

HOUSE RECORD

Second Year of the 161st General Court Calendar and Journal of the 2010 Session

Vol. 32

Concord, N.H.

Thursday, May 13, 2010

No. 42

HOUSE JOURNAL No. 18 (cont.)

Wednesday, May 12, 2010

RECESS

Rep. Wallner moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 19

Thursday, May 13, 2010

The House assembled at 9:30 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, Reverend Jared Rardin, Pastor of the South Congregational Church in Concord.

The following is an anonymous 20th century Lutheran French prayer based on the phrase, "Lord, when did we see you hungry?"

I was hungry and you were flying around the moon.

I was hungry and you told me to wait.

I was hungry and you formed a committee.

I was hungry and you talked about other things.

I was hungry and you told me there is no reason.

I was hungry and you had bills to pay for weapons.

I was hungry and you told me machines do that kind of work now.

I was hungry and you said there are always poor people.

I was hungry and you said my ancestors were hungry too.

I was hungry and you said that after age 50 no one will hire you.

I was hungry and you said God helps those in need.
I was hungry and you said stop by again tomorrow.
Gracious God, in our work today, give us ears to hear the many hungers of those we serve.
Even in these tight financial times, may no one have to come by again tomorrow. Amen.

Representative Dennis Reed, member from Franklin, led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. Belanger, Bishop, Boisvert, Cali-Pitts, Clemons, Hebert, Hinkle, Lisle, Maybeck and Pellegrino, the day, illness.

Reps. Beauchamp, Beaulieu, Bridle, Bulis, Carlson, Caron, Coffey, Dowling, Eaton, Farley, James Garrity, Hagan, Hutz, Ingbretson, Lewis, Messier, Millham, Nevins, Pepino, Reeve, Rhodes, Herbert Richardson, Sanders, Scala, Silva, Timothy Soucy, Thomas, Veazey, Carol Williams and Burton Williams, the day, important business.

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

INTRODUCTION OF GUESTS

Hon. Brenda Ferland, former member of the House from Charleston, Dale and Dori Tharp, guests of Rep. Rodeschin. Students from Northwood Elementary School, guests of the Rockingham County, District 1 delegation.

Sean Hogan, grandson of Rep. Hogan and James Muller, students from Nashua High School North, Pages for the day.

INTRODUCTION OF SPECIAL GUESTS

Members of the Londonderry High School Marching Band, who have been selected to march in the Tournament of Roses Parade: Dana Beyer, Sarita Beyer, Lauren Bolles, Brandon Cardwell and Michelle Mayer with their director of music, Andy Soucy. They were accompanied by Jeffrey L. Throop, President and Chairman of the Board for the Pasadena Tournament of Roses.

REGULAR CALENDAR – SPECIAL ORDERS

SB 353-FN, relative to the procedure for administration of insolvent estates. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Gary B. Richardson for the Majority of Judiciary: This bill makes changes to the current statutory scheme for the administration of insolvent estates. Under current law, an administrator is required to petition the court to appoint commissioners who set meetings, review claims and submit a report. The fees of the commissioners are borne by the estate. If there is an objection to the report, an appeal is taken to superior court which adds another layer of cost and bureaucracy for an estate that already has insufficient assets. The bill greatly simplifies this system. The only objection to the bill expressed by the minority related to the priority of claims against the insolvent estate. The minority would place the surviving spouse and children ahead of claims for reimbursement for medical assistance, old age assistance and aid to the permanently and totally disabled. By so doing, the state would not be reimbursed anything in cases where the decedent left a spouse or children. The majority believes that this publicly funded aid provides a tremendous benefit not only to the decedent but to his or her spouse who would otherwise be legally obligated to provide the assistance. If the decedent has assets remaining after death, these public funds should be repaid so they will be available for other needy families. Vote 12-6.

Rep. William L. O'Brien for the Minority of Judiciary: The bill presents a choice between families and the state. If you believe the financial well-being of a decedent's widow and

children is a more important consideration than priority recovery by the state of medical assistance aid given the decedent, then you will oppose this bill. If, on the other hand, the state getting back every dollar it extends in financial aid to a deceased is more significant to you than making sure the surviving spouse and children have priority claims, then you will support SB 353. This choice results from the bill omitting the reference in statute to spouses and children having any priority claim against the estate of a decedent and substituting for them claims of the department of health and human services. Once again, we who say we are “For the Children” or that we promote “Family Values” can choose or not to place the state ahead of children and families.

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

Rep. William O’Brien spoke against.

Rep. Gary Richardson spoke in favor and yielded to questions.

Rep. William O’Brien requested a roll call; sufficiently seconded.

YEAS 170 NAYS 116

YEAS 170

BELKNAP

Arsenault, Beth
Pilliod, James

Johnson, William

Merry, Liz

Miller, Kate

CARROLL

Bridgham, Robert

Buco, Thomas

Butler, Edward

Wiley, Susan

CHESHIRE

Allen, Peter
Carr, Daniel
Mitchell, Bonnie
Weber, Lucy

Butcher, Suzanne
Lerandeau, Alfred
Richardson, Barbara
Weed, Charles

Butterworth, Timothy
Lindsey, Steven
Robertson, Timothy

Butynski, William
Meador, David
Sad, Tara

COOS

Mears, Lucy

Merrick, Evalyn

Stohl, Eric

Theberge, Robert

GRAFTON

Aguiar, James
Ford, Susan
Laliberte, Suzanne
Pierce, David
White, Andrew

Almy, Susan
Friedrich, Carol
Mulholland, Catherine
Preston, Philip

Benn, Bernard
Gould, Franklin
Nordgren, Sharon
Smith, Suzanne

Cooney, Mary
Harding, Laurie
Pastor, Beatriz
Townsend, Charles

HILLSBOROUGH

Bergin, Peter
Cote, David
Foster, Linda
Hackel, Paul
Harvey, Suzanne
Knowles, Mary Ann
Leishman, Peter
Mack, Ron

Campbell, David
Craig, James
Garrity, Patrick
Hammond, Jill
Hodges, Kevin
Komi, Richard
Levasseur, Nickolas
Marshall, Seth

Chandlee, Shannon
Dokmo, Cynthia
Goley, Jeffrey
Hardy, Valerie
Judy, Jean
Kurk, Neal
Levesque, Melanie
Matarazzo, Anthony
Sr

Chininis, Alexis
Flurey, Joan
Gorman, Mary
Harvey, Philip
Knowles, John
LaPlante, Roland
Long, Patrick
Movsesian, Lori

O'Brien, Michael Sr
Pilotte, Maurice
Shattuck, Gilman
Walsh, Robert Jr

O'Neil, James
Rokas, Theodoros
Sullivan, Daniel
Winters, Joel

Ober, Lynne
Rosenwald, Cindy
Thompson, Robert

Ober, Russell III
Schulze, Joan
Vaillancourt, Steve

MERRIMACK

Brown, Carole
Foose, Robert
McGuire, Carol
Potter, Frances
Schuett, Dianne
Wallner, Mary Jane
Wheeler, Deborah

Clarke, Claire
French, Barbara
Osborne, Jessie
Rice, Chip
Shurtleff, Stephen
Walz, Mary Beth
Williams, Robert

Davis, Frank
Gile, Mary
Owen, Derek
Richardson, Gary
Stetson, William
Watrous, Rick
Yeaton, Charles

DeStefano, Stephen
Kelly, Sally
Porter, Margaret
Rodd, Beth
Tilton, Joy
Webb, Leigh

ROCKINGHAM

Abbott, Dennis
Casey, Kimberley
DiFruscia, Anthony
Lyons, Melissa
Nord, Susi
Reagan, John

Borden, David
Comerford, Timothy
DiPentima, Rich
Mann, Maureen
Pantelakos, Laura
Scamman, Stella

Brown, C. Pennington
Cushing, Robert
Howard, Doreen
McEachern, Paul
Pettersen, Don
Scamman, W.
Douglas Jr

Case, Frank
Day, Judith
Kepner, Susan
Moody, Marcia
Read, Robin Jr
Schlachman, Donna

Splaine, James

Webber, Carolyn

STRAFFORD

Brennan, William
Cyr, James
Kaen, Naida
Rollo, Deanna
Spang, Judith

Brown, Larry
Hofemann, Roland
Keans, Sandra
Rous, Emma
Vachon, Dennis

Browne, Brendon
Horrigan, Timothy
Lauterborn, Elaine
Schmidt, Peter
Wall, Janet

Burke, Rachel
Hubbard, Pamela
Perry, Robert
Smith, Marjorie
Watters, David

SULLIVAN

Cloutier, John
Harris, Sandra

Donovan, Thomas Jr
McClammer, Jim

Gagnon, Raymond
Skinder, Carla

Gottling, Suzanne

NAYS 116

BELKNAP

Boyce, Laurie
Russell, David

Fields, Dennis
St. Cyr, Jeffrey

Flanders, Donald
Swinford, Elaine

Nedeau, Stephen
Wendelboe, Fran

CARROLL

Ahlgren, Christopher
Patten, Betsey

Chandler, Gene
Stevens, Stanley

Fleck, Joseph
Umberger, Karen

Knox, J. David

CHESHIRE

Emerson, Susan
Parkhurst, Henry

Hunt, John
Roberts, Kris

Johnson, Jane
Sterling, Franklin Jr

Laurent, John

COOS

Rappaport, Laurence

Remick, William

Tholl, John Jr

GRAFTON

Gionet, Edmond	Ladd, Rick Jr	Ward, Brien
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HILLSBOROUGH

Batula, Peter	Beck, Catriona	Belvin, William	Boehm, Ralph
Cebrowski, John	Christensen, Chris	Daniels, Gary	Day, Russell
Doherty, Shaun	Drisko, Richard	Elliott, Nancy	Gagne, Larry
Gandia, Laura	Graham, John	Haefner, Robert	Hawkins, Ken
Hikel, John	Hinch, Richard	Hogan, Edith	Holden, Frank
Jasper, Shawn	L'Heureux, Robert	Mead, Robert	O'Brien, William
Palmer, Stephen	Peterson, Andrew	Pratt, Calvin	Price, Pamela
Renzullo, Andrew	Rowe, Robert	Ryder, Donald	Seidel, Carl
Soucy, Connie	Spaulding, Jayne	Tahir, Saghir	Ulery, Jordan
Villeneuve, Moe	Willette, Robert		

MERRIMACK

Anderson, Eric	Blankenbeker, Lynne	Hess, David	Kidder, David
Kotowski, Frank	Lockwood, Priscilla	Palfrey, David	Reed, Dennis
Smith, Todd			

ROCKINGHAM

Allen, Mary	Bailey, Clinton	Baldasaro, Alfred	Bates, David
Bettencourt, David	Charron, Gene	Crisler, Margaret	Devine, James
Elliott, Robert	Ferrante, Beverly	Fesh, Robert	Flanders, John Sr
Gleason, John	Gould, Kenneth	Griffin, Mary	Headd, James
Hoelzel, Kathleen	Ingram, Russell	Introne, Robert	Kappler, L. Mike
Katsakiores, Phyllis	Kolodziej, Walter	Major, Norman	McMahon, Charles
Packard, Sherman	Priestley, Anne	Sapareto, Frank	Sedensky, John
Stiles, Nancy	Sullivan, James	Weare, Everett	Welch, David
Weyler, Kenneth			

STRAFFORD

Brown, Julie	Groen, Warren	Twombly, James	Vita, Carol
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SULLIVAN

Cunningham, Steven	Howard, Thomas	Osgood, Joe	Rodeschin, Beverly
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and the majority committee report was adopted.
Ordered to third reading.

SB 354-FN-L, authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Lucy M. Weber for the Majority of Judiciary: This bill, a revision of HB 574, passed by this body last year but which did not become law, was brought to deal with the issue of landlords with unpaid fines for building code violations, particularly when the landlords reside outside the state. Currently, low income tenants pay high rents for terrible living conditions. Code enforcement officers are hampered in their enforcement efforts by an inability to effect service of process on out-of-state landlords. The provisions of the bill address what happens after code violations are unaddressed, and a court has entered a fine against the landlord. If the court-ordered fines remain unpaid for 45 days, a lien may be placed on the property. Even after the placing of the lien, the property owner has an

additional 120 days to pay the fine before the municipality can file a petition to foreclose the lien in superior court. There was testimony before the committee that 1) because municipal liens would be subordinate to all prior mortgages and liens, few buildings would be sold to enforce the lien and 2) liens would be effective in forcing payment when owners sell the buildings. The second part of the bill requires owners of restricted property to file a statement with the town or city clerk giving the name, address and phone number of a person within the state authorized to accept legal process on any legal proceeding related to the property. A civil penalty of \$1 000 is assessed for failure to file. The bill provides that if an out-of-state owner fails to file the required statement and fails to appear at a legal proceeding, service of process on the secretary of state creates a rebuttable presumption that service was lawful and adequate. Vote 10-7.

Rep. Robert H. Rowe for the Minority of Judiciary: The goal of this bill is laudable, namely to insure that the most needy of our citizens can live in safe and livable apartments. The minority is in full agreement with this goal. The minority is, however, concerned that this bill is a quick fix. It may have disastrous, long-term problems that will decrease the quantity of livable, low cost rental units thus exacerbating the existing problem. The bill is in two parts. The first is a notice provision. Section 2 of the bill requires the owner to notify the town or city clerk of the name, address, and telephone number of the person who is authorized to accept service on behalf of the owner. This is a reasonable requirement and allows the municipality an efficient way to communicate with the owner or the owner's agent as to building violations. Unfortunately, Section 2 goes on to provide a \$1,000 penalty if the owner does not provide this information. The minority believes that this is an excessive penalty for what may be an administrative oversight. Section 1 of the bill is the section that the minority deems excessive and one that may likely reduce the number of affordable apartments in the municipality. This section mandates attorney fees and property liens, and even foreclosure of the property if building code violations are not corrected. This penalty section is designed to have properties in violation corrected; a good objective, but one that may have an adverse result in terms of the quantity of rental units in the community. This heavy penalty hand of government may have one of two results. First, most landlords are good. They will comply with the repair request from a municipality but add the cost of the repairs to the rents. Thus rents go up, reducing the number of low rent properties available. Two, the slum lords will not care. The result will be abandoned or foreclosed properties that will reduce the values of adjoining properties. This situation is not good for the communities or the needy tenants. Last, the thrust of this bill will discourage investment in rental real estate in New Hampshire. The solution will become the problem.

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

MOTION TO DIVIDE

Rep. Rowe moved that Section 2 be divided from ***SB 354-FN-L***, authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property.

Rep. Lucy Weber spoke against.

Motion failed.

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

Rep. Rowe offered floor amendment (1975h).

Floor Amendment (1975h)

Amend RSA 540:1-b, IV as inserted by section 2 of the bill by replacing it with the following:

IV. Any owner of restricted property who violates paragraph I or II of this section shall be subject to a \$100 civil penalty for each rental unit in the restricted property.

Rep. Rowe spoke in favor.

Rep. Lucy Weber spoke against.

On a division vote, 136 members having voted in the affirmative and 163 in the negative, floor amendment (1975h) failed.

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

YEAS 162 NAYS 147

YEAS 162

BELKNAP

Arsenault, Beth
Stuart, Richard

Johnson, William

Merry, Liz

Miller, Kate

CARROLL

Bridgham, Robert

Buco, Thomas

Butler, Edward

Wiley, Susan

CHESHIRE

Allen, Peter
Carr, Daniel
Mitchell, Bonnie
Weber, Lucy

Butcher, Suzanne
Lerandeau, Alfred
Richardson, Barbara
Weed, Charles

Butterworth, Timothy
Lindsey, Steven
Robertson, Timothy

Butynski, William
Meador, David
Sad, Tara

COOS

Hatch, William

Mears, Lucy

Merrick, Evalyn

Theberge, Robert

GRAFTON

Aguiar, James
Ford, Susan
Laliberte, Suzanne
Pierce, David
Townsend, Charles

Almy, Susan
Friedrich, Carol
Mulholland, Catherine
Preston, Philip
White, Andrew

Benn, Bernard
Gould, Franklin
Nordgren, Sharon
Smith, Suzanne

Cooney, Mary
Harding, Laurie
Pastor, Beatriz
Taylor, Kathleen

HILLSBOROUGH

Baroody, Benjamin
Chase, Claudia
Flurey, Joan
Gorman, Mary
Harvey, Philip
Knowles, John
LaPlante, Roland
Long, Patrick
O'Brien, Michael Sr
Rosenwald, Cindy
Sullivan, Daniel

Beck, Catriona
Chininis, Alexis
Foster, Linda
Hackel, Paul
Harvey, Suzanne
Knowles, Mary Ann
Leishman, Peter
Mack, Ron
O'Neil, James
Ryder, Donald
Thompson, Robert

Campbell, David
Cote, David
Garrity, Patrick
Hammond, Jill
Hodges, Kevin
Komi, Richard
Levasseur, Nickolas
Marshall, Seth
Pilotte, Maurice
Schulze, Joan
Walsh, Robert Jr

Chandlee, Shannon
Craig, James
Goley, Jeffrey
Hardy, Valerie
Jeudy, Jean
Kopka, Angeline
Levesque, Melanie
Movsesian, Lori
Rokas, Theodoros
Shattuck, Gilman

MERRIMACK

Brown, Carole
French, Barbara
Owen, Derek
Richardson, Gary
Stetson, William

Clarke, Claire
Gile, Mary
Porter, Margaret
Rodd, Beth
Tilton, Joy

Davis, Frank
Kelly, Sally
Potter, Frances
Schuett, Dianne
Wallner, Mary Jane

Foose, Robert
Osborne, Jessie
Rice, Chip
Shurtleff, Stephen
Walz, Mary Beth

Watrous, Rick
Yeaton, Charles

Webb, Leigh

Wheeler, Deborah

Williams, Robert

ROCKINGHAM

Abbott, Dennis
Cushing, Robert
Kepner, Susan
Nord, Susi
Read, Robin Jr

Borden, David
Day, Judith
Mann, Maureen
Pantelakos, Laura
Schlachman, Donna

Brown, C. Pennington
DiPentima, Rich
McEachern, Paul
Petterson, Don
Splaine, James

Casey, Kimberley
Howard, Doreen
Moody, Marcia
Priestley, Anne
Webber, Carolyn

STRAFFORD

Brennan, William
Cyr, James
Kaen, Naida
Rollo, Deanna
Spang, Judith
Watters, David

Brown, Larry
Hofemann, Roland
Keans, Sandra
Rous, Emma
Sprague, Dale

Browne, Brendon
Horrigan, Timothy
Lauterborn, Elaine
Schmidt, Peter
Vachon, Dennis

Burke, Rachel
Hubbard, Pamela
Perry, Robert
Smith, Marjorie
Wall, Janet

SULLIVAN

Cloutier, John
Harris, Sandra

Donovan, Thomas Jr
Houde-Quimby,
Charlotte

Gagnon, Raymond
McClammer, Jim

Gottling, Suzanne
Skinder, Carla

NAYS 147

BELKNAP

Boyce, Laurie
Pilliod, James
Wendelboe, Fran

Fields, Dennis
Russell, David

Flanders, Donald
St. Cyr, Jeffrey

Nedeau, Stephen
Swinford, Elaine

CARROLL

Ahlgren, Christopher
Patten, Betsey

Chandler, Gene
Stevens, Stanley

Fleck, Joseph
Umberger, Karen

Knox, J. David

CHESHIRE

Emerson, Susan
Parkhurst, Henry

Hunt, John
Roberts, Kris

Johnson, Jane
Sterling, Franklin Jr

Laurent, John

COOS

Rappaport, Laurence

Remick, William

Stohl, Eric

Tholl, John Jr

GRAFTON

Gionet, Edmond

Ladd, Rick Jr

Ward, Brien

HILLSBOROUGH

Batula, Peter
Cebrowski, John
Doherty, Shaun
Emerton, Larry
Haefner, Robert

Belvin, William
Christensen, Chris
Dokmo, Cynthia
Gagne, Larry
Hawkins, Ken

Bergin, Peter
Daniels, Gary
Drisko, Richard
Gandia, Laura
Hikel, John

Boehm, Ralph
Day, Russell
Elliott, Nancy
Graham, John
Hinch, Richard

Hogan, Edith Jasper, Shawn	Holden, Frank Kurk, Neal	Holden, Rip L'Heureux, Robert	Infantine, William Matarazzo, Anthony Sr
McCarthy, Michael Ober, Russell III Price, Pamela Soucy, Connie Vaillancourt, Steve	Mead, Robert Palmer, Stephen Renzullo, Andrew Spaulding, Jayne Villeneuve, Moe	O'Brien, William Peterson, Andrew Rowe, Robert Tahir, Saghir Willette, Robert	Ober, Lynne Pratt, Calvin Seidel, Carl Ulery, Jordan Winters, Joel

MERRIMACK

Anderson, Eric Kidder, David Palfrey, David	Blankenbeker, Lynne Kotowski, Frank Reed, Dennis	DeStefano, Stephen Lockwood, Priscilla Smith, Todd	Hess, David McGuire, Carol Tupper, Frank
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ROCKINGHAM

Allen, Mary Bettencourt, David Crisler, Margaret Elliott, Robert Flanders, John Sr Headd, James Introne, Robert Kolodziej, Walter McMahon, Charles Reagan, John	Bailey, Clinton Case, Frank DeSimone, Debra Emiro, Frank Gleason, John Hoelzel, Kathleen Itse, Daniel Lyons, Melissa Packard, Sherman Sapareto, Frank	Baldasaro, Alfred Charron, Gene Devine, James Ferrante, Beverly Gould, Kenneth Hutchinson, Karen Kappler, L. Mike Major, Norman Perkins, Amy Scamman, Stella	Bates, David Comerford, Timothy DiFruscia, Anthony Fesh, Robert Griffin, Mary Ingram, Russell Katsakiores, Phyllis McKinney, Betsy Perkins, Lawrence Scamman, W. Douglas Jr Sullivan, James Wells, Roger
Sedensky, John Tucker, Pamela Weyler, Kenneth	Smith, William Weare, Everett	Stiles, Nancy Welch, David	

STRAFFORD

Brown, Julie	Groen, Warren	Twombly, James	Vita, Carol
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SULLIVAN

Cunningham, Steven and the majority committee report was adopted. Ordered to third reading.	Howard, Thomas	Osgood, Joe	Rodeschin, Beverly
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SB 431, relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking. **MAJORITY: OUGHT TO PASS WITH AMENDMENT.**

MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Lucy M. Weber for the Majority of Judiciary: Currently, owners of restricted rental property who wish to evict a tenant who is abusing family members must evict not only the abuser, but also the victim of the abuse and the children as well. This often results in the victim and children becoming homeless at a time of great stress. This bill protects victims of domestic violence, sexual assault or stalking who have a valid protective order by providing that they cannot be evicted solely because of the domestic violence or stalking. It allows the landlord to evict the abuser, thus providing stability and continuity to the victim and children who may remain in the rental unit. Landlords expressed a number of concerns with the bill as passed by the Senate. The amendment addressed many of these concerns. Landlords were concerned that tenants might allege domestic violence to avoid eviction for non-payment of rent. Language has been added to make it clear that a landlord may always evict for failure to pay rent, whether there is an abusive situation or not. As to any other

reason for eviction, the victim would have to show that they have a valid protective order and that the reason for the eviction (for example, noise or property damage) is related solely to domestic violence to retain possession of the rental unit. The bill provides that, once the abuser is evicted, the landlord can then change the locks at the request and expense of the remaining tenant. The landlord may also bar the evicted person from the premises, and any further entry by the evicted person would constitute trespass. Vote 11-7.

Rep. William L. O'Brien for the Minority of Judiciary: This is a bill that seeks to achieve a worthy goal, but does so in a flawed manner. The first problem is that the language of the bill and the committee amendment appears to inadvertently give rise to an independent basis for an eviction – being a victim of domestic violence – and then places on the tenant the burden of defending that grounds by showing she has a protective order. The second flaw is that a court could order a tenant to leave the premises and the landlord to accept the remaining residents as the responsible tenants even though they may not have the financial ability to handle the rental or, in fact, may not be adults. The minority offers a floor amendment, which, if adopted, will allow the goal of this bill to be achieved without unintended consequences.

Majority Amendment (1746h)

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Termination of Tenancy. Amend RSA 540:2 by inserting after paragraph VI the following new paragraph:

VII.(a) No lessor or owner of restricted property shall terminate a tenancy solely based on a tenant or a household member of a tenant having been a victim of domestic violence as defined in RSA 173-B, sexual assault as defined in RSA 632-A, or stalking as defined in RSA 633:3-a, provided that the tenant or household member of a tenant who is the victim provides the lessor or owner with written verification that the tenant or household member of a tenant who is the victim has obtained a valid protective order against the perpetrator of the domestic violence, sexual assault, or stalking.

(b) A tenant who has obtained a protective order from a court of competent jurisdiction granting him or her possession of a dwelling to the exclusion of one or more other tenants or household members may request that a lock be replaced or configured for a new key at the tenant's expense. The lessor or owner shall, if provided a copy of the protective order, comply with the request and shall not give copies of the new keys to the tenant or household member restrained or excluded by the protective order.

(c) A lessor or owner who replaces a lock or configures a lock for a new key in accordance with subparagraph (b) shall not be liable for any damages that result directly from the lock replacement or reconfiguration.

(d) If, after a hearing in the possessory action, the court finds that there are grounds under this section to evict the tenant or household member accused of the domestic violence, sexual assault, or stalking, it may issue a judgment in favor of the lessor or owner of the property against the person accused, and allow the tenancy of the remainder of the residents to continue undisturbed. The lessor or owner of the rental unit at issue in the possessory action shall have the right to bar the person accused of the domestic violence, sexual assault, or stalking from the unit and from the lessor's or owner's property once judgment in the possessory action becomes final against such person. Thereafter, and notwithstanding RSA 635:2, the person's entry upon the lessor's or owner's property after being notified in writing that he or she has been barred from the property shall constitute a trespass.

(e) Nothing in this section shall preclude eviction for nonpayment of rent. A landlord may evict on any grounds set forth in RSA 540:2, II which are unrelated to domestic violence, sexual assault, or stalking.

(f) The defense set forth in subparagraph VII(a) shall be an affirmative defense to possessory actions brought pursuant to subparagraph II(b), (c), (d), or (e) of this section.

Majority committee amendment adopted.

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

Rep. William O'Brien offered minority committee amendment (1938h).

Minority Amendment (1938h)

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Termination of Tenancy. Amend RSA 540:2 by inserting after paragraph VI the following new paragraph:

VII.(a) No lessor or owner of restricted property shall terminate a tenancy solely based on a tenant or a household member of a tenant having been a victim of domestic violence as defined in RSA 173-B, sexual assault as defined in RSA 632-A, or stalking as defined in RSA 633:3-a. A tenant shall not be entitled to raise as a defense the fact that he or she is being evicted in violation of this paragraph unless the tenant or household member of the tenant who is the victim provides the lessor or owner with written verification that the tenant or household member of the tenant who is the victim has obtained a valid protective order against the perpetrator of the domestic violence, sexual assault, or stalking.

(b) A tenant who has obtained a protective order from a court of competent jurisdiction granting him or her possession of a dwelling to the exclusion of one or more other tenants or household members may request that a lock be replaced or configured for a new key at the tenant's expense. The lessor or owner shall, if provided a copy of the protective order, comply with the request and shall not give copies of the new keys to the tenant or household member restrained or excluded by the protective order.

(c) A lessor or owner who replaces a lock or configures a lock for a new key in accordance with subparagraph (b) shall not be liable for any damages that result directly from the lock replacement or reconfiguration.

(d) If, after a hearing in the possessory action, the court finds that there are grounds under this section to evict the tenant or household member accused of the domestic violence, sexual assault, or stalking, it may issue a judgment in favor of the lessor or owner of the property against the person accused. The court also may allow the tenancy of the remainder of the residents to continue undisturbed, provided the court finds that an adult will continue as a resident of the premises and that such adult is financially able to perform the obligations of a tenant of the premises. The lessor or owner of the rental unit at issue in the possessory action shall have the right to bar the person accused of the domestic violence, sexual assault, or stalking from the unit and from the lessor's or owner's property once judgment in the possessory action becomes final against such person. Thereafter, and notwithstanding RSA 635:2, the person's entry upon the lessor's or owner's property after being notified in writing that he or she has been barred from the property shall constitute a trespass.

(e) Nothing in this section shall preclude eviction for nonpayment of rent. A landlord may evict on any grounds set forth in RSA 540:2, II which are unrelated to domestic violence, sexual assault, or stalking.

(f) The defense set forth in subparagraph VII(a) shall be an affirmative defense to possessory actions brought pursuant to subparagraph II(b), (c), (d), or (e) of this section.

Reps. Kris Roberts and William O'Brien spoke in favor.

Rep. Lucy Weber spoke against.

On a division vote, 149 members having voted in the affirmative and 170 in the negative, the minority committee amendment failed.

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

On a division vote, 185 members having voted in the affirmative and 134 in the negative, the majority committee report was adopted.
Ordered to third reading.

SB 480, relative to appeals of decisions by the department of environmental services.

MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Gary B. Richardson for the Majority of Judiciary: This bill authorizes the attorney general to appoint hearing officers to assist the wetlands council, the water council, the waste management council and the air resources council and permits a transfer of funds from the department of environmental services to cover the cost. The councils hear appeals from department decisions. The councils are made up of people who generally are not trained as lawyers and serve for little or no compensation. As a result, the councils lack the organization and legal expertise that they need to function efficiently. SB 480 provides for the hearing officer to preside over the hearings, decide issues of law and prepare written decisions on behalf of the councils. The minority is concerned that the independence of the hearing officer could be questioned because he or she is appointed by the attorney general. However, the councils retain the authority to decide questions of fact and make the ultimate decision whether the department action was unlawful or unreasonable. Furthermore, the committee amendment requires that the hearing officer must be screened from any attorney representing the department. It is not unusual for the attorney general's office to represent a department and also have responsibility for advising an appeals tribunal. The attorney general's office has safeguards in place to prevent any improper influence. These procedures are followed in a number of areas of law handled by the attorney general's office, for example when they simultaneously conduct a criminal investigation of a state employee, and represent the agency itself regarding appropriate personnel actions. As the Supreme Court held in *In Appeal of Huston*, 140 N.H. 410 (2003): "Lawyers under the supervision of the attorney general...may be authorized to represent several government agencies in intra-governmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. The rules of professional conduct do not abrogate this authority." The bill makes a number of other improvements to current law. The bill requires that decisions must be issued within 90 days of the hearing. The bill grants subpoena power to the hearing officer if it is necessary for the determination of matters within the council's jurisdiction. The bill clarifies the appellate process. In addition the bill requires the attorney general to report to the House by April 11, 2011 as to whether this new procedure is working effectively. If not, legislation may be introduced in the next legislative session to permit appeals to be filed with the superior court or to make additional changes to the appeal process. Vote 13-5.

Rep. William L. O'Brien for the Minority of Judiciary: This bill violates fundamental principles of adjudicatory fairness. When one appears in court or in an administrative adjudicatory hearing before an agency, one assumes an impartial, disinterested tribunal. One has a right, the minority assumes, to have the adjudicator of facts and law free of any real or apparent conflict of interest or loyalty. Just as in any other adjudicatory proceeding, such as in court, one further assumes this means that one cannot appoint the judge or hearing officer for the proceeding, or have a lawyer from our lawyer's law firm be the hearing officer. One likewise assumes that the other side will not appoint the hearing officer or have the hearing officer come from opposing counsel's law firm. SB 480 will make those assumptions incorrect—at least, half incorrect. It will allow the attorney general's office, while representing the department of environmental services in administrative adjudicatory hearings, to appoint, from within its ranks, the hearing officer, that is the judge, who is going to make the rulings of law and findings of fact at those hearings. The AG's office claims it will "screen" to avoid tainting the process. Yet it will continue to supervise the hearing officer and conduct periodic employee performance reviews of the hearing officer. The

minority believes that one need not be terribly imaginative to know how those performance reviews may go if the hearing officer is viewed as unsympathetic to the AG's positions at the hearings generally or at a significant hearing specifically. AG-appointed hearing officers may conduct themselves accordingly. On this basis alone, SB 480 should be opposed, but the committee amendment makes it worse. The bill, as it came to the House from the Senate, at least had a judicial appeal from this tainted process. The committee amendment removes that option. Thus, citizens appearing at DES hearings will have no recourse or relief from these tainted hearings. Apparently, through stacking the deck in favor of the state in this manner, the majority sees great merit in resurrecting the English tradition of the Camera stellata: courts designed so that the crown could be assured of reaching desired results without the inconvenience of due process.

Majority Amendment (1737h)

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

1 New Paragraphs; Attorney General; Hearing Officer. Amend RSA 21-M:3 by inserting after paragraph VII the following new paragraphs:

VIII. The attorney general shall appoint one or more individuals to serve as a hearing officer for appeals to any of the councils established under RSA 21-O. The attorney general and the commissioner of the department of environmental services may enter into a memorandum of understanding to transfer funds sufficient to fund the hearing officer position and related expenses. Such individual or individuals shall:

(a) Be qualified by education and experience in the conduct of administrative adjudicative hearings and the application of law to facts; and

(b) Be fully screened by the attorney general from the outset of any such appeal from any attorney representing the department.

IX. When designated as the hearing officer for a particular appeal, the hearing officer shall:

(a) Regulate all procedural aspects of a proceeding, including presiding over the hearing and any prehearing conferences;

(b) Adopt all findings of fact made by the council except to the extent any such finding is without evidentiary support in the record;

(c) Deliberate with the council before reaching conclusions on mixed questions of law and fact;

(d) Decide all questions of law presented during the pendency of the appeal; and

(e) Prepare and issue written decisions on all motions and on the merits of the appeal within 90 days of the conclusion of the hearing on the merits, provided that the hearing officer shall provide the council with a proposed written decision on the merits within 45 days of the conclusion of the hearing on the merits and shall not issue the decision until after the council has held a meeting at which the proposed decision can be discussed and adopted.

X. The hearing officer may, upon the request of any party to the proceeding, and only to the extent reasonably necessary for the determination of matters within the council's jurisdiction, subpoena witnesses for purposes of discovery as may be allowed by the council's rules and to provide testimony at any hearing conducted under this chapter. Any costs associated with the issuance of any subpoena issued by the hearing officer shall be paid by the party requesting the subpoena.

2 Duties of Commissioner. Amend RSA 21-O:3, VIII to read as follows:

VIII. Provide all necessary clerical and technical support ~~[requested by]~~ **to** any council established by this chapter. At a minimum, the commissioner shall:

(a) ***For any appeal from a department decision before any such council*** provide all necessary clerical and support personnel and services in order to:

(1) Prepare notices and other documents required under RSA 541-A ~~[as directed by the particular council]~~ and distribute such notices and documents ~~[upon the~~

~~approval of the particular council involved]~~ ***as directed by the hearing officer appointed under RSA 21-M:3, VIII;***

(2) Schedule the conduct of all council administrative appeal proceedings, ~~[with the approval of the particular council]~~ ***as directed by the hearing officer appointed under RSA 21-M:3, VIII*** so as to ensure timely and efficient conduct of such proceedings;

(3) Prepare and maintain the record, required by RSA 541-A, of all ~~[adjudicative proceedings conducted by councils]~~ ***such appeals, which shall include the decisions issued in such proceedings.***

(b) Provide comfortable and adequate space for the use of all councils in performing their official duties; and

(c) ~~[Prepare, maintain as a public record, and continuously update a document which shall summarize the findings and decisions of all councils supported by the department.]~~ ***Provide all necessary clerical and support personnel and services in order to:***

(1) Prepare and distribute notices and other documents required under RSA 91-A for council meetings; and

(2) Prepare and maintain as public records the official minutes of the meetings of all councils supported by the department.

3 Wetlands Council. Amend RSA 21-O:5-a, V to read as follows:

V. The wetlands council shall hear ~~[and decide]~~ all ***administrative*** appeals from department decisions ~~[relative to the functions and responsibilities of the department which relate to]~~ ***made under RSA 482-A relative to wetlands [and protected shorelands], or under RSA 483-B relative to shoreland protection and shall decide all disputed issues of fact in such appeals,*** in accordance with ~~[rules adopted by the council]~~ ***RSA 21-O:14.***

4 Water Council. Amend RSA 21-O:7, IV to read as follows:

IV. The water council shall hear ~~[and decide]~~ all ***administrative*** appeals from department decisions relative to the functions and responsibilities of ***within the expertise of*** the division of water other than department decisions made under RSA 482-A relative to wetlands~~]~~ and RSA 483-B relative to shoreland protection, ***and shall decide all disputed issues of fact in such appeals,*** in accordance with RSA 21-O:14.

5 Waste Management Council. Amend RSA 21-O:9, V to read as follows:

V. The waste management council shall hear ~~[and decide]~~ all ***administrative*** appeals from department decisions relative to the functions and responsibilities of the division of waste management, ***and shall decide all disputed issues of fact in such appeals,*** in accordance with RSA 21-O:14.

6 Air Resources Council. Amend RSA 21-O:11, IV to read as follows:

IV. The air resources council shall hear ~~[and decide]~~ all ***administrative*** appeals from department decisions relative to the functions and responsibilities of the division of air resources ***and shall decide all disputed issues of fact in such appeals,*** in accordance with RSA 21-O:14.

7 Administrative Appeals. Amend RSA 21-O:14 to read as follows:

21-O:14 Administrative Appeals.

I. For purposes of this chapter, “department decision” means the final action on an application, petition, order or request taken by the commissioner or any department official who has statutory authority to make such final decision or to whom the commissioner has properly delegated the authority to take such final action. “Department decision” shall not mean rulemaking or an agency declaratory ruling as provided for in RSA 541-A, and shall not include any decisions of ~~[the wetlands]~~ ***any*** council.

II. Any person aggrieved by a department decision may, in addition to any other remedy provided by law, appeal to the council having jurisdiction over the subject matter of the appeal. On any such appeal, the council shall determine whether the department decision was unlawful or unreasonable by reviewing the

administrative record together with any evidence and testimony the parties to the appeal may present.

~~[H.]~~ **III. Appeal** hearings before ~~[all]~~ **any** ~~[councils]~~ **council** established by this chapter shall be conducted in accordance with the provisions of RSA 541-A governing adjudicative proceedings ***by an administrative hearing officer assigned by the department of justice, under RSA 21-M:3, VIII. All issues shall be determined as specified in RSA 21-M:3, IX.***

~~[III.]~~ **IV.** Persons aggrieved by the disposition of administrative appeals before any council established by this chapter may appeal such results in accordance with RSA 541.

~~[IV.]~~ **V.** The councils established under this chapter ~~[may]~~ **shall** adopt rules under RSA 541-A to govern the conduct of administrative appeals under this section. ***To the extent possible, the rules of the councils shall be consistent with each other.***

8 Reporting Required. No later than April 11, 2011, the attorney general shall report to the chairman of the house judiciary committee with any recommendations that the attorney general may deem appropriate for consideration as legislation in the 2011 legislative session to modify or otherwise alter current processes of appeals from administrative decisions issued by executive branch agencies.

9 Effective Date. This act shall take effect 60 days after its passage.
Majority committee amendment adopted.

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

Rep. William O'Brien offered floor amendment (2052h).

Floor Amendment (2052h)

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

1 Duties of Commissioner. Amend RSA 21-O:3, VIII to read as follows:

VIII. Provide all necessary clerical and technical support ~~[requested by]~~ **to** any council established by this chapter. At a minimum, the commissioner shall:

(a) ***For any appeal from a department decision before any such council*** provide all necessary clerical and support personnel and services in order to:

(1) Prepare notices and other documents required under RSA 541-A ~~[as directed by the particular council]~~ and distribute such notices and documents ~~[upon the approval of the particular council involved]~~ ***as directed by the hearing officer appointed under RSA 21-O:14, VI;***

(2) Schedule the conduct of all council administrative appeal proceedings, ~~[with the approval of the particular council]~~ ***as directed by the hearing officer appointed under RSA 21-O:14, VI*** so as to ensure timely and efficient conduct of such proceedings;

(3) Prepare and maintain the record, required by RSA 541-A, of all ~~[adjudicative proceedings conducted by councils]~~ ***such appeals, which shall include the decisions issued in such proceedings.***

(b) Provide comfortable and adequate space for the use of all councils in performing their official duties; and

(c) ~~[Prepare, maintain as a public record, and continuously update a document which shall summarize the findings and decisions of all councils supported by the department.]~~ ***Provide all necessary clerical and support personnel and services in order to:***

(1) ***Prepare and distribute notices and other documents required under RSA 91-A for council meetings; and***

(2) ***Prepare and maintain as public records the official minutes of the meetings of all councils supported by the department.***

2 Wetlands Council. Amend RSA 21-O:5-a, V to read as follows:

V. The wetlands council shall hear ~~[and decide]~~ all **administrative** appeals from department decisions ~~[relative to the functions and responsibilities of the department which relate to]~~ **made under RSA 482-A relative to wetlands [and protected shorelands], or under RSA 483-B relative to shoreland protection and shall decide all disputed issues of fact in such appeals**, in accordance with ~~[rules adopted by the council]~~ **RSA 21-O:14.**

3 Water Council. Amend RSA 21-O:7, IV to read as follows:

IV. The water council shall hear ~~[and decide]~~ all **administrative** appeals from department decisions relative to the functions and responsibilities of **within the expertise of** the division of water other than department decisions made under RSA 482-A relative to wetlands~~[.]~~ and RSA 483-B relative to shoreland protection, **and shall decide all disputed issues of fact in such appeals**, in accordance with RSA 21-O:14.

4 Waste Management Council. Amend RSA 21-O:9, V to read as follows:

V. The waste management council shall hear ~~[and decide]~~ all **administrative** appeals from department decisions relative to the functions and responsibilities of the division of waste management, **and shall decide all disputed issues of fact in such appeals**, in accordance with RSA 21-O:14.

5 Air Resources Council. Amend RSA 21-O:11, IV to read as follows:

IV. The air resources council shall hear ~~[and decide]~~ all **administrative** appeals from department decisions relative to the functions and responsibilities of the division of air resources **and shall decide all disputed issues of fact in such appeals**, in accordance with RSA 21-O:14.

6 Administrative Appeals. Amend RSA 21-O:14 to read as follows:

21-O:14 Administrative Appeals.

I. For purposes of this chapter, “department decision” means the final action on an application, petition, order or request taken by the commissioner or any department official who has statutory authority to make such final decision or to whom the commissioner has properly delegated the authority to take such final action. “Department decision” shall not mean rulemaking or an agency declaratory ruling as provided for in RSA 541-A, and shall not include any decisions of ~~[the wetlands]~~ **any** council.

II. Any person aggrieved by a department decision may, in addition to any other remedy provided by law, appeal to the council having jurisdiction over the subject matter of the appeal. On any such appeal, the council shall determine whether the department decision was unlawful or unreasonable by reviewing the administrative record together with any evidence and testimony the parties to the appeal may present.

~~[H.]~~ **III. Appeal** hearings before ~~[all]~~ **any [councils] council** established by this chapter shall be conducted in accordance with the provisions of RSA 541-A governing adjudicative proceedings **by an administrative hearing officer assigned by the commissioner under paragraph VI. All issues shall be determined as specified in paragraph VII. Any person aggrieved by the decision of such council may appeal to the superior court.**

~~[H.]~~ **IV.** Persons aggrieved by the disposition of administrative appeals before any council established by this chapter may appeal such results in accordance with RSA 541.

~~[IV.]~~ **V.** The councils established under this chapter ~~[may]~~ **shall** adopt rules under RSA 541-A to govern the conduct of administrative appeals under this section. **To the extent possible, the rules of the councils shall be consistent with each other.**

VI. The commissioner of the department of environmental services shall appoint one or more individuals to serve as a hearing officer for appeals to any of the councils established under this chapter. The commissioner of the department of environmental services may transfer funds sufficient to fund the hearing officer position and related expenses. Such individual or individuals shall:

- (a) Be qualified by education and experience in the conduct of administrative adjudicative hearings and the application of law to facts; and*
- (b) Be fully screened by the commissioner of the department of environmental services from any attorney representing the department; and*
- (c) Not be associated by agency employment or co-representation with counsel for the department of environmental services of any other party to the appeal.*

VII. When designated as the hearing officer for a particular appeal, the hearing officer shall:

- (a) Regulate all procedural aspects of a proceeding, including presiding over the hearing and any prehearing conferences;*
- (b) Adopt all findings of fact made by the council except to the extent any such finding is without evidentiary support in the record;*
- (c) Deliberate with the council before reaching conclusions on mixed questions of law and fact;*

(d) Decide all questions of law presented during the pendency of the appeal; and

(e) Prepare and issue written decisions on all motions and on the merits of the appeal within 90 days of the conclusion of the hearing on the merits, provided that the hearing officer shall provide the council with a proposed written decision on the merits within 45 days of the conclusion of the hearing on the merits and shall not issue the decision until after the council has held a meeting at which the proposed decision can be discussed and adopted.

VIII. The hearing officer may, upon the request of any party to the proceeding, and only to the extent reasonably necessary for the determination of matters within the council's jurisdiction, subpoena witnesses for purposes of discovery as may be allowed by the council's rules and to provide testimony at any hearing conducted under this chapter. Any costs associated with the issuance of any subpoena issued by the hearing officer shall be paid by the party requesting the subpoena.

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

AMENDED ANALYSIS

This bill allows the various councils in the department of environmental services to hear appeals in their subject areas.

Reps. William O'Brien and Rowe spoke in favor.

Rep. Gary Richardson spoke against and yielded to questions.

Rep. William O'Brien requested a roll call; sufficiently seconded.

YEAS 144 NAYS 179

YEAS 144

BELKNAP

Boyce, Laurie
Pilliod, James
Wendelboe, Fran

Fields, Dennis
Russell, David

Flanders, Donald
St. Cyr, Jeffrey

Nedeau, Stephen
Swinford, Elaine

CARROLL

Ahlgren, Christopher
Patten, Betsey

Chandler, Gene
Stevens, Stanley

Fleck, Joseph
Umberger, Karen

Knox, J. David

CHESHIRE

Emerson, Susan
Sterling, Franklin Jr

Hunt, John

Johnson, Jane

Laurent, John

COOS

Rappaport, Laurence

Remick, William

Stohl, Eric

Tholl, John Jr

GRAFTON

Gionet, Edmond

Ladd, Rick Jr

Ward, Brien

HILLSBOROUGH

Batula, Peter
Christensen, Chris
Doherty, Shaun
Gagne, Larry
Haefner, Robert
Hogan, Edith
Infantine, William
O'Brien, William
Peterson, Andrew
Ryder, Donald
Tahir, Saghir
Willette, Robert

Belvin, William
Christiansen, Lars
Drisko, Richard
Gandia, Laura
Hawkins, Ken
Holden, Frank
Jasper, Shawn
Ober, Lynne
Price, Pamela
Seidel, Carl
Ulery, Jordan

Boehm, Ralph
Daniels, Gary
Elliott, Nancy
Gorman, Mary
Hikel, John
Holden, Rip
Mead, Robert
Ober, Russell III
Renzullo, Andrew
Soucy, Connie
Vaillancourt, Steve

Cebrowski, John
Day, Russell
Emerton, Larry
Graham, John
Hinch, Richard
Hopper, Gary
Moran, Edward
Palmer, Stephen
Rowe, Robert
Spaulding, Jayne
Villeneuve, Moe

MERRIMACK

Anderson, Eric
Kidder, David
Palfrey, David

Blankenbeker, Lynne
Kotowski, Frank
Reed, Dennis

DeStefano, Stephen
Lockwood, Priscilla
Smith, Todd

Hess, David
McGuire, Carol

ROCKINGHAM

Allen, Mary
Bettencourt, David
Crisler, Margaret
Elliott, Robert
Flanders, John Sr
Headd, James
Ingram, Russell
Katsakiores, Phyllis
McMahon, Charles
Priestley, Anne
Sapareto, Frank

Bailey, Clinton
Case, Frank
DeSimone, Debra
Emiro, Frank
Gleason, John
Hoelzel, Kathleen
Introne, Robert
Kolodziej, Walter
Packard, Sherman
Quandt, Matt
Scamman, Stella

Baldasaro, Alfred
Charron, Gene
Devine, James
Ferrante, Beverly
Gould, Kenneth
Howard, Doreen
Itse, Daniel
Major, Norman
Perkins, Amy
Rausch, James
Scamman, W.
Douglas Jr
Sullivan, James
Weyler, Kenneth

Bates, David
Comerford, Timothy
DiFruscia, Anthony
Fesh, Robert
Griffin, Mary
Hutchinson, Karen
Kappler, L. Mike
McKinney, Betsy
Perkins, Lawrence
Reagan, John
Sedensky, John

Smith, William
Weare, Everett

Stiles, Nancy
Welch, David

Tucker, Pamela

STRAFFORD

Brown, Julie
Vita, Carol

Groen, Warren

Sprague, Dale

Twombly, James

SULLIVAN

Cunningham, Steven

Howard, Thomas

Osgood, Joe

Rodeschin, Beverly

NAYS 179

BELKNAP

Arsenault, Beth
Miller, Kate

Bolster, Peter
Stuart, Richard

Johnson, William

Merry, Liz

CARROLL

Bridgham, Robert

Buco, Thomas

Butler, Edward

Wiley, Susan

CHESHIRE

Allen, Peter
Carr, Daniel
Mitchell, Bonnie
Robertson, Timothy

Butcher, Suzanne
Lerandeau, Alfred
Parkhurst, Henry
Sad, Tara

Butterworth, Timothy
Lindsey, Steven
Richardson, Barbara
Weber, Lucy

Butynski, William
Meador, David
Roberts, Kris
Weed, Charles

COOS

Hatch, William

Mears, Lucy

Merrick, Evalyn

Theberge, Robert

GRAFTON

Aguiar, James
Ford, Susan
Laliberte, Suzanne
Pierce, David
Townsend, Charles

Almy, Susan
Friedrich, Carol
Mulholland, Catherine
Preston, Philip
White, Andrew

Benn, Bernard
Gould, Franklin
Nordgren, Sharon
Smith, Suzanne

Cooney, Mary
Harding, Laurie
Pastor, Beatriz
Taylor, Kathleen

HILLSBOROUGH

Baroody, Benjamin
Chandley, Shannon
Craig, James
Gargas, Carolyn
Hackel, Paul
Harvey, Philip
Knowles, John
Kurk, Neal
Levesque, Melanie
Matarazzo, Anthony Sr
Pilotte, Maurice
Schulze, Joan
Thompson, Robert

Beck, Catriona
Chase, Claudia
Dokmo, Cynthia
Garrity, Patrick
Haley, Robert
Harvey, Suzanne
Knowles, Mary Ann
LaPlante, Roland
Long, Patrick
Movsesian, Lori

Ramsey, Peter
Shattuck, Gilman
Walsh, Robert Jr

Bergin, Peter
Chininis, Alexis
Flurey, Joan
Gidge, Kenneth
Hammond, Jill
Hodges, Kevin
Komi, Richard
Leishman, Peter
Mack, Ron
O'Brien, Michael Sr

Rokas, Theodoros
Shaw, Barbara
Winters, Joel

Campbell, David
Cote, David
Foster, Linda
Goley, Jeffrey
Hardy, Valerie
Jeudy, Jean
Kopka, Angeline
Levasseur, Nickolas
Marshall, Seth
O'Neil, James

Rosenwald, Cindy
Sullivan, Daniel

MERRIMACK

Brown, Carole
French, Barbara
Osborne, Jessie
Rice, Chip
Stetson, William
Walz, Mary Beth
Williams, Robert

Clarke, Claire
Gile, Mary
Owen, Derek
Richardson, Gary
Tilton, Joy
Watrous, Rick
Yeaton, Charles

Davis, Frank
Hamm, Christine
Porter, Margaret
Rodd, Beth
Tupper, Frank
Webb, Leigh

Foose, Robert
Kelly, Sally
Potter, Frances
Schuett, Dianne
Wallner, Mary Jane
Wheeler, Deborah

ROCKINGHAM

Abbott, Dennis
Cushing, Robert
Kepner, Susan
McEachern, Paul
Pettersen, Don
Splaine, James

Borden, David
Day, Judith
Lyons, Melissa
Moody, Marcia
Read, Robin Jr
Webber, Carolyn

Brown, C. Pennington
DiPentima, Rich
Mann, Maureen
Nord, Susi
Russell, Trink

Casey, Kimberley
Hutchinson, Gina
McCarthy, Barbara
Pantelakos, Laura
Schlachman, Donna

STRAFFORD

Berube, Roger
Burke, Rachel
Hubbard, Pamela
Perry, Robert
Schmidt, Peter
Wall, Janet

Brennan, William
Cyr, James
Kaen, Naida
Price, Susan
Smith, Marjorie
Ward, Kenneth

Brown, Larry
Hofemann, Roland
Keans, Sandra
Rollo, Deanna
Spang, Judith
Watters, David

Browne, Brendon
Horrigan, Timothy
Lauterborn, Elaine
Rous, Emma
Vachon, Dennis

SULLIVAN

Cloutier, John
Harris, Sandra

Donovan, Thomas Jr
Houde-Quimby,
Charlotte

Gagnon, Raymond
McClammer, Jim

Gottling, Suzanne
Skinder, Carla

Sweeney, Cynthia

and floor amendment (2052h) failed.

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

On a division vote, 199 members having voted in the affirmative and 125 in the negative, the majority committee report was adopted.

Ordered to third reading.

SB 513, relative to incarcerated persons receiving workers' compensation. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Sally H. Kelly for the Majority of Labor, Industrial and Rehabilitative Services: This bill seeks to change current statute 281-A 3-a which states that: an employee who becomes incarcerated pursuant to a conviction shall forfeit any right to workers' compensation indemnity (loss of wages) benefits 30 days after incarcerated." Although the committee sympathizes with the plights of the family members of the imprisoned, the bi-partisan majority believes that when an individual makes a choice that results in a conviction and that person is no longer available for either light duty or any other type of work, then the employer and insurance carrier should not be penalized due to the actions and choices of the imprisoned. An incarcerated person also loses social security and unemployment benefits while imprisoned. Vote 8-4.

Rep. Gary L. Daniels for the Minority of Labor, Industrial and Rehabilitative Services: When a worker is receiving worker's compensation his or her benefit is based on the fact that he or she cannot work because of a disability. A change in the statute in 1998 resulted in the unintended consequence of removing a totally disabled person's workers' compensation benefits if the person were incarcerated. Being that these benefits should continue if the person continues to be totally disabled, irrespective of incarceration, the minority feels that benefits should be restored as support for the person's dependants.

The question being adoption of the majority committee report of Inexpedient to Legislate.

Reps. Daniels and Nixon spoke against and yielded to questions.

Rep. Sally Kelly spoke in favor and yielded to questions.

(Rep. Foster in the Chair)

Rep. Goley spoke in favor.

On a division vote, 274 members having voted in the affirmative and 49 in the negative, the majority committee report was adopted.

SB 409, requiring buildings or structures constructed or renovated using state funding to adhere to certain energy efficiency and building standards. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Charles L. Townsend for Science, Technology and Energy: The bill requires major state building construction projects to be built using an energy efficient sustainable design as determined by the commissioners of the department of environmental services and the department of administrative affairs. The division of historic resources would be included as a consultant for reconstruction of historic buildings. The costs of energy efficient design will be recovered within 10 years and the reduction in energy use will be a component of the state's efforts to lead-by example in improving energy efficiency. Vote 13-2.

Amendment (1518h)

Amend RSA 155-A:13 as inserted by section 1 of the bill by replacing it with the following:

155-A:13 Building Requirements for State Funded Buildings.

I. Any new construction, reconstruction, alteration, or maintenance in any state owned building, plant, fixture, or facility, meeting the definition of "project" in RSA 21-I:78, considered a major project under RSA 21-I:80, and constructed using any state funding, shall meet a high performance, energy efficient, sustainable design standard determined by the commissioners of the department of environmental services and the department of administrative services, in consultation with the division of historic resources and the community college system, that shows the building or structure can recoup the incremental costs of implementing the requirements of this section as measured by reduced energy costs over a 10-year period of time.

II. The following construction or renovation projects shall be exempt from the requirements of paragraphs I:

- (a) A building or structure that is less than 25,000 square feet.
- (b) A building or structure that does not consume energy for heating, ventilating, or air conditioning.
- (c) A renovation or modification that is estimated to cost less than \$1,000,000.
- (d) Temporary structures.
- (e) Public school facilities that are subject to RSA 198:15.
- (f) The university system of New Hampshire.
- (g) Projects employing new, innovative, or experimental energy efficient technology that may not recoup their incremental costs within 10 years, as may be determined by the commissioner of the department of administrative services to be in the best interest of the state.

Amendment adopted.

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

Rep. McGuire spoke against.

Rep. Townsend spoke in favor and yielded to questions.

On a division vote, 162 members having voted in the affirmative and 125 in the negative, the committee report was adopted.

Ordered to third reading.

SB 497-FN-A, changing the business profits tax deduction for reasonable compensation for partnerships, limited liability companies, and sole proprietorships and modifying the interest and dividends tax statute to follow the definitions of interest and dividends used in the

United States Internal Revenue Code. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William A. Hatch for the Majority of Ways and Means: SB 497 changed what is allowed for the tax deduction on business profits tax for personal compensation against profits for partnerships, limited liability companies and proprietorships. It also repealed the interest and dividend tax on limited liability company owners by making a total revision of our interest and dividend tax. The committee agreed this should not go forward as written for a few reasons; the primary being a revised fiscal note showed the personal compensation section would cause a \$329 million loss in revenues and the change in the interest and dividend tax would cause a \$13 million loss. The minority submitted an amendment to have the personal compensation issue resolved by using language that was said to be in our statutes during the 1970's. The majority did not have any information that defined how this change would affect the law and concluded it did not give the clarity needed to resolve the problems for New Hampshire businesses. In consideration of those factors and the fact HB 1607 had in depth review and study the majority voted to amend SB 497 with the provisions of HB 1607 minus the retroactive portion of HB 1607. In addition, there were concerns about the burden of proof issued discussed. The majority noted that those same concerns were completely vetted during the many hearings on HB 1607 and additional action is not needed. HB 1607 provided more clarity for small and large firms about personal compensation deductions than any past definitions. The repeal of the tax on dividends from LLC owners has been placed in SB 450. Vote 12-8.

Rep. Frank V. Sapareto for the Minority of Ways and Means: This bill places the burden of proof of income on the taxpayer to justify and prove their income to the DRA. It is the strong opinion of the minority that one is innocent until proven guilty and that all LLC owners are not guilty until proven innocent. The minority also feels that restoring the reasonable compensation definition to the original statutes from 1970 through 2004 has a proven track record that worked well for all those years. The bill as amended further retains the tax on income, although referred to as "Dividends" on LLC's. The minority knows that this onerous income tax needs repeal, but is unhappy with this body's unwillingness to repeal it promptly. Since the bill as amended is essentially the same as HB 1607, as sent to the Senate, the same flaws exist. Again, this bill retains the unfair LLC tax.

Majority Amendment (1842h)

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

AN ACT relative to the reasonable compensation deduction under the business profits tax.

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

1 Findings. The general court finds that amending RSA 77-A:4, III, as inserted by section 2 of this act, is necessary for the following reasons:

I. Good tax policy requires clear tax law that treats similarly situated business organizations equally, responds to changing business practices, provides taxpayers with clear and simple guidance, encourages compliance, and enhances the growth of jobs and income in our state.

II. Small business in particular is both a major part of our economy and the basis of our future prosperity.

III. The interest and dividends tax statute, RSA 77, was put in place in 1923 to tax unearned income, that is, income from investments of capital, excluding income earned from the provision of personal services by natural persons.

IV. The business profits tax statute, RSA 77-A, was put in place in 1970 to tax the profits of businesses, excluding income earned by their owners through the provision of personal services, when natural persons. This exclusion, called reasonable compensation, has always been one of the expenses that a business can deduct when calculating its business profits tax.

V. There is a major body of federal law, as well as judicial and administrative decisions surrounding the definition of reasonable compensation, but this is not referenced in current state law, creating needless confusion among taxpayers.

VI. Requiring every small business owner to provide the specific records of their personal services to their business organization would place an intolerable burden on small businesses and on our economy.

VII. On the other hand, allowing every business owner to designate whatever they take from their business organization as either earned or investment income, without possibility of review or challenge by the department, would shift the burden of taxation to those who report honestly, laying the tax open to constitutional challenge.

VIII. A balance is struck by providing small business owners with a record-keeping safe harbor for taking the deduction, that is a simple test of reasonable compensation below which the commissioner shall not review or challenge the taxpayer's assertion, except to verify that some personal service was provided by the natural person named. If the business organization takes a deduction for personal compensation of an owner above the record-keeping safe harbor, it will be required to provide proof that the claimed deduction is indeed reasonable.

IX. This proof shall be based on the principles, standards, and factors applicable to the tax structure in the state of New Hampshire which emanate from Internal Revenue Code section 162(a)(1), as those standards have been interpreted by the decisions of the United States Tax Court and other courts, as well as United States Treasury regulations and rulings by the Internal Revenue Service.

X. The provision in current law, last updated in 1991, which provides a minimum deduction for compensation of \$6,000 per partner or proprietor is unreasonably restrictive, and needs to be updated with a record-keeping safe harbor that reflects the realities of today's business environment.

XI. The enactment of a balanced approach with an updated safe harbor provision will simplify the business profits and interest and dividends tax rules for all businesses, eliminate costly and inefficient audits, and relieve small businesses in particular of unnecessary uncertainty and burdensome paperwork related to taking the deduction for personal compensation.

2 Reasonable Compensation. RSA 77-A:4, III is repealed and reenacted to read as follows:

III. In the case of any business organization filing a business profits tax return as a proprietorship or partnership, a deduction for an amount equal to a fair and reasonable compensation for the personal services of the proprietor, partners, or members who are natural persons actually devoting time and effort in the operation of the business organization; provided, however, that nothing contained in this section shall permit the deduction of amounts that are attributable to an owner's return on investment of capital in the business organization in determining taxable business profits. The business organization shall bear the burden of proof in demonstrating the reasonableness of any compensation deduction taken under this paragraph.

(a) The purpose of this paragraph is to permit a deduction from gross business profits of a business organization filing as a proprietorship or partnership, only of such amounts as are fairly attributable to the personal services of a proprietor, partner, or member and which such individual or individuals might reasonably earn in total compensation if performing like services as an employee or employee-owner of a corporation so that amounts attributable to the provision of personal services are determined in the same manner regardless of the form of entity through which the business activities are conducted.

(b) Reasonable compensation deductions may reduce a business organization's taxable business profits below zero for any taxable period only if such compensation has actually been paid.

(c) In determining the reasonableness of the compensation deduction claimed under this section, the business organization and the commissioner shall apply the principles, standards, and factors that are applicable to the tax structure of the state of New Hampshire which emanate from Internal Revenue Code section 162(a)(1), and relevant Treasury regulations, rulings by the Internal Revenue Service, federal court decisions, and United States Tax Court decisions.

(d)(1) In this paragraph, “record-keeping safe harbor” means that amount of compensation for personal services claimed by a business organization which does not need to be substantiated by any evidence, records, or legal or regulatory authority, except as provided in subparagraph (g) of this section.

(2) Notwithstanding subparagraph III(d)(1), the record-keeping safe harbor shall not be relevant or admissible for any purpose in determining whether a compensation deduction claimed in an amount in excess of any such record-keeping safe harbor is fair and reasonable.

(e) In lieu of substantiating the value of the personal services of proprietors, partners, or members, a business organization or group of related business organizations may elect, as a record-keeping safe-harbor, to deduct up to \$50,000 as total compensation for the tax year;

(f) The amount of any deduction claimed for reasonable compensation under this section may also include an amount not to exceed 15 percent of the gross selling price as commission on the sale of business assets.

(g) A business organization or group of related business organizations may elect the record-keeping safe-harbor option in subparagraph III(e) without a redetermination of the reasonableness of the deduction by the commissioner. Any such deduction claimed by the business organization or group of related business organizations shall not be subject to challenge; provided, that upon request, the business organization or group of related business organizations shall be required to substantiate that the proprietor or at least one partner or member performed personal services for the business organization or group of related business organizations.

(h) Related business organizations electing not to substantiate the extent of the personal services of their proprietors, partners, and members, shall be limited to the safe harbor deduction, less any owners’ compensation taken on the federal tax returns of corporate members of the group, allocated among the related business organizations. For the purposes of RSA 77-A:4, III, “related business organizations” are unitary business organizations and business organizations that would qualify as unitary but for the fact that they conduct business only within the state.

(i) Each business organization claiming a compensation deduction under RSA 77-A:4, III shall provide on a schedule attached to its annual return setting forth the following information:

(1) The total reasonable compensation deduction claimed by the business organization for the tax year; and

(2) The amount of such deduction allocated to each proprietor, partner, or member actually devoting time and effort in the operation of the business organizations entitled to the deduction.

3 Applicability. Section 2 of this act shall apply for taxable periods beginning on or after January 1, 2010.

4 New Section; Committee to Study the Record-Keeping Safe Harbors for the Compensation Deduction. Amend RSA 77-A by inserting after section 4-a the following new section:

77-A:4-b Committee to Study Safe Harbors.

I. There is established a committee to study the record-keeping safe harbors for the compensation deduction. The committee shall consist of the following individuals:

(a) Three members from the house of representatives, 2 of whom shall be members of the ways and means committee, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

II. The committee shall:

(a) Study whether the burden of proof for safe harbors should be revised.

(b) Consider the provision of additional safe harbors based on the percentage of the gross selling price on the sale of business assets other than inventory, or the percentage of gross revenues, or the percentage of gross business profits using the independent investor return test, or any other issue related to the reasonable compensation deduction.

(c) Consider any other issue which the committee deems relevant to the study of safe harbors.

III. The committee may solicit testimony from any individual or organization with information or expertise which the committee deems relevant to its objective.

IV. Three members of the committee shall constitute a quorum. The committee shall select a chairperson from among its members. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

V. No later than November 1, 2011 and annually thereafter, the committee shall submit a report of its findings and any recommendations for legislation, to the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate standing committees with jurisdiction over business taxation.

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

AMENDED ANALYSIS

This bill establishes certain requirements for the reasonable compensation deduction under the business profits tax. The bill also establishes a committee to study safe harbors.

Rep. Walsh spoke in favor.

Rep. Vachon spoke in favor and yielded to questions.

(Speaker Norelli in the Chair)

On a division vote, 164 members having voted in the affirmative and 142 in the negative, the majority committee amendment was adopted.

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

Rep. Sapareto offered floor amendment (1961h).

Floor Amendment (1961h)

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

AN ACT relative to the standards and burden of proof with respect to the business profits tax deduction for reasonable compensation attributable to owners of partnerships, limited liability companies, and sole proprietorships.

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

1 Purpose. The legislature finds that:

I. Small businesses are the lifeblood of the New Hampshire economy and are the most important source of jobs for residents of New Hampshire.

II. Recent increases in audits of small businesses in which small business owners are not allowed to deduct the full and fair value of their services to their small business in determining the business profits tax liability of the business have undermined New Hampshire's ability to provide a sound and encouraging environment for small business growth.

III. Good tax policy requires tax rules that provide taxpayers with clear guidance, encourage compliance, and enhance the competitiveness of our economy.

IV. This act clarifies important business profits tax rules that apply to small businesses, eliminate costly and inefficient audits, and restore New Hampshire's ability to encourage small business growth and the good jobs these businesses create.

2 Clarification of Reasonable Compensation Deduction. RSA 77-A:4, III is repealed and reenacted as follows:

III.(a) In the case of a proprietorship, partnership, or limited liability company filing a business profits tax return as a proprietorship or a partnership, a deduction equal to a fair and reasonable compensation for the personal services of a natural person who is a proprietor, partner, or member provided to the business organization, provided, under this chapter however, that the amount of such deduction shall not reduce such business organization's tax to less than zero. The purpose of this paragraph is to permit a deduction from gross business profits of such a proprietorship, partnership, or limited liability company of all amounts that are fairly attributable to the personal services of the proprietor, partner, or member. Such amounts shall generally include all amounts reported as earned income on federal tax returns, but shall also include amounts attributable to personal services provided in connection with the operation and rental of real property, the sale of property and services, and other amounts due to services rendered.

(b) A taxpayer claiming a deduction under this paragraph shall bear the burden of proving that at least one or more proprietors, partners, or members provided actual services to the business organization at any time during the taxable period. Once a taxpayer has satisfied this burden of proof, the amount claimed as a deduction shall be presumed to be reasonable, unless the commissioner proves by a preponderance of the evidence that the deduction claimed by the taxpayer is grossly excessive.

3 Applicability. Sections 1-2 of this act shall apply with respect to taxable periods ending after June 30, 2010.

4 Effective Date. This act shall take effect July 1, 2010.

AMENDED ANALYSIS

The bill clarifies the standards and burden of proof with respect to the business profits tax deduction for reasonable compensation attributable to owners of partnerships, limited liability companies, and sole proprietorships.

Rep. Sapareto spoke in favor and yielded to questions.

Rep. Weyler spoke in favor.

Rep. Vachon spoke against and yielded to questions.

Rep. Baldasaro requested a roll call; sufficiently seconded.

YEAS 150 NAYS 175

YEAS 150

BELKNAP

Bolster, Peter
Nedeau, Stephen
Swinford, Elaine

Boyce, Laurie
Pilliod, James
Wendelboe, Fran

Fields, Dennis
Russell, David

Flanders, Donald
St. Cyr, Jeffrey

CARROLL

Ahlgren, Christopher
McConkey, Mark

Chandler, Gene
Patten, Betsey

Fleck, Joseph
Stevens, Stanley

Knox, J. David
Umberger, Karen

CHESHIRE

Emerson, Susan
Sterling, Franklin Jr

Hunt, John

Johnson, Jane

Laurent, John

COOS

Rappaport, Laurence	Remick, William	Stohl, Eric	Tholl, John Jr
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GRAFTON

Gionet, Edmond	Ladd, Rick Jr	Ward, Brien
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HILLSBOROUGH

Batula, Peter	Belvin, William	Bergin, Peter	Boehm, Ralph
Campbell, David	Cebrowski, John	Christensen, Chris	Christiansen, Lars
Daniels, Gary	Day, Russell	Doherty, Shaun	Dokmo, Cynthia
Drisko, Richard	Elliott, Nancy	Emerton, Larry	Gagne, Larry
Gandia, Laura	Gargasz, Carolyn	Graham, John	Haefner, Robert
Hawkins, Ken	Hikel, John	Hinch, Richard	Hogan, Edith
Holden, Frank	Holden, Rip	Hopper, Gary	Infantine, William
Jasper, Shawn	Kurk, Neal	McCarthy, Michael	Mead, Robert
Moran, Edward	O'Brien, William	Ober, Lynne	Ober, Russell III
Palmer, Stephen	Peterson, Andrew	Pratt, Calvin	Price, Pamela
Renzullo, Andrew	Rowe, Robert	Ryder, Donald	Seidel, Carl
Soucy, Connie	Spaulding, Jayne	Tahir, Saghir	Ulery, Jordan
Villeneuve, Moe	Willette, Robert		

MERRIMACK

Anderson, Eric	Blankenbeker, Lynne	Hess, David	Kidder, David
Kotowski, Frank	McGuire, Carol	Palfrey, David	Reed, Dennis
Smith, Todd			

ROCKINGHAM

Allen, Mary	Bailey, Clinton	Baldasaro, Alfred	Bates, David
Bettencourt, David	Case, Frank	Charron, Gene	Comerford, Timothy
Crisler, Margaret	DeSimone, Debra	Devine, James	DiFruscia, Anthony
Elliott, Robert	Emiro, Frank	Ferrante, Beverly	Fesh, Robert
Flanders, John Sr	Gleason, John	Griffin, Mary	Headd, James
Hoelzel, Kathleen	Howard, Doreen	Hutchinson, Karen	Ingram, Russell
Introne, Robert	Itse, Daniel	Kappler, L. Mike	Katsakiores, Phyllis
Kolodziej, Walter	Major, Norman	McKinney, Betsy	McMahon, Charles
Packard, Sherman	Perkins, Amy	Perkins, Lawrence	Priestley, Anne
Quandt, Matt	Rausch, James	Reagan, John	Sapareto, Frank
Scamman, Stella	Scamman, W. Douglas Jr	Sedensky, John	Smith, William
Stiles, Nancy	Sullivan, James	Tucker, Pamela	Weare, Everett
Welch, David	Wells, Roger	Weyler, Kenneth	

STRAFFORD

Bickford, David	Brown, Julie	Groen, Warren	Sprague, Dale
Twombly, James	Vita, Carol		

SULLIVAN

Cunningham, Steven	Howard, Thomas	Osgood, Joe	Rodeschin, Beverly
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BELKNAP

Johnson, William

Merry, Liz

Miller, Kate

Stuart, Richard

CARROLL

Bridgham, Robert

Buco, Thomas

Butler, Edward

Wiley, Susan

CHESHIRE

Allen, Peter

Carr, Daniel

Mitchell, Bonnie

Robertson, Timothy

Butcher, Suzanne

Lerandean, Alfred

Parkhurst, Henry

Sad, Tara

Butterworth, Timothy

Lindsey, Steven

Richardson, Barbara

Weber, Lucy

Butynski, William

Meador, David

Roberts, Kris

Weed, Charles

COOS

Hatch, William

Mears, Lucy

Merrick, Evalyn

Theberge, Robert

GRAFTON

Aguir, James

Ford, Susan

Laliberte, Suzanne

Pierce, David

Townsend, Charles

Almy, Susan

Friedrich, Carol

Mulholland, Catherine

Preston, Philip

White, Andrew

Benn, Bernard

Gould, Franklin

Nordgren, Sharon

Smith, Suzanne

Cooney, Mary

Harding, Laurie

Pastor, Beatriz

Taylor, Kathleen

HILLSBOROUGH

Baroody, Benjamin

Chininis, Alexis

Foster, Linda

Goley, Jeffrey

Hardy, Valerie

Knowles, John

LaPlante, Roland

Mack, Ron

O'Brien, Michael Sr

Rosenwald, Cindy

Sullivan, Daniel

Winters, Joel

Beck, Catriona

Cote, David

Garrity, Patrick

Gorman, Mary

Harvey, Philip

Knowles, Mary Ann

Leishman, Peter

Marshall, Seth

O'Neil, James

Schulze, Joan

Thompson, Robert

Chandle, Shannon

Craig, James

Gidge, Kenneth

Haley, Robert

Harvey, Suzanne

Komi, Richard

Levasseur, Nickolas

Movsesian, Lori

Pilotte, Maurice

Shattuck, Gilman

Vaillancourt, Steve

Chase, Claudia

Flurey, Joan

Ginsburg, Ruth

Hammond, Jill

Hodges, Kevin

Kopka, Angeline

Long, Patrick

Nixon, David

Rokas, Theodoros

Shaw, Barbara

Walsh, Robert Jr

MERRIMACK

Bouchard, Candace

DeStefano, Stephen

Hamm, Christine

Owen, Derek

Richardson, Gary

Stetson, William

Walz, Mary Beth

Williams, Robert

Brown, Carole

Foose, Robert

Kelly, Sally

Porter, Margaret

Rodd, Beth

Tilton, Joy

Watrous, Rick

Yeaton, Charles

Clarke, Claire

French, Barbara

Lockwood, Priscilla

Potter, Frances

Schuett, Dianne

Tupper, Frank

Webb, Leigh

Davis, Frank

Gile, Mary

Osborne, Jessie

Rice, Chip

Shurtleff, Stephen

Wallner, Mary Jane

Wheeler, Deborah

ROCKINGHAM

Abbott, Dennis

Day, Judith

Kepner, Susan

McEachern, Paul

Brown, C. Pennington

DiPentima, Rich

Lyons, Melissa

Moody, Marcia

Casey, Kimberley

Gould, Kenneth

Mann, Maureen

Nord, Susi

Cushing, Robert

Hutchinson, Gina

McCarthy, Barbara

Pantelakos, Laura

Petterson, Don
Splaine, James

Read, Robin Jr
Webber, Carolyn

Russell, Trinka

Schlachman, Donna

STRAFFORD

Berube, Roger
Burke, Rachel
Kaen, Naida
Price, Susan
Schmidt, Peter
Wall, Janet

Brennan, William
Cyr, James
Keans, Sandra
Rollo, Deanna
Smith, Marjorie
Ward, Kenneth

Brown, Larry
Horrigan, Timothy
Lauterborn, Elaine
Rous, Emma
Spang, Judith
Watters, David

Browne, Brendon
Hubbard, Pamela
Perry, Robert
Ryder, Mark
Vachon, Dennis

SULLIVAN

Cloutier, John
Harris, Sandra

Donovan, Thomas Jr
Houde-Quimby,
Charlotte

Gagnon, Raymond
McClammer, Jim

Gottling, Suzanne
Skinder, Carla

Sweeney, Cynthia
and floor amendment (1961h) failed.

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

Rep. Gary Richardson requested a roll call; sufficiently seconded.

YEAS 177 NAYS 150

YEAS 177

BELKNAP

Johnson, William

Merry, Liz

Miller, Kate

Stuart, Richard

CARROLL

Bridgham, Robert

Buco, Thomas

Butler, Edward

Wiley, Susan

CHESHIRE

Allen, Peter
Carr, Daniel
Mitchell, Bonnie
Robertson, Timothy

Butcher, Suzanne
Lerandeau, Alfred
Parkhurst, Henry
Sad, Tara

Butterworth, Timothy
Lindsey, Steven
Richardson, Barbara
Weber, Lucy

Butynski, William
Meador, David
Roberts, Kris
Weed, Charles

COOS

Hatch, William

Mears, Lucy

Merrick, Evalyn

Theberge, Robert

GRAFTON

Aguiar, James
Ford, Susan
Laliberte, Suzanne
Pierce, David
Townsend, Charles

Almy, Susan
Friedrich, Carol
Mulholland, Catherine
Preston, Philip
White, Andrew

Benn, Bernard
Gould, Franklin
Nordgren, Sharon
Smith, Suzanne

Cooney, Mary
Harding, Laurie
Pastor, Beatriz
Taylor, Kathleen

HILLSBOROUGH

Baroody, Benjamin
Chininis, Alexis

Beck, Catriona
Cote, David

Chandley, Shannon
Craig, James

Chase, Claudia
Flurey, Joan

Foster, Linda
Goley, Jeffrey
Hardy, Valerie
Knowles, John
LaPlante, Roland
Mack, Ron

Nixon, David
Rokas, Theodoros
Shaw, Barbara
Walsh, Robert Jr

Garrity, Patrick
Gorman, Mary
Harvey, Philip
Knowles, Mary Ann
Leishman, Peter
Marshall, Seth

O'Brien, Michael Sr
Rosenwald, Cindy
Sullivan, Daniel
Winters, Joel

Gidge, Kenneth
Haley, Robert
Harvey, Suzanne
Komi, Richard
Levasseur, Nickolas
Matarazzo, Anthony
Sr

O'Neil, James
Schulze, Joan
Thompson, Robert

Ginsburg, Ruth
Hammond, Jill
Hodges, Kevin
Kopka, Angeline
Long, Patrick
Movsesian, Lori

Pilotte, Maurice
Shattuck, Gilman
Vaillancourt, Steve

MERRIMACK

Bouchard, Candace
DeStefano, Stephen
Hamm, Christine
Owen, Derek
Richardson, Gary
Stetson, William
Walz, Mary Beth
Williams, Robert

Brown, Carole
Foose, Robert
Kelly, Sally
Porter, Margaret
Rodd, Beth
Tilton, Joy
Watrous, Rick
Yeaton, Charles

Clarke, Claire
French, Barbara
Lockwood, Priscilla
Potter, Frances
Schuett, Dianne
Tupper, Frank
Webb, Leigh

Davis, Frank
Gile, Mary
Osborne, Jessie
Rice, Chip
Shurtleff, Stephen
Wallner, Mary Jane
Wheeler, Deborah

ROCKINGHAM

Abbott, Dennis
Day, Judith
Kepner, Susan
McEachern, Paul
Pettersen, Don
Splaine, James

Brown, C. Pennington
DiPentima, Rich
Lyons, Melissa
Moody, Marcia
Read, Robin Jr
Webber, Carolyn

Casey, Kimberley
Gould, Kenneth
Mann, Maureen
Nord, Susi
Russell, Trinkia

Cushing, Robert
Hutchinson, Gina
McCarthy, Barbara
Pantelakos, Laura
Schlachman, Donna

STRAFFORD

Berube, Roger
Browne, Brendon
Hubbard, Pamela
Price, Susan
Ryder, Mark
Vachon, Dennis

Bickford, David
Burke, Rachel
Keans, Sandra
Rogers, Rose Marie
Schmidt, Peter
Wall, Janet

Brennan, William
Cyr, James
Lauterborn, Elaine
Rollo, Deanna
Smith, Marjorie
Ward, Kenneth

Brown, Larry
Horrigan, Timothy
Perry, Robert
Rous, Emma
Spang, Judith
Watters, David

SULLIVAN

Cloutier, John
Harris, Sandra

Sweeney, Cynthia

Donovan, Thomas Jr
Houde-Quimby,
Charlotte

Gagnon, Raymond
McClammer, Jim

Gottling, Suzanne
Skinder, Carla

NAYS 150

BELKNAP

Bolster, Peter
Nedeau, Stephen
Swinford, Elaine

Boyce, Laurie
Pilliod, James
Wendelboe, Fran

Fields, Dennis
Russell, David

Flanders, Donald
St. Cyr, Jeffrey

CARROLL

Ahlgren, Christopher McConkey, Mark	Chandler, Gene Patten, Betsey	Fleck, Joseph Stevens, Stanley	Knox, J. David Umberger, Karen
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CHESHIRE

Emerson, Susan Sterling, Franklin Jr	Hunt, John	Johnson, Jane	Laurent, John
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COOS

Rappaport, Laurence	Remick, William	Stohl, Eric	Tholl, John Jr
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GRAFTON

Gionet, Edmond	Ladd, Rick Jr	Ward, Brien
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HILLSBOROUGH

Batula, Peter	Belvin, William	Bergin, Peter	Boehm, Ralph
Campbell, David	Cebrowski, John	Christensen, Chris	Christiansen, Lars
Daniels, Gary	Day, Russell	Doherty, Shaun	Dokmo, Cynthia
Drisko, Richard	Elliott, Nancy	Emerton, Larry	Gagne, Larry
Gandia, Laura	Gargasz, Carolyn	Graham, John	Haefner, Robert
Hawkins, Ken	Hikel, John	Hinch, Richard	Hogan, Edith
Holden, Frank	Holden, Rip	Hopper, Gary	Infantine, William
Jasper, Shawn	Kurk, Neal	McCarthy, Michael	Mead, Robert
Moran, Edward	O'Brien, William	Ober, Lynne	Ober, Russell III
Palmer, Stephen	Peterson, Andrew	Pratt, Calvin	Price, Pamela
Renzullo, Andrew	Rowe, Robert	Ryder, Donald	Seidel, Carl
Soucy, Connie	Spaulding, Jayne	Tahir, Saghir	Ulery, Jordan
Villeneuve, Moe	Willette, Robert		

MERRIMACK

Anderson, Eric Kotowski, Frank Smith, Todd	Blankenbeker, Lynne McGuire, Carol	Hess, David Palfrey, David	Kidder, David Reed, Dennis
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ROCKINGHAM

Allen, Mary	Bailey, Clinton	Baldasaro, Alfred	Bates, David
Bettencourt, David	Case, Frank	Charron, Gene	Comerford, Timothy
Crisler, Margaret	DeSimone, Debra	Devine, James	DiFruscia, Anthony
Elliott, Robert	Emiro, Frank	Ferrante, Beverly	Fesh, Robert
Flanders, John Sr	Gleason, John	Griffin, Mary	Headd, James
Hoelzel, Kathleen	Howard, Doreen	Hutchinson, Karen	Ingram, Russell
Introne, Robert	Itse, Daniel	Kappler, L. Mike	Katsakiores, Phyllis
Kolodziej, Walter	Major, Norman	McKinney, Betsy	McMahon, Charles
Packard, Sherman	Perkins, Amy	Perkins, Lawrence	Priestley, Anne
Quandt, Matt	Rausch, James	Reagan, John	Sapareto, Frank
Scamman, Stella	Scamman, W. Douglas Jr	Sedensky, John	Smith, William
Stiles, Nancy	Sullivan, James	Tucker, Pamela	Weare, Everett
Welch, David	Wells, Roger	Weyler, Kenneth	

STRAFFORD

Brown, Julie Twombly, James	Groen, Warren Vita, Carol	Kaen, Naida	Sprague, Dale
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SULLIVAN

Cunningham, Steven Howard, Thomas Osgood, Joe Rodeschin, Beverly
and the majority committee report was adopted.
Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Rep. Packard moved that **HB 1664-FN**, making appropriations reductions in the operating budget for fiscal year 2011 and relative to state revenues and expenditures, be removed from the table.

On a division vote, 152 members having voted in the affirmative and 172 in the negative, the motion failed.

MOTION TO REMOVE FROM THE TABLE

Rep. Comerford moved that **HB 1188**, relative to nominating a political organization by nomination papers, be removed from the table.

On a division vote, 78 members having voted in the affirmative and 244 in the negative, the motion failed.

The House recessed at 12:55 p.m.

RECESS

(Speaker Norelli in the Chair)

The House reconvened at 1:55 p.m.

INTRODUCTION OF GUESTS

Students from the Plainfield School in Meriden, guests of the Plainfield delegation.

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

HA 1, for the removal of Michael Garner, marital master in the judicial branch family division in Laconia. **MAJORITY: OUGHT NOT TO PASS. MINORITY: OUGHT TO PASS.**

Rep. Lucy M. Weber for the Majority of the Joint Committee on Address: This bill of address seeks the removal of Michael Garner, a marital master in the judicial branch family division. The basis for his removal is one post-divorce action. In this action, the marital master issued an order requiring a formerly home schooled 10 year old to attend public school in the upcoming school year. The sponsors assert that this order was based on an unconstitutional infringement on the mother's freedom of religion. They further argue on the basis of the orders in this single case that the marital master has a bias against religion, which necessitates his removal from office. Special Procedural Rule 7, adopted by the committee in this as in prior address proceedings, sets out the constitutional requirement that "[t]he joint committee shall recommend the Address only if it meets the following three criteria, and shall include such determination in a committee report.

- a. The Address states a reasonable cause for removal.
- b. The reasons for the removal are fully and substantially stated.
- c. The reasons for removal are not grounds for impeachment."

With respect to whether the bill states a reasonable cause for removal, the bipartisan majority finds it does not. The sponsors conceded that the address was brought on the basis of two orders made in a single case. The case is one in which parents who share decision-making responsibility for the child were unable to agree on the appropriate school placement. The mother, who had been home schooling the child, wanted to continue to do so. The father

believed that a public school setting was more appropriate. Master Garner noted his reluctance to impose an educational decision on parents, and stated he had the authority to do so only because the parents were unable to agree. He based his decision to order public schooling on the advisability of a child experiencing a wide variety of “experiences, people, concepts and surroundings.” The magistrate specifically noted the court’s obligation to avoid any consideration of the specific tenets of any of the parties’ religion. The court recognized and preserved the right of each parent to provide the child with religious training and to teach the child his or her own religious beliefs. The magistrate’s orders reveal not a bias against religion, but, on the contrary, a careful attempt to preserve to each parent their own religious freedom and the right to instruct their child in accordance with their beliefs. A second concern was raised about a possible bias against home schooling. Here again, the magistrate stated that home schooling is an approved method of education in this state. He noted that had the parents agreed on a home school plan, he would have been without any authority to change that decision. The majority notes that the issues complained of in the decision are ones of first impression in this state, and the decisions are currently on appeal before the Supreme Court. The Supreme Court may ultimately find that the decisions were made in error. In that case, the remedy is reversal of the decision. Any further sanction for the master would be inappropriate. The majority is concerned that the serious nature of an address should not be used as a means by which litigants can express their disagreement or dissatisfaction with the rulings in discrete cases, particularly when significant legal or factual questions exist as to the validity of the litigant’s claims. The majority finds that the requirement that the Address state a reasonable cause for removal is not met. The second flaw that the majority finds in the bill of address is grounded in the language of Part II, Article 73 of the New Hampshire Constitution, which states that “[t]he governor with consent of the council may remove any commissioned officer for reasonable cause upon the address of both houses of the legislature...” In 2000, when Michael Garner became a marital master, appointments to the position were made solely by the judicial branch. Michael Garner has continued as an at-will employee of the judicial branch to this day. He has never been commissioned by the Governor and Council. He has never held a commission of any kind. Under the plain meaning of the language of Article 73, he cannot be subject to address. Moreover, the purpose of Article 73 is to allow for the removal, when necessary, of judges who cannot be removed from office except by impeachment or address. This is not the case with marital masters. Under the family division court rules, the administrative judge may at any time respond to a complaint against a marital master and “take whatever action is appropriate, including termination.” Part II, Article 73 also specifies that the grounds for an address “shall not be a cause which is a sufficient cause for impeachment.” Part II, Article 38 defines the causes for impeachment as “bribery, corruption, malpractice or maladministration, in office.” The relevant definition of “malpractice” in Webster’s New World Collegiate Dictionary is “[m]isconduct or improper practice in any professional or official position.” The majority notes that even if they had found that the actions complained of rose to the level of reasonable cause for removal, the actions, being in the course of the magistrate’s regular duties in his official position, would have fallen under the plain meaning of the word malpractice, and the offense, had there been one, would have been impeachable, and therefore not addressable. The minority argues that more time was necessary to consider and discuss the materials presented by the sponsors. The majority is convinced that no amount of delay or discussion could possibly have transformed Marital Master Gardner into a “commissioned officer” as required by the constitution as a condition for address. For all the foregoing reasons, the majority recommends a vote of ought not to pass. Vote 8-3. Rep. Robert H. Rowe for the Minority of the Joint Committee on Address: A house address is a procedure authorized under Part 2, Article 73 of our Constitution whereby the House and Senate can advise the Governor and Executive Council of an appointed public official that the House and Senate believe is not behaving well and recommend the official be removed. A house address can be a process for the removal of a judge, marital master, attorney general

or another public official appointed by the Governor and Executive Council for life or a term of years. In HA 1 the address was against Marital Master Michael Garner. The normal process is for a joint House and Senate committee to be appointed to investigate the behavior of the official, in this case Marital Master Michael Garner. The procedural rule established by the joint committee was to use the first day in the process to allow the sponsors (just like a regular House bill introduction) to present their facts, then the joint committee would hear comments from the public. We established that there would then be a two-week delay after the introduction to allow the named party to prepare and present a rebuttal to the joint committee. On the introduction day, the sponsors and members of the public presented their claim that Marital Master Garner “exceeded his constitutional authority and acted badly, resulting in the failure to preserve the religious rights of a citizen appearing before him ... when he recommended to the presiding justice an order removing a child from an educational setting on the basis of religious prejudice.” On the introduction day, the committee was given voluminous material at the start of the hearing, without providing for an opportunity for members to read the material before a motion of “ought not to pass” was offered at the close of presentations. The minority requested time to absorb the material handed out and receive the response from Marital Master Garner, but the committee voted it down. Subsequently, no opportunity was given for discussion of the prior vote. The issue before the committee was important, and dealt with constitutional rights. It is the opinion of the minority that the committee reached its decision without adequate time to discuss the issues involved. The process was flawed and the minority oppose the majority motion and request HA 1 be returned to the committee so the matter may be heard on the merits.

SPECIAL ORDERED

Without objection, the Speaker ordered that **HA 1**, for the removal of Michael Garner, marital master in the judicial branch family division in Laconia, be made a Special Order for the next session day in its Regular Calendar order.

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

SB 455-FN, relative to New Hampshire HealthFirst. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. John B. Hunt for the Majority of Commerce and Consumer Affairs: Understanding that the NH insurance commissioner, under current law, may enforce new rules based on the new federal health insurance law that will become effective this fall (6 months after enactment), the majority of the committee supported the committee amendment. The committee believes that NH citizens will benefit when this new federal program is implemented through NH law and agencies. We must insure, as best we can, that this new mandate is implemented using the processes and systems that work best for NH. Our citizens should have access to NH consumer protections rather than having to rely on federal agencies for enforcement of the consumer protections provided in the new law. There is no federal insurance department; states have always administered insurance consumer protection laws. Since many new federal rules regarding health insurance reform have not yet been created, one intent of this amendment is that any new federal rule in effect prior to any legislative action that will be necessary next year, the insurance commissioner may move forward, in the meantime, to provide implementation and insurance consumer protection for New Hampshire citizens. This non-germane amendment totally replaced the original bill. The public hearing was very well attended and several concerns were expressed, most of which were addressed by the committee amendment. One of the concerns was why was the committee acting on the bill the same day it was heard? It didn't - the subcommittee reviewed several versions of the amendment before the final one was agreed upon. The Medicaid implications of the new federal legislation are not yet clearly known. So Medicaid is explicitly exempted from this authority. The need for clear legislative oversight was requested at the public hearing. The

amendment now requires that the insurance commissioner will meet (monthly if necessary) with a legislative committee. The legislative intent is to allow the legislators to discuss the need for any new insurance department rule or law as to whether it needs to be enacted prior to any new legislation that will come forward in the 2011 session. Ultimately any new law or rule enacted solely under the authority provided by this legislation will sunset. The final amendment has two other important sections that do change current NH law. The federally-approved high risk pool would be administrated by our existing NH high-risk pool. The good news is that the federal pool is fully funded because it will only operate until the “exchanges” are created in 2014. The new federal high-risk pool will probably not affect our current pool because it will only be available to those without insurance for six months and who have uninsurable preexisting conditions. The other part of the amendment that changes current NH law is to bring our law into agreement with the new federal definition related to mandatory family coverage up to the age of 26. We had to remove our requirement that the family member be unmarried. The one issue not addressed by this amendment but that was raised by those who attended the public hearing, was the desire that NH should ignore or even defy the new federal health insurance law. Regardless of how one feels about the new federal law, the majority of the committee wanted to insure that NH citizens will continue to have the NH insurance department, not federal agencies, protecting their rights when it comes to health insurance in NH. Vote 15-2.

Rep. Matt J. Quandt for the Minority of Commerce and Consumer Affairs: The minority feels that it is premature to turn over the implementation of the new federal healthcare plan to the insurance department. To date, there has been limited scrutiny of this plan regarding the impact on New Hampshire citizens in light of our specific health plans in force in New Hampshire. We need to consider costs to individuals, businesses and the state. We should consider the degree to which this state will allow the government to insert itself between doctor and patients. We need to evaluate the interaction with current state mandates, and current coverage of children and other dependents. We need to define the state role in collecting fines or taxes in regard to the federal program, and what controls and measurements are needed to assure the plan is implemented with maximum effectiveness. All of these issues should be addressed by relevant committees in the legislature, and not simply turned over the executive branch for decisions as to implementation.

Majority Amendment (1808h)

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

AN ACT relative to federal health care reform.

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

1 New Chapter; Federal Health Care Reform 2010. Amend RSA by inserting after chapter 420-K the following new chapter:

CHAPTER 420-L

FEDERAL HEALTH CARE REFORM 2010

420-L:1 Purpose and Scope.

I. The intent of this chapter is to preserve the insurance regulatory authority of the state by authorizing the commissioner to implement the insurance reforms required under the Patient Protection and Affordable Care Act of 2009, as amended by the Health Care and Education Reconciliation Act of 2010 that take effect on or before July 1, 2011, (hereinafter “Act”).

II. The provisions of this chapter shall ensure that New Hampshire residents obtain the full protections and benefits provided by the Act prior to any legislative action in the 2011 legislative session that may be necessary.

420-L:2 Definitions. In this chapter:

I. “Act” means the Patient Protection and Affordable Care Act of 2009 (Public Law 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

II. "Commissioner" means the insurance commissioner.

III. "Department" means the insurance department.

IV. "Health Care and Education Reconciliation Act of 2010" means the law enacted by the 111th United States Congress, HR 4872, (Public Law 111-152) signed into law on March 30, 2010.

V. "Patient Protection and Affordable Care Act of 2009" means the law enacted by the 111th United States Congress, HR 3590, (Public Law 111-148) signed into law on March 30, 2010.

420-L:3 Authority of the Commissioner. The commissioner shall enforce the consumer protections and market reforms as set forth in the Act that relate to insurance. This shall not include the medical assistance program under RSA 167. The commissioner shall have full power and authority in accordance with the time frames set forth in the Act to:

I. Make, adopt, and amend rules and regulations pursuant to RSA 541-A for, or as an aid to, the administration of any provision of the Act relating to insurance;

II. Apply for any grant funds available under the Act; and

III. Adopt and apply standards consistent with the Act for form and rate review of insurance products and any other regulatory oversight functions performed by the department.

420-L:4 Interpretation. All provisions in this chapter shall be interpreted consistently with the Act, and in executing the authority granted under this chapter, the commissioner shall be guided by applicable provisions of the Act, by federal regulations and any federal interpretations, standards, or guidance issued pursuant to the Act.

420-L:5 Application of Law. Any provision within Title XXXVII that prevents the application of the Act without providing greater consumer protections or increased access to health insurance coverage shall be preempted.

420-L:6 Health Insurance Reform Oversight Committee. There is established a health insurance reform oversight committee consisting of 2 members of the senate, appointed by the president of the senate, one of whom shall be from the senate commerce, labor and consumer protection committee, and 3 members of the house of representatives, appointed by the speaker of the house, 2 of whom shall be from the house commerce and consumer affairs committee. The committee shall meet at the request of the commissioner, but no more frequently than monthly. The commissioner shall make such periodic reports to the oversight committee relative to the department's federal insurance reform implementation plans and initiatives as may be required by the oversight committee. The oversight committee shall make a summary report on federal insurance reform implementation, together with any recommendations for legislation, to the house commerce and consumer affairs committee and the senate commerce, labor and consumer protection committee by the first day of the 2011 legislative session.

2 New Paragraph; Individual Health Insurance; Purpose. Amend RSA 404-G:1 by inserting after paragraph III the following new paragraph:

IV. Authorize the association to establish a federally qualified high risk pool pursuant to section 1101 of the Patient Protection and Affordable Care Act of 2009 (PL 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (PL 111-152).

3 New Paragraph; Individual Health Insurance; Definition Added. Amend RSA 404-G:2 by inserting after paragraph I the following new paragraph:

I-a. "Act" means the Patient Protection and Affordable Care Act of 2009 (PL 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (PL 111-152).

4 Individual Health Insurance; Definitions. Amend RSA 404-G:2, X-a to read as follows:

X-a. "Plan of operation" means the plan of operation of the risk sharing mechanism ~~and~~, the high risk pool, **and the federally qualified high risk pool**, including articles, bylaws and operating rules, procedures and policies adopted by the association.

5 New Subparagraph; Individual Health Insurance; Powers of Association. Amend RSA 404-G:3, II by inserting after subparagraph (h) the following new subparagraph:

(i) Perform additional powers as set forth in RSA 404-G:5-g.

6 New Paragraph; High Risk Pool Administrator. Amend RSA 404-G:5-c by inserting after paragraph VIII the following new paragraph:

IX. The association may use the same administrator for both the high risk pool and the federally qualified high risk pool. Notwithstanding the provisions of subparagraph II(b), the association may extend the term of the current contract with the existing high risk pool administrator without a competitive bidding process until January 1, 2014.

7 New Section; Federally Qualified High Risk Pool. Amend RSA 404-G by inserting after section 5-f the following new section:

404-G:5-g Federally Qualified High Risk Pool.

I. The association shall negotiate and submit to the commissioner for approval a contract with the United States Department of Health and Human Services to create a federally qualified high risk pool pursuant to the Act. This pool shall be known as the “federally qualified high risk pool” and the contract shall be known as the “federally qualified high risk pool contract.” The eligibility requirements, premiums, benefits, and all other elements of the federally qualified high risk pool and its operations shall be governed solely by federal law and regulation and the federally qualified high risk pool contract. Individuals covered by insurance under the federally qualified high risk pool shall not be covered lives for the purposes of this chapter. The federally qualified high risk pool shall be funded solely by federal moneys and premiums charged for coverage under it, and shall not be funded with state general fund revenue or any assessments under this chapter. All federal moneys received by the association for the federally qualified high risk pool shall be used solely for the federally qualified high risk pool.

II. In addition to the powers and duties enumerated elsewhere in this chapter, the board of directors of the association shall have the following powers and duties with respect to the federally qualified high risk pool:

(a) Make application, subject to review and approval of the commissioner, to establish and operate a federally qualified high risk pool; and

(b) Enter into contract with the Secretary of the United States Department of Health and Human Services, subject to review and approval of the commissioner, to establish and operate a federally qualified high risk pool under section 1101 of the Act.

III. The board of directors of the association shall adopt a plan of operation for the federally qualified high risk pool. This plan of operation shall include the federally qualified high risk pool contract, all federal rules and guidance issued with respect to federally qualified high risk pools, and any other provisions deemed necessary by the board to operate the federally qualified high risk pool.

8 Accident and Health Insurance; Dependent Coverage. Amend RSA 415:5, I(3)(a) to read as follows:

(3)(a) It purports to insure only one person, except that a policy may, at the election of the carrier, insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children, or any other person dependent on the policyholder. In the event a carrier elects to provide coverage for dependent children, the term “dependent child” shall include a subscriber’s child by blood or by law, who is ~~unmarried and one of the following:~~

~~(1) Under age 19.~~

~~(2) Under age 25 if the child is a full-time enrolled student at an educational institution.~~

~~(3) Under age 26, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. section 1395 et seq]~~ **under age 26.**

9 Health Services Corporations; Dependent Coverage. Amend RSA 420-A:10-a, I to read as follows:

I. A policy may, at the election of the carrier, insure, originally or by subsequent amendment, upon application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children, or any other person dependent upon the policyholder. In the event a carrier elects to provide coverage for dependent children, the term “dependent child” shall include a subscriber’s child by blood or by law, who is ~~[unmarried and one of the following:~~

~~(a) Under age 19.~~

~~(b) Under age 25 if the child is a full-time enrolled student at an educational institution.~~

~~(c) Under age 26, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. section 1395 et seq]~~ **under age 26.**

10 Health Maintenance Organizations; Dependent Coverage. Amend RSA 420-B:8-aa, I to read as follows:

I. A policy may, at the election of the carrier, insure, originally or by subsequent amendment, upon application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children, or any other person dependent upon the policyholder. In the event a carrier elects to provide coverage for dependent children, the term “dependent child” shall include a subscriber’s child by blood or by law, who is ~~[unmarried and one of the following:~~

~~(a) Under age 19.~~

~~(b) Under age 25 if the child is a full-time enrolled student at an educational institution.~~

~~(c) Under age 26, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. section 1395 et seq]~~ **under age 26.**

11 Preferred Provider Agreements; Dependent Coverage. Amend RSA 420-C:4-a, I to read as follows:

I. A policy may, at the election of the carrier, insure, originally or by subsequent amendment, upon application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children, or any other person dependent upon the policyholder. In the event a carrier elects to provide coverage for dependent children, the term “dependent child” shall include a subscriber’s child by blood or by law, who is ~~[unmarried and one of the following:~~

~~(a) Under age 19.~~

~~(b) Under age 25 if the child is a full-time enrolled student at an educational institution.~~

~~(c) Under age 26, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. section 1395 et seq]~~ **under age 26.**

12 Delta Dental; Dependent Coverage. Amend RSA 420-F:5-a, I to read as follows:

I. A policy may, at the election of the carrier, insure, originally or by subsequent amendment, upon application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children, or any other person dependent upon the policyholder. In the event a

carrier elects to provide coverage for dependent children, the term “dependent child” shall include a subscriber’s child by blood or by law, who is ~~[unmarried and one of the following:~~

~~(a) Under age 19.~~

~~(b) Under age 25 if the child is a full time enrolled student at an educational institution.~~

~~(c) Under age 26, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. section 1395 et seq]~~ **under age 26.**

13 Managed Care; Dependent Care. Amend RSA 420-J:8-d, I to read as follows:

I. A policy may, at the election of the carrier, insure, originally or by subsequent amendment, upon application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children, or any other person dependent upon the policyholder. In the event a carrier elects to provide coverage for dependent children, the term “dependent child” shall include a subscriber’s child by blood or by law, who is ~~[unmarried and one of the following:~~

~~(a) Under age 19.~~

~~(b) Under age 25 if the child is a full time enrolled student at an educational institution.~~

~~(c) Under age 26, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. section 1395 et seq]~~ **under age 26.**

14 Health Reform Coordinator. Amend RSA 400-A:6, VII to read as follows:

VII. The commissioner shall appoint, as the commissioner’s assistants, a health care policy analyst, a health care statistician, a general counsel, an insurance fraud attorney, a senior insurance fraud investigator, an assistant property and casualty actuary, ~~[and]~~ a compliance and enforcement counsel, **and a health reform coordinator**, each of whom shall serve at the pleasure of the commissioner during good behavior. The health care policy analyst, health care statistician, general counsel, insurance fraud attorney, senior insurance fraud investigator, assistant property and casualty actuary, ~~[and]~~ compliance and enforcement counsel, **and health reform coordinator**, shall perform such duties and exercise such powers as the commissioner may authorize.

15 Repeal. RSA 420-L, relative to federal health care reform 2010, is repealed.

16 Rules. Any rules adopted solely pursuant to RSA 420-L shall expire July 1, 2012.

17 Effective Date.

I. Section 15 of this act shall take effect July 1, 2011.

II. Sections 1-7 and 14 of this act shall take effect upon its passage.

III. Section 16 of this act shall take effect July 1, 2012.

IV. The remainder of this act shall take effect September 23, 2010.

AMENDED ANALYSIS

This bill authorizes the insurance commissioner to implement the insurance reforms required under federal law. The bill also revises the laws regarding dependent coverage to conform to federal law.

(Rep. Foster in the Chair)

Rep. William Smith spoke against and requested a ruling on if the majority amendment was germane.

The Speaker ruled the majority amendment germane.

Reps. Cunningham and Groen spoke against and yielded to questions.

(Speaker Norelli in the Chair)

Reps. McGuire, Seidel and Hikel spoke against.

Rep. Butler spoke in favor.

Rep. William Smith requested a roll call; sufficiently seconded.

YEAS 178 NAYS 120

YEAS 178

BELKNAP

Johnson, William
Stuart, Richard

Merry, Liz

Miller, Kate

Pilliod, James

CARROLL

Bridgham, Robert

Buco, Thomas

Butler, Edward

Wiley, Susan

CHESHIRE

Butcher, Suzanne
Hunt, John
Mitchell, Bonnie
Sad, Tara

Butterworth, Timothy
Lerandeau, Alfred
Richardson, Barbara
Weber, Lucy

Butynski, William
Lindsey, Steven
Roberts, Kris
Weed, Charles

Carr, Daniel
Meador, David
Robertson, Timothy

COOS

Hatch, William
Theberge, Robert

Mears, Lucy

Merrick, Evalyn

Remick, William

GRAFTON

Aguiar, James
Ford, Susan
Laliberte, Suzanne
Pierce, David
Townsend, Charles

Almy, Susan
Friedrich, Carol
Mulholland, Catherine
Preston, Philip

Benn, Bernard
Gould, Franklin
Nordgren, Sharon
Smith, Suzanne

Cooney, Mary
Harding, Laurie
Pastor, Beatriz
Taylor, Kathleen

HILLSBOROUGH

Baroody, Benjamin
Campbell, David
Cote, David
Foster, Linda
Gorman, Mary
Harvey, Suzanne
Knowles, John
Leishman, Peter
Marshall, Seth

Beck, Catriona
Chandley, Shannon
Craig, James
Gidge, Kenneth
Hammond, Jill
Hodges, Kevin
Knowles, Mary Ann
Levasseur, Nickolas
Matarazzo, Anthony
Sr

Belvin, William
Chase, Claudia
Dokmo, Cynthia
Ginsburg, Ruth
Hardy, Valerie
Holden, Rip
Komi, Richard
Long, Patrick
Movsesian, Lori

Bergin, Peter
Chininis, Alexis
Flurey, Joan
Goley, Jeffrey
Harvey, Philip
Kelley, John
Kopka, Angeline
Mack, Ron
O'Brien, Michael Sr

O'Neil, James
Shattuck, Gilman
Winters, Joel

Pilotte, Maurice
Shaw, Barbara

Rosenwald, Cindy
Thompson, Robert

Schulze, Joan
Walsh, Robert Jr

MERRIMACK

Bartlett, Michael
Davis, Frank
Gile, Mary
Osborne, Jessie
Potter, Frances

Bouchard, Candace
DeStefano, Stephen
Hamm, Christine
Owen, Derek
Rice, Chip

Brown, Carole
Foosse, Robert
Kelly, Sally
Palfrey, David
Richardson, Gary

Clarke, Claire
French, Barbara
Lockwood, Priscilla
Porter, Margaret
Rodd, Beth

Schuett, Dianne
Tupper, Frank
Webb, Leigh

Shurtleff, Stephen
Wallner, Mary Jane
Wheeler, Deborah

Stetson, William
Walz, Mary Beth
Williams, Robert

Tilton, Joy
Watrous, Rick
Yeaton, Charles

ROCKINGHAM

Abbott, Dennis
Cushing, Robert
Emiro, Frank
Lyons, Melissa
Nord, Susi
Schlachman, Donna

Borden, David
Day, Judith
Gleason, John
Mann, Maureen
Pantelakos, Laura
Splaine, James

Brown, C. Pennington
DiFruscia, Anthony
Gould, Kenneth
McEachern, Paul
Read, Robin Jr
Webber, Carolyn

Casey, Kimberley
DiPentima, Rich
Kepner, Susan
Moody, Marcia
Russell, Trink

STRAFFORD

Berube, Roger
Burke, Rachel
Hubbard, Pamela
Perry, Robert
Ryder, Mark
Vachon, Dennis

Brennan, William
Cyr, James
Kaen, Naida
Rogers, Rose Marie
Schmidt, Peter
Wall, Janet

Brown, Larry
Hofemann, Roland
Keans, Sandra
Rollo, Deanna
Smith, Marjorie

Browne, Brendon
Horrigan, Timothy
Lauterborn, Elaine
Rous, Emma
Spang, Judith

SULLIVAN

Cloutier, John
Harris, Sandra

Skinder, Carla

Donovan, Thomas Jr
Houde-Quimby,
Charlotte
Sweeney, Cynthia

Gagnon, Raymond
McClammer, Jim

Gottling, Suzanne
Rodeschin, Beverly

NAYS 120

BELKNAP

Bolster, Peter
Russell, David

Boyce, Laurie
St. Cyr, Jeffrey

Fields, Dennis
Swinford, Elaine

Nedeau, Stephen
Wendelboe, Fran

CARROLL

Ahlgren, Christopher
McConkey, Mark

Chandler, Gene
Patten, Betsey

Fleck, Joseph
Stevens, Stanley

Knox, J. David
Umberger, Karen

CHESHIRE

Emerson, Susan
Sterling, Franklin Jr

Johnson, Jane

Laurent, John

Parkhurst, Henry

COOS

Rappaport, Laurence

Tholl, John Jr

GRAFTON

Gionet, Edmond

Ladd, Rick Jr

HILLSBOROUGH

Batula, Peter
Christiansen, Lars
Drisko, Richard

Boehm, Ralph
Daniels, Gary
Elliott, Nancy

Cebrowski, John
Day, Russell
Emerton, Larry

Christensen, Chris
Doherty, Shaun
Gagne, Larry

Graham, John
Hogan, Edith
Kurk, Neal
Ober, Russell III
Price, Pamela
Seidel, Carl
Ulery, Jordan

Haefner, Robert
Holden, Frank
McCarthy, Michael
Palmer, Stephen
Renzullo, Andrew
Soucy, Connie
Vaillancourt, Steve

Hawkins, Ken
Infantine, William
Mead, Robert
Peterson, Andrew
Rowe, Robert
Spaulding, Jayne
Villeneuve, Moe

Hikel, John
Jasper, Shawn
Ober, Lynne
Pratt, Calvin
Ryder, Donald
Tahir, Saghir
Willette, Robert

MERRIMACK

Anderson, Eric
Kotowski, Frank

Blankenbeker, Lynne
McGuire, Carol

Hess, David
Smith, Todd

Kidder, David

ROCKINGHAM

Allen, Mary
Case, Frank
DeSimone, Debra
Griffin, Mary
Howard, Doreen
Kappler, L. Mike
McKinney, Betsy
Reagan, John

Bailey, Clinton
Charron, Gene
Elliott, Robert
Hagan, Joseph
Ingram, Russell
Katsakiores, Phyllis
Packard, Sherman
Sapareto, Frank

Baldasaro, Alfred
Comerford, Timothy
Ferrante, Beverly
Headd, James
Introne, Robert
Kolodziej, Walter
Priestley, Anne
Scamman, Stella

Bates, David
Crisler, Margaret
Flanders, John Sr
Hoelzel, Kathleen
Itse, Daniel
Major, Norman
Rausch, James
Scamman, W.
Douglas Jr
Sullivan, James
Wells, Roger

Sedensky, John
Tucker, Pamela
Weyler, Kenneth

Smith, William
Weare, Everett

Stiles, Nancy
Welch, David

STRAFFORD

Brown, Julie

Groen, Warren

Twombly, James

Vita, Carol

SULLIVAN

Cunningham, Steven Howard, Thomas Osgood, Joe
and the majority committee amendment was adopted.

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

Rep. Chandler offered floor amendment (1982h).

Floor Amendment (1982h)

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

AN ACT relative to nullification of federal health care reform 2010.

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

1 New Chapter; Nullification of Federal Health Care Reform 2010. Amend RSA by inserting after chapter 420-K the following new chapter:

CHAPTER 420-L

FEDERAL HEALTH CARE REFORM 2010 NULLIFICATION

420-L:1 Purpose and Scope. The general court of the state of New Hampshire finds that:

I. The people of the several states comprising the United States of America created the federal government to be their agent for certain enumerated purposes, and nothing more.

II. The Tenth Amendment to the United States Constitution defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal government, and all power not delegated to the federal government in the Constitution of the United States is reserved to the states respectively, or to the people themselves.

III. Part First, Article 7 of the New Hampshire constitution, which predates the United States Constitution, declares that “the people of this State have the sole and exclusive right of governing themselves as a free, sovereign and independent State and that they shall exercise and enjoy every power, jurisdiction and right pertaining thereto which is not or may not hereafter be by them expressly delegated to the United States of America in Congress assembled.”

IV. The people of the state of New Hampshire have never delegated to the United States of America any power, jurisdiction and right other than those expressly enumerated in Article I, Section 8, Clauses 2 through 17 of the United States Constitution.

V. The assumption of power that the federal government has made by enacting the “Patient Protection and Affordable Care Act” interferes with the right of the people of the state of New Hampshire to regulate health care as they see fit, and contradicts James Madison’s assurance in Federalist #45 that the “powers delegated” to the federal government are “few and defined,” while those of the states are “numerous and indefinite.”

420-L:2 Nullification Of Federal Health Care Reform 2010.

I. The general court of the state of New Hampshire declares that the federal law known as the “Patient Protection and Affordable Care Act,” signed by President Barack Obama on March 23, 2010, is not authorized by the Constitution of the United States and violates its true meaning and intent as given by the Founders and Ratifiers, and is hereby declared to be invalid in this state, shall not be recognized by this state, is specifically rejected by this state, and shall be considered null and void and of no effect in this state.

II. It shall be the duty of the general court of this state pursuant to Part First, Article 7 of the constitution of New Hampshire to adopt and enact any and all measures as may be necessary to prevent the enforcement of the “Patient Protection and Affordable Care Act” within the limits of this state.

III. It shall be the duty of the executive branch of this state pursuant to Part First, Article 7 of the Constitution of New Hampshire to adopt and take all measures as may be necessary to prevent the enforcement of the “Patient Protection and Affordable Care Act” within the limits of this state.

IV. Any official, agent, or employee of the United States government or any employee of a corporation, association, or organization providing services to the United States government who enforces or attempts to enforce an act, order, law, statute, rule, or regulation of the government of the United States in violation of this act shall be guilty of a class B felony and upon conviction shall be punished by a fine not exceeding \$4,000, or a term of imprisonment, or both.

V. Any official, agent, or employee of the state of New Hampshire who enforces or attempts to enforce an act, order, law, statute, rule, or regulation of the government of the United States in violation of this act shall be guilty of a misdemeanor.

420-L:3 Private Cause of Action. Any aggrieved party shall have a private action against any person violating the provisions of RSA 420-L:2, IV or RSA 420-L:2, V and in such action shall be entitled to receive his or her actual damages or damages of five \$5,000 for each violation, whichever is greater, together with his or her attorney’s fees.

2 Effective Date. This act shall take effect September 23, 2010.

AMENDED ANALYSIS

This bill renders null and void federal health care reform 2010.

Reps. Chandler and Infantine spoke in favor.

Rep. Blankenbeker spoke in favor and yielded to questions.

Rep. McEachern spoke against.

Rep. William Smith requested a roll call; sufficiently seconded.

YEAS 121 NAYS 182

YEAS 121

BELKNAP

Boyce, Laurie
Swinford, Elaine

Fields, Dennis
Wendelboe, Fran

Nedeau, Stephen

Russell, David

CARROLL

Ahlgren, Christopher
Patten, Betsey

Chandler, Gene
Stevens, Stanley

Fleck, Joseph
Umberger, Karen

McConkey, Mark

CHESHIRE

Emerson, Susan

Johnson, Jane

Laurent, John

Sterling, Franklin Jr

COOS

Rappaport, Laurence

Tholl, John Jr

GRAFTON

Gionet, Edmond

Ladd, Rick Jr

HILLSBOROUGH

Batula, Peter
Christensen, Chris
Doherty, Shaun
Gagne, Larry
Hikel, John
Jasper, Shawn
Ober, Lynne
Price, Pamela
Seidel, Carl
Vaillancourt, Steve

Belvin, William
Christiansen, Lars
Drisko, Richard
Graham, John
Hogan, Edith
Kurk, Neal
Ober, Russell III
Renzullo, Andrew
Soucy, Connie
Villeneuve, Moe

Boehm, Ralph
Daniels, Gary
Elliott, Nancy
Haefner, Robert
Holden, Frank
McCarthy, Michael
Palmer, Stephen
Rowe, Robert
Tahir, Saghir
Willette, Robert

Cebrowski, John
Day, Russell
Emerton, Larry
Hawkins, Ken
Infantine, William
Mead, Robert
Pratt, Calvin
Ryder, Donald
Ulery, Jordan

MERRIMACK

Anderson, Eric
Kidder, David

Blankenbeker, Lynne
Kotowski, Frank

Bouchard, Candace
McGuire, Carol

Hess, David
Smith, Todd

ROCKINGHAM

Allen, Mary
Bettencourt, David
DeSimone, Debra
Flanders, John Sr
Headd, James
Introne, Robert
Kolodziej, Walter
Priestley, Anne
Sapareto, Frank

Bailey, Clinton
Charron, Gene
Elliott, Robert
Gleason, John
Hoelzel, Kathleen
Itse, Daniel
Major, Norman
Quandt, Matt
Scamman, Stella

Baldasaro, Alfred
Comerford, Timothy
Emiro, Frank
Griffin, Mary
Howard, Doreen
Kappler, L. Mike
McKinney, Betsy
Rausch, James
Scamman, W.
Douglas Jr
Sullivan, James
Wells, Roger

Bates, David
Crisler, Margaret
Ferrante, Beverly
Hagan, Joseph
Ingram, Russell
Katsakiores, Phyllis
Packard, Sherman
Reagan, John
Sedensky, John
Tucker, Pamela
Weyler, Kenneth

STRAFFORD

Brown, Julie
Vita, Carol

Groen, Warren

Keans, Sandra

Twombly, James

SULLIVAN

Cunningham, Steven	Howard, Thomas	Osgood, Joe	Rodeschin, Beverly
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NAYS 182

BELKNAP

Bolster, Peter	Johnson, William	Merry, Liz	Miller, Kate
Pilliod, James	St. Cyr, Jeffrey	Stuart, Richard	

CARROLL

Bridgham, Robert	Buco, Thomas	Butler, Edward	Knox, J. David
Wiley, Susan			

CHESHIRE

Butcher, Suzanne	Butterworth, Timothy	Butynski, William	Carr, Daniel
Lerandeau, Alfred	Lindsey, Steven	Meador, David	Mitchell, Bonnie
Parkhurst, Henry	Richardson, Barbara	Roberts, Kris	Robertson, Timothy
Sad, Tara	Weber, Lucy	Weed, Charles	

COOS

Hatch, William	Mears, Lucy	Merrick, Evalyn	Remick, William
Theberge, Robert			

GRAFTON

Aguiar, James	Almy, Susan	Benn, Bernard	Cooney, Mary
Ford, Susan	Friedrich, Carol	Gould, Franklin	Harding, Laurie
Laliberte, Suzanne	Mulholland, Catherine	Nordgren, Sharon	Pastor, Beatriz
Pierce, David	Preston, Philip	Smith, Suzanne	Taylor, Kathleen
Townsend, Charles			

HILLSBOROUGH

Baroody, Benjamin	Beck, Catriona	Bergin, Peter	Campbell, David
Chandley, Shannon	Chase, Claudia	Chininis, Alexis	Cote, David
Craig, James	Dokmo, Cynthia	Flurey, Joan	Foster, Linda
Gargas, Carolyn	Gidge, Kenneth	Ginsburg, Ruth	Goley, Jeffrey
Gorman, Mary	Hammond, Jill	Hardy, Valerie	Harvey, Philip
Harvey, Suzanne	Hodges, Kevin	Holden, Rip	Kelley, John
Knowles, John	Knowles, Mary Ann	Komi, Richard	Kopka, Angeline
Leishman, Peter	Levasseur, Nickolas	Levesque, Melanie	Long, Patrick
Mack, Ron	Marshall, Seth	Matarazzo, Anthony Sr	Moran, Edward
Movsesian, Lori	Nixon, David	O'Brien, Michael Sr	O'Neil, James
Peterson, Andrew	Pilotte, Maurice	Rosenwald, Cindy	Schulze, Joan
Shattuck, Gilman	Shaw, Barbara	Spaulding, Jayne	Sullivan, Daniel
Thompson, Robert	Walsh, Robert Jr	Winters, Joel	

MERRIMACK

Bartlett, Michael	Brown, Carole	Clarke, Claire	Davis, Frank
DeStefano, Stephen	Foose, Robert	French, Barbara	Gile, Mary
Hamm, Christine	Kelly, Sally	Lockwood, Priscilla	Osborne, Jessie

Owen, Derek
Rice, Chip
Shurtleff, Stephen
Wallner, Mary Jane
Wheeler, Deborah

Palfrey, David
Richardson, Gary
Stetson, William
Walz, Mary Beth
Williams, Robert

Porter, Margaret
Rodd, Beth
Tilton, Joy
Watrous, Rick
Yeaton, Charles

Potter, Frances
Schuett, Dianne
Tupper, Frank
Webb, Leigh

ROCKINGHAM

Abbott, Dennis
Casey, Kimberley
DiPentima, Rich
Mann, Maureen
Pantelakos, Laura
Splaine, James

Borden, David
Cushing, Robert
Gould, Kenneth
McEachern, Paul
Read, Robin Jr
Webber, Carolyn

Brown, C. Pennington
Day, Judith
Kepner, Susan
Moody, Marcia
Russell, Trinka

Case, Frank
DiFruscia, Anthony
Lyons, Melissa
Nord, Susi
Schlachman, Donna

STRAFFORD

Berube, Roger
Burke, Rachel
Hubbard, Pamela
Rogers, Rose Marie
Schmidt, Peter
Wall, Janet

Brennan, William
Cyr, James
Kaen, Naida
Rollo, Deanna
Smith, Marjorie

Brown, Larry
Hofemann, Roland
Lauterborn, Elaine
Rous, Emma
Spang, Judith

Browne, Brendon
Horrigan, Timothy
Perry, Robert
Ryder, Mark
Vachon, Dennis

SULLIVAN

Donovan, Thomas Jr
Houde-Quimby,
Charlotte

Gagnon, Raymond
McClammer, Jim

Gottling, Suzanne
Skinder, Carla

Harris, Sandra
Sweeney, Cynthia

and floor amendment (1982h) failed.

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

Rep. Butler requested a roll call; sufficiently seconded.

YEAS 182 NAYS 121

YEAS 182

BELKNAP

Bolster, Peter
Pilliod, James

Johnson, William
Stuart, Richard

Merry, Liz

Miller, Kate

CARROLL

Bridgham, Robert
Wiley, Susan

Buco, Thomas

Butler, Edward

Knox, J. David

CHESHIRE

Butcher, Suzanne
Lerandeau, Alfred
Parkhurst, Henry
Sad, Tara

Butterworth, Timothy
Lindsey, Steven
Richardson, Barbara
Weber, Lucy

Butynski, William
Meador, David
Roberts, Kris
Weed, Charles

Carr, Daniel
Mitchell, Bonnie
Robertson, Timothy

COOS

Hatch, William

Mears, Lucy

Merrick, Evalyn

Theberge, Robert

GRAFTON

Aguiar, James
Ford, Susan
Laliberte, Suzanne
Pierce, David
Townsend, Charles

Almy, Susan
Friedrich, Carol
Mulholland, Catherine
Preston, Philip

Benn, Bernard
Gould, Franklin
Nordgren, Sharon
Smith, Suzanne

Cooney, Mary
Harding, Laurie
Pastor, Beatriz
Taylor, Kathleen

HILLSBOROUGH

Baroody, Benjamin
Chandlely, Shannon
Craig, James
Foster, Linda
Goley, Jeffrey
Harvey, Philip
Kelley, John
Kopka, Angeline
Long, Patrick

Beck, Catriona
Chase, Claudia
Day, Russell
Gargas, Carolyn
Gorman, Mary
Harvey, Suzanne
Knowles, John
Leishman, Peter
Mack, Ron

Bergin, Peter
Chininis, Alexis
Dokmo, Cynthia
Gidge, Kenneth
Hammond, Jill
Hodges, Kevin
Knowles, Mary Ann
Levasseur, Nickolas
Marshall, Seth

Campbell, David
Cote, David
Flurey, Joan
Ginsburg, Ruth
Hardy, Valerie
Holden, Rip
Komi, Richard
Levesque, Melanie
Matarazzo, Anthony
Sr
O'Neil, James
Shattuck, Gilman
Thompson, Robert

Movsesian, Lori
Pilotte, Maurice
Shaw, Barbara
Walsh, Robert Jr

Nixon, David
Rosenwald, Cindy
Sullivan, Daniel

O'Brien, Michael Sr
Schulze, Joan
Tahir, Saghir

MERRIMACK

Bartlett, Michael
Davis, Frank
Gile, Mary
Osborne, Jessie
Potter, Frances
Schuett, Dianne
Tupper, Frank
Webb, Leigh

Bouchard, Candace
DeStefano, Stephen
Hamm, Christine
Owen, Derek
Rice, Chip
Shurtleff, Stephen
Wallner, Mary Jane
Wheeler, Deborah

Brown, Carole
Foose, Robert
Kelly, Sally
Palfrey, David
Richardson, Gary
Stetson, William
Walz, Mary Beth
Williams, Robert

Clarke, Claire
French, Barbara
Lockwood, Priscilla
Porter, Margaret
Rodd, Beth
Tilton, Joy
Watrous, Rick
Yeaton, Charles

ROCKINGHAM

Abbott, Dennis
Casey, Kimberley
DiPentima, Rich
Lyons, Melissa
Moody, Marcia
Russell, Trinka

Borden, David
Cushing, Robert
Gleason, John
Mann, Maureen
Nord, Susi
Schlachman, Donna

Brown, C. Pennington
Day, Judith
Gould, Kenneth
McEachern, Paul
Pantelakos, Laura
Splaine, James

Case, Frank
DiFruscia, Anthony
Kepner, Susan
McKinney, Betsy
Read, Robin Jr
Webber, Carolyn

STRAFFORD

Berube, Roger
Burke, Rachel
Hubbard, Pamela
Perry, Robert
Ryder, Mark
Vachon, Dennis

Brennan, William
Cyr, James
Kaen, Naida
Rogers, Rose Marie
Schmidt, Peter
Wall, Janet

Brown, Larry
Hofemann, Roland
Keans, Sandra
Rollo, Deanna
Smith, Marjorie

Browne, Brendon
Horrigan, Timothy
Lauterborn, Elaine
Rous, Emma
Spang, Judith

SULLIVAN

Donovan, Thomas Jr

Gagnon, Raymond

Gottling, Suzanne

Harris, Sandra

Houde-Quimby,
Charlotte

McClammer, Jim

Skinder, Carla

Sweeney, Cynthia

NAYS 121

BELKNAP

Boyce, Laurie
St. Cyr, Jeffrey

Fields, Dennis
Swinford, Elaine

Nedeau, Stephen
Wendelboe, Fran

Russell, David

CARROLL

Ahlgren, Christopher
Patten, Betsey

Chandler, Gene
Stevens, Stanley

Fleck, Joseph
Umberger, Karen

McConkey, Mark

CHESHIRE

Emerson, Susan

Johnson, Jane

Laurent, John

Sterling, Franklin Jr

COOS

Rappaport, Laurence

Remick, William

Tholl, John Jr

GRAFTON

Gionet, Edmond

Ladd, Rick Jr

HILLSBOROUGH

Batula, Peter
Christensen, Chris
Drisko, Richard
Graham, John
Hogan, Edith
Kurk, Neal
Ober, Lynne
Pratt, Calvin
Ryder, Donald
Ulery, Jordan
Winters, Joel

Belvin, William
Christiansen, Lars
Elliott, Nancy
Haefner, Robert
Holden, Frank
McCarthy, Michael
Ober, Russell III
Price, Pamela
Seidel, Carl
Vaillancourt, Steve

Boehm, Ralph
Daniels, Gary
Emerton, Larry
Hawkins, Ken
Infantine, William
Mead, Robert
Palmer, Stephen
Renzullo, Andrew
Soucy, Connie
Villeneuve, Moe

Cebrowski, John
Doherty, Shaun
Gagne, Larry
Hikel, John
Jasper, Shawn
Moran, Edward
Peterson, Andrew
Rowe, Robert
Spaulding, Jayne
Willette, Robert

MERRIMACK

Anderson, Eric
Kotowski, Frank

Blankenbeker, Lynne
McGuire, Carol

Hess, David
Smith, Todd

Kidder, David

ROCKINGHAM

Allen, Mary
Bettencourt, David
DeSimone, Debra
Flanders, John Sr
Hoelzel, Kathleen
Itse, Daniel
Major, Norman
Rausch, James
Scamman, W.
Douglas Jr
Sullivan, James

Bailey, Clinton
Charron, Gene
Elliott, Robert
Griffin, Mary
Howard, Doreen
Kappler, L. Mike
Packard, Sherman
Reagan, John
Sedensky, John
Tucker, Pamela

Baldasaro, Alfred
Comerford, Timothy
Emiro, Frank
Hagan, Joseph
Ingram, Russell
Katsakiores, Phyllis
Priestley, Anne
Sapareto, Frank
Smith, William
Weare, Everett

Bates, David
Crisler, Margaret
Ferrante, Beverly
Headd, James
Introne, Robert
Kolodziej, Walter
Quandt, Matt
Scamman, Stella
Stiles, Nancy
Welch, David

Wells, Roger

Weyler, Kenneth

STRAFFORD

Brown, Julie

Groen, Warren

Twombly, James

Vita, Carol

SULLIVAN

Cunningham, Steven

Howard, Thomas

Osgood, Joe

Rodeschin, Beverly

and the majority committee report was adopted.

Ordered to third reading.

PROTEST

As most of NH Citizens find forced National Health Care repugnant and this bill facilitates the implementation of Universal Health Care on NH citizens, I file my protest against this vote according to Part Second, Article 24 of the NH Constitution.

Reps. Baldasaro, Bates, Batula, Bettencourt, Blankenbeker, Boehm, Boyce, Cebrowski, Charron, Chris Christensen, Lars Christiansen, Comerford, Crisler, Cunningham, Daniels, DeSimone, Doherty, Nancy Elliott, Emerson, Emiro, Ferrante, Fields, John Flanders, Fleck, Gagne, Gionet, Groen, Haefner, Hawkins, Hikel, Hoelzel, Hogan, Frank Holden, Howard, Ingram, Introne, Jasper, Jane Johnson, Kappler, Katsakiores, Kolodziej, Laurent, Michael McCarthy, McConkey, McGuire, Mead, Nedeau, Osgood, Packard, Palmer, Pratt, Rappaport, Renzullo, David Russell, Sapareto, Sedensky, Seidel, Connie Soucy, Sterling, Stevens, Swinford, Tucker, Twombly, Ulery, Villeneuve, Vita, Welch, Wendelboe, Weyler and Willette.

PROTEST

Whereas the Healthcare and Reconciliation Act of 2010 does not exercise a power delegated to Congress under Article I, Section 8 of the Constitution for the United States; and Whereas SB 455, as amended, violates Part 1, Article 7 of the Constitution of New Hampshire; and

Whereas the majority of the citizens of New Hampshire are opposed to this SB 455, as amended, I file my protest to the approval of SB 455 under Part 2, Article 24 of the Constitution of New Hampshire.

Rep. Itse.

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

SB 503, relative to unique pupil identification. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Emma L. Rous for the Majority of Education: This bill extends the highly successful unique student identifier number known as the SASID from the current K-12 public system to publicly funded preschool programs and the public higher education system. Students are assigned a number by a random number generator and individual schools enter grades, test scores, and attendance figures. Teachers and school officials can access information for their own students for the purpose of tracking areas of need and improvement. Parents and students can access their own data. Otherwise data is strictly viewed anonymously and in aggregate for the purpose of tracking trends in student achievement. The SASID has eliminated many cases of double counting and provided reliable drop-out data. Educational improvement at all levels must be based on evidence-based practice, and without data there is no evidence. For example, extending the number will make it possible to track the long-term effectiveness of public early childhood programs, to follow trends in remediation for college freshmen, to pinpoint areas of weak preparation such as math, to track the rate of college retention and completion, including time to graduation, and to facilitate the transfer of credits from the community college to the university system. Privacy is thoroughly

protected with strong sanctions for violation, by provisions in the law and, at the post secondary level, by FERPA. A bipartisan majority believes the department of education has satisfactorily answered every question posed by the committee and that nothing in this bill erodes current law. The bill is supported by the early childhood and higher education communities and the department of education. Vote 14-6.

Rep. Paul Ingbretson for the Minority of Education: In 2004, because of privacy issues and NH's bedrock belief in local control of education, we created a firewall between the data warehouse (non-personally identifying information) and the random number generator (personally identifying information). Only the local school districts have legal access to the random number generator and its personally identifying information. The state has access to the data warehouse so they can aggregate the non-personally identifying information to produce their NCLB-required reports. We were assured by the DOE that there would be no need for the state to access anyone's personal information. We believe that this bill, the purpose of which was solely to broaden the scope of pupils to include federally funded pre-school programs and public post secondary programs, removes the firewall. The minority supports the bill but brings this amendment attempting to maintain that historically important safeguard.

Majority Amendment (1824h)

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

1 Delivery of an Adequate Education. Amend RSA 193-E:3 to read as follows:

193-E:3 Delivery of an Adequate Education.

I. Annually, beginning with the 2002-2003 school year, each school district shall report data to the department of education at the school and district levels on the indicators set forth in this paragraph. The department of education shall develop a reasonable schedule to phase-in the reporting of new data required by federal law. The requirements for data keeping and the form of the report shall be established in accordance with rules adopted by the state board of education. Indicators shall include the following areas:

- (a) Attendance rates.
- (b) Annual and cumulative drop-out rates of high school pupils and annual drop-out rates for pupils in grades 7 and 8.
- (c) School environment indicators, such as safe-schools data.
- (d) Number and percentage of graduating pupils going on to post-secondary education, military service, and advanced placement participation.
- (e) Performance on state tests administered pursuant to RSA 193-C and other standardized tests administered at local option.
- (f) Expulsion and suspension rates, including in-school and out-of-school suspensions, which shall be reported for each school year.
- (g) Number and percentage of classes taught by highly qualified teachers.
- (h) Teacher and administrative turnover rates at the school and district levels.
- (i) ***Pupil course information.***

II.(a) The department of education, with the approval of the legislative oversight committee established in RSA 193-C:7, may implement and report data on any additional indicators deemed relevant to the purposes of this section.

(b) The department of education shall enter into an agreement with the board of trustees of the university system of New Hampshire or the community college system of New Hampshire, or both, if necessary, to determine additional indicators applicable to postsecondary institutions within their respective jurisdictions which are not required under paragraph VI.

III.(a) Not later than December 1, 2003, and annually thereafter, the department of education shall issue a public report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall be entitled "New Hampshire School District Profiles" and shall be made available at every school administrative unit for

public review. It shall include demographic and pupil performance data reported in paragraph I and other relevant statistics as determined by the department of education. Comparisons with state averages shall be provided for all data reported. Comparisons of each district and school to itself based on its own statewide improvement and assessment performance for the prior school year and its most recent 3-year rolling averages shall be provided. Statewide rankings of each district and school shall be provided, including a statewide ranking of each school and school district based on the percentage increase of improvement as compared with the same school district's performance in the previous year. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school district with the identification of trends, strengths, and weaknesses and the development of its local school education improvement plan.

(b) Beginning with the annual report issued in 2013, the department of education shall include data provided by early childhood programs, districts, and postsecondary institutions.

IV. Data reported in paragraph I shall be disaggregated as required by federal law and shall include numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major *ethnic*, racial, and multi-racial groups.

V. In order to reduce school districts' administrative time and costs, the department of education shall develop and utilize user-friendly, computer forms and programs to collect the data set forth in ~~[paragraph]~~ ***paragraphs I, VI, and VII*** ~~[and all enrollment and cost data related to determining the cost of an adequate education].~~

VI.(a) Annually, beginning with the 2011-2012 school year, each postsecondary institution as defined in RSA 193-E:4 shall submit a report, which shall not include any personally identifiable information such as, but not limited to, name, gender, or social security number, to the department of education containing information on indicators in the following areas:

- (1) Remedial education courses.***
- (2) Entry, withdrawal, and transfers.***
- (3) Degrees and certificates granted.***

(b) The department of education shall integrate all data collected into the data warehouse. The department of education shall have access to data solely to conduct studies, track and report annual and longitudinal pupil outcomes, and improve postsecondary readiness, retention, and articulation between educational institutions.

(c) The state board of education, in consultation with the university system of New Hampshire board of trustees and the community college system of New Hampshire board of trustees shall adopt rules, pursuant to RSA 541-A, for developing a form to be used for the report and to establish requirements for data maintenance.

VII.(a) Annually, beginning with the 2011-2012 school year, each early childhood program as defined in RSA 193-E:4 shall submit a report, which shall not include any personally identifiable information such as, but not limited to, name, gender, or social security number, to the department of education containing information on indicators in the following areas:

- (1) Program participation.***
- (2) Entry, exit, and type of program.***
- (3) Participant demographics as identified in RSA 193-E:3, IV.***

(b) The department of education shall integrate all data collected into the data warehouse. The department of education shall have access to data solely to conduct studies, track and report annual and longitudinal pupil outcomes, and improve education programs.

(c) The state board of education, in consultation with the department of health and human services, shall adopt rules, pursuant to RSA 541-A, for developing a form to be used for the report and to establish requirements for data maintenance.

2 Unique Pupil Identification; Definitions. RSA 193-E:4 is repealed and reenacted to read as follows:

193-E:4 Definitions. In this subdivision:

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

II. "Data warehouse" means the electronic system operated by the department of education that maintains the information about pupils as set forth in RSA 193-E:3, I, VI, and VII. The data warehouse shall not contain the name, address, telephone number, e-mail address, social security number, or any other personally identifiable information about any pupil.

III. "District" means a New Hampshire public school district.

IV. "District of origin" means the district in which the pupil resides at the point at which the pupil first enters the New Hampshire educational system, whether in an early childhood program, district, or postsecondary education level.

V. "Early childhood program" means a preschool or childcare program receiving Head Start or child care scholarship funds, whether licensed or exempt from licensing, or a preschool program operated by a district. Early childhood programs not operated by a district shall report data only for pupils for which Head Start or child care scholarship funds are received.

VI. "Postsecondary institution" means the university system of New Hampshire or the community college system of New Hampshire.

VII. "Random number generator" means the electronic system that creates unique pupil identification numbers and assigns a unique pupil identification number to a pupil when an early childhood program, a district, or a postsecondary institution enters a pupil's name, date of birth, town of birth, and gender. The system shall maintain that information and the name of the district of origin, and no other information. This system shall not retain the unique pupil identification number.

VIII. "Unique pupil identifier" means a randomly generated number assigned to an early childhood program pupil, a district pupil, or postsecondary institution pupil in order to gather pupil level data.

IX. "Unique pupil identification system" means an electronic system comprised of the data warehouse and the random number generator.

3 Unique Pupil Identification. Amend RSA 193-E:5 to read as follows:

193-E:5 Unique Pupil Identification.

I. The department of education shall, using federal funds only, implement and maintain a unique pupil identification system on a statewide basis that complies with the following requirements:

(a) No personally identifiable information about a pupil including ~~[but not limited to]~~ name~~[-, date of birth, gender, or]~~ **and** social security number, shall be collected or maintained by the state in such a manner as to allow such information to be connected with the unique pupil identifier. Under no circumstances shall the department of education ~~[obtain or use]~~ **include** a social security number ~~[as an identifier for any pupil, or use unique pupil identifiers except in connection with the data warehouse and such use shall not be accessible to the public]~~ **in the data warehouse.**

(b) ~~[The random number generator shall make available to each school district a unique pupil identifier for each pupil enrolled in a New Hampshire public school.]~~ The unique pupil identifier itself shall not permit pupil identification within a sub-category including, but not limited to, **early childhood program**, ~~[school]~~ district, **postsecondary institution**, sex, age, grade, or county of residence.

(c) The unique pupil identifier shall be requested **from the pupil or the random number generator** and maintained by the **early childhood program, [local school] district, or postsecondary institution**. The unique pupil identifier shall remain in the pupil's file throughout his or her ~~[elementary and secondary]~~ academic career in New Hampshire.

(d) Access to the random number generator shall be limited to **an early childhood program director, a district superintendent or designee, or a postsecondary institution registrar or designee**, and only for pupils enrolled in that **early childhood program, [school administrative unit], district, or postsecondary institution**. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(e) The random number generator shall create and maintain a comprehensive audit trail for all users accessing the ~~[system]~~ **random number generator**.

(f) The data warehouse shall create and maintain an audit trail for all users accessing secure information.

(g) No person, including an individual, business, government, or governmental entity, shall require an individual to provide a unique pupil identifier as a condition of doing business, providing a service, or receiving a benefit of any kind, **except as provided in RSA 193-E:5, I(c)**. Any person or entity ~~[violating]~~ **who knowingly violates** the provisions of this ~~[paragraph]~~ **subparagraph** shall be liable for actual damages or \$25,000, whichever is greater, for each violation. Each denial of services or benefits shall constitute a separate offense under this ~~[paragraph]~~ **subparagraph**.

(h) If a pupil's records become part of an administrative action outside of the pupil's ~~[school]~~ **early childhood program, district, or postsecondary institution**, or a part of any judicial or quasi-judicial proceeding, the part of the record containing the pupil's unique pupil identifier shall be redacted by the ~~[school]~~ **early childhood program, district, or postsecondary institution** prior to release.

(i) The information maintained in the data warehouse~~[-except for the unique pupil identifier,]~~ shall be available to the department of education and to the public using the ~~[same database]~~ **data** maintained by the department of education. No personally identifiable information shall be required as a condition of access or usage under this subparagraph, nor shall such access or usage be tracked. Under no circumstances shall the unique pupil identifier be made available to ~~[the department of education or to]~~ the public.

(j) Information maintained in the random number generator shall be exempt from the provisions of RSA 91-A.

(k) Authorized personnel at the department of education shall administer and maintain the unique pupil identification system.

(l) **The department of education shall provide** no personally identifiable information **collected pursuant to this chapter**, including but not limited to name, date of birth, **or gender**~~[-or social security number, shall be provided]~~ to any person or entity, **other than an early childhood program, district, or postsecondary institution authorized to access this data**, absent a court order~~[-and]~~. Under no circumstances shall personally identifiable information be provided to any person or entity outside of New Hampshire **without permission from the pupil or the pupil's legal guardian**. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(m) **Early childhood programs not receiving Head Start or Child Care scholarship funds, private schools comprised of kindergarten through grade 12, and all private postsecondary institutions may participate in the data warehouse and random number generator. Participating early childhood programs may volunteer to include data for pupils for which Head Start or Child Care scholarship funds are not received. Permission of a parent or legal guardian of a pupil enrolled in an early childhood program shall be obtained before a pupil may participate in**

the data warehouse and random number generator. For the purposes of this section, such voluntary participating early childhood programs shall be included in the definition set forth in RSA 193-E:4.

(n) Notwithstanding subparagraphs (a)-(m), to enable the department of education to ensure the accuracy of the data, the commissioner of the department of education may, in writing, grant individuals access to the data warehouse, including but not limited to, access to the unique pupil identifier for the purpose of connecting information in the warehouse with the random number generator.

(o) At the request of the district, the department of education shall provide pupil data from the data warehouse to a district for pupils educated in that district. The department shall not provide any pupil-level data to a school district not directly involved with the pupil's education.

(p) At the request of the pupil, the department of education shall provide pupil data from the data warehouse to a postsecondary institution.

(q) At the request of the parent or legal guardian, the department of education shall provide pupil data from the data warehouse to an early childhood program.

(r) Nothing in this chapter shall prohibit institutions in the university system of New Hampshire and the community college system of New Hampshire from exchanging data between themselves without the consent or involvement of the department of education.

II. Notwithstanding RSA 193-E:3, II, the legislative oversight committee established in RSA 193-C:7 shall perform any revisions to this section through legislation filed for that purpose.

III. Any contracts or agreements necessary to implement the provisions of this section shall be approved by the governor with the consent of the executive council, and the fiscal committee established in RSA 14:30-a.

4 Effective Date. This act shall take effect 60 days after its passage.
Majority committee amendment adopted.

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

Rep. Barbara Shaw offered floor amendment (2028h).

Floor Amendment (2028h)

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

1 Delivery of an Adequate Education. Amend RSA 193-E:3 to read as follows:

193-E:3 Delivery of an Adequate Education.

I. Annually, beginning with the 2002-2003 school year, each school district shall report data to the department of education at the school and district levels on the indicators set forth in this paragraph. ***The report shall not contain personally identifiable information including but not limited to, name, date of birth, gender, or social security number.*** The department of education shall develop a reasonable schedule to phase-in the reporting of new data required by federal law. The requirements for data keeping and the form of the report shall be established in accordance with rules adopted by the state board of education. Indicators shall include the following areas:

(a) Attendance rates.

(b) Annual and cumulative drop-out rates of high school pupils and annual drop-out rates for pupils in grades 7 and 8.

(c) School environment indicators, such as safe-schools data.

(d) Number and percentage of graduating pupils going on to post-secondary education, military service, and advanced placement participation.

(e) Performance on state tests administered pursuant to RSA 193-C and other standardized tests administered at local option.

(f) Expulsion and suspension rates, including in-school and out-of-school suspensions, which shall be reported for each school year.

(g) Number and percentage of classes taught by highly qualified teachers.

(h) Teacher and administrative turnover rates at the school and district levels.

(i) Pupil course information.

II.(a) The department of education, with the approval of the legislative oversight committee established in RSA 193-C:7, may implement and report data on any additional indicators deemed relevant to the purposes of this section.

(b) The department of education shall obtain prior approval from the board of trustees of the university system of New Hampshire or the community college system of New Hampshire, or both, if necessary, to determine additional indicators applicable to postsecondary institutions within their respective jurisdictions which are not required under paragraph VI.

III.(a) Not later than December 1, 2003, and annually thereafter, the department of education shall issue a public report on the condition of education statewide and on a district-by-district and school-by-school basis. This report shall be entitled "New Hampshire School District Profiles" and shall be made available at every school administrative unit for public review. It shall include demographic and pupil performance data reported in paragraph I and other relevant statistics as determined by the department of education. Comparisons with state averages shall be provided for all data reported. Comparisons of each district and school to itself based on its own statewide improvement and assessment performance for the prior school year and its most recent 3-year rolling averages shall be provided. Statewide rankings of each district and school shall be provided, including a statewide ranking of each school and school district based on the percentage increase of improvement as compared with the same school district's performance in the previous year. The report shall be organized and presented in a manner that is easily understood by the public and that assists each school district with the identification of trends, strengths, and weaknesses and the development of its local school education improvement plan.

(b) Beginning with the annual report issued in 2013, the department of education shall include data provided by early childhood programs, districts, and postsecondary institutions.

IV. Data reported in paragraph I shall be disaggregated as required by federal law and shall include numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major *ethnic*, racial, and multi-racial groups.

V. In order to reduce school districts' administrative time and costs, the department of education shall develop and utilize user-friendly, computer forms and programs to collect the data set forth in ~~paragraph~~ **paragraphs I, VI, and VII** ~~[and all enrollment and cost data related to determining the cost of an adequate education]~~.

VI.(a) Annually, beginning with the 2011-2012 school year, each postsecondary institution as defined in RSA 193-E:4 shall submit a report, which shall contain no personally identifiable information including, but not limited to, name, date of birth, gender, or social security number, to the department of education containing information on indicators in the following areas:

(1) Remedial education courses.

(2) Entry, withdrawal, and transfers.

(3) Degrees and certificates granted.

(b) The department of education shall integrate all data collected into the data warehouse. The department of education shall have access to such data solely to conduct studies, track and report annual and longitudinal pupil outcomes,

and improve postsecondary readiness, retention, and articulation between educational institutions.

(c) The state board of education, in consultation with the university system of New Hampshire board of trustees and the community college system of New Hampshire board of trustees shall adopt rules, pursuant to RSA 541-A, for developing a form to be used for the report and to establish requirements for data maintenance.

VII.(a) Annually, beginning with the 2011-2012 school year, each early childhood program as defined in RSA 193-E:4 shall submit a report, which shall contain no personally identifiable information including, but not limited to, name, date of birth, gender, or social security number, to the department of education containing information on indicators in the following areas:

(1) Program participation.

(2) Entry, exit, and type of program.

(3) Participant demographics as identified in RSA 193-E:3, IV.

(b) The department of education shall integrate all data collected into the data warehouse. The department of education shall have access to data solely to conduct studies, track and report annual and longitudinal pupil outcomes, and improve education programs.

(c) The state board of education, in consultation with the department of health and human services, shall adopt rules, pursuant to RSA 541-A, for developing a form to be used for the report and to establish requirements for data maintenance.

2 Unique Pupil Identification; Definitions. RSA 193-E:4 is repealed and reenacted to read as follows:

193-E:4 Definitions. In this subdivision:

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

II. "Data warehouse" means any electronic system operated by the department of education that maintains the information about public school pupils as set forth in RSA 193-E:3, I, VI, and VII. The data warehouse shall not contain the name, address, telephone number, e-mail address, social security number, or any other personally identifiable information about any pupil.

III. "District" means a New Hampshire public school district.

IV. "District of origin" means the district in which the pupil resides at the point at which the pupil first enters the New Hampshire educational system, whether in an early childhood program, district, or postsecondary education level.

V. "Early childhood program" means a preschool or childcare program receiving Head Start or child care scholarship funds, whether licensed or exempt from licensing, or a preschool program operated by a district.

VI. "Postsecondary institution" means the university system of New Hampshire or the community college system of New Hampshire.

VII. "Random number generator" means the electronic system that creates unique public school pupil identification numbers and assigns a unique public school pupil identification number to a pupil when an early childhood program, a district, or a postsecondary institution enters a public school pupil's name, date of birth, town of birth, and gender. The system shall maintain that information and the name of the district of origin, and no other information. This system shall not retain the unique pupil identification number.

VIII. "Unique pupil identifier" means a randomly generated number assigned to an early childhood program pupil, a district pupil, or postsecondary institution pupil in order to gather pupil level data.

IX. "Unique pupil identification system" means an electronic system comprised of the data warehouse and the random number generator.

3 Unique Pupil Identification. Amend RSA 193-E:5 to read as follows:
193-E:5 Unique Pupil Identification.

I. The department of education shall, using federal funds only, implement and maintain a unique **public school** pupil identification system on a statewide basis that complies with the following requirements:

(a) No personally identifiable information about a pupil including ~~[but not limited to]~~ name~~[-, date of birth, gender, or]~~ **and** social security number, shall be collected or maintained by the state ~~[in such a manner as to allow such information to be connected with the unique pupil identifier]~~. Under no circumstances shall the department of education ~~[obtain or use]~~ **include** a social security number ~~[as an identifier for any pupil, or use unique pupil identifiers except in connection with the data warehouse and such use shall not be accessible to the public]~~ **in the data warehouse.**

(b) ~~[The random number generator shall make available to each school district a unique pupil identifier for each pupil enrolled in a New Hampshire public school]~~. The unique pupil identifier itself shall not permit pupil identification within a sub-category including, but not limited to, **early childhood program**, ~~[school]~~ district, **postsecondary institution**, sex, age, grade, or county of residence.

(c) The unique pupil identifier shall be requested **from the pupil or the random number generator** and maintained by the **early childhood program**, ~~[local school]~~ district, **or postsecondary institution**. The unique pupil identifier shall **be requested when the pupil enrolls and shall** remain in the pupil's file throughout his or her ~~[elementary and secondary]~~ academic career in New Hampshire. **A postsecondary institution may obtain a unique pupil identifier for any pupil for whom such identifier does not already exist, but shall not enter the pupil's information into the data warehouse.**

(d) Access to the random number generator shall be limited to **an early childhood program director, a district superintendent or designee, or a postsecondary institution registrar or designee**, and only for pupils enrolled in that **early childhood program**, ~~[school administrative unit]~~ **district, or postsecondary institution**. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(e) The random number generator shall create and maintain a comprehensive audit trail for all users accessing the ~~[system]~~ **random number generator**.

(f) The data warehouse shall create and maintain an audit trail for all users accessing secure information.

(g) No person, including an individual, business, government, or governmental entity, shall require an individual to provide a unique pupil identifier as a condition of doing business, providing a service, or receiving a benefit of any kind, **except as provided in subparagraph I(c)**. Any person or entity ~~[violating]~~ **who knowingly violates** the provisions of this ~~[paragraph]~~ **subparagraph** shall be liable for actual damages or \$25,000, whichever is greater, for each violation. Each denial of services or benefits shall constitute a separate offense under this ~~[paragraph]~~ **subparagraph**.

(h) If a pupil's records become part of an administrative action outside of the pupil's ~~[school]~~ **early childhood program**, district, **or postsecondary institution**, or a part of any judicial or quasi-judicial proceeding, the part of the record containing the pupil's unique pupil identifier shall be redacted by the ~~[school]~~ **early childhood program**, district, **or postsecondary institution** prior to release.

(i) The information maintained in the data warehouse, except for the unique pupil identifier, shall be available to the department of education and to the public using the ~~[same database]~~ **data** maintained by the department of education. No personally identifiable information shall be required as a condition of access or usage under this subparagraph, nor shall such access or usage be tracked. Under no circumstances shall the unique pupil identifier be made available to the ~~[department of education or to the]~~ public.

(j) Information maintained in the random number generator shall be exempt from the provisions of RSA 91-A.

(k) Authorized personnel at the department of education shall administer and maintain the unique pupil identification system.

(l) ***The department of education shall provide*** no personally identifiable information ***collected pursuant to this chapter***, including but not limited to name, date of birth, gender, or social security number, ~~[shall be provided]~~ to any person or entity absent a court order~~[and]~~. Under no circumstances shall ***such*** personally identifiable information be provided to any person or entity outside of New Hampshire ***without permission from the pupil or the pupil's legal guardian***. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(m) Early childhood programs not receiving Head Start or Child Care scholarship funds, private schools comprised of kindergarten through grade 12, and all private postsecondary institutions may participate in the data warehouse and random number generator. Participating early childhood programs may volunteer to include data for pupils for which Head Start or Child Care scholarship funds are not received. For the purposes of this section, such voluntary participating early childhood programs shall be included in the definition set forth in RSA 193-E:4.

II. Notwithstanding RSA 193-E:3, II, the legislative oversight committee established in RSA 193-C:7 shall perform any revisions to this section through legislation filed for that purpose.

III. Any contracts or agreements necessary to implement the provisions of this section shall be approved by the governor with the consent of the executive council, and the fiscal committee established in RSA 14:30-a.

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

Rep. Barbara Shaw spoke in favor.

Rep. Rous spoke against and yielded to questions.

On a division vote, 127 members having voted in the affirmative and 157 in the negative, floor amendment (2028h) failed.

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

Rep. Ladd spoke against.

Reps. Rous and Kurk spoke in favor.

Rep. Comerford requested a roll call; sufficiently seconded.

YEAS 209 NAYS 82

YEAS 209

BELKNAP

Bolster, Peter
Miller, Kate
St. Cyr, Jeffrey

Fields, Dennis
Nedeau, Stephen
Stuart, Richard

Johnson, William
Pilliod, James

Merry, Liz
Russell, David

CARROLL

Bridgham, Robert
Patten, Betsey

Buco, Thomas
Stevens, Stanley

Butler, Edward
Umberger, Karen

Knox, J. David
Wiley, Susan

CHESHIRE

Butcher, Suzanne

Butterworth, Timothy

Butynski, William

Carr, Daniel

Emerson, Susan
Mitchell, Bonnie
Sad, Tara

Lerandean, Alfred
Parkhurst, Henry
Weber, Lucy

Lindsey, Steven
Roberts, Kris

Meador, David
Robertson, Timothy

COOS

Hatch, William
Remick, William

Mears, Lucy
Theberge, Robert

Merrick, Evalyn

Rappaport, Laurence

GRAFTON

Aguiar, James
Ford, Susan
Laliberte, Suzanne
Pierce, David
Townsend, Charles

Almy, Susan
Friedrich, Carol
Mulholland, Catherine
Preston, Philip

Benn, Bernard
Gionet, Edmond
Nordgren, Sharon
Smith, Suzanne

Cooney, Mary
Harding, Laurie
Pastor, Beatriz
Taylor, Kathleen

HILLSBOROUGH

Baroody, Benjamin
Bergin, Peter
Chininis, Alexis
Day, Russell
Flurey, Joan
Ginsburg, Ruth
Hardy, Valerie
Holden, Rip
Knowles, Mary Ann
Leishman, Peter
Mack, Ron

Batula, Peter
Campbell, David
Christensen, Chris
Dokmo, Cynthia
Foster, Linda
Gorman, Mary
Harvey, Philip
Infantine, William
Komi, Richard
Levasseur, Nickolas
Marshall, Seth

Beck, Catriona
Chandley, Shannon
Cote, David
Drisko, Richard
Garrity, Patrick
Graham, John
Harvey, Suzanne
Kelley, John
Kopka, Angeline
Levesque, Melanie
Matarazzo, Anthony
Sr
O'Brien, Michael Sr
Rosenwald, Cindy
Shattuck, Gilman
Thompson, Robert

Belvin, William
Chase, Claudia
Craig, James
Emerton, Larry
Gidge, Kenneth
Hammond, Jill
Hodges, Kevin
Knowles, John
Kurk, Neal
Long, Patrick
Moran, Edward
O'Neil, James
Rowe, Robert
Shaw, Barbara
Walsh, Robert Jr

Movsesian, Lori
Peterson, Andrew
Ryder, Donald
Spaulding, Jayne

Nixon, David
Pilotte, Maurice
Schulze, Joan
Sullivan, Daniel

MERRIMACK

Bartlett, Michael
Davis, Frank
Kelly, Sally
Palfrey, David
Richardson, Gary
Stetson, William
Walz, Mary Beth
Williams, Robert

Bouchard, Candace
Foosse, Robert
Kidder, David
Porter, Margaret
Rodd, Beth
Tilton, Joy
Watrous, Rick
Yeaton, Charles

Brown, Carole
French, Barbara
Osborne, Jessie
Potter, Frances
Schuett, Dianne
Tupper, Frank
Webb, Leigh

Clarke, Claire
Hamm, Christine
Owen, Derek
Rice, Chip
Shurtleff, Stephen
Wallner, Mary Jane
Wheeler, Deborah

ROCKINGHAM

Abbott, Dennis
Casey, Kimberley
DiPentima, Rich
Howard, Doreen
McEachern, Paul
Pantelakos, Laura
Russell, Trinkia

Borden, David
Crisler, Margaret
Flanders, John Sr
Kepner, Susan
McKinney, Betsy
Priestley, Anne
Sapareto, Frank

Brown, C. Pennington
Cushing, Robert
Gleason, John
Lyons, Melissa
Moody, Marcia
Rausch, James
Scamman, Stella

Case, Frank
Day, Judith
Gould, Kenneth
Mann, Maureen
Nord, Susi
Read, Robin Jr
Scamman, W.
Douglas Jr
Weare, Everett

Schlachman, Donna

Splaine, James

Stiles, Nancy

Webber, Carolyn

Welch, David

Wells, Roger

STRAFFORD

Berube, Roger
Burke, Rachel
Kaen, Naida
Rogers, Rose Marie
Schmidt, Peter
Wall, Janet

Brennan, William
Cyr, James
Keans, Sandra
Rollo, Deanna
Smith, Marjorie

Brown, Larry
Horrigan, Timothy
Lauterborn, Elaine
Rous, Emma
Spang, Judith

Browne, Brendon
Hubbard, Pamela
Perry, Robert
Ryder, Mark
Vachon, Dennis

SULLIVAN

Donovan, Thomas Jr
Houde-Quimby,
Charlotte

Gagnon, Raymond
McClammer, Jim

Gottling, Suzanne
Osgood, Joe

Harris, Sandra
Sweeney, Cynthia

NAYS 82

BELKNAP

Boyce, Laurie

Flanders, Donald

Swinford, Elaine

Wendelboe, Fran

CARROLL

Ahlgren, Christopher

Chandler, Gene

Fleck, Joseph

McConkey, Mark

CHESHIRE

Johnson, Jane

Laurent, John

Sterling, Franklin Jr

COOS

Tholl, John Jr

GRAFTON

Ladd, Rick Jr

HILLSBOROUGH

Boehm, Ralph
Doherty, Shaun
Hawkins, Ken
Jasper, Shawn
Ober, Russell III
Renzullo, Andrew
Ulery, Jordan
Winters, Joel

Cebrowski, John
Gagne, Larry
Hikel, John
McCarthy, Michael
Palmer, Stephen
Seidel, Carl
Vaillancourt, Steve

Christiansen, Lars
Gargasz, Carolyn
Hogan, Edith
Mead, Robert
Pratt, Calvin
Soucy, Connie
Villeneuve, Moe

Daniels, Gary
Haefner, Robert
Holden, Frank
Ober, Lynne
Price, Pamela
Tahir, Saghir
Willette, Robert

MERRIMACK

Anderson, Eric
Lockwood, Priscilla

DeStefano, Stephen
McGuire, Carol

Hess, David
Smith, Todd

Kotowski, Frank

ROCKINGHAM

Allen, Mary
Charron, Gene
Elliott, Robert

Baldasaro, Alfred
Comerford, Timothy
Emiro, Frank

Bates, David
DeSimone, Debra
Ferrante, Beverly

Bettencourt, David
DiFruscia, Anthony
Griffin, Mary

Hagan, Joseph
Itse, Daniel
Major, Norman
Sullivan, James

Headd, James
Kappler, L. Mike
Packard, Sherman
Weyler, Kenneth

Hoelzel, Kathleen
Katsakiores, Phyllis
Quandt, Matt

Introne, Robert
Kolodziej, Walter
Sedensky, John

STRAFFORD

Brown, Julie

Groen, Warren

Twombly, James

Vita, Carol

SULLIVAN

Cunningham, Steven Howard, Thomas Rodeschin, Beverly

and the majority committee report was adopted.

Ordered to third reading.

SB 495-FN, establishing a task force on state procurement policies and procedures.

MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Peter B. Schmidt for the Majority of Executive Departments and Administration: This bill represents the product of a considerable effort to deal with two senate bills addressing state procurement policies and procedures. The bipartisan majority of the committee recognized the merit in both senate bills seeking to study ways to improve state procurement, but believed a single study committee would be more effective. In addition to a comprehensive review of current procurement policies and procedures, the proposed task force would develop criteria for no more than five best value pilot projects, which state agencies could then elect to implement under the limited enabling language provided by the majority amendment to SB 495. The projects will be approved through the capital and department budget process. The task force would monitor and evaluate the pilot projects in order to determine whether they had in fact produced a greater value for the state and its citizens than conventional low bid projects. Vote 14-5.

Rep. Carol M. McGuire for the Minority of Executive Departments and Administration: This bill, as amended, creates a statutory commission to evaluate state procurement policies, with special emphasis on preferences and best value contracting. The commission is also tasked with evaluating the appropriateness of a pilot program, determining the parameters to be used in a pilot, and initiating legislation to implement the program. The minority was unwilling to short circuit the efforts of the commission's work by authorizing a pilot program before starting the study; in particular, the minority was opposed to accepting the preliminary definition of "best value" presented at this time and exempting the pilot program from all statutory controls over state procurement actions.

Majority Amendment (1817h)

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

AN ACT establishing a task force on state procurement policies and procedures, and authorizing pilot projects using best value procurement.

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

1 New Chapter; State Procurement Policies and Procedures; Task Force; Pilot Program.

STATE PROCUREMENT POLICIES AND PROCEDURES

21-S:1 Task Force Established.

I. There is established a task force on state procurement policies and procedures, which shall study procurement preference systems, best value contracting, and existing state procurement procedures, intending to enhance the state's ability to obtain optimal value for taxpayer dollars.

II. The task force shall consist of the following 11 members:

(a) The commissioner of the department of administrative services, or designee.

(b) The commissioner of the department of resources and economic development, or designee.

(c) The attorney general, or designee.

(d) The commissioner of the department of transportation, or designee.

(e) The commissioner of the department of labor, or designee.

(f) The commissioner of the department of environmental services, or designee

(g) The commissioner of the department of health and human services, or designee

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

(i) One member of the senate, appointed by the senate president.

III. Members of the task force shall serve without compensation; except that legislative members of the task force shall receive mileage at the legislative rate when attending to the duties of the task force.

IV. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named house member and shall be held within 45 days of the effective date of this section. Six members of the task force shall constitute a quorum. The task force shall establish subcommittees to focus on different types of procurements. Subcommittee members shall be selected by the task force from among its members, with a minimum of 3 members for each subcommittee including at least one legislative member. Task force members can serve on more than one subcommittee.

21-S:2 Task Force; Duties. The task force shall:

I. Review all state procurement policies and procedures, seeking input from New Hampshire businesses and workers, and review recent performance audits of state procurement practices as well as the work of previous or concurrent studies of state procurement.

II. Review procurement preference systems in other states, with special emphasis on best value contracting, and solicit testimony from members of the public and others with information and expertise relevant to the task force's study.

III. Consider whether the state's current and prospective procurement procedures or policies present barriers that hinder New Hampshire-based businesses, particularly small businesses, from competing for state contracts and consider approaches to overcome any such barriers while fostering an atmosphere conducive to the start up of businesses in the state.

IV. Consider whether state procurement procedures should award preferences to New Hampshire-based businesses bidding on state contracts and assess any constitutional or legal limitations on such preferences.

V. Consider what factors other than bid price should be included in purchasing decisions, including but not limited to: vendors or contractors providing sustainable wages and health insurance or other benefits to their workers; vendor reliability and experience; life cycle costs; quality of products or services; warranties; product ease of maintenance, repair, or upgrade; commonality; support to New Hampshire workers and their families; and energy usage; as well as criteria for determining which factors should be included in which types of procurement.

VI. Identify up to 5 pilot projects contained in the capital budget or the operating budget adopted by the legislature in order to explore using best value procurement.

VII. Establish specific guidelines, standards, definitions, criteria, and weighting factors for each pilot project identified in paragraph VI as well as the proposed method for implementing those guidelines, standards, definitions, and criteria.

VIII. Establish standards to evaluate the use of best value procurement and apply these evaluation standards to each pilot project conducted under this section.

IX. Determine if any statutory amendments are necessary to permanently implement best value procurement in New Hampshire.

21-S:3 Pilot Projects; Best Value Procurement.

I. Notwithstanding RSA 21-I:80, or the provisions of any other law to the contrary, state agencies are authorized to solicit bids or proposals and issue or recommend awards of contracts on the basis of best value for the pilot projects identified by the task force under RSA 21-S:2, VI using guidelines, standards, definitions, criteria, and weighting of factors specified by the task force under RSA 21-S:2, VII. A request for bid or proposal under this provision shall stipulate that the award will be made on the basis of best value, shall state the criteria that will be used to determine best value, and shall state the manner in which each of the criteria, including price, will be weighted. Any award made under this section shall not be made on criteria that are unknown to the parties submitting bids or proposals. Nothing in this section shall preclude an agency from determining whether, in its judgment, a vendor meets qualification or prequalification criteria established by the agency, nor shall it preclude an agency from determining whether, in its judgment, a bid or proposal meets bid requirements or specifications.

II. In the case of any pilot projects where the department of administrative services solicits bids or proposals for projects on the basis of best value, if the bid or proposal is issued, received, or reviewed by the department of transportation on behalf of the department of administrative services, the department of transportation shall issue the award on the basis of best value in accordance with this section.

III. No person shall be subject to the criminal penalties of RSA 96:2, or any other law, for recommending to the governor and executive council the approval of any award to other than the lowest responsible bidder, for a pilot project under this section, if he or she recommends that the award be made on the basis of best value in accordance with this section.

IV. For purposes of this chapter “best-value” means a procurement process where price and other non-price factors are considered in the evaluation and selection process to enhance the long-term performance and value of the goods or services for which bids are solicited. Such factors may include: vendors or contractors providing sustainable wages, health insurance and other benefits to their workers; the extent of job creation for New Hampshire workers; registered apprenticeship participation or other provision of workforce training or skill upgrading; provision of safety training, and vendor’s safety experience rating; vendor reliability and experience; life cycle costs; quality of products or services; warranties; product ease of maintenance, repair or upgrade; commonality; energy usage and the other items identified under RSA 21-S:2, V.

21-S:4 Task Force Reports.

I. The task force shall submit findings and recommendations regarding the identification of opportunities for the use of value-based practices in New Hampshire, and the parameters to be used as performance measures for the implementation of such practices, by December 1, 2010. Such findings shall include any recommendations for further legislation, including legislation addressing pilot programs. In addition, the task force shall submit further findings and recommendations on or before November 1, 2011, December 1, 2012, and November 1, 2013. Reports shall be submitted to the senate president, the speaker of the house of representatives, the senate and house committees on executive departments and administration, the senate and house public works committees, the governor, and the state library.

II. In making its recommendations, the task force shall consider:

(a) The potential for increased costs incurred by the state as the result of giving a preference to New Hampshire-based companies or those offering sustainable wages and benefits.

(b) The potential for cost savings or other state benefits resulting from implementation of a procurement preference system.

(c) What impact such policies could have on New Hampshire-based businesses competing for contracts in other states with particular attention to small businesses and

recently established businesses. The task force shall also consider what impact such policies might have upon New Hampshire workers, their families, and the New Hampshire economy.

(d) For which goods and services adoption of a procurement preference system or best value procurement would be appropriate and beneficial, and which types of preference should be included.

(e) Guidelines or criteria for determining what constitutes a New Hampshire-based business.

2 Application; Validity of Projects Undertaken Pursuant to RSA 21-S. Projects that are bid, awarded, or completed pursuant to the authorization for pilot projects under RSA 21-S:3 shall remain valid without regard to the repeal of RSA 21-S by section 3 of this act, and projects which are in the process of being bid, awarded, or completed under this act may proceed to completion according to the terms of the pilot project. Notwithstanding such repeal, RSA 21-S:3, II and III shall continue in force as they apply to those projects. Any modification, reconstruction, maintenance, or rebidding of projects awarded under the authorization for pilot projects under RSA 21-S:3 shall be conducted in accordance with the laws in effect at the time of the modification, reconstruction, maintenance, or rebidding.

3 Repeal. RSA 21-S relative to state procurement policies and procedures, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect on November 2, 2013.

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

AMENDED ANALYSIS

This bill establishes a task force on state procurement policies and procedures and authorizes pilot projects using best value procurement practices. These provisions of the bill are repealed November 2, 2013.

Majority committee amendment adopted.

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

Rep. McGuire offered minority committee amendment (1788h).

Minority Amendment (1788h)

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

AN ACT establishing a task force on state procurement policies and procedures.

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

1 New Subdivision; State Procurement Policies and Procedures; Task Force. Amend RSA 21-I by inserting after section 22-d the following new subdivision:

State Procurement Policies and Procedures

21-I:22-e Task Force on State Procurement Policies and Procedures.

I. There is established a task force on state procurement policies and procedures, which shall study procurement preference systems, best value contracting, and existing state procurement procedures, intending to enhance the state's ability to obtain optimal value for taxpayer dollars.

II. The task force shall consist of the following 11 members:

(a) The commissioner of the department of administrative services, or designee.

(b) The commissioner of the department of resources and economic development, or designee.

(c) The attorney general, or designee.

(d) The commissioner of the department of transportation, or designee.

(e) The commissioner of the department of labor, or designee.

(f) The commissioner of the department of environmental services, or designee

(g) The commissioner of the department of health and human services, or

designee

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

(i) One member of the senate, appointed by the senate president.

III. Members of the task force shall serve without compensation; except that legislative members of the task force shall receive mileage at the legislative rate when attending to the duties of the task force.

IV. The task force shall:

(a) Review all state procurement policies and procedures, seeking input from New Hampshire businesses and workers, and review recent performance audits of state procurement practices as well as the work of previous or concurrent studies of state procurement.

(b) Review procurement preference systems in other states, with special emphasis on best value contracting, and solicit testimony from members of the public and others with information and expertise relevant to the task force's study.

(c) Consider whether the state's current or prospective procurement procedures or policies present barriers that hinder New Hampshire-based businesses, particularly small businesses, in competing for state contracts and create approaches to overcome these barriers and foster start-up businesses.

(d) Consider whether state procurement procedures should award preferences to New Hampshire-based businesses bidding on state contracts and assess any constitutional or legal limitations on such preferences.

(e) Consider what factors other than bid price should be included in purchasing decisions, including but not limited to: vendors or contractors providing sustainable wages and health insurance or other benefits to their workers; improved opportunities for New Hampshire workers; support to New Hampshire families; vendor reliability and experience; life cycle costs; quality of products or services; warranties; product ease of maintenance, repair, or upgrade; commonality; and energy usage; as well as criteria for determining which factors should be included in which types of procurement.

(f) Consider whether a pilot program is appropriate to evaluate the use of preferences or best value contracting, and propose a pilot program where useful or necessary.

V. In making its recommendation, the task force shall consider:

(a) The potential for increased costs incurred by the state as the result of giving a preference to New Hampshire-based companies or those offering sustainable wages and benefits.

(b) The potential for cost savings or other state benefits resulting from implementation of a procurement preference system.

(c) What impact such policies could have on New Hampshire-based businesses competing for contracts in other states.

(d) What impact such policies could have on New Hampshire workers, families and the New Hampshire economy.

(e) For which goods and services adoption of a procurement preference system or best value procurement would be appropriate and beneficial, and which types of preference should be included.

(f) Guidelines or criteria for determining what constitutes a New Hampshire-based business.

(g) For a pilot program, the appropriate scope for a pilot program and the outcomes expected; any statutory amendments or other legislation necessary to implement the program; specific guidelines, standards, definitions, and criteria for use in a pilot program, as well as the proposed method for implementing those guidelines, standards, definitions, and criteria; and specific standards to measure the success of the pilot program.

VI. For purposes of this subdivision, "best-value" means a procurement process where price and other non-price factors are considered in the evaluation and selection

process to enhance the long-term performance and value of the goods or services for which bids are solicited.

VII. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named house member and shall be held within 45 days of the effective date of this section. Six members of the task force shall constitute a quorum. The task force shall establish subcommittees to focus on different types of procurements. Subcommittee members shall be selected by the task force from among its members, with a minimum of 3 members for each subcommittee including at least one legislative member. Task force members can serve on more than one subcommittee.

VIII. The task force shall submit findings and recommendations regarding the identification of opportunities for the use of value-based practices in New Hampshire, and parameters to be used as performance measures for the implementation of such practices, by December 1, 2010. Such findings shall include any recommendations for pilot programs or further legislation. In addition, the task force shall submit further findings and recommendations on or before November 1, 2011, and December 1, 2012, and the final report on or before November 1, 2013. Reports shall be submitted to the senate president, the speaker of the house of representatives, the governor, the house and senate executive departments and administration committees, the house public works and highways committee, the senate capital budget committee, and the state library.

2 Repeal. RSA 21-I:22-e, relative to the task force on state procurement policies and procedures, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect on November 2, 2013.

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

AMENDED ANALYSIS

This bill establishes a task force on state procurement policies and procedures. The task force is repealed November 2, 2013.

Rep. McGuire spoke in favor.

Rep. Schmidt spoke against.

On a division vote, 127 members having voted in the affirmative and 153 in the negative, the minority committee amendment failed.

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

Rep. Patrick Garrity requested a roll call; sufficiently seconded.

YEAS 185 NAYS 100

YEAS 185

BELKNAP

Bolster, Peter
St. Cyr, Jeffrey

Merry, Liz
Stuart, Richard

Miller, Kate
Wendelboe, Fran

Pilliod, James

CARROLL

Bridgham, Robert
Umberger, Karen

Buco, Thomas
Wiley, Susan

Butler, Edward

Knox, J. David

CHESHIRE

Butcher, Suzanne
Johnson, Jane

Butterworth, Timothy
Lerandeau, Alfred

Butynski, William
Lindsey, Steven

Carr, Daniel
Meador, David

Mitchell, Bonnie
Sad, Tara

Parkhurst, Henry
Weber, Lucy

Roberts, Kris

Robertson, Timothy

COOS

Hatch, William

Mears, Lucy

Merrick, Evalyn

Theberge, Robert

GRAFTON

Aguiar, James
Ford, Susan
Laliberte, Suzanne
Pierce, David
Townsend, Charles

Almy, Susan
Friedrich, Carol
Mulholland, Catherine
Preston, Philip

Benn, Bernard
Harding, Laurie
Nordgren, Sharon
Smith, Suzanne

Cooney, Mary
Ladd, Rick Jr
Pastor, Beatriz
Taylor, Kathleen

HILLSBOROUGH

Baroody, Benjamin
Chandley, Shannon
Craig, James
Gargas, Carolyn
Gorman, Mary
Harvey, Philip
Infantine, William
Komi, Richard
Levesque, Melanie
Matarazzo, Anthony Sr
O'Brien, Michael Sr
Rosenwald, Cindy
Shaw, Barbara
Thompson, Robert

Beck, Catriona
Chase, Claudia
Dokmo, Cynthia
Garrity, Patrick
Graham, John
Harvey, Suzanne
Kelley, John
Kopka, Angeline
Long, Patrick
Moran, Edward

O'Neil, James
Ryder, Donald
Spaulding, Jayne
Walsh, Robert Jr

Bergin, Peter
Chininis, Alexis
Flurey, Joan
Gidge, Kenneth
Hammond, Jill
Hodges, Kevin
Knowles, John
Leishman, Peter
Mack, Ron
Movsesian, Lori

Pilotte, Maurice
Schulze, Joan
Sullivan, Daniel
Winters, Joel

Campbell, David
Cote, David
Gagne, Larry
Ginsburg, Ruth
Hardy, Valerie
Holden, Rip
Knowles, Mary Ann
Levasseur, Nickolas
Marshall, Seth
Nixon, David

Pratt, Calvin
Shattuck, Gilman
Tahir, Saghir

MERRIMACK

Bartlett, Michael
DeStefano, Stephen
Kelly, Sally
Potter, Frances
Schuett, Dianne
Tupper, Frank
Webb, Leigh

Brown, Carole
Foose, Robert
Lockwood, Priscilla
Rice, Chip
Shurtleff, Stephen
Wallner, Mary Jane
Wheeler, Deborah

Clarke, Claire
French, Barbara
Osborne, Jessie
Richardson, Gary
Stetson, William
Walz, Mary Beth
Williams, Robert

Davis, Frank
Hamm, Christine
Owen, Derek
Rodd, Beth
Tilton, Joy
Watrous, Rick
Yeaton, Charles

ROCKINGHAM

Abbott, Dennis
Casey, Kimberley
Day, Judith
Emiro, Frank
McEachern, Paul
Read, Robin Jr
Splaine, James

Borden, David
Charron, Gene
DiFruscia, Anthony
Howard, Doreen
Moody, Marcia
Russell, Trink
Weare, Everett

Brown, C. Pennington
Crisler, Margaret
DiPentima, Rich
Kepner, Susan
Nord, Susi
Sapareto, Frank
Webber, Carolyn

Case, Frank
Cushing, Robert
Elliott, Robert
Mann, Maureen
Pantelakos, Laura
Schlachman, Donna

STRAFFORD

Berube, Roger
Burke, Rachel
Kaen, Naida

Brennan, William
Cyr, James
Keans, Sandra

Brown, Larry
Horriggan, Timothy
Lauterborn, Elaine

Browne, Brendon
Hubbard, Pamela
Perry, Robert

Rogers, Rose Marie
Smith, Marjorie

Rollo, Deanna
Spang, Judith

Rous, Emma
Vachon, Dennis

Schmidt, Peter
Wall, Janet

SULLIVAN

Donovan, Thomas Jr

Gagnon, Raymond

Gottling, Suzanne

Houde-Quimby,
Charlotte

Howard, Thomas

McClammer, Jim

Sweeney, Cynthia

NAYS 100

BELKNAP

Boyce, Laurie
Russell, David

Fields, Dennis
Swinford, Elaine

Flanders, Donald

Nedeau, Stephen

CARROLL

Ahlgren, Christopher
Patten, Betsey

Chandler, Gene
Stevens, Stanley

Fleck, Joseph

McConkey, Mark

CHESHIRE

Emerson, Susan

Laurent, John

Sterling, Franklin Jr

COOS

Rappaport, Laurence

Remick, William

Tholl, John Jr

GRAFTON

Gionet, Edmond

HILLSBOROUGH

Batula, Peter
Christensen, Chris
Doherty, Shaun
Hawkins, Ken
Jasper, Shawn
Ober, Lynne
Renzullo, Andrew
Ulery, Jordan

Belvin, William
Christiansen, Lars
Drisko, Richard
Hikel, John
Kurk, Neal
Palmer, Stephen
Rowe, Robert
Vaillancourt, Steve

Boehm, Ralph
Daniels, Gary
Emerton, Larry
Hogan, Edith
McCarthy, Michael
Peterson, Andrew
Seidel, Carl
Villeneuve, Moe

Cebrowski, John
Day, Russell
Haefner, Robert
Holden, Frank
Mead, Robert
Price, Pamela
Soucy, Connie
Willette, Robert

MERRIMACK

Anderson, Eric
Kotowski, Frank

Bouchard, Candace
McGuire, Carol

Hess, David
Palfrey, David

Kidder, David
Smith, Todd

ROCKINGHAM

Allen, Mary
Comerford, Timothy
Gleason, John
Headd, James
Kappler, L. Mike
McKinney, Betsy
Rausch, James

Baldasaro, Alfred
DeSimone, Debra
Gould, Kenneth
Hoelzel, Kathleen
Katsakiores, Phyllis
Packard, Sherman
Scamman, Stella

Bates, David
Ferrante, Beverly
Griffin, Mary
Introne, Robert
Kolodziej, Walter
Priestley, Anne
Scamman, W.
Douglas Jr

Bettencourt, David
Flanders, John Sr
Hagan, Joseph
Itse, Daniel
Major, Norman
Quandt, Matt
Sedensky, John

Stiles, Nancy
Weyler, Kenneth

Sullivan, James

Welch, David

Wells, Roger

STRAFFORD

Brown, Julie
Vita, Carol

Groen, Warren

Ryder, Mark

Twombly, James

SULLIVAN

Cunningham, Steven Osgood, Joe Rodeschin, Beverly
and the majority committee report was adopted.
Ordered to third reading.

SB 181-FN-A, repealing the transfer of liquor enforcement to the department of safety and establishing a committee to study the administrative structure and adjudicative process at the liquor commission. **OUGHT TO PASS WITH AMENDMENT.**

Rep. W. Douglas Scamman for Finance: The committee felt that the transfer of liquor enforcement to the department of safety should be delayed until the next biennium. The study in SB 181 has an interim report due in November 2010. The report will give the next legislature ample time to review the report and the effects of this proposed move. They can then determine if this change should go forward or not go forward in the next biennium.
Vote 22-0.

Amendment (1863h)

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

AN ACT delaying the transfer of liquor enforcement to the department of safety and establishing a committee to study the administrative structure and adjudicative process at the liquor commission.

Amend the bill by replacing section 1 with the following:

1 Liquor Enforcement Transfer; Effective Date. Amend 2009, 144:301, VIII to read as follows:

VIII. Sections 163-175 of this act shall take effect July 1, ~~2010~~ **2011**.

Amend paragraph IV of section 2 of the bill by replacing it with the following:

IV. The committee shall study:

(a) Whether the liquor commission should have an executive director rather than a full-time 3-member commission;

(b) How best to ensure impartial review of appeals of licensing and enforcement decisions;

(c) How best to ensure that the enforcement division is properly supervised, contains its function to that of a regulatory authority, and guards against overly broad interpretation of its function; and

(d) Whether a liquor commission ombudsman should be appointed and the duties and responsibilities of that office.

Amend paragraph VI of section 2 of the bill by replacing it with the following:

VI. The committee shall submit an interim report on or before November 1, 2010 and a final report on or before June 30, 2011 of 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 governor, and the state library.

AMENDED ANALYSIS

This bill delays the transfer of liquor enforcement to the department of safety from July 1, 2010 until July 1, 2011. This bill also establishes a committee to study the administrative structure and adjudicative process at the liquor commission.

(Rep. Foster in the Chair)

Rep. Butterworth spoke against.

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.

MOTION TO LAY ON THE TABLE

Rep. Osborne moved that ***SB 181-FN-A***, repealing the transfer of liquor enforcement to the department of safety and establishing a committee to study the administrative structure and adjudicative process at the liquor commission, be laid on the table.

On a division vote, 37 members having voted in the affirmative and 224 in the negative, the motion failed lacking the necessary two-thirds.

The question now being adoption of the committee amendment.

Rep. Rip Holden spoke against.

Rep. Vaillancourt spoke against, yielded to questions and requested a quorum call.

The Speaker requested the Sgt. at Arms to escort members to their seats and declared a quorum present.

CLERK'S NOTE

The constitutionally required two-thirds of the membership for action by majority vote was declared present.

Rep. W. Douglas Scamman spoke in favor.

(Speaker Norelli in the Chair)

On a division vote, 143 members having voted in the affirmative and 124 in the negative, the committee amendment was adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment. Committee report adopted and ordered to third reading.

BILLS REMOVED FROM THE CONSENT CALENDAR

SB 435, relative to the provision of caller locations in emergency situations. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Shannon E. Chandley for Criminal Justice and Public Safety: This bill allows law enforcement agencies, through the enhanced 911 statewide system, to obtain from wireless telecommunications carriers call location information from the device of a user in order for the law enforcement agency to respond to a call for emergency services, or to an emergency in which there is the risk of death or serious bodily injury. It further requires law enforcement to provide with its request information establishing that the call location information is necessary to respond to an emergency situation that involves the risk of death or serious bodily injury. SB 435 does not prohibit wireless telecommunications carriers from establishing their own protocols by which they may voluntarily disclose call location information, so long as there is no provision of law to the contrary. Finally, SB 435 offers protection to the wireless telecommunications carriers from action when they have acted in good faith in accordance with the provisions of SB 435. The committee worked with the sponsors and many stakeholders to craft a bill which enhances safety, encourages cooperation and protects privacy. Vote 15-0.

Amendment (1327h)

Amend the bill by replacing section 2 with the following:

2 New Subdivision; Enhanced 911 System. Amend RSA 106-H by inserting after section 15 the following new subdivision:

Wireless Telecommunications Carriers

106-H:16 Disclosure of Caller Location in Emergency Situations.

I. Upon request of a law enforcement agency, a wireless telecommunications carrier shall provide call location information concerning the telecommunications device of the user in order for the requesting law enforcement agency to respond to a call for emergency services or an emergency situation that involves the risk of death or serious physical harm. The wireless telecommunications carrier shall provide the most accurate call location available, given the technical and other limitations that may impact the accuracy of the call location information in the relevant area.

II. Notwithstanding any provision of law to the contrary, nothing in this section prohibits a wireless telecommunications carrier from establishing protocols by which the carrier may voluntarily disclose call location information.

III. The department of safety shall obtain contact information for all wireless telecommunications carriers authorized to do business in this state in order to facilitate a request from a law enforcement agency for call location information in accordance with this section.

IV. When requested by a law enforcement agency, the public safety answering point of the enhanced 911 statewide system shall assist the agency to obtain call location information from wireless telecommunications carriers. Such assistance shall be provided only upon the requesting agency providing information establishing that the call location information is necessary to assist the agency in responding to an emergency situation that involves the risk of death or serious bodily injury.

V. No cause of action shall lie in any court against any wireless telecommunications carrier, its officers, employees, agents, or other specified persons for providing call location information while acting in good faith and in accordance with the provisions of this section. A wireless telecommunications carrier shall not be obligated to make an affirmative determination that the requesting law enforcement agency or public safety answering point has met the threshold requirements of paragraph I.

VI. The commissioner of the department of safety shall adopt rules, under RSA 541-A, relative to the notice and disclosure requirements provided in this section.

VII. In this section, "wireless telecommunications carrier" shall have the same meaning as commercial mobile radio service provider in RSA 106-H:8.

Rep. Chandley spoke against.
Committee amendment failed.

The question now being adoption of the motion of Ought to Pass.
Rep. Kurk offered floor amendment (2019h).

Floor Amendment (2019h)

Amend the bill by replacing section 2 with the following:

2 New Subdivision; Enhanced 911 System. Amend RSA 106-H by inserting after section 15 the following new subdivision:

Wireless Telecommunications Carriers

106-H:16 Disclosure of Caller Location in Emergency Situations.

I. Upon request of a law enforcement agency, a wireless telecommunications carrier shall provide call location information concerning the telecommunications device of the user in order for the requesting law enforcement agency to respond to a call for emergency services or an emergency situation that involves the risk of death or serious physical harm. The wireless telecommunications carrier shall provide the most accurate call location available, given the technical and other limitations that may impact the accuracy of the call location information in the relevant area.

II. The department of safety shall obtain contact information for all wireless telecommunications carriers authorized to do business in this state in order to facilitate a request from a law enforcement agency for call location information in accordance with this section.

III. When requested by a law enforcement agency, the public safety answering point of the enhanced 911 statewide system shall assist the agency to obtain call location information from wireless telecommunications carriers. Such assistance shall be provided only upon the requesting agency providing information establishing that the call location information is necessary to assist the agency in responding to an emergency situation that involves the risk of death or serious bodily injury.

IV. No cause of action shall lie in any court against any wireless telecommunications carrier, its officers, employees, agents, or other specified persons for providing call location information while acting in good faith and in accordance with the provisions of this section. A wireless telecommunications carrier shall not be obligated to make an affirmative determination that the requesting law enforcement agency or public safety answering point has met the threshold requirements of paragraph I.

V. The commissioner of the department of safety shall adopt rules, under RSA 541-A, relative to the notice and disclosure requirements provided in this section.

VI. In this section, "wireless telecommunications carrier" shall have the same meaning as commercial mobile radio service provider in RSA 106-H:8.

Rep. Kurk spoke in favor.

Floor amendment (2019h) 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.

SB 313, extending the repeal date of the state park system advisory council and relative to field purchases and transfers of funds for the state park system and the bureau of trails.

OUGHT TO PASS WITH AMENDMENT.

Rep. Patricia M. McMahon for Executive Departments and Administration: This bill extends the state park advisory council for one year, allows the commissioner of the department of resources and economic development, for one year, to transfer funds between and among the appropriations for both the state parks system and for the bureau of trails, provides that the commissioner set fees for the entrance into and use of Jericho Mountain State Park based on the master plan and sets the weight and width of the dimensions for utility terrain vehicles, also for one year. It allows field purchases of up to \$2,000 for the division of parks and recreation and the bureau of trails, and provides that the state historic sites fund receives deposits of all fees, rentals, revenue from operations, retail sales and net profit from concession operations. Vote 18-0.

Amendment (1804h)

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

AN ACT extending the repeal date of the state park system advisory council, relative to field purchases and transfers of funds for the state park system and the bureau of trails, and imposing fees for the use of Jericho Mountain state park.

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

1 State Park System Advisory Council; Repeal Date Extended. Amend 2007, 359:5 to read as follows:

359:5 Repeal. Section 4 of this act is repealed effective June 30, ~~[2010]~~ **2011**.

2 New Section; State Park System; Field Purchases and Transfer of Funds. Amend RSA 216-A by inserting after section 3-k the following new section:

216-A:3-l Field Purchases and Transfer of Funds.

I. Notwithstanding RSA 21-I:17-a, I, the director of the division of parks and recreation may make purchases using field purchase orders for expenditures of up to \$2,000 for the state park system and facilities through June 30, 2011.

II. The commissioner of the department of resources and economic development may transfer funds between and among the appropriations for the operation of the state park system through June 30, 2011. The commissioner shall submit a report on a quarterly basis to the fiscal committee of the general court, the governor and council, and the chairmen of the house and senate executive departments and administration committees, the chairman of the resources, recreation and economic development committee, and the chairman of the wildlife, fish and game and agriculture committee of all transfers made under this paragraph. RSA 9:17-a and RSA 9:17-c shall not apply to transfers made under this paragraph.

3 New Paragraphs; Bureau of Trails; Responsibilities. Amend RSA 215-A:3 by inserting after paragraph II the following new paragraphs:

II-a. Notwithstanding RSA 21-I:17-a, I, the director of the division of parks and recreation may make purchases using field purchase orders for expenditures of up to \$2,000 for the state trail system and facilities through June 30, 2011.

II-b. The commissioner of the department of resources and economic development may transfer funds between and among the appropriations for the bureau of trails through June 30, 2011. The commissioner shall submit a report on a quarterly basis to the fiscal committee of the general court, the governor and council, and the chairmen of the house and senate executive departments and administration committees, the chairman of the resources, recreation and economic development committee, and the chairman of the wildlife, fish and game and agriculture committee of all transfers made under this paragraph. RSA 9:17-a and RSA 9:17-c shall not apply to transfers made under this paragraph.

4 New Paragraphs; Snowmobiles; Bureau Responsibilities. Amend RSA 215-C:2 by inserting after paragraph VIII the following new paragraphs:

VIII-a. Notwithstanding RSA 21-I:17-a, I, the director of the division of parks and recreation may make purchases using field purchase orders for expenditures of up to \$2,000 for the state trail system and facilities through June 30, 2011.

VIII-b. The commissioner of the department of resources and economic development may transfer funds between and among the appropriations for the bureau of trails through June 30, 2011. The commissioner shall submit a report on a quarterly basis to the fiscal committee of the general court, the governor and council, and the chairmen of the house and senate executive departments and administration committees, the chairman of the resources, recreation and economic development committee, and the chairman of the wildlife, fish and game and agriculture committee of all transfers made under this paragraph. RSA 9:17-a and RSA 9:17-c shall not apply to transfers made under this paragraph.

5 State Historic Sites Fund. Amend RSA 12-A:10-f, I to read as follows:

I. There is hereby established in the office of the state treasurer a fund to be known as the state historic sites fund which shall be kept separate and distinct from all other funds. Such fund shall be the depository of all **fees, rentals, revenue from operations, retail sales, net profit from concession operations**, donations, gifts, and grants received from the bureau of historic sites pursuant to RSA 12-A:10-e. All moneys in such fund shall be nonlapsing and continually appropriated to the bureau of historic sites for the purposes set forth in RSA 12-A:10-e, including the principal and interest on any bonds which may be issued in the name of the state for the purpose of capital improvements to the state historic sites properties under the administration of department of resources and economic development.

6 New Paragraph; Fees for State Park System; Fees at Jericho Mountain State Park.
Amend RSA 216-A:3-g by inserting after paragraph V the following new paragraph:

VI.(a) The commissioner shall periodically review all fees paid for entrance into and use of state parks.

(b) The commissioner shall require fees for the entrance into and use of Jericho Mountain state park beginning June 30, 2010 or upon the effective date of this paragraph, whichever is earlier. All fees generated by Jericho Mountain state park shall be deposited into the state park fund established in RSA 216-A:3-i. Such fees shall be based on revenue projected in the master plan and shall be in addition to registration fees for vehicles, all terrain vehicles as defined in RSA 251-A:1, I-b, and off highway recreational vehicles as defined in RSA 215-A:1, VI.

(c) Utility terrain vehicles may be permitted in Jericho Mountain state park, provided such vehicles do not exceed the weight limit of 1,200 pounds and width limit of 60 inches in accordance with RSA 215-A:43, VII(c).

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

AMENDED ANALYSIS

This bill:

I. Extends the repeal date of the state park system advisory council to June 30, 2011.

II. Authorizes the director of the division of parks and recreation to make field purchases of up to \$2,000 for the state park system and facilities and the state trail system and facilities.

III. Authorizes the commissioner of the department of resources and economic development to transfer funds between and among appropriations for the operations of the state park system and the bureau of trails.

IV. Requires additional fees and revenues from operation of the historic sites to be deposited into the state historic sites fund.

V. Requires fees to be imposed for the use of Jericho Mountain state park and establishes restrictions on certain vehicles using that state park.

Rep. Kappler spoke against.

Rep. Hawkins spoke in favor and yielded to questions.

On a division vote, 181 members having voted in the affirmative and 63 in the negative, the committee amendment was adopted by the necessary two-thirds.

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

On a division vote, 204 members having voted in the affirmative and 45 in the negative, the committee report was adopted by the necessary two-thirds.

Ordered to third reading.

SENATE MESSAGE

REQUEST CONCURRENCE WITH AMENDMENT

HCR 30, urging the attorney general to fully investigate the proposed transaction between Catholic Medical Center Healthcare System and Dartmouth-Hitchcock Health. (Amendment printed SJ 5-12-10)

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

Adopted by the necessary two-thirds.

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

INTRODUCTION OF GUESTS

Nusrat, Misbah, Adeel and Sanam Tahir, wife and children of Rep. Tahir along with friends, Mohammad Mobeen, Dr. Sid Abdullah and Dr. Salman.

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 19, 2010 at 10:00 a.m.
Adopted by the necessary two thirds.

LATE SESSION

Third reading and final passage

SB 353-FN, relative to the procedure for administration of insolvent estates.

SB 354-FN-L, authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property.

SB 431, relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

SB 480, relative to appeals of decisions by the department of environmental services.

SB 409, requiring buildings or structures constructed or renovated using state funding to adhere to certain energy efficiency and building standards.

SB 497-FN-A, changing the business profits tax deduction for reasonable compensation for partnerships, limited liability companies, and sole proprietorships and modifying the interest and dividends tax statute to follow the definitions of interest and dividends used in the United States Internal Revenue Code.

SB 455-FN, relative to New Hampshire HealthFirst.

SB 503, relative to unique pupil identification.

SB 495-FN, establishing a task force on state procurement policies and procedures.

SB 181-FN-A, repealing the transfer of liquor enforcement to the department of safety and establishing a committee to study the administrative structure and adjudicative process at the liquor commission.

SB 435, relative to the provision of caller locations in emergency situations.

SB 313, extending the repeal date of the state park system advisory council and relative to field purchases and transfers of funds for the state park system and the bureau of trails.

UNANIMOUS CONSENT

Reps. Tahir, Sapareto, Ulery, DiPentima, Butterworth and Larry Brown addressed the House.

MOTION TO PRINT REMARKS

Rep. Baroodly moved that the remarks made by Rep. Tahir be printed in the Permanent Journal.

Adopted.

REMARKS

Rep. Tahir: Thank you, Madam Speaker. Honorable colleagues, despite the long day, very long day in the month of May that I remember in 10 years, I appreciate your indulgence. Madam Speaker, born in India, migrated to Pakistan at the age of 3, came to the United States at the age of 25 with only \$150 in my pocket that I borrowed. I worked hard, long and became a millionaire. I lost everything in 1989, retooled myself with the help of my wife and children, and became comfortable again. Challenged by our children and encouraged by my late professor, Zia Shah, supported by friends and constituents, here I am. I'm so grateful to my family, my wife, my children, the constituents of Ward 2 in Manchester. I'm grateful from the bottom of my heart to the veterans of the United States of America in general, to

the veterans in District 9, Manchester Ward 2 in particular who gave me the land of opportunities so I could come, work hard, 7 days a week, 18, 20, 16 hours a day and realize the American dream. I could not have done without their sacrifices, most of whom I never met. I want to thank the Clerk's office. She's been tough, but fair. I never dare to challenge her because she knows too much and her staff. I want to thank OLS, legislative services. They have been very good. The staff at the LOB, the security and the police officers and those whom I have never met, particularly Richard who gave me a ride from the Storrs Street parking lot to the LOB and to the State House. I want to thank all the members of the Public Works and Highway Committee whom I worked with 6 years. I want to thank the Chairman and the members of the Science, Technology and Energy Committee, one of the most unbiased, non-partisan Chairman I have seen in the committees I've worked with. I want to thank the members of the Committee on Labor, Industrial and Rehabilitative Services. I learned so much from them. I gave it all to them and I'm positive the respect they showed to me, the honor they gave to me, I can never forget that. I want to thank this House and the New Hampshire Senate being courageous enough to pass HCR 16, sponsored by the Honorable Senator Lou D'Allesandro and former Deputy Majority of the House, Robert J. Giuda. As a result of that HCR, the hearing took place in the U.S. Congress that encouraged India and Pakistan to sit down at the table and resolve their conflict. The conflict to which General Petraeus a few weeks ago referred to by suggesting resolving the Kashmir issue. Then Senator from District 19, Sapareto, now with us as a member of this Honorable House, accompanied us and with the leadership of Robert J. Giuda, delivered that HCR 16, copy of that, to the parliament of Independent Kashmir or Izad Kashmir they call it. Twenty million people were thankful to this House. It has never happened before in any State of the United States of America. There was a hope that that conflict would be resolved. The resolution of that conflict was guaranteed by the United States in 1948. To this point nothing has happened. I look at myself sitting on top of a mountain looking at both sides, to my right and to my left. One side is Muslim world and the other side is a non-Muslim world. I know the feelings of the American people. I have said it hundreds, if not thousands, of times that Americans are the most generous, loving, caring and sharing people. For that reason, right after 9/11, for three weeks, I invited 7 Pakistani-Americans from throughout the United States at their own expense, \$10 - \$15,000 a pop. We felt that if this country is worth working, raising your families and making a living, this country was worth selling. We felt we had to prove ourselves, that we are Americans. For a Muslim to take an oath to defend the Constitution, honor and dignity of this country, you cannot have in your mouth different than what you have in your heart. Otherwise you are a bigot and you go to hell for sure. We wanted to prove that. I took this oath six times, five times here, one time when I was naturalized a citizen in 1978. I see bigotry and again, the values I learn here and the lessons I learn to agree to disagree only in the United States of America. Thank God I was not in the parliament of Russia or Czechoslovakia or other country where they beat each other; kill each other for disagreeing with each other. The reason why I am saying that is because the war in Afghanistan and Pakistan has taken a turn. The same Afghanistan, which in 1989 proved to be our ally, would disintegrate so with Union. We took off from there without worrying what would happen. Osama Bin Laden took over, who we used to pay \$5-\$6 million a week to hire Jihadist, fighters from Muslim countries. Then we realized we made a mistake and now we are there, my honorable colleague, Madam Speaker, I went to Pakistan 2 to 3 times a year. I faced people in the universities, the editorial boards of the paper and I was interviewed by almost every TV station. There are about 50, 60 now. Radio stations, you name it. I have never forgotten that I am an American. I've always told them I'm an American, but I cannot forget the education, the kindness, the people of Pakistan showed to me. They were never hostile because the majority of Pakistani people have been friends of the United States of America. February of 2009, 84% of Pakistanis loved the United States. I addressed the Ambassador of the United States, Ambassador of Pakistan from Washington, D.C. and about 80 more individuals from the State Department and

Pakistani-Americans on July 9, 2009 in Manhattan. At that time, 84% Pakistanis disliked America and I was concerned as an American what had gone wrong. We believe and I hear this when I go to Pakistan that American government is not fighting the war for America, they are fighting some other country's war. To them, India is in war big time, bombing Pakistani installations intelligence and otherwise and their suspicions must be addressed. Somehow our government has been very lousy in public relation. We have spent billions of dollars to no avail whereas we Pakistani-Americans in 2001, spent our own money and according to then President Musharraf and State Department, we brought people together because we knew that the American people were not Satan. We also knew the majority of the Pakistanis were not terrorists. We called that group as Ambassador of Understanding and it worked. The State Department acknowledged it and President Musharraf acknowledged it. They find us bigots because we call for democracy in Muslim countries but at the same time we support dictators. Mr. 10% is now Mr. 100%, President of Pakistan, according to the *New York Times*. We support him. Why is it? We believe that we are champions of human rights, but they ask me a question. Are human rights limited to within the borders of the United States? Do the human beings outside the United States also have human rights? These questions I have not been able to answer or maybe I did not want to answer. They want to know that if a Christian nun covers herself, it's not bad, but if a Muslim woman covers herself in the hijab, it becomes irritating to some non-Muslims. They want to know why Jihad has bothered people. Jihad is an Arabic word that means struggle, to work hard, to speak out in opposition to, let's say, to eliminate poverty, to eliminate disease. Yet, it is misunderstood by many people. As I have learned from you so much, I can never pay you back. It's my obligation to let you know that I know something you may or may not know. Jihad is always taken as a word which means fight a war, but it's not killing non-Muslims. Absolutely not. Positively not. If that was the case, I would have said so. Allah in Arabic is the word for God. If somebody says God is great, it doesn't bother anybody, but if someone says, "Allahu Akbar." Akbar means big, great. A Muslim who says his prayer five times a day, must say at least 240 times "Allahu Akbar" or their prayers are not complete, period. This is something I wanted to get off my chest. Dictatorships in Pakistan and Afghanistan should have never been supported by us, but it is convenient for us to do so. We forgot the fact that this century is full of knowledge. Every nation has knowledge through computers, internet and what have you. I want to bring another fact to your knowledge. 65% of the 180 million Pakistanis are under the age of 35. That's about 117 million people. If we direct them to the right side, we can reap a big and profitable harvest in crop. If we let them go, they could be destructive to our cause. Nobody in Asia is our friend. Look at the map, close your eyes and look at the map. Do you believe Russians, Chinese, Iranians, Indians, Tibetans or anybody else? Pakistan has been and will continue to be our friend. Pakistanis are very good people, very intelligent people, but we should keep our message straight, concise, precise and one message, not be different at different times. There is no electricity in Pakistan, unemployment is like 50%, people are laid off in every city and town, crimes are huge and we must direct our attention, if we can, to that 65% population. I want to thank you, lastly, for allowing me to speak, for sharing your knowledge and experience with me. I can never forget this. I would have never known what I know today. Democrats, Republicans, Independent, they have been so kind and respectful of me that I must apologize to you that when my son, Misbah, God bless him, he is in California, he challenged me to give back to the people of the United States and he asked me to run for this seat. I said, "You must be kidding. Nobody is going to vote for me. There is only 1% minority in New Hampshire." He said, "No, Daddy, you have been working with food pantries. Whenever somebody needs you, you are there. You have been working with injured and disabled veterans. Where there is a fire, you are there. Where there is something needed, you are there. I know. You are my dad." I did not work hard enough in 1998. I lost by 12 votes. I started work the same day for the next election and I got many, many, 400 or 500 more votes than my next opponent. I was ashamed of myself. I thought I

was biased and I apologize to you and I apologize to the people of New Hampshire and I apologize to the people in District 9, Manchester, Ward 2. May God bless you all. May God bless the United States of America. I love you all. Thank you so much.

RECESS MOTION

Rep. Wallner moved that the House stand in recess for the purposes of the introduction of bills, receiving Senate messages, enrolled bill amendments, enrolled bill reports and forming Committees of Conference.
Adopted.

The House recessed at 5:45 p.m.

RECESS

(Rep. Shurtleff in the Chair)

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 1143, 1184, 1198, 1208, 1219, 1387, 1430, 1495, 1574, 1625, 1667, 1680, 1686 and 1692 and House Joint Resolution numbered 20 and Senate Bills numbered 443, 509 and 511.
Rep. Schuett, Sen. D'Allesandro for the Committee

ENROLLED BILL AMENDMENTS

HB 1553, establishing a material mortality review panel to conduct comprehensive, multidisciplinary reviews of maternal deaths in New Hampshire.

Amendment (1981-EBA)

Amend RSA 132:31, III as inserted by section 2 of the bill by replacing line 3 with the following:
trending and analysis over time. Pursuant to RSA 132:30, VII(d), identifiable information on all
Adopted.

HB 1534, relative to the issuance of air permits and certain fees relative to air permits.

Amendment (2034-EBA)

Amend RSA 125-C:12, IV-c as inserted by section 3 of the bill by replacing line 1 with the following:

IV-c. In lieu of the annual emissions fee specified in paragraph IV-b, as a condition of any

Adopted.

HB 1363, relative to continuing care communities.

Amendment (2008-EBA)

Amend RSA 420-D:3-a, I(c) as inserted by section 6 of the bill by replacing line 1 with the following:

(c) Satisfies the commissioner that the proposal to offer continuing care contracts to

Amend section 11 of the bill by replacing line 1 with the following:

11 New Subparagraph; Continuing Care Communities; Entrance Fees. Amend RSA 420-D:10, III

Adopted.

HB 1304, extending legislative study committees and commissions.

Amendment (2039-EBA)

Amend section 2 of the bill by replacing line 1 with the following:

2 Commission to Study Alternate Fuel Vehicles; Report Date Extended. Amend 2009, 189:5 to
Adopted.

HB 1301, relative to the regulation of fuel gas fitters.

Amendment (1980-EBA)

Amend RSA 153:32, II(c) as inserted by section 7 of the bill by replacing line 2 with the following:

practice of, the profession, ***or such conduct that poses risk to public health, safety, or welfare***

Adopted.

HB 1235, relative to the regulation of dentistry by the board of dental examiners.

Amendment (2025-EBA)

Amend 317-A:20, I(g) as inserted by section 3 of the bill by replacing it with the following:

(g) Administers dental anesthetics, either general or local[-]; ***or***

Amend section 4 of the bill by replacing lines 2-3 with the following:

after subparagraph (g) the following new subparagraph:

(h) Dispenses teeth whitening agents or undertakes to whiten or bleach teeth by any

Adopted.

SENATE MESSAGES

CONCURRENCE

HB 53, relative to the definition of “public body” under the right-to-know law.

HB 160, relative to physical force in defense of a person.

HB 379, exempting certain meetings concerning collective bargaining from the right-to-know law.

HB 410, relative to the licensing of alcohol and drug counselors.

HB 1137, relative to withholding of wages.

HB 1156, relative to the determination of parental rights and responsibilities.

HB 1163, relative to the definition of employer for purposes of safety provisions under the workers' compensation law.

HB 1170, relative to licensure of home health care providers.

HB 1206, adopting apple cider as the New Hampshire state beverage.

HB 1215, relative to gender neutral references in certain public assistance statutes.

HB 1223, relative to notice in class action cases under the consumer protection act.

HB 1306, relative to approval of recommendations of marital masters and judicial referees.

HB 1340, relative to condominium liens for assessments.

HB 1366, making certain technical corrections in the insurance laws.

HB 1379, relative to promotion of the state parks.

HB 1395, relative to workforce housing.

HB 1416, making technical corrections to certain department of revenue administration laws.

HB 1480, relative to the New Hampshire rail transit authority.

HB 1481, relative to the use of turnpike tolls.

HB 1483, relative to appropriations in the county budget.
HB 1487, relative to the definition of certified wetland scientists.
HB 1513-FN, relative to fees collected by the secretary of state.
HB 1524, relative to the liability of town and city health officers and overseers of public welfare.

NONCONCURRENCE

HB 1134, authorizing federal law enforcement officials to take emergency law enforcement action to temporarily detain persons when assisting local law enforcement officials or upon witnessing a crime.
HB 1185, relative to retired judges over 70 years of age.
HB 1192, relative to obstructions on motor vehicle windows.
HB 1213, relative to notice to the department of health and human services of the allocation of spousal income and relative to estate planning by guardians.
HB 1332, relative to planning board members.
HB 1370, requiring independent medical examination practitioners to file a report with the insurance department.
HB 1439-L, relative to tax exemptions for water and air pollution control installations.
HB 1447, relative to authorization to use firearms in the compact part of a town.
HB 1471, requiring the governor's office of energy and planning and the board of home inspectors to develop a document relative to home energy efficiency for home buyers.
HB 1474, establishing a legislative committee to review the New Hampshire child support guidelines.

LAID ON THE TABLE

HB 1239, relative to processing certain environmental permits and administrative fines for violations of dredge and fill requirements.
HB 1461, relative to the municipal regulation of the sale of martial arts weapons.
HB 1491, relative to the child support calculation in cases of shared parenting.
HB 1543, relative to the annual rate of interest on judgments.
HB 1628, establishing guidelines for neighborhood notification upon release of a sexual offender.

CONCURRENCE WITH AMENDMENTS

SB 193, relative to the interest rate on small loans and relative to the definition of lender for purposes of regulating such loans.
SB 326, relative to certain extensions for temporary plates.
SB 390-FN, relative to health insurance premium only cafeteria plans.
SB 405, relative to grounds for revocation of school bus driver's certificate and relative to interference with traffic signaling devices.
SB 413, relative to obstructions on motor vehicle windows.
SB 433, relative to underground facility damage prevention and establishing the position of director of safety and security of the public utilities commission.
SB 437, relative to the authority of district court justices to issue emergency orders in any district court.
SB 439, making technical corrections and changes to court sites and names.
SB 464, relative to speed limits on Lake Winnepesaukee and reporting vessel operation violations.
SB 484, allowing the New Hampshire children's trust fund to become a nonprofit entity.
SB 494, relative to legislative study committees.
SB 500-FN, implementing changes in the probation, parole, and sentencing of certain offenders in an effort to increase public safety, strengthen community supervision, and

reduce recidivism.

SB 505-FN-A, establishing the commission on health care cost containment and appropriating a special fund.

SB 510, establishing a committee to evaluate the parity between oral and intravenous chemotherapy.

SCR 1, urging Congress to fund the development and implementation of a comprehensive health care delivery system to enhance the level of specialty care for New Hampshire's veterans.

NONCONCURRENCE WITH AMENDMENT

SB 450-FN, relative to costs and expenditures at the department of health and human services, establishing a special fund for certain civil fines collected by the department, and relative to the due date for the Medicaid enhancement tax.

RECESS

(Rep. Marjorie Smith in the Chair)

SENATE MESSAGES

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 1168, clarifying the definition of gross misconduct for purposes of unemployment compensation. (Amendment printed SJ 4-21-10)

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

Adopted.

The Speaker appointed Reps. Goley, Sally Kelly, John Knowles and Infantine.

HB 1171, repealing the prohibitions on Sunday business activities. (Amendment printed SJ 4-28-10)

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

Adopted.

The Speaker appointed Reps. Nord, DeStefano, Meader and Rip Holden.

HB 1262, relative to disabled parking signs. (Amendment printed SJ 5-12-10)

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

Adopted.

The Speaker appointed Reps. Michael O'Brien, Robert Williams, L'Heureux and Carol Williams.

HB 1337, relative to requirement for public forums for the assessing standards board and the equalization standards board. (Amendment printed SJ 4-28-10)

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

Adopted.

The Speaker appointed Reps. Schmidt, Patten, Russell Day and Hawkins.

HB 1380-FN, relative to assessing fees by zoning boards of adjustment. (Amendment printed SJ 5-5-10)

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

Adopted.

The Speaker appointed Reps. Kidder, Walz, Stetson and Katsakiores.

HB 1461, relative to the municipal regulation of the sale of martial arts weapons.
(Amendment printed SJ 5-13-10)

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

Adopted.

The Speaker appointed Reps. Sterling, Gagnon, Wheeler and Lauterborn.

HB 1607-FN-A, relative to the reasonable compensation deduction under the business profits tax. (Amendment printed SJ 5-13-10)

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

Adopted.

The Speaker appointed Reps. Hatch, Vachon, Walsh and Lockwood.

HB 1610-FN, establishing a New Hampshire commission on Native American affairs and recognizing Native American residents of the state as a minority population in New Hampshire. (Amendment printed SJ 5-5-10)

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

Adopted.

The Speaker appointed Reps. Cushing, Patrick Garrity, Kris Roberts and Fields.

HB 1620-FN-A, establishing state park number plates. (Amendment printed SJ 4-21-10)

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

Adopted.

The Speaker appointed Reps. Michael O'Brien, C. Pennington Brown, Umberger and Hinch.

HB 1623, requiring certain patient identification for a pharmacist to dispense a schedule II or III controlled drug. (Amendment printed SJ 5-5-10)

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

Adopted.

The Speaker appointed Reps. Schulze, DiPentima, Tilton and Case.

RECESS