, Rachel
Hubbard, Pamela
Oppenheimer, Kay
Schmidt, Peter
Vachon, Dennis

Brown, Jennifer
Cyr, James
Hutz, Sarah
Rollo, Deanna
Smith, Marjorie
Wall, Janet

SULLIVAN

Cloutier, John
Franklin, Peter
Jillette, Arthur Jr

Converse, Larry
Gagnon, Raymond
Nielsen, Ellen

Donovan, Thomas
Gottling, Suzanne
Phinizy, James

Ferland, Brenda
Houde, Matthew
Skinder, Carla

and floor amendment (1684h) failed.

Rep. Emerson did not vote and notified the Clerk that she wished to be recorded in favor.

Rep. Vaillancourt offered floor amendment (1678h).

Floor Amendment (1678h)

Amend section 1 of the bill by deleting paragraph X and renumber the original paragraphs XI-XII to read as paragraphs X-XI, respectively.

Amend RSA 198:41 as inserted by section 9 of the bill by deleting RSA 198:41, III.

Amend the bill by replacing sections 17-18 with the following:

17 Repeal. The following are repealed:

I. 2005, 257:8, relative to determination of grants and excess enhanced education property tax payments.

II. 2005, 257:23, I, relative to the July 1, 2009 effective date for 2005, 257:8.

18 Effective Date.

I. Section 17 of this act shall take effect June 30, 2009.

II. Section 8 of this act shall take effect July 1, 2011.

III. The remainder of this act shall take effect July 1, 2009.

AMENDED ANALYSIS

This bill:

I. Determines the per pupil cost of the opportunity for an adequate education which includes differentiated aid distributed to schools based on the number of pupils receiving

special education services, or eligible for a free or reduced-price lunch, or who are English language learners.

II. Requires schools receiving differentiated aid to use it to implement enhanced programs known to improve pupil achievement.

III. Establishes a joint legislative oversight committee on accountability for an adequate education.

IV. Provides fiscal capacity disparity aid, in addition to aid for the cost of the opportunity for an adequate education, based on a municipality's equalized valuation, including utilities, per pupil and median family income.

V. Provides fiscal capacity disparity aid to state-approved charter school.

Rep. Vaillancourt spoke in favor and yielded to questions.

On a division vote, 114 members having voted in the affirmative and 214 in the negative, floor amendment (1678h) failed.

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

Reps. Kurk and Peter Allen spoke against.

Reps. Dunn and Daniel Eaton spoke in favor.

Rep. Kurk requested a roll call; sufficiently seconded.

YEAS 184 NAYS 141

YEAS 184

BELKNAP

Arsenault, Beth Reeve, Judith Wood, Jane

CARROLL

Bridgham, Robert Bucu, Thomas Cunningham, Howard Heard, Virginia

CHESHIRE

Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy	Butynski, William
Chase, William	Dunn, J. Timothy	Eaton, Daniel	Espieffs, Peter
Lerandeau, Alfred	Mitchell, Bonnie	Plifka, Stanley Jr	Richardson, Barbara
Roberts, Kris	Robertson, Timothy	Sad, Tara	Weber, Lucy
Weed, Charles			

COOS

Hatch, William	King, Frederick	Merrick, Evalyn	Merrick, Scott
Theberge, Robert	Thomas, Yvonne		

GRAFTON

Aguiar, James	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Estes, Carole	Friedrich, Carol	Hammond, Lee
Harding, A Laurie	Laliberte, Suzanne	Lovett, Sid	Matheson, Robert
McLeod, Martha	Mulholland, Catherine	Nordgren, Sharon	Pierce, David
Preston, Philip	Solomon, Peter		

HILLSBOROUGH

Baroody, Benjamin	Beck, Catriona	Brunelle, Michael	Campbell, David
Chase, Claudia	Clemons, Jane	Cote, David	Daler, Jennifer

Edwards, Andrew
Foster, Linda
Haley, Robert
Jean, Claudette
Knowles, Mary Ann
Long, Patrick

Movsesian, Lori
Rosenwald, Cindy
Shaw, Barbara
Sullivan, Francis

Essex, David
Goley, Jeffrey
Harvey, Suzanne
Jeudy, Jean
Lasky, Bette
Mack, Ron

O'Brien, Michael Sr
Scannell, David
Shaw, Kimberly
Sysyn, Mary

Farley, Michael
Gorman, Mary
Hebert, Roger
Kaelin, Michael
Leishman, Peter
Marshall, Seth

O'Neil, James
Schulze, Joan
Simon, Anthony
Vaillancourt, Steve

Fontas, Jeffrey
Hackel, Paul
Irwin, Anne-Marie
Knowles, John
Levesque, Melanie
Matarazzo, Anthony
Sr
Pilotte, Maurice
Shattuck, Gilman
Spratt, Stephen

MERRIMACK

Baxley, Maureen
Brown, Carole
DeStefano, Stephen
Gile, Mary
Osborne, Jessie
Richardson, Gary
Tupper, Frank
Wheeler, Deborah

Beauchesne, Suzanne
Brueggemann, Donald
Ehlers, Eileen
Greco, Vincent
Porter, Margaret
Ryan, Jim
Wallner, Mary
Williams, Robert

Blanchard, Elizabeth
Clarke, Claire
Foose, Robert
Hamm, Christine
Potter, Frances
Shurtleff, Stephen
Walz, Mary
Yeaton, Charles

Bouchard, Candace
Davis, Frank
French, Barbara
McMahon, Patricia
Reardon, Tara
Tilton, Joy
Webb, Leigh

ROCKINGHAM

Brown, C. Pennington
DiFruscia, Anthony
Lister, Charlotte
McKenna, Daniel
Pettersen, Don
Snow, Richard

Cali-Pitts, Jacqueline
Flockhart, Eileen
Mann, Maureen
Moody, Marcia
Powers, James
Splaine, James

Casey, Kimberley
Henson, John
Marsh, Michael
Nord, Susi
Russell, Trink
Webber, James

Day, Judith
Kepner, Susan
McEachern, Paul
Pantelakos, Laura
Serlin, Christopher

STRAFFORD

Berube, Roger
Brown, Larry
Fargo, Thomas
Knowles, William
Rollo, Michael
Spang, Judith

Billian, Deborah
Browne, Brendon
Hofemann, Roland
Miller, Joseph
Rous, Emma
Sprague, Dale

Brennan, William
Burke, Rachel
Hubbard, Pamela
Oppenheimer, Kay
Schmidt, Peter
Vachon, Dennis

Brown, Jennifer
Cyr, James
Hutz, Sarah
Rollo, Deanna
Smith, Marjorie
Wall, Janet

SULLIVAN

Cloutier, John
Franklin, Peter
Nielsen, Ellen

Converse, Larry
Gagnon, Raymond
Phinizy, James

Donovan, Thomas
Houde, Matthew
Skinder, Carla

Ferland, Brenda
Jillette, Arthur Jr

NAYS 141

BELKNAP

Allen, Janet
Nedeau, Stephen
Wendelboe, Fran

Clark, Charles
Pilliod, James

Flanders, Donald
Russell, David

Millham, Alida
Tilton, Franklin

CARROLL

Ahlgren, Christopher

Brown, Carolyn

Chandler, Gene

Denley, William

Knox, J. David
Stevens, Stanley

Martin, James

Merrow, Harry

Patten, Betsey

CHESHIRE

Allen, Peter
Pelkey, Stephen

Hunt, John

Johnson, Jane

Parkhurst, Henry

COOS

Remick, William

Stohl, Eric

Tholl, John Jr

GRAFTON

Andersen, Gene
Gionet, Edmond

Bulis, Lyle
Sorg, Gregory

Dingman, Vernon III
Williams, Burton

Eaton, Stephanie

HILLSBOROUGH

Barry, Richard
Christensen, Chris
Crane, Elenore Casey
Elliott, Nancy
Haefner, Robert
Hogan, Edith
Jasper, Shawn
Manney, Pamela
Mooney, Maureen
Ober, Russell III
Renzullo, Andrew
Stepanek, Stephen
Winters, Joel

Batula, Peter
Christiansen, Lars
Daniels, Gary
Emerton, Larry
Hall, Betty
Holden, Randolph
Kurk, Neal
Martineau, Jesse
Moran, Edward
Peterson, Andy
Rowe, Robert
Tahir, Saghir

Bergeron, Jean-Guy
Clark, Mark
Day, Russell
Francoeur, Bea
Hawkins, Ken
Hopper, Gary
L'Heureux, Robert
McRae, Karen
O'Connell, Timothy
Price, Pamela
Smith, David
Ulery, Jordan

Bergin, Peter
Coughlin, Pamela
Dokmo, Cynthia
Graham, John
Hinkle, Peyton
Infantine, William
Lawrence, James
Messier, Irene
Ober, Lynne
Reeves, Sandra
Soucy, Connie
Villeneuve, Maurice

MERRIMACK

Anderson, Eric
Kidder, David

Boutin, David
Kjellman, Eleanor
Glynn

DeJoie, John
Lockwood, Priscilla

Hess, David
MacKay, James

Reed, Dennis

ROCKINGHAM

Allen, Mary
Bettencourt, David
Charron, Gene
Emiro, Frank
Gleason, John
Ingram, Russell
Katsakiores, Phyllis
McKinney, Betsy
Pearson, Mark
Rausch, James
Stiles, Nancy
Winchell, George

Baldasaro, Alfred
Camm, Kevin
Dalrymple, David
Fesh, Bob
Gould, Kenneth
Itse, Daniel
Kennedy, James
McMahon, Charles
Priestley, Anne
Reagan, John
Weare, Everett

Bedrick, Jason
Carson, Sharon
Devine, James
Flanders, John Sr
Griffin, Mary
Kappler, Lawrence
Lund, Howie
Nevins, Christopher
Quandt, Marshall
Robertson, Carl
Welch, David

Belanger, Ronald
Case, Frank
Elliott, Robert
Garcia, Marilinda
Headd, James
Katsakiores, George
Major, Norman
Packard, Sherman
Quandt, Matthew
Sanders, Elisabeth
Weyler, Kenneth

STRAFFORD

Brown, Julie

Goodwin, Earle

Watson, Robert

SULLIVAN

Gottling, Suzanne Rodeschin, Beverly
and the majority committee report was adopted.

Ordered to third reading.

Rep. Emerson did not vote and notified the Clerk that she wished to be recorded against.

MOTION TO RECONSIDER

Having voted on the prevailing side, Rep. Daniel Eaton moved that the House reconsider its action whereby it adopted the majority committee report of Ought to Pass with Amendment on ***SB 539-FN-L***, relative to the cost of an adequate education and provision of fiscal capacity disparity aid.

Rep. Daniel Eaton requested a roll call; sufficiently seconded.

YEAS 134 NAYS 191

YEAS 134

BELKNAP

Allen, Janet
Nedeau, Stephen
Wendelboe, Fran

Clark, Charles
Pilliod, James

Flanders, Donald
Russell, David

Millham, Alida
Tilton, Franklin

CARROLL

Ahlgren, Christopher
Knox, J. David
Stevens, Stanley

Brown, Carolyn
Martin, James

Chandler, Gene
Morrow, Harry

Denley, William
Patten, Betsey

CHESHIRE

Hunt, John

Johnson, Jane

Pelkey, Stephen

COOS

King, Frederick

Stohl, Eric

Tholl, John Jr

GRAFTON

Bulis, Lyle
Ingbretson, Paul

Dingman, Vernon III
Sorg, Gregory

Eaton, Stephanie
Williams, Burton

Gionet, Edmond

HILLSBOROUGH

Barry, Richard
Christensen, Chris
Crane, Elenore Casey
Elliott, Nancy
Haefner, Robert
Hogan, Edith
Jasper, Shawn
Manney, Pamela

Batula, Peter
Christiansen, Lars
Daniels, Gary
Emerton, Larry
Hall, Betty
Holden, Randolph
Kurk, Neal
Martineau, Jesse

Bergeron, Jean-Guy
Clark, Mark
Day, Russell
Francoeur, Bea
Hawkins, Ken
Hopper, Gary
L'Heureux, Robert
Matarazzo, Anthony
Sr

Bergin, Peter
Coughlin, Pamela
Dokmo, Cynthia
Graham, John
Hinkle, Peyton
Infantine, William
Lawrence, James
McRae, Karen

Messier, Irene
Ober, Lynne
Reeves, Sandra
Stepanek, Stephen

Mooney, Maureen
Ober, Russell III
Renzullo, Andrew
Tahir, Saghir

Moran, Edward
Peterson, Andy
Rowe, Robert
Ulery, Jordan

O'Connell, Timothy
Price, Pamela
Soucy, Connie
Vaillancourt, Steve

Villeneuve, Maurice

MERRIMACK

Anderson, Eric	Boutin, David	Hess, David	Kjellman, Eleanor Glynn
MacKay, James	Reed, Dennis		

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Camm, Kevin	Carson, Sharon	Case, Frank
Charron, Gene	Dalrymple, David	Devine, James	Elliott, Robert
Emiro, Frank	Fesh, Bob	Flanders, John Sr	Garcia, Marilinda
Gleason, John	Gould, Kenneth	Griffin, Mary	Headd, James
Ingram, Russell	Itse, Daniel	Kappler, Lawrence	Katsakiores, George
Katsakiores, Phyllis	Kennedy, James	Lund, Howie	Major, Norman
McMahon, Charles	Nevins, Christopher	Packard, Sherman	Pearson, Mark
Priestley, Anne	Quandt, Marshall	Quandt, Matthew	Rausch, James
Reagan, John	Robertson, Carl	Sanders, Elisabeth	Stiles, Nancy
Weare, Everett	Welch, David	Weyler, Kenneth	Winchell, George

STRAFFORD

Brown, Julie	Hofemann, Roland	Watson, Robert
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SULLIVAN

Rodeschin, Beverly

NAYS 191

BELKNAP

Arsenault, Beth	Reever, Judith	Wood, Jane
-----------------	----------------	------------

CARROLL

Bridgham, Robert	Buco, Thomas	Cunningham, Howard	Heard, Virginia
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CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Dunn, J. Timothy	Eaton, Daniel
Espiefs, Peter	Lerandeu, Alfred	Mitchell, Bonnie	Parkhurst, Henry
Plifka, Stanley Jr	Richardson, Barbara	Roberts, Kris	Robertson, Timothy
Sad, Tara	Weber, Lucy	Weed, Charles	

COOS

Hatch, William	Merrick, Evalyn	Merrick, Scott	Remick, William
Theberge, Robert	Thomas, Yvonne		

GRAFTON

Aguiar, James	Almy, Susan	Andersen, Gene	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Estes, Carole	Friedrich, Carol
Hammond, Lee	Harding, A Laurie	Laliberte, Suzanne	Lovett, Sid
Matheson, Robert	McLeod, Martha	Mulholland, Catherine	Nordgren, Sharon

Pierce, David

Preston, Philip

Solomon, Peter

HILLSBOROUGH

Baroody, Benjamin
Chase, Claudia
Edwards, Andrew
Foster, Linda
Harvey, Suzanne
Jeudy, Jean
Lasky, Bette
Mack, Ron
O'Neil, James
Schulze, Joan
Simon, Anthony
Sysyn, Mary

Beck, Catriona
Clemons, Jane
Essex, David
Goley, Jeffrey
Hebert, Roger
Kaelin, Michael
Leishman, Peter
Marshall, Seth
Pilotte, Maurice
Shattuck, Gilman
Smith, David
Winters, Joel

Brunelle, Michael
Cote, David
Farley, Michael
Gorman, Mary
Irwin, Anne-Marie
Knowles, John
Levesque, Melanie
Movsesian, Lori
Rosenwald, Cindy
Shaw, Barbara
Spratt, Stephen

Campbell, David
Daler, Jennifer
Fontas, Jeffrey
Hackel, Paul
Jean, Claudette
Knowles, Mary Ann
Long, Patrick
O'Brien, Michael Sr
Scannell, David
Shaw, Kimberly
Sullivan, Francis

MERRIMACK

Baxley, Maureen
Brown, Carole
DeJoie, John
French, Barbara
Kidder, David
Porter, Margaret
Ryan, Jim
Wallner, Mary
Williams, Robert

Beauchesne, Suzanne
Brueggemann, Donald
DeStefano, Stephen
Gile, Mary
Lockwood, Priscilla
Potter, Frances
Shurtleff, Stephen
Walz, Mary
Yeaton, Charles

Blanchard, Elizabeth
Clarke, Claire
Ehlers, Eileen
Greco, Vincent
McMahon, Patricia
Reardon, Tara
Tilton, Joy
Webb, Leigh

Bouchard, Candace
Davis, Frank
Foose, Robert
Hamm, Christine
Osborne, Jessie
Richardson, Gary
Tupper, Frank
Wheeler, Deborah

ROCKINGHAM

Brown, C. Pennington
DiFruscia, Anthony
Lister, Charlotte
McKenna, Daniel
Pantelakos, Laura
Serlin, Christopher

Cali-Pitts, Jacqueline
Flockhart, Eileen
Mann, Maureen
McKinney, Betsy
Pettersen, Don
Snow, Richard

Casey, Kimberley
Henson, John
Marsh, Michael
Moody, Marcia
Powers, James
Splaine, James

Day, Judith
Kepner, Susan
McEachern, Paul
Nord, Susi
Russell, Trinko
Webber, James

STRAFFORD

Berube, Roger
Brown, Larry
Fargo, Thomas
Knowles, William
Rollo, Michael
Spang, Judith

Billian, Deborah
Browne, Brendon
Goodwin, Earle
Miller, Joseph
Rous, Emma
Sprague, Dale

Brennan, William
Burke, Rachel
Hubbard, Pamela
Oppenheimer, Kay
Schmidt, Peter
Vachon, Dennis

Brown, Jennifer
Cyr, James
Hutz, Sarah
Rollo, Deanna
Smith, Marjorie
Wall, Janet

SULLIVAN

Cloutier, John
Franklin, Peter
Jillette, Arthur Jr

Converse, Larry
Gagnon, Raymond
Nielsen, Ellen

Donovan, Thomas
Gottling, Suzanne
Phinzy, James

Ferland, Brenda
Houde, Matthew
Skinder, Carla

and the motion failed.

Rep. Emerson did not vote and notified the Clerk that she wished to be recorded in favor.

MOTION TO PRINT DEBATE

Rep. Hess moved that the debate on the Ought to Pass with Amendment motion on ***SB 539-FN-L***, relative to the cost of an adequate education and provision of fiscal capacity disparity aid, be printed in the Permanent Journal.

On a division vote, 170 members having voted in the affirmative and 151 in the negative, the motion was adopted.

DEBATE ON *SB 539-FN-L*

MOTION OF OUGHT TO PASS WITH AMENDMENT

Rep. Peter Allen: Thank you, Madam Speaker. I speak in favor of fully funding public education. In my experience, good leadership is doing the right thing and explaining why it is the right thing to do. I lived with my wife and four children in Wilmot, New Hampshire when the Kearsarge Regional School District began. Opponents used scurrilous arguments to defeat the bond issue necessary to build a new high school for the district of seven republican towns, so I got involved and spoke up. A few years later, I was chairman of Kearsarge Regional School Board. For eight years, seven republican towns, annual school meetings confronted budgets that brought many people, about 1500 one year, 1600 another, as I recall, in the auditorium, cafeteria and gym connected with communications run by students. We had excellent leaders. Our superintendent, his assistant and the principals could always explain why the funding was necessary. We always got our budgets passed. The year after I left the school board, Kearsarge Regional received a federal award for excellence in education. I believe that public education is the most responsible investment society can make. A state that spends 8% of its income on state and local tax burdens in 2007 can certainly afford to fully fund public education. Those who deny that are disingenuous at least. I struggled for a polite word.

Speaker: The question before the House is on the Majority committee report of Ought to Pass as Amended on SB 539. The Chair recognizes the member from Keene, Representative Dunn.

Rep. Dunn: Thank you, Madam Speaker. Members of the General Court, I rise today in support of SB 539 which refers to the cost of an adequate education – cost of an adequate education, not funding, not distribution of funds – cost. There are spreadsheets out there, a number of them and you have either looked at them and celebrated with great joy or felt great despair. Let me try to alleviate either joy or despair by simply saying your reaction is misplaced and ill-timed by at least 16 months. It will be at least 16 months before we know what the funding and distribution will look like. We are voting today on an educational policy that is constitutional, far reaching and insightful. It is based on research and it is based on nationally known best practices in funding public education. Therefore, I hope you will join me and vote to support the Finance committee's and by extension the Education committee's Ought to Pass with Amendment recommendation on SB 539. Thank you, Madam Speaker. There have been too many words here today.

Speaker: The question before the House is on the Majority committee report of Ought to Pass as Amended on SB 539. The Chair recognizes the member from Weare, Representative Kurk.

Rep. Kurk: Thank you for recognizing me. I rise in opposition to the bill as amended by the Finance committee. The bill at the same time does both too much and too little. It does more than it has to and based on what it does, not enough. Let me be specific, this bill was supposed to be a costing bill. It clearly goes beyond costing. There is transition aid, there is fiscal disparity aid, and there are all sorts of things that we have heard about today. Indeed there are hold harmless on the upside and the downside, there is collar protecting the towns that would lose money on the one hand, protecting towns who would have to pay into the system under the property tax, the donor towns on the other. If this only had been a costing bill, if all we had done was truly cost an adequate education the way the commission recommended without a variety of these other things, then we would have a bill that was both affordable and appropriate to do nothing to fund with at this time. As you know, there

are different methods of creating the cost of an adequate education. A number of years ago, when the other party was in power, we chose to use one of the accepted methods; it was called the comparative cost method. So you looked at what school districts were doing throughout the state, you found those that were producing decent results, what is their average cost and that becomes the cost of an adequate education. This group of folks have used another perfectly acceptable method, the market basket approach. What do we need to provide a good education, so many teachers, so many classrooms, so many aides, and so many librarians? What do they cost? Put it all together and you come up with an adequate education cost. Either method is acceptable to education finance experts and I think to our side of the aisle. If that's all that had been done, we would be arguing about small details, but the bill is, as I say, does too much, it goes beyond that and because it goes beyond that it creates problems for itself, it does too much. It doesn't say how it is going to pay for all of the extra costs, roughly \$64 million in each year in 2010 and 2011. When I go into a restaurant and I order something off the menu, I see the price. But I also know that I have in my wallet - the money to pay for it or a credit card or there is somebody else at the table that is going to pick up the tab. (I was looking this way). But that is not what this bill does. The bill makes promises, the bill orders from the menu and there is no money in the wallet, there is no credit card although we like to borrow and there is no big sugar daddy from whom to borrow this money. That is why the bill does too much. It makes promises and doesn't say how they are going to be paid for. Wait until next year, of course after the election, wait until next year and we will tell you how we are going to do it and if there are problems with the bill, we can fix it next year. But meantime we have made promises that cost money. We promised to hold certain towns harmless, that costs money, not part of adequacy and we don't say how we are going to pay for it. That is why the bill does too much and for those reasons I find it very difficult to support the bill. The other part of the bill we have heard a lot about that creates problems for us and that is that there are two sections that are patently unconstitutional. One is the 15% cap. The supreme court has already told us several times, you can't do that. You have to pay for adequacy from day one, no transition. The other part is the donor town rebates. Again, the same thing, you have heard this stated before. I understand why this is being done because I have been in the majority and when we were faced with these problems, we did the same thing and we got our wrists slapped by the court. What I find ironic is the minority which is now the majority sees the world from the same way we did is doing the same things, but at least we didn't have the experience. We hadn't been slapped on the wrists at the time we did it. They know better and they still have unconstitutional provisions in here. It's not right; we shouldn't have them in here. For those reasons, the fact that the bill does both too little and too much and the fact that there are definitely unconstitutional provisions in here, I would ask you to vote no when we have the vote on this bill. Madam Speaker, I would ask for a roll call on this motion. Thank you, Madam Speaker.

Speaker: The question before the House is on the Majority committee report of Ought to Pass as Amended on SB 539. The Chair recognizes the member from Stoddard, Representative Eaton.

Rep. Daniel Eaton: Madam Speaker, I appreciate the previous gentlemen from Weare expressing the good will and support, validity of integrity of the funding process that we went through. He validates the costing commission did its job, the education committee did its job, the finance committee did its job. I don't know how many times I have been on this floor, a few years ago, overturning the majority for an education funding plan which then was trapped in the Senate and gave us an unconstitutional plan. Hearing the same arguments, we are not funding it. The gentlemen from Weare probably knows the budget of this place better than anybody on the planet and knows that you don't fund something the biennium before you're implementing. It would be very difficult to do so. He also knows that one legislature cannot obligate the next legislature. You come up with the best you can come up with, you build what you believe is a good plan, a workable plan, a constitutional plan and you hope that the next legislature in the next segment continues that work and finishes. As

the gentlemen from New London stated, "We are in step two of step four." We need to get the work done and the gentlemen from Weare did say they worked on an unconstitutional plan. My recollection is that it was unconstitutional because it was staggering the tax rate. We don't do that in this bill, we work on a distribution adjustment. The tax rate is the same across the board. If I am wrong, the impetus would be that they might still slap the wrists of the gentlemen from Weare, but since I like him, I hope I'm right. Madam Speaker, it is one of the most important bills of the year, conceivably the most important. I don't think anyone in this Chamber would like to see the supreme court laying out our next costing plan after seeing what a wonderful job they did in doing redistricting. My friend from Weare, I think, would back me up on that point. With that said, Madam Speaker, I hope the House will back the Education committee, the costing commission and the Finance committee and, promise, get through this vote so we get to go on to the next committee.

(Deputy Speaker Foster in the Chair)

REGULAR CALENDAR (CONT'D)

SB 264, relative to creating liens on personal and real property to recover uncollected small claims judgments. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Gregory M. Sorg for the Majority of Judiciary: This bill addresses the problem small claims judgment creditors often have in collecting their judgment debts. It does this in general by authorizing both pre- and post-judgment attachments and levies of execution on personal property and real estate in small claims actions, and in particular by allowing a post-judgment security interest in real estate to be created simply by recording the judgment in the registry of deeds in which the real estate is located. In order to prevent hardship to a judgment debtor who, having paid the judgment, has not received a written release of the recorded security interest from the judgment creditor, the bill, as amended, provides for such release to be issued by the clerk of the court upon presentation of satisfactory proof of payment. The amended bill provides penalties both to a judgment creditor who fails to provide a release when due, and to a judgment debtor who fraudulently induces a clerk of court to issue an undeserved release. Vote 12-4.

Rep. Robert H. Rowe for the Minority of Judiciary: This bill makes two profound changes to the traditional small claims process. Under RSA 503, small claims was established "to be a simple, speedy and informal procedure for the determination of small claims." Initially the damage limit was \$60. It is currently \$5,000 and with the House bill we passed this year, damage limits will be increased to \$10,000. The small claims process was designed primarily as a method for citizens to resolve small dollar amount disputes. The process was kept informal and simple. As such there are no rules of evidence mandated by law for the process. The defendant is without discovery. Hearsay evidence is allowed. Parties are not under oath. In recent years, as the damage amount has increased, more businesses, banks, and credit card companies have utilized the process in claims against citizens. The first change that this bill provides is to greatly simplify the real estate and attachment process after judgment. Under current law, the plaintiff must petition the court and notify the defendant then come to court and convince a judge why an attachment is necessary. The judge would protect against abuse. Under this bill, all the plaintiff need do is to send a copy of the judgment to the registry of deeds. The citizen defendant has no say and no chance to voice his or her objection. The second change is that this bill allows for pre-judgment attachments of real estate, personal property, including banking accounts under the provisions of RSA 511-A. Pre-judgment attachments have never been allowed in small claims actions. Until this law, pre-judgment attachment was only available in regular district court civil cases. With the increase of businesses, banks and credit card companies utilizing small claims as a collection method, this bill aids business plaintiffs, harms the citizens, and is contrary to the purpose of maintaining a simple, speedy and informal process for the resolution of disputes.

Majority Amendment (1311h)

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

AN ACT relative to post-judgment attachments to secure small claims judgments.

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

1 New Section; Attachments to Secure Small Claims Judgments. Amend RSA 503 by inserting after section 11 the following new section:

503:12 Post-Judgment Attachment and Execution.

I. Attachments and levies of execution on personal property and real estate may be made on judgments in small claims actions in district courts as provided in RSA 511, RSA 528 and RSA 529.

II. A judgment entered in accordance with this chapter may be secured by real estate by recording or re-recording, at any time during the duration of the judgment, a certified copy of the judgment with the registry of deeds of the county in which the real estate is located.

III. When a small claims judgment secured by real estate is satisfied, the plaintiff or his or her attorney shall deliver to the defendant or owner of the encumbered real estate a discharge thereof. The defendant or owner shall cause the discharge to be recorded and shall pay the register of deeds the recording fee established pursuant to RSA 478:17-g. The failure of the plaintiff to comply with the provisions of this paragraph shall be a violation.

IV.(a) If such plaintiff fails to deliver such discharge of a satisfied small claims judgment within 30 days from receipt of a request to deliver such discharge, or if other exigent circumstances require an immediate discharge, such discharge may be issued by the clerk of the court in which the judgment was rendered upon presentation of proof that the judgment has been paid in full, in the form of either a bank check, a certified check, an attorney's client funds account check which bears no indication of a stop payment order or return for insufficient funds, or by other equivalent documentary evidence of such receipt of payment.

(b) The discharge shall include the names and addresses of the plaintiff and the defendant, the date and amount of the judgment, the name of the underlying case, and the book and page of recording of the attachment.

(c) The discharge, when recorded, shall constitute a complete discharge of the small claims judgment and a release of the lien created by the recording of the small claims judgment.

(d) Any person who induces a clerk of court to execute a discharge in accordance with this paragraph, on the basis of information and statements known to the person to be false, shall be guilty of a class B misdemeanor.

2 Attachable Property; Availability of Prejudgment Attachment. Amend RSA 503:3-c to read as follows:

503:3-c **Prejudgment** Attachment Process. The **prejudgment** attachment process under RSA [511] **511-A** shall apply to ~~judgments obtained in~~ small claims actions.

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

AMENDED ANALYSIS

This bill establishes a procedure for post-judgment attachments to secure small claims judgments.

Majority committee amendment adopted.

Rep. Rowe offered floor amendment (1736h).

Floor Amendment (1736h)

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

AN ACT relative to post-judgment attachments to secure small claims judgments.

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

1 New Section; Attachments to Secure Small Claims Judgments. Amend RSA 503 by inserting after section 11 the following new section:

503:12 Post-Judgment Attachment and Execution.

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II. A judgment entered in accordance with this chapter may be secured by real estate by recording or re-recording, at any time during the duration of the judgment, a certified copy of the judgment with the registry of deeds of the county in which the real estate is located.

III. When a small claims judgment secured by real estate is satisfied, the plaintiff or his or her attorney shall deliver to the defendant or owner of the encumbered real estate a discharge thereof. The defendant or owner shall cause the discharge to be recorded and shall pay the register of deeds the recording fee established pursuant to RSA 478:17-g. The failure of the plaintiff to comply with the provisions of this paragraph shall be a violation.

IV.(a) If such plaintiff fails to deliver such discharge of a satisfied small claims judgment within 30 days from receipt of a request to deliver such discharge, or if other exigent circumstances require an immediate discharge, such discharge may be issued by the clerk of the court in which the judgment was rendered upon presentation of proof that the judgment has been paid in full, in the form of either a bank check, a certified check, an attorney's client funds account check which bears no indication of a stop payment order or return for insufficient funds, or by other equivalent documentary evidence of such receipt of payment.

(b) The discharge shall include the names and addresses of the plaintiff and the defendant, the date and amount of the judgment, the name of the underlying case, and the book and page of recording of the attachment.

(c) The discharge, when recorded, shall constitute a complete discharge of the small claims judgment and a release of the lien created by the recording of the small claims judgment.

(d) Any person who induces a clerk of court to execute a discharge in accordance with this paragraph, on the basis of information and statements known to the person to be false, shall be guilty of a class B misdemeanor.

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

AMENDED ANALYSIS

This bill establishes a procedure for post-judgment attachments to secure small claims judgments.

Rep. Rowe spoke in favor and yielded to questions.

Rep. Weber spoke against.

On a division vote, 120 members having voted in the affirmative and 154 in the negative, floor amendment (1736h) failed.

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

Rep. Rowe spoke against.

Rep. Sorg spoke in favor and yielded to questions.

On a division vote, 170 members having voted in the affirmative and 104 in the negative, the majority committee report was adopted.

Ordered to third reading.

SB 350-FN, extending the surcharge on probate court entry fees to judicial branch family division cases which would previously have been brought in probate court. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Lucy M. Weber for the Majority of Judiciary: The sum of \$5 is currently added to the entry fee for probate cases. The fee supports the mediation and arbitration fund. At the time the fee was enacted, the promise was to make the office of mediation and arbitration

self funding. Certain cases which, at that time, were heard in probate court have now been transferred to the family court. This bill would reestablish the fee on those cases which were originally subject to the fee, but which were no longer subject to the fee once they were transferred to the family court. Based on one year's filings, 684 cases would be affected: 135 adoptions, 538 guardianships, and 11 name changes, for a total addition to the fund of \$3420 annually. Vote 14-4.

Rep. Nancy J. Elliott for the Minority of Judiciary: This bill adds a new fee to the judicial branch family division court. While only a few cases in the court will be subject to the fee at this time, this is an expansion of mediation fees. Additionally the minority believe that a fee is just another name for a tax.

Majority committee report adopted and ordered to third reading.

SB 378, authorizing the supreme court to establish a business and commercial dispute docket in the superior court. **OUGHT TO PASS.**

Rep. Lucy M. Weber for Judiciary: This bill would create a docket for business and commercial cases within the existing superior court. The purpose is to create a forum in which cases which would benefit from specialized knowledge of complicated business transactions would be heard. The bill provides that the amount in controversy must be more than \$50,000, and both parties must be either business entities or individuals engaging in business enterprises. Both parties to the case must agree to place the case on the business docket. The presiding judge would be an associate justice of the superior court, and would be appointed by the governor with the consent of the executive council. Additional business court judges, if needed, would be designated by the chief justice of the superior court. As the bill does not create any new superior court judgeships, the business court judges would have to come from the ranks of the existing judges. In the event a business court judge was not fully occupied with the business docket, he or she would be available to hear other superior court matters. The judicial branch anticipated no significant fiscal impact from the bill.

Vote 12-6.

Committee report adopted and ordered to third reading.

SB 487, clarifying the law regarding bail pending appeal. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Gregory M. Sorg for Judiciary: This bill was requested by the judicial branch to make a technical change to subsection III of the section of the bail statute (RSA 597:1-a) that authorizes the trial judge to consider the grant of bail to a defendant pending appeal of his or her felony criminal conviction. As presently codified, subsection III requires that the appeal has been filed before the grant of bail may be considered. Since there is almost always a significant delay between the time of imposition of sentence and the time an appeal is filed, the bill, as amended, authorizes the judge to consider the grant of bail immediately following imposition of sentence, provided that the defendant has made what the judge determines is a good faith representation that he or she shall file a timely appeal. As amended, the bill also makes non-substantive revisions to subsection III in order to make it clearer and more concise. Vote 15-3.

Amendment (1331h)

Amend the bill by replacing section 1 with the following:

1 Bail and Recognizances; Release or Detention of Defendant Pending Sentence or Appeal. RSA 597:1-a, III is repealed and reenacted to read as follows:

III.(a) The court shall order that a person found guilty of a felony and sentenced to a term of imprisonment and who has made a good faith representation that he or she shall file a timely appeal be detained, unless the person establishes and the court finds:

(1) By clear and convincing evidence, taking into consideration the nature of the crime and the length of the sentence imposed, that the person is not likely to fail to

appear to answer the judgment following the conclusion of the appellate proceeding, or to pose a danger to himself or herself or to any other person or the community, or to intimidate witnesses, or otherwise to interfere with the administration of justice; and

(2) By a preponderance of the evidence that the appeal will not likely be frivolous or taken merely for delay.

(b) Upon making the findings specified in subparagraph (a), the court shall order the release of the person in accordance with the provisions of RSA 597:2.

AMENDED ANALYSIS

This bill clarifies the law regarding bail pending appeal.
Amendment adopted.

Committee report adopted and ordered to third reading.

CLERK'S NOTE

When less than two-thirds of the elected membership is present, Part II, Article 20 of the state constitution requires the assent of two-thirds of those present and voting to render their acts and proceedings valid.

REGULAR CALENDAR (CONT'D)

SB 358, relative to mooring permits. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. Susan R. Kepner for the Majority of Resources, Recreation and Development: This is the third time that legislation has been introduced to allow lakes smaller than the "big six" to participate in the same mooring permit program. This bill provides that if 25 individuals on a water body petition the department of safety to consider instituting the mooring program, the department will hold a public hearing and evaluate the proposal based on nine conditions. Should the department decide the water body is eligible, the number of moorings to be allowed will be determined and a permit system instituted. The amendment details conditions under which owners of property abutting a part of a water body that is cut off from the main body of water by a man made structure will have the same privileges enjoyed by owners on the main body. The majority believes that the proliferation of boats on our lakes and great ponds calls for more care to be taken in the number, placement and maintenance of moorings. The mooring program does not reduce access to moorings by non-shoreland property owners. Nor does this bill mean that every lake that requests the mooring program will be approved. Criteria specified in the bill should eliminate the need for every lake to come to the legislature individually. Vote 11-6.

Rep. Chris Christensen for the Minority of Resources, Recreation and Development: The minority of the committee's concerns were that this bill would negatively impact public access, and that elected officials, not one individual in the executive branch, should have such authority. Testimony in favor of the bill was based on safety and navigation concerns. The department of safety stated that it already has authority to handle both of these issues, but that these are rarely complaints that require action. Despite the failure of several related bills in the recent past, the minority believes that the situation should be re-examined in view of increased boat registration and increased desires for public access to our public waters.

Majority Amendment (1605h)

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

1 New Section; Mooring of Boats on Public Waters; Petitions to Require Permits; Hearings. Amend RSA 270 by inserting after section 61 the following new section:
270:61-a Petitions to Require Permits; Hearings.

I. The commissioner of safety shall, after receiving a petition signed by 25 or more residents or property owners of each affected town or towns in which a lake, pond, or river is

located and after notice and hearing at which it appears that the public interest requires the use of mooring permits, amend the rules adopted under this subdivision to require mooring permits on the body of water. The provisions of this subdivision and associated rules shall then apply to such water body.

II. The commissioner of safety shall hold a public hearing to determine whether to grant a petition submitted under paragraph I. In determining whether to grant the petition, the commissioner shall take into consideration the following factors:

- (a) The size of the body of water.
- (b) Public safety.
- (c) The maintenance of residential, recreational, and scenic values.
- (d) The variety of uses of the body of water.
- (e) The environment and water quality.
- (f) Threatened and endangered species.
- (g) The number of people affected, either directly or indirectly.
- (h) The availability of moorings to the non-shorefront owning public.

III. The commissioner of safety shall schedule the public hearing at a date and time which provides interested individuals with sufficient notice, and at a location in the vicinity of the body of water under consideration. If mooring permits are required under this section, the effective date of such requirement shall be no earlier than October 1 of any given year.

2 New Paragraph; Mooring Permit Required; Limitations. Amend RSA 270:61 by inserting after paragraph VI the following new paragraph:

VII. An owner of shorefront property separated from the main water body by a manmade structure shall be granted a permit for a mooring on the main body of water if the need for the mooring is established and if the conditions of RSA 270:64, I are met.

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

Rep. Brueggemann yielded to questions.

Majority committee amendment adopted by the necessary two-thirds.

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

On a division vote, 188 members having voted in the affirmative and 72 in the negative, the majority committee report was adopted by the necessary two-thirds.

Ordered to third reading.

Rep. Stephanie Eaton did not vote and notified the Clerk that she wished to be recorded against.

BILL REMOVED FROM THE CONSENT CALENDAR

SB 468, relative to the reinsurance pool and the New Hampshire vaccine association.

OUGHT TO PASS WITH AMENDMENT.

Rep. Stephen T. DeStefano for Commerce: The amendment replaces the entire bill after the enacting clause. This bill now does the following: 1- Requires government plans to participate in the assessment base going forward (and not retroactively) for the vaccine association and the high risk pool. 2 - The government plan will be out of the assessment base that funds the excess losses of the small employer reinsurance pool. 3- Foreign health insurers writing in New Hampshire are included in the assessment base that funds the vaccine association, and this inclusion is both prospective and retrospective. 4- This bill winds down the small employer reinsurance pool by ending the ceding of lives by June 30, 2008; coverage will end by December 31, 2008; no claims may be reported after December 31, 2010 and lives ceded after January 1, 2008 may be de-pooled at the option of the ceding carrier. 5- Gives the NH insurance department the authority to audit the assessment base for the three pools to ensure full participation. Vote 17-0.

Amendment (1478h)

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

1 New Hampshire Vaccine Association. Amend RSA 126-Q:3, V(k) to read as follows:

(k) Submit an annual report to the commissioner of insurance ~~[listing those licensed insurers that failed to remit their assessments]~~, ***in a manner and form determined by the commissioner, listing the association membership base, providing a count of covered lives by member, identifying changes in association membership and covered lives, describing the collection of assessments, listing payment delinquencies, and containing such other related information as the commissioner may require.***

2 New Paragraph; New Hampshire Vaccine Association. Amend RSA 126-Q:5 by inserting after paragraph I the following new paragraph:

I-a. The insurance commissioner shall annually review the report required under RSA 126-Q:3, V(k) on association membership, covered lives, and the payment of assessments to ensure that all insurers that should be members of the association are participating in the association and that all association members have accurately reported covered lives and paid the proper assessment. The association shall remedy any problem identified by the commissioner with respect to membership in the association, reporting of covered lives, or payment of the assessment.

3 Individual Health Insurance; Definitions. Amend RSA 404-G:2, V(d) to read as follows:

(d) Protected, in part, by a group excess loss insurance policy where the policy or certificate of coverage has been issued or delivered in New Hampshire~~[-and where coverage has been purchased by a group health insurance plan subject to the Employee Retirement Income Security Act of 1974, Public Law No. 93-406 (ERISA)].~~

4 Individual Health Insurance. Amend RSA 404-G:2, VII to read as follows:

VII. "Health insurance" means health insurance coverage issued in accordance with RSA 415, 420-A, or 420-B. For the purposes of this chapter, health insurance shall not include accident only, credit, dental, vision, Medicare supplement, Medicare Risk, Medicare+Choice, Managed Medicaid, long-term care, disability income, coverage issued as a supplement to a liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, policies or certificates of specified disease, hospital confinement indemnity, limited benefit health insurance ~~[or short-term, nonrenewable individual health insurance]~~, coverage provided through the New Hampshire healthy kids association, and coverage provided through the Federal Employees' Program. ~~[Nonprofit health service corporations shall exclude coverage provided through national account policies originating outside of New Hampshire to the extent the nonprofit health service corporation assumes no risk for the provision of such insurance.]~~ Health insurance does include group excess loss insurance.

5 New Section; Report Required. Amend RSA 404-G by inserting after section 4 the following new section:

404-G:4-a Report Required. The association shall submit an annual report to the commissioner, in a manner and form determined by the commissioner, listing the association membership base, providing a count of covered lives by member, identifying changes in association membership and covered lives, describing the collection of assessments, listing payment delinquencies, and containing such other related information as the commissioner may require.

6 New Paragraph; Individual Health Insurance; Commissioner's Powers. Amend RSA 404-G:6 by inserting after paragraph I the following new paragraph:

I-a. The commissioner shall annually review the report required under RSA 404-G:4-a on association membership, covered lives, and the payment of assessments to ensure that all insurers that should be members of the association are participating in the association and that all association members have accurately reported covered lives and paid the proper assessment. The association shall remedy any problem identified by the

commissioner with respect to membership in the association, reporting of covered lives, or payment of the assessment.

7 Reinsurance. Amend RSA 420-K:1, IV to read as follows:

IV. "Covered lives" ~~[means "covered lives" as defined in RSA 404-G: 2, V.]~~ ***shall include all persons who are:***

(a) Covered under an individual health insurance policy issued or delivered in New Hampshire.

(b) Covered under a group health insurance policy that is issued or delivered in New Hampshire.

(c) Covered under a group health insurance policy evidenced by a certificate of insurance that is issued or delivered in New Hampshire.

(d) Protected, in part, by a group excess loss insurance policy where the policy or certificate of coverage has been issued or delivered in New Hampshire, and where coverage has been purchased by a group health insurance plan subject to the Employee Retirement Income Security Act of 1974, Public Law No. 93-406 (ERISA).

8 Reinsurance Pool; Coverage Terminated. Amend the introductory paragraph of RSA 420-K:5 to read as follows:

Beginning January 1, 2006 ***and ending June 30, 2008***, members may reinsure with the pool health coverage provided to small employers as follows:

9 New Paragraphs; Reinsurance Program. Amend RSA 420-K:5 by inserting after paragraph X the following new paragraphs:

XI. Reinsurance coverage under this chapter shall terminate on December 31, 2008. Reinsurance shall be provided only for covered claims submitted within 2 years from the date the expenses on which the claim is based were incurred.

XII. A member who reinsured an eligible employee or dependent with an initial coverage date or anniversary date on or after January 1, 2008 may elect to terminate coverage for the eligible employee or dependent retroactive to the applicable initial coverage date or anniversary data occurring on or after January 1, 2008. These elections shall be made no later than July 1, 2008. The pool shall reimburse the member for the premium paid on behalf of the eligible employee or eligible dependent and the member shall reimburse the pool for any claims paid by the pool on behalf of the eligible employee or eligible dependent.

10 New Paragraph; Reinsurance Program. Amend RSA 420-K:6 by inserting after paragraph III the following new paragraph:

IV. The board shall have the authority to continue to impose and collect assessments pursuant to this section until the obligations of the pool have been satisfied in full. The board shall submit an annual report to the commissioner, in a manner and form determined by the commissioner, listing the association membership base, providing a count of covered lives by member, identifying changes in association membership, and covered lives, describing the collection of assessments, listing payment delinquencies, and containing such other related information as the commissioner may require. The commissioner shall annually review the report on association membership, covered lives, and the payment of assessments to ensure that all insurers that should be members of the association are participating in the association and that all association members have accurately reported covered lives and paid the proper assessment. The board shall remedy any problem identified by the commissioner with respect to membership in the association, reporting of covered lives, or payment of the assessment.

11 Statement of Purpose. The purpose of sections 12 through 17 of this act is to clarify the original legislative intent in establishing the New Hampshire vaccine association and to ratify the manner in which the New Hampshire vaccine association has administered assessments with respect to foreign writers of health insurance. The provisions in these sections clarify that all writers of health insurance are members of the New Hampshire vaccine association, whether domestic or foreign. As members of the New Hampshire vaccine association, foreign writers of health insurance are entitled to vote for board

representation and are subject to the assessment. Since its creation in 2002, foreign writers of health insurance have been treated as members of the New Hampshire vaccine association and have paid the assessment.

12 New Hampshire Vaccine Association; Reference Deletion. Amend RSA 126-Q:3, I to read as follows:

I. The New Hampshire vaccine association shall be comprised of all ~~licensed~~ insurers currently writing or maintaining health insurance in New Hampshire.

13 New Hampshire Vaccine Association; Reference Deletion. Amend RSA 126-Q:3, III(a) to read as follows:

(a) Three representatives selected from the ~~licensed~~ insurers **currently writing or maintaining health insurance in New Hampshire and** having the most covered lives in New Hampshire.

14 New Hampshire Vaccine Association; Reference Deletion. Amend RSA 126-Q:3, V(j) to read as follows:

(j) Notify, in writing, each ~~licensed~~ insurer of the insurer's assessment by November 15 of each year.

15 New Hampshire Vaccine Association; Reference Deletion. Amend RSA 126-Q:4, IV to read as follows:

IV. Each ~~licensed~~ insurer **writing or maintaining health insurance in New Hampshire** shall be assessed in proportion to the number of its covered lives.

16 New Hampshire Vaccine Association; Reference Deletion. Amend RSA 126-Q:5, I to read as follows:

I. The commissioner of insurance shall fine any ~~licensed~~ insurer that fails to pay an assessment within 6 months of notification under RSA 126-Q:3, V(j). The fine shall be at least \$5,000 and no more than 125 percent of the amount of the delinquent assessment. Fines so levied shall be deposited with the state treasurer to the credit of the vaccine purchase fund established pursuant to RSA 141-C:17-a.

17 Repeal. RSA 126-Q:1, VI, relative to the definition of "licensed insurer," is repealed.

18 Effective Date. This act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill terminates reinsurance coverage through the New Hampshire small employer reinsurance pool. The bill includes government plans and non-domestic insurers writing health insurance in New Hampshire in the assessment base that funds part of the costs of the New Hampshire vaccine association and the New Hampshire health plan. The bill also gives the insurance commissioner authority to annually review assessment activity related to the New Hampshire vaccine association, the New Hampshire small employer reinsurance pool, and the New Hampshire health plan to ensure that all members that should be assessed have reported and paid the proper assessment.

Amendment adopted by the necessary two-thirds.

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

Rep. Infantine spoke against.

Committee report adopted by the necessary two-thirds.

Ordered to third reading.

RESOLUTION

Rep. Wallner 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 Wednesday, May 14, 2008 at 10:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 301-FN, requiring insurers to cover prescriptions for durable medical equipment filled near the patient's residence.

SB 475, relative to the definition of advance fees in the real estate practice act.

SB 212-FN, relative to the regulation of home inspectors.

SB 346-FN, relative to the regulation of fuel gas fitters by the state fire marshal.

SB 499-FN, relative to penalties for unauthorized disclosure of confidential matters in legislative ethics proceedings.

SB 500-FN, relative to certain insurance fraud, relative to workers' compensation for employee leasing companies, and establishing a task force on employee misclassification.

SB 418, replacing references to "charter school" with "chartered public school".

SB 459, establishing an advanced manufacturing education advisory council.

SB 538, relative to the community college system of New Hampshire board of trustees and repealing a motor vehicle regulation statute applicable to the community college system.

SB 467, relative to taking lobsters and crabs.

SB 480, repealing a requirement that the fish and game department publish certain hunting season information in newspapers in each county.

SB 395, establishing a commission to review New Hampshire's statutes on human immunodeficiency virus education, prevention, and control.

SB 450, requiring the New Hampshire Citizens Health Initiative to provide an annual summary to the general court.

SB 454, relative to certain changes to the controlled drug act.

SB 496, establishing a commission to study incentives for providers of home and community-based care.

SCR 6, urging the federal government to create a simplified process for short-term admissions to nursing homes for the purpose of respite care.

SCR 11, supporting the application of Taiwan for observer status at the World Health Organization.

SJR 1, prohibiting the department of health and human services from adopting proposed administrative rule He-P 1906.02.

SB 445, changing the procedure for recommending persons for initial appointment as marital masters.

SB 352-FN, relative to shoreland protection.

SCR 7, urging the United States Department of Defense and Congress to restore full services to the Manchester Veterans Administration Hospital.

SB 413, authorizing the department of resources and economic development to retain the administrative fee for certain disposals of state lands.

SB 439, relative to money transmitters and mortgage servicing companies.

SB 312-FN, relative to insurance coverage for obesity and morbid obesity.

SB 394, establishing an economic development advisory council.

SB 426, establishing a committee to study the current definition of the term "community benefit" applicable to nonprofit health care providers.

SB 540-FN, relative to New Hampshire HealthFirst, an affordable, wellness-based health insurance plan for small employers.

SB 415, relative to the effective date of the compulsory school attendance law.

SB 530-FN-A-L, relative to kindergarten aid.

SB 539-FN-L, relative to the cost of an adequate education and provision of fiscal capacity disparity aid.

SB 264, relative to creating liens on personal and real property to recover uncollected small claims judgments.

SB 350-FN, extending the surcharge on probate court entry fees to judicial branch family

division cases which would previously have been brought in probate court.

SB 378, authorizing the supreme court to establish a business and commercial dispute docket in the superior court.

SB 487, clarifying the law regarding bail pending appeal.

SB 358, relative to mooring permits.

SB 468, relative to the reinsurance pool and the New Hampshire vaccine association.

(Speaker Norelli in the Chair)

PERSONAL PRIVILEGE

Rep. Larry Brown addressed the House.

MOTION TO PRINT REMARKS

Rep. Vaillancourt moved that the remarks made by Rep. Larry Brown be printed in the Permanent Journal.

Adopted.

REMARKS

Rep. Larry Brown: Thank you, Madam Speaker. And, you wondered what you were going to do while we waited for the Finance committee. This is, after discussion with the Clerk, exactly personal privilege. I think you will be surprised. I thank you, Madam Speaker. I rise to apologize for and correct my remarks of last week. I did not plan any personal offense. I have no offense for myself at last week's vote. I did, after all, get fifty more votes than HR 24. There are some of you who might like a variation on Voltaire, it goes as follows, "I do not agree with what you say, but I support your right to go to death for having said it." Again, no offense was intended, none was taken, the hour is late. I have an issue with the definition of vulgarity which bothers me. I will attempt to correct that when there is more time for the House.

RECESS MOTION

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

Adopted.

The House recessed at 6:15 p.m.

RECESS

(Rep. Buco in the Chair)

SENATE MESSAGES

CONCURRENCE

HB 595-FN, requiring the commissioner of the department of corrections to adopt rules establishing a policy on and procedures for an internal clemency board to review and make recommendations on requests for sentence modifications.

HB 702, relative to continued jurisdiction in child protection cases.

HB 1127, relative to determining a bargaining unit in public employee labor relations.

HB 1165, relative to department of transportation traffic control regulations.

HB 1204, relative to the number of write-in votes required to receive a party's nomination.

HB 1228, relative to sales of motor fuel by the department of transportation to certain nonprofit corporations.

HB 1234, establishing an affirmative defense to prosecution for a possession offense if a person has a lawful prescription for a controlled drug.

HB 1246, relative to insurance policy denial provisions.
HB 1305-FN-L, relative to filing for election to town offices.
HB 1349, relative to membership on the council on resources and development.
HB 1402-FN, relative to community health centers.
HB 1410, relative to youth training and employment in firefighting.
HB 1456, naming route 202 in Strafford county the Charles E. Smith Memorial Highway.
HB 1508-FN, relative to prohibited influence of voters and persons intending to vote and relative to the applicability of political advertising and push polling restrictions.
HB 1568-FN, relative to endangering the public water supply.
HB 1603-FN-A, establishing a penalty for payment of a state obligation with an invalid form of payment.
HB 1619-FN, requiring a report of the number of female inmates incarcerated in a state correctional facility receiving sex offender treatment.
HB 1633-FN, relative to the regulation of licensed alcohol and drug use counselors.
HB 1641-FN, relative to collections and refunds of road tolls.
HCR 15, commemorating the commissioning of the USS New Hampshire.

NONCONCURRENCE

HB 682, relative to guardianship of a minor.
HB 1177, relative to prohibited interests in on-premises liquor licensees.
HB 1243, amending the timeframes for involuntary civil commitment of sexually violent predators.
HB 1257, relative to license suspensions for persons operating under the influence of drugs.
HB 1258, relative to vehicle impoundment following an arrest for DWI or refusing consent to a blood alcohol test.
HB 1437, establishing a committee to study whether the state of New Hampshire shall establish a policy that victims of negligent or intentional tortious acts shall recover losses incurred as a result of such acts.
HB 1623-FN, relative to the penalty for possession of marijuana.

REFERRED FOR INTERIM STUDY

HB 632-FN, relative to the penalty for death resulting from the trafficking of controlled drugs.
HB 686-FN, relative to the regulation of remotely readable devices and the illegal use of payment card scanning devices or reencoders.
HB 1526, relative to the use of images of New Hampshire residents who died in the line of duty.
HB 1576-FN, relative to the employment of veterans on Veterans' Day.
HB 1583-FN, requiring the bureau of emergency communications to develop and maintain a statewide emergency notification system.
HB 1590-FN, establishing a DWI victim fatality sign program.

LAIID ON THE TABLE

HB 683, relative to nominations by party committees.
HB 1340, relative to the special account of the judicial retirement system.

ENROLLED BILL AMENDMENTS

SB 311-FN, extending the statute of limitations for civil actions based upon a sexual assault case. (Amendment printed SJ 5-15-08)
Adopted.

HB 1129, relative to special number plates for municipal police department vehicles.

Amendment (1696-EBA)

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

2 Special Number Plates. Amend RSA 261:91 to read as follows:

261:91 Special Number Plates. Upon payment of the motor vehicle registration fee, if any, the director shall issue and shall designate a special plate, to be affixed to the vehicle of the county sheriffs, deputy sheriffs, members of the national guard, active duty members of the armed forces, justices of the supreme and superior courts, and vehicles of state police and motor vehicle divisions **and municipal police departments**. The special plates shall have the state motto, "Live Free or Die," written on them and shall be issued with no number plate fee being charged to the state other than for those plates furnished to the state police and motor vehicle divisions. Special number plates issued to members of the national guard, active duty members of the armed forces, and justices of the supreme and superior courts may be attached only to vehicles registered in the name of the person issued the plates. Special plates for active duty members of the armed forces shall be distinct from special number plates for veterans.

3 Contingency. If SB 303 of the 2008 legislative session becomes law, section 2 of this act shall take effect 60 days after its passage and section 1 of this act shall not take effect. If SB 303 of the 2008 legislative session does not become law, section 2 of this act shall not take effect and section 1 of this act shall take effect 60 days after its passage.

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect as provided in section 3 of this act.

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

Adopted.

RECESS

(Rep. Foster in the Chair)

SENATE MESSAGES

CONCURRENCE

HB 436, expanding employee freedom of expression to all public employees.

HB 837, relative to easement interests under the land and community heritage investment program.

HB 1206, relative to park and ride facilities.

HB 1207, relative to standards for highway and bridge construction.

HB 1286-FN, relative to the licensing of mortgage bankers, mortgage brokers, and mortgage originators.

HB 1290-L, establishing a committee to study insurance coverage and related issues for children required to do community service.

HB 1376, relative to insurance penalties.

HB 1408-L, relative to the right-to-know law.

HB 1466, relative to the inventory fund in the department of safety and relative to the costs and production of number plates.

HB 1516-FN, relative to the divestiture of New Hampshire retirement assets relating to Sudan.

HB 1521-L, relative to Franklin Highway in the town of Andover.

HB 1537, relative to the definition of milk.

HB 1636, relative to automotive recycling.

HB 1647-FN-A, relative to demand response program revenue.

HB 1649-FN-L, relative to the Medicaid long-term care eligibility determination process.

NONCONCURRENCE

HB 730, increasing the maximum fine for speeding in a highway construction or maintenance zone.

HB 1197, relative to liquor advertising.

HB 1254, relative to the ability of towns to regulate the storage of deicing chemicals.

HB 1595-FN, relative to driver's license renewals by persons engaged in overseas government service.

REFERRED FOR INTERIM STUDY

HB 1496-FN, establishing motor vehicle learners' permits and relative to youth operators' licenses.

HB 1554-FN, relative to challenges of voters.

LAID ON THE TABLE

HB 1133, relative to the age of majority for purposes of pornography-related offenses.

HB 1442-FN-A-L, relative to the taxation of farm buildings and land under farm buildings.

HB 1509-FN-A, establishing certain fees for operators of games of chance for the purpose of funding the education trust fund.

HB 1561, establishing an energy conservation and efficiency board.

HB 1579-FN, establishing a commission to study issues relating to land development and land development regulation in New Hampshire.

HB 1613-FN, making changes to certain statutes relating to crimes against children.

CONCURRENCE WITH AMENDMENTS

SB 352-FN, relative to shoreland protection.

SB 539-FN-L, relative to the cost of an adequate education and provision of fiscal capacity disparity aid.

SB 540-FN, relative to New Hampshire HealthFirst, an affordable, wellness-based health insurance plan for small employers.

ENROLLED BILL AMENDMENTS

HB 173-FN-A, relative to the promotion, acquisition, and retention of a large animal veterinarian in those areas of the state where there is a need, and making an appropriation therefor.

Amendment (1648-EBA)

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

AN ACT relative to the promotion, acquisition, and retention of large animal veterinarians in those areas of the state where there is a need, and making an appropriation therefor.

Amend RSA 200-J:5 as inserted by section 1 of the bill by replacing line 6 with the following: veterinary medicine in each year in which a net tuition repayment is made. In this subdivision, "net tuition" means

Adopted.

HB 295, relative to fuel quality standards and testing requirements for combustion of biomass and biomass fuel and clarifying a definition of provider of electricity.

Amendment (1699-EBA)

Amend RSA 362-F:2, XIV as inserted by section 5 of the bill by replacing line 2 with the

following:

electricity supplier as defined in RSA 374-F:2, II, ***but does not include municipal suppliers.***

Adopted.

HB 1533, relative to the office of the state treasurer.

Amendment (1545-EBA)

Amend section 1 by replacing line 1 with the following:

1 State Treasurer. Amend RSA 6:3 to read as follows:

Amend the bill by inserting after section 1 the following and renumbering the original sections 2-34 to read as 3-35, respectively:

2 State Treasurer and State Accounts. Amend RSA 6:4 - 6:7 to read as follows:

Amend RSA 6:6 as inserted by section 2 of the bill by replacing lines 1 and 2 with the following:

6:6 Destruction of Documents. The state treasurer may destroy documents, cancelled checks, ~~and~~ papers, ***and electronic records*** filed in ~~his~~ ***the*** office ~~[at the end of 7 years from~~

Amend RSA 260:60 as inserted by section 23 of the bill by replacing line 8 with the following: administrator shall report the same to the ~~[state treasurer]~~ ***comptroller*** who shall, on July 1, next

Amend RSA 260:61, I as inserted by section 24 of the bill by replacing line 1 with the following:

I. Annually, on or before June 30, the ~~[state treasurer]~~ ***comptroller*** shall transfer, from

Adopted.

RECESS