



State of
New Hampshire

HOUSE RECORD

First Year of the 165th General Court

Calendar and Journal of the 2017 Session

Web Site Address: www.gencourt.state.nh.us

Vol. 39

Concord, N.H.

Thursday, June 1, 2017

No. 17

HOUSE JOURNAL No. 16 (Cont'd)

Thursday, May 18, 2017

Rep. Hinch moved that the House adjourn.
Motion adopted.

HOUSE JOURNAL No. 17

Thursday, June 1, 2017

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, Reverend Kate Atkinson, Rector of St. Paul's Church in Concord.

All over the country there are people serving as Chaplains to the House of Representatives. It's a double gift to our nation that we have both a network of legislators caring for our citizens, and a network of Chaplains caring for our legislators! For my prayer today, I've incorporated a prayer by Fr. Pat Conway, Chaplain of the United States House of Representatives:

Eternal God, we give You thanks for giving us another day. We thank You once again that we can come before You and ask guidance for the men and women of this assembly. Send Your spirit of peace, honesty, and fairness to inspire us all in the work that we do. Bless the people of the State of New Hampshire with wisdom, knowledge, and understanding, that they might participate responsibly in our American democracy. Please keep all who work for the people's House in good health. We thank You for their generosity and the work they do, on a daily basis, to guide and govern and keep Your people mindful of the blessings of freedom. Bless us all this day, and every day, and may all that is done be for Your greater honor and glory. Amen.

Representative Barbara Griffin, member from Goffstown, led the Pledge of Allegiance.

The National Anthem was performed by flutist Kacey Palmer of Goffstown, a student at the Manchester Community Music School.

LEAVES OF ABSENCE

Reps. Fontneau, Hatch, Lundgren, Patten and Richardson, the day, illness.

Reps. Beaudoin, James Belanger, BurrIDGE, Chase, Friel, Jeudy, Manning, Murotake, Plumer, Gregory Smith, Somero, Soucy, Vann and Wallner, the day, important business.

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

INTRODUCTION OF GUESTS

Ethan Eames, student at St. Johnsbury Academy, Page for the day.

Allison and Carl Palmer, Diane DePersio, Sherry Miller, Tony Maggio, William Mortimor, Eric Perry, Brian Allard, Kathy Doolan, Jon Bouffard, Joe Simone, Sean Elberg, Katie Palmatier, Derek Whitehead, Chris Reilly, and EMS students from Concord Regional Technical Center, guests of Rep. Danielson. William Bryk, and Ray Ledgerwood, guests of Reps. Porter and McNamara. William Pearl, Mathias and Michaela Engel, Simon and Tobias Schroeder, Aylin Yilmaz, and Cheyenne Kearns, brother and guests of Rep. Pearl. Jill Kimball, guest of Rep. Hennessey. Carl Anderson, guest of Rep. Berrien. Matt Wong and Krystan Roselius, guests of Rep. Nutting. Beth Scaer, guest of Reps. Jess Edwards, Scully and Hoell. Abigail Rooney, guest of Reps. Mullen and Robert Graham. Karen Testerman, wife of Rep. Testerman. Susan Olsen, guest of Reps. Sylvia and Valera. The Honorable Phyllis Woods, former member from Dover, guest of Rep. Wuelper. The Honorable Leon Rideout, former member from Lancaster, guest of Rep. Theberge. The Honorable Joanne Ward, former member from Stratham, guest of Rep. Abrami. The Honorable Katherine Prudhomme-O'Brien, former member from Derry, guest of Reps. Baldasaro and Josh Moore. The Honorable Tammy Simmons, former member from Manchester,

guest of Reps. Verville, Ammon and Osborne. Phoenix and Amanda Gould, grandson and daughter-in-law of Rep. Gould. Grace Cushing, daughter of Rep. Cushing. June Sailor-O'Day, wife of Rep. O'Day. Jennifer, Kelsey and Olivia Verville, and Steve and Kathy Jones, wife, daughters and guests of Rep. Verville. Ray Connor, guest of Rep. Jim Mackay. Terry McCarthy, Sara and Stephani Wester, Robbie Bradley, Robin LeMieux, and 1st Lieutenant Gerald Flick, Sergeant Ronald Smith, and Sergeant Lorne LeMieux, retired members of the United States Marine Corps, wife and guests of Rep. Frank McCarthy. Members from the Local 651 Boilermakers, guests of Reps. Messmer, Reed and Frost. Rep.-elect Edie DesMarais, guest of Rep. Shurtleff. Fourth grade students from Kensington Elementary School, guests of Rep. Nigrello and Richard Gordon.

MEMORIAL RESOLUTION

Memorializing State Representative William Polewarczyk of Chester

WHEREAS, we have learned with profound sorrow of the death of our friend and colleague William Polewarczyk, who was serving his first term as a State Representative representing the citizens of Rockingham County District 4, the towns of Auburn, Chester, and Sandown; and

WHEREAS, William Polewarczyk brought a great deal of life experience and knowledge to this chamber, having served as a National Guardsman, having worked at Lincoln Labs at MIT and New England Nuclear, owned his own real estate business and retired from the United States Postal Service; and

WHEREAS, an avid ham, for over fifty years, William Polewarczyk was better known to friends in the American Radio Relay League and around the world as WA1DMV; and

WHEREAS, shortly after joining this august body, Representative Polewarczyk had a recurrence of cancer but remained determined to serve his constituents as best he could, serving honorably on the Science, Technology and Energy committee and attending sessions as long as he could; now, therefore, be it

RESOLVED, by the House of Representatives in Regular Session convened, William S. Polewarczyk, Jr. be granted the highest praise and accolades and our profound thanks for his service to his country, the state, and the town he called home for many years, and, be it further

RESOLVED, that expressions of our most heartfelt sympathy be extended to his family and that a suitable copy of this Resolution be prepared for presentation to them.

Offered by the House of Representatives and adopted unanimously.

MOMENT OF SILENCE

A moment of silence was observed in honor and in memory of the Representative from Chester, the Honorable William Polewarczyk.

SENATE MESSAGES

REQUESTS CONCURRENCE WITH AMENDMENTS

HB 474-FN, regulating the use of a cell site simulator device. (Amendment printed SJ 5/18/17)

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

Motion adopted.

HB 640-FN, relative to the penalties for possession of marijuana. (Amendment printed SJ 5/11/17)

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

Motion adopted.

HB 356-FN, establishing a committee to study education funding and the cost of an opportunity for an adequate education, establishing a committee to study the organizational structure of the department of education and the duties and responsibilities of the commissioner of the department of education, and relative to the duties of the commissioner of the department of education. (Amendment printed SJ 5/11/17)

Reps. Ladd and Kurk moved that the House concur.

Rep. Ladd spoke in favor.

Motion adopted.

HB 85, relative to installation requirements for arc-fault circuit interrupters. (Amendment printed SJ 5/18/17)

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

Motion adopted.

HB 160, relative to use of cannabis for therapeutic purposes. (Amendments printed SJ 5/11/17)

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

Motion adopted.

HB 208, establishing a commission to study current mental health procedures for involuntary commitment. (Amendment printed SJ 4/6/17)

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

Motion adopted.

HB 484, establishing a commission on the seacoast cancer cluster investigation. (Amendments printed SJ 4/27/17)
Rep. Kotowski moved that the House concur and spoke in favor.
Motion adopted.

HB 511, establishing a commission to study environmentally-triggered chronic illness. (Amendments printed SJ 4/27/17)
Rep. Kotowski moved that the House concur and spoke in favor.
Motion adopted.

HB 186, relative to limitation of actions in which the state is a plaintiff. (Amendment printed SJ 4/20/17)
Rep. Hagan moved that the House concur and spoke in favor.
Motion adopted.

HB 460, relative to minutes under the right-to-know law. (Amendment printed SJ 5/11/17)
Rep. Hagan moved that the House concur and spoke in favor.
Motion adopted.

HB 568-FN, relative to the taxability of lease interests in public property. (Amendment printed SJ 5/11/17)
Reps. Sterling and Major moved that the House concur.
Rep. Sterling spoke in favor.
Motion adopted.

HB 238, establishing a committee to study broadband access to the Internet. (Amendments printed SJ 4/27/17)
Rep. Barry moved that the House concur and spoke in favor.
Motion adopted.

HB 332, relative to dedicated funds with no activity in the financial system for at least the most recent fiscal year. (Amendment printed SJ 4/6/17)
Rep. Major moved that the House concur and spoke in favor.
Motion adopted.

HB 161-FN, relative to beverage sales at farmers' markets and relative to liquor commission sales. (Amendment printed SJ 5/18/17)
Reps. Hunt and Major moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Hunt, Biggie, Butler and Azarian.

HB 654-FN, establishing a committee to study the regulation and taxation of vacation rentals and short-term rentals, and relative to examinations of vacation and short-term rentals. (Amendment printed SJ 5/18/17)
Reps. Hunt and Major moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Hunt, Biggie, Butler and Ohm.

HB 556, requiring schools to post the state telephone numbers to report child abuse and relative to criminal history records checks of school employees and volunteers. (Amendment printed SJ 4/6/17)
Rep. Ladd moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Ladd, Terry Wolf, Michael Moffett and Heath.

HB 247, relative to retention of voter registration forms. (Amendment printed SJ 4/27/17)
Rep. Barbara Griffin moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Negron, Freeman, Barbara Griffin and Ward.

HB 575-FN, relative to the certification of acupuncture detoxification specialists. (Amendment printed SJ 5/11/17)
Rep. McGuire moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Hansen, Campion, Proulx and Gagnon.

HB 340, establishing the lakeshore redevelopment planning commission. (Amendment printed SJ 5/11/17)
Rep. Chandler moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Chandler, John Graham, Lynne Ober and Jack.

HB 237, establishing a committee to study helmet and restraint laws for youth operators and passengers of OHRVs and snowmobiles, and relative to a trail connector in the town of Henniker. (Amendment printed SJ 4/20/17)
Rep. Steven Smith moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Steven Smith, Thomas Walsh, Horn and Sykes.

HB 315, relative to persons who may accompany a youth operator of an OHRV. (Amendment printed SJ 4/20/17)
Rep. Steven Smith moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Steven Smith, Thomas Walsh, Horn and Sykes.

HB 319, limiting 20-day registration plates, relative to the suspension of a driver's license, and relative to salvage certificates of titles for motor vehicles. (Amendment printed SJ 4/20/17)

Rep. Steven Smith moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Steven Smith, Thomas Walsh, Horn and Sykes.

HB 364, relative to accidents involving youth operators of motor vehicles. (Amendment printed SJ 4/6/17)

Rep. Steven Smith moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Steven Smith, Thomas Walsh, Horn and Sykes.

NONCONCURS WITH AMENDMENTS REQUESTS COMMITTEE OF CONFERENCE

SB 60, relative to chemical analyses of controlled drugs.

The President appointed Sens. Gray, Avard and D'Allesandro.

Rep. Hagan moved that the House accede.

Motion adopted.

The Speaker appointed Reps. Hagan, Berch, Hopper and Robert Graham.

SB 144-FN, relative to qualifying medical conditions for the therapeutic use of cannabis and relative to registry identification cards.

The President appointed Sens. Bradley, Gray and Hennessey.

Rep. Kotowski moved that the House refuse to accede.

Motion adopted.

REPORT FROM THE COMMITTEE ON LEGISLATIVE ADMINISTRATION

Report of the Committee on Legislative Administration, to which was referred the matter of Representatives Fisher and Frost with respect to comments made and their conduct as members of the House of Representatives. The committee held two public hearings, one regarding each member, on May 9 and May 10, 2017. The committee heard testimony from members of the House, as well as from members of the public, with respect to the charge granted to the committee by a vote of the full House. The proceedings began with the Clerk of the House citing the authority for the House to take action with respect to discipline of members (Mason's Manual, 561.1) and the authority granted by the New Hampshire Constitution under Part 2, Article 22 for the House to adopt its own rules. The committee put one member under oath (the other declined) before testifying pursuant to RSA 14:14 and a full transcription of the hearings were taken for the records of the House. The committee heard various reasons for disciplining the members, including arguments related to unfitness for office under the Constitution; however, these latter arguments have not yielded an interpretation that follows the rationale that was offered during testimony. The committee had a few options available in terms of making a recommendation to the House, including reprimand, censure, or expulsion. The last time a member of this House was expelled was for bribery in 1913. At no time, that we have been able to discover, has a member of this body been expelled for exercising a constitutionally protected right of free speech. Censure and reprimand have occurred more recently than in 1913; however, as the charge to this committee referred to the current term, and the fact that neither member has said anything illegal or seemingly incited anything illegal so far as could be proved in this term, the committee has a difficult time suggesting the aforementioned official actions of discipline. Absent a provision in our House rules that specifically provides for a code of conduct for the membership that holds them to a higher standard than others in society, the committee could not recommend discipline, based solely on the constitutionally protected right of free speech. Since the time of the vote in executive session, Rep. Fisher resigned his seat as a member of the New Hampshire House of Representatives, and as our jurisdiction regarding his membership ends with the effective date of his resignation (12:00 p.m. on May 17, 2017), no further action can be taken against him. All that being said, the committee is saddened and dismayed at the behavior of the members that were referred to the committee, and believes that the comments made reflect a poor choice of language and does a disservice to the office of State Representative. Therefore, as Chairman of the Committee on Legislative Administration, I am appointing a bipartisan subcommittee to begin working on draft language for a rules proposal in the next year of the session that creates a code of conduct for the members of the House in their official capacity. The subcommittee will work on language over the summer, solicit input from our House membership, and present a final proposal to the House at the start of next year. While this will not prevent future matters of the sort recently referred to the committee, it will give a basis for conduct that we can all follow and support. Rep. Richard Hinch for the committee. Vote: 8-6

MOTION TO LAY ON THE TABLE

Reps. Hinch and Shurtleff moved that the report from the Committee on Legislative Administration be laid on the table.

Rep. Hunt requested a roll call; not sufficiently seconded.

Motion adopted.

CONSENT CALENDAR

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

SB 89, relative to the relationship between a franchisor and franchisee, removed by Rep. Kurk.

SB 133-FN, relative to security screening at state correctional facilities, removed by Rep. Hoell.

Consent Calendar adopted.

SB 18, relative to reinstatement of foreign corporations and foreign limited liability partnerships. **OUGHT TO PASS.**

Rep. Michael Costable for Commerce and Consumer Affairs. This bill equalizes the process for reinstatement between foreign and domestic corporations. Under current law, domestic corporations whose certificate of authority has been revoked can apply for reinstatement while foreign corporations cannot, with foreign limited liability partnerships as the only exception. This bill establishes a process under which foreign corporations and limited liability companies may apply for reinstatement. They must complete a reinstatement form from the Secretary of State and also pay any fees in arrears at the time of revocation. Vote 20-0.

SB 24, relative to examinations by the insurance commissioner. **OUGHT TO PASS.**

Rep. Donald Flanders for Commerce and Consumer Affairs. This bill modifies the Insurance Department's examination law to allow the Insurance Commissioner to share examination results with the Department of Labor. Both agencies have a role in the regulation of workers' compensation insurance, with the Insurance Department regulating the solvency of the insurers and the Department of Labor handling the claims process. This bill will ensure that confidentiality standards are maintained in accordance with the accreditation requirements of the National Association of Insurance Commissioners (NAIC), while at the same time permitting information sharing between these two agencies. The amendment that was added in the Senate clarifies that only information relating to workers' compensation exams shall be shared between the departments. This bill is a request of the Insurance Department. Vote 19-0.

SB 42, eliminating the hearing requirement for late reinstatement of corporations. **OUGHT TO PASS.**

Rep. Timothy Fontneau for Commerce and Consumer Affairs. This bill repeals the requirement for certain corporations that have been administratively dissolved to hold a hearing with the Secretary of State's office in order to be reinstated. Currently after an application has been submitted and determined complete and accurate, the applicant is required to attend a hearing. These hearings are only held biannually and this is causing unnecessary delays to reinstatement. Vote 19-0.

SB 81, relative to licensing of mortgage loan originators from another state. **OUGHT TO PASS.**

Rep. John Plumer for Commerce and Consumer Affairs. This is business friendly legislation that puts mortgage loan originators on a similar track as real estate brokers. The bill allows for mortgage originators who are in compliance in another state, 60 days of conditionally approved licensing to work in the state. Vote 20-0.

SB 85, amending the Uniform Securities Act. **OUGHT TO PASS.**

Rep. Richard Abel for Commerce and Consumer Affairs. This housekeeping bill makes several necessary changes that have come to light since the recent rewrite of the Uniform Securities Act, which went into effect in 2016. It clarifies wording and adds definitions inadvertently left out. Most importantly, it updates cross-references to the appropriate New Hampshire laws and the Federal Securities Act of 1933. No other substantive changes have been made to the existing law. Vote 20-0.

SB 86, relative to the regulation of banks, trusts, and credit unions by the banking department. **OUGHT TO PASS.**

Rep. Michael Costable for Commerce and Consumer Affairs. This is a housekeeping bill relative to banks, trusts and credit unions that was filed at the request of the Banking Department. Several clarifications and cross reference corrections are included in this bill. Section 1 clarifies that audits of all state banks and credit unions must be performed annually by certified public accountants. Sections 5-19 clarify when an entity should submit a notice or an application. A notice is used on pending actions that do not require prior approval while an application should be used prior to an action being taken that requires approval from the Banking Commissioner. Vote 20-0.

SB 157, relative to network adequacy and consumer rights under the managed care law. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David Luneau for Commerce and Consumer Affairs. This bill amends the network adequacy requirement for health insurance plans to provide a choice of and access to providers of specialty care for persons with substance use disorder. It also requires health insurance carriers to notify an insured person of their appeal rights when they contact the carrier regarding a denial of coverage or when the carrier verbally informs the person of the denial of coverage. The amendment clarifies the provision describing when the carrier is required to provide this notice. Vote 20-0.

Amendment (1772h)

Amend RSA 420-J:7-e as inserted by section 2 of the bill by replacing it with the following:

420-J:7-e Notice of Consumer Rights. A health carrier shall, at least annually, in a conspicuous communication as approved by the commissioner which may be included as an insert in an annual mailing or by electronic communication, notify each covered person of his or her consumer rights under this chapter, including, but not limited to, appeal rights and the ability to access services out-of-network in the event covered services are not available in-network. A health carrier shall also notify covered persons of the right to access out-of-network services when the covered person contacts the health carrier directly requesting assistance finding clinically appropriate in-network care. A health carrier shall also provide notification to covered persons of their right to appeal whenever a covered person contacts the health carrier regarding a denial of coverage or when a health carrier verbally informs the covered person of the denial of coverage.

SB 158, relative to authorization for clinician-prescribed substance use disorder services. **OUGHT TO PASS.**

Rep. Edward Butler for Commerce and Consumer Affairs. This bill will standardize the requirement for prior authorization for medication-assisted treatment for substance use disorder. Currently there is no set standard. Various carriers require different time periods for the renewal of prior authorization, but generally 6 months is usual. This bill will prohibit carriers from requiring the renewal of prior authorization more frequently than once every 12 months. This will help practitioners to focus on direct care by decreasing paperwork. Vote 20-0.

SB 43, relative to non-academic surveys administered by a public school to its students. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Dan Wolf for Education. This bill, as amended, requires school districts to adopt a policy governing the administration of nonacademic surveys, questionnaires, or evaluations. "Nonacademic" is clearly defined and mirrors language that appears in 20 U.S.C. section 1232h, Protection of Pupil Rights. It further provides how local policy regarding nonacademic surveys should be distributed to parents and provides school boards local control in deciding which surveys, etc., should be identified as opt-out or opt-in. The committee unanimously approved the bill as amended. Vote 18-0.

Amendment (1610h)

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

AN ACT relative to nonacademic surveys, questionnaires, or evaluations administered by a public school to its students.

Amend the bill by replacing section 1 with the following:

1 State Board of Education; Duties; Nonacademic Surveys. RSA 186:11, IX-d is repealed and reenacted to read as follows:

IX-d.(a) Require school districts to adopt a policy governing the administration of nonacademic surveys, questionnaires, or evaluations, as defined in subparagraph IX-d(b). A school district shall furnish a written copy of the policy to each parent or legal guardian at the beginning of each school year. The policy shall:

(1) Require the school district to notify a parent or legal guardian of a nonacademic survey, questionnaire, or evaluation and its purpose at least 10 days prior to distribution to students;

(2) Require the school district to make such surveys, questionnaires, or evaluations available, at the school and on the school or school district's website, for review by a student's parent or legal guardian at least 10 days prior to distribution to students;

(3) State that no student shall be required to participate in a nonacademic survey, questionnaire, or evaluation;

(4) Include a policy on the use and applicability of active and passive parental consent;

(5) Allow a parent or legal guardian to opt his or her child out of a nonacademic survey, questionnaire, or evaluation, either in writing or electronically, regardless of the district's policy on parental consent as required by subparagraph (4); and

(6) Require the school district to notify a parent or legal guardian if any of the information collected from a student who participates in a nonacademic survey, questionnaire, or evaluation will be used or otherwise provided to a third party for marketing or advertising purposes.

(b) In this section, “nonacademic survey, questionnaire, or evaluation” means any effort designed to elicit or reveal information concerning political affiliations or beliefs of the student or the student’s parent; mental or psychological problems of the student or the student’s family; sex behavior or attitudes; illegal, anti-social, self-incriminating, or demeaning behavior; critical appraisals of other individuals with whom respondents have close family relationships; legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; religious practices, affiliations, or beliefs of the student or student’s parent; or income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

AMENDED ANALYSIS

This bill requires school districts to adopt a policy governing the administration of nonacademic surveys, questionnaires, or evaluations.

SB 44, prohibiting the state from requiring implementation of common core standards. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Victoria Sullivan for Education. As amended, this bill clarifies and places in statute that NO school district shall be required to adopt common core standards or common core state standards (CCSS). Should the local school board choose not to adopt CCSS, the board shall determine, approve, and implement alternative academic standards. Further, the amended bill requires that the state board of education shall not approve any new academic standards without prior review and recommendation of the legislative oversight committee established in RSA 193-C: 7. Vote 16-2.

Amendment (1508h)

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

AN ACT prohibiting the state from requiring implementation of common core standards and relative to the amendment or approval of academic standards.

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

1 Substantive Educational Content of an Adequate Education. Amend RSA 193-E:2-a, IV to read as follows:

IV.(a) The minimum standards for public school approval for the areas identified in paragraph I shall constitute the opportunity for the delivery of an adequate education. The general court shall periodically, but not less frequently than every 10 years, review, revise, and update, as necessary, the minimum standards identified in paragraph I and shall ensure that the high quality of the minimum standards for public school approval in each area of education identified in paragraph I is maintained. Changes made by the board of education to the school approval standards through rulemaking after the effective date of this section shall not be included within the standards that constitute the opportunity for the delivery of an adequate education without prior adoption by the general court. The board of education shall provide written notice to the speaker of the house of representatives, the president of the senate, and the chairs of the house and senate education committees of any changes to the school approval standards adopted pursuant to RSA 541-A.

(b) Neither the department of education nor the state board of education shall by statute or rule require that the common core standards developed jointly by the National Governors Association and the Council of Chief State School Officers be implemented in any school or school district in this state. If the local school board elects not to implement the common core standards or the common core state standards adopted by the state board pursuant to RSA 541-A, the local school board shall determine, approve, and implement alternative academic standards.

(c) On or after the effective date of this subparagraph, the state board of education shall not amend any existing academic standards and shall not approve any new academic standards without prior review and recommendation of the legislative oversight committee established in RSA 193-C:7.

(d) In this paragraph, “academic standards” shall have the same meaning as in RSA 193-E:2-a, VI(b).

2 New Paragraph; Statewide Education Improvement and Assessment Program; Duties of the Legislative Oversight Committee. Amend RSA 193-C:8 by inserting after paragraph XI the following new paragraph:

XII. Review and make recommendations relating to academic standards under consideration by the state board of education pursuant to RSA 193-E:2-a, IV(c).

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

AMENDED ANALYSIS

This bill prohibits the department of education and the state board of education from requiring the implementation of the common core standards in any school or school district in this state. The bill also prohibits the state board of education from amending any existing academic standards or approving any new academic standards without prior review and recommendation of the legislative oversight committee.

SB 114, prohibiting a candidate from receiving the nomination of more than one party. **INEXPEDIENT TO LEGISLATE.**

Rep. Steve Negron for Election Law. This bill would allow a candidate to become the nominee of a party despite receiving fewer votes than another candidate. While the bill as presented would also prevent a candidate being on the ballot for more than one party, this legislation interferes with what the Election Law committee believes are decisions better suited to be made by the state political parties and the voters in our communities. In addition an almost identical bill, HB 217, was ITL'd by the House earlier this session upon the unanimous recommendation of the Election Law committee. Vote 19-0.

SB 13, relative to statutes governing the security force at the New Hampshire technical institute. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter Schmidt for Executive Departments and Administration. As amended, this bill deals with several issues. Primarily, it reflects and codifies the actual status of the Police Standards and Training Council (PSTC), which was once administratively attached to the Community College System of New Hampshire. The council is located on the campus of NHTI, but has been operating as a separate entity for some time now. This bill therefore statutorily repeals that attachment and conforms the statutes to current reality. It establishes a new chapter for the PSTC and confirms the current requirement that those who enforce New Hampshire laws and regulations must be trained by, and meet the standards of, the council. Finally, the bill repeals the statutes governing the NHTI security force, as the Institute is now served by the Concord Police Department. Vote 19-1.

Amendment (1452h)

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

AN ACT repealing the administrative attachment of the police standards and training council to the community college system of New Hampshire and repealing the statutes governing the New Hampshire technical institute security force.

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

1 New Chapter; Sheriffs, Constables, and Police Officers; Police Standards and Training Council. Amend RSA by inserting after chapter 106-K the following new chapter:

CHAPTER 106-L

POLICE STANDARDS AND TRAINING COUNCIL

106-L:1 Findings and Policy. The legislature finds that the administration of criminal justice is of statewide concern; that police and corrections work are important to the health, safety, and welfare of the people of this state; that police and corrections work are of such a nature as to require education and training of a professional character; and that it is in the public interest that such education and training be made available to persons who seek to become police and corrections officers, persons who are serving as police and corrections officers in a temporary or probationary capacity, and persons already in regular service.

106-L:2 Definitions. In this chapter:

I. "Police officer" means any appointed or elected employee of a police department or any appointed employee of a sheriff's department, the fish and game department, the department of safety, or any special agent appointed by the state liquor commission which is administered by the state or any of its political subdivisions and who is responsible for the prevention, detection or prosecution of crime or the enforcement of the penal, traffic, highway, boating, liquor, or bingo and lucky 7 laws of this state or any of its political subdivisions.

II. "Council" means the police standards and training council.

III. "Director" means the director of the police standards and training council.

IV. "State corrections officer" means any sworn classified employee of the New Hampshire department of corrections who is responsible for the physical custody and security of inmates at a state correctional institution and is authorized by law to use force to prevent escapes from such institution.

V. "State probation-parole officer" means any sworn employee of the New Hampshire department of corrections who is responsible for the supervision of probationers and parolees, who has an assigned caseload, and who has the authority to arrest for violations of the rules of probation or parole.

106-L:3 Police Standards and Training Council.

I. There is established a police standards and training council. It shall consist of the following members:

- (a) Two members shall be chiefs of police in towns;
- (b) Two members shall be chiefs of police in cities;
- (c) Two members shall be county sheriffs;
- (d) Two members shall be judges of courts with criminal jurisdiction;
- (e) The chancellor of the community college system of New Hampshire, or designee;
- (f) The director of the division of state police, or designee;
- (g) The attorney general, or designee;

(h) The commissioner of the department of corrections, or designee; and

(i) Two public members, neither of whom shall be a certified police officer, lawyer, or judge, and neither of whom shall have a spouse, sibling, or parent, by birth, adoption, or marriage, who is a certified police officer, lawyer, or judge.

II. Except for the members appointed pursuant to subparagraphs I(e)-(h) who shall serve during their continuance in office, members of the council shall be appointed by the governor for terms of 2 years. No member shall serve beyond the time that the office or employment which qualified such member for appointment. Any vacancy on the council shall be filled for the unexpired term in the same manner as the original appointment is held. Persons filling vacancies shall be appointed to serve out the unexpired term and shall have the same qualifications for office as the member whose vacancy they are filling.

III. The governor shall designate a member to be the chairperson of the council, and the council shall elect annually its vice chairperson from among the members of the council.

IV. Notwithstanding the provisions of any statute, ordinance, local law, or charter provision to the contrary and except as otherwise provided in subparagraph I(i) regarding qualification of public members, membership on the council shall not disqualify any member from holding any other public office or employment, or cause the forfeiture of any office or employment.

V. Members of the council shall serve without compensation, but shall be entitled to receive reimbursement for any actual expenses incurred as a necessary incident to such service.

VI. The council shall hold no fewer than 4 regular meetings a year. The chairperson shall fix the times and places of meetings, either on the chairperson's own motion or upon written request of any 5 members of the council.

VII. The council shall report annually to the governor and executive council on its activities, and may make such other reports as it deems desirable.

106-L:4 Executive Branch Jurisdiction. The police standards and training council is an executive branch council. The council, the director, and employees hired by the director performing the functions required by this chapter shall be subject to RSA 7:8, RSA 541-B, and RSA 99-D, and contracts by them shall be subject to attorney general review and review and approval by the governor and executive council.

106-L:5 Powers. In addition to other powers given to the council by this chapter, it may:

I. Adopt rules for the administration of this chapter in accordance with the provisions of RSA 541-A.

II. Require submission of reports and information from law enforcement and corrections agencies within this state that may be pertinent to the effective functioning of the council.

III. For the purposes of a disciplinary hearing, subpoena and examine witnesses under oath, take oaths or affirmations, and reduce to writing testimony given at any hearing. Any person whose rights or privileges may be affected at such a disciplinary hearing may appear with witnesses and be represented by counsel.

IV. Establish minimum educational and training standards for employment as a police officer, state corrections officer, or state probation-parole officer either in permanent positions or in temporary or probationary status.

V. Certify persons as being qualified under the provisions of this chapter to be police officers, state corrections officers, state probation-parole officers, or certified border patrol agents for the purposes of RSA 594:26, and establish rules under RSA 541-A for the suspension or revocation of the certification of such persons in the case of egregious misconduct or failure to comply with council standards.

VI. Establish entrance, student conduct, and curriculum requirements for preparatory, in-service, and advanced courses and programs for schools operated by or for the state or its political subdivisions for the specific purpose of training police, state corrections, or state probation-parole recruits or officers or tuition students at such programs.

VII. Consult and cooperate with counties, municipalities, agencies of this state, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of police and corrections training schools and programs or courses of instruction, and the development of standards and methodology for the voluntary accreditation of police departments in the state.

VIII. Offer the educational material and, as appropriate, training relative to the human immunodeficiency virus and related issues prepared and developed pursuant to RSA 141-F:3, II.

IX. Establish, maintain, certify, or approve institutions and facilities for training police officers, state corrections officers, or state probation-parole officers, and recruits for such positions.

X. Make or cause to be made studies of any aspect of police or corrections education and training or recruitment.

XI. Prepare and make available, upon request, model policies and procedures to assist law enforcement agencies in preparation of written policies.

XII. Establish and maintain a voluntary certification program for police canines and canine handlers.

XIII. Make recommendations concerning any matter within its purview pursuant to this chapter.

XIV. Make such investigations as may be necessary to determine whether governmental units are complying with the provisions of this chapter.

XV. Adopt and amend bylaws, consistent with law, for its internal management and control.

XVI. Enter into contracts or do such things as may be necessary and incidental to the administration of its authority pursuant to this chapter.

XVII. Accept in the name of the state any and all donations or grants, both real and personal, from any governmental unit or public agency, or from any institution, person, firm, or corporation. The council shall receive, utilize, and dispose of all donations and grants subject to budgetary provisions and according to the rules of the council and consistent with the purposes or conditions of the donation or grant. The receipt of a donation or grant shall be noted in the annual report of the council. The report shall identify the donor, the nature of the donation or grant, and the condition of the donation or grant, if any. Any moneys received by the council pursuant to this paragraph shall be deposited in the state treasury to the account of the council and shall not lapse.

XVIII. Nominate and appoint a director of police standards and training for a term of 4 years who shall report to the police standards and training council, and who shall be an unclassified employee, and whose salary shall be established by RSA 94:1-a. All other employees shall be hired by the director and shall be classified employees. The director shall have practical and academic knowledge in the field of law enforcement, including substantial administrative experience and a degree or degrees in criminology, police administration, or other similar field or any equivalent combination of education and experience.

XIX. The council may delegate to the director of police standards and training any powers and duties enumerated in this chapter.

XX. The director may grant authority to any certified full-time police officer employed by the council as assistant director or law enforcement training specialist, to enforce the provisions of this chapter and any rules adopted under this chapter, and cooperate and exchange information with any local, state, or federal law enforcement agency relative to the qualification and moral fitness of applicants for employment or continued employment as police officers or corrections officers.

XXI. The council may appoint, after consultation with the commissioner of corrections, a corrections advisory committee from a list of nominees submitted by the director. The members shall serve without compensation at the pleasure of the council and shall consist of one representative of the management of each adult correctional facility operated by the department of corrections, one representative each from prison industries, the secure psychiatric unit, and probation-parole, one medical professional from within the correctional system, one state corrections officer chosen by the New Hampshire state employees' association, and one representative of a county correctional institution chosen by the New Hampshire Association of Counties. The committee shall meet not less than twice in each fiscal year at the call of the director, and shall advise the council as requested on issues coming before it concerning corrections standards and training.

XXII. Adopt rules and establish fees to implement the provisions of the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. section 926C(d)(2)(B) in accordance with RSA 541-A.

106-L:6 Education and Training Required.

I. The council shall provide by rule that after one year from the effective date of the rule no person shall be appointed as a police officer, state corrections officer, or state probation-parole officer, except on a temporary or probationary basis, unless such person has satisfactorily completed a preparatory program of police, corrections, or probation-parole training appropriate to such person's position at a school approved by the council. No such officer who lacks the educational and training qualifications required by this section may have the temporary or probationary employment extended beyond 2 years.

II. Every elected police officer shall be required to satisfactorily complete a preparatory program of police training at a school approved by the council. Any elected officer who has not complied with the educational and training requirements of this paragraph within 6 months after election shall be removed from office by the governing body of the governmental unit by which such officer was elected; provided, however, that the council may, for such reasons as it may specify in its rules, grant an extension of this time limit not to exceed an additional 6 months. A governing body which has removed an elected police officer from office under the provisions of this paragraph shall appoint a police officer to fill the vacant office. The appointed police officer shall continue to hold office until the elected officer who was removed has complied with the educational and training requirements of this paragraph or until an election is held, whichever occurs first. If any police officer who has failed to comply with the educational and training requirements of this paragraph is reelected, such officer shall not take office without permission of the council. If a noncomplying police officer who has not obtained the permission of the council to take office is reelected, the governing body of the governmental unit by which such officer was elected shall appoint a police officer to fill the vacant office. The appointed police officer shall continue to hold office until the elected officer has complied with the educational and training requirements of this paragraph or until an election is held, whichever occurs first.

III. The council, by rules adopted under RSA 541-A, shall establish the standards for physical and mental fitness under paragraphs IV-XI and shall fix other qualifications for the appointment of police officers, state corrections officers, and probation-parole officers, including minimum age, physical and mental standards,

citizenship, good moral character, experience, and other such matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of their offices. The council shall prescribe the means for presenting evidence of the fulfillment of these requirements.

IV. The council shall require that all uncertified part-time and full-time police officers, state corrections officers, and probation-parole officers, prior to assuming their duties, successfully pass a medical examination including a drug screening administered under the direction of a licensed physician according to protocols adopted by the council. Such examination, when conducted, shall be valid for a period of one year for purposes of application for employment.

V. The council shall require that all uncertified part-time and full-time police officers, state corrections officers, and probation-parole officers, as a condition of admission to a basic or reciprocal certification training program successfully pass a physical fitness performance test administered according to standards adopted by the council.

VI. The council shall require that all uncertified part-time and full-time police officers, state corrections officers, and probation-parole officers, prior to assuming their duties, successfully pass a psychological screening test battery administered under the direction of a licensed psychologist or psychiatrist according to protocols adopted by the council and designed to detect behavioral traits that could adversely affect the person's ability to perform the essential functions of a law enforcement officer. Such an examination shall be valid for a period of one year from the date of administration for purposes of application for such employment.

VII. Beginning January 1, 2001, the police standards and training council shall require that all certified police officers, state corrections officers, and probation-parole officers, hired after that date, as a condition of continued certification and employment furnish the council every 3 years with a certificate from a licensed physician, physician's assistant, or registered nurse practitioner who has conducted a medical examination of the officer according to protocols adopted by the council, certifying that in the opinion of the examiner the officer is physically capable of participating in the council's physical fitness test.

VIII. Any officer who is unable to meet the medical requirements of paragraph VII may request an additional medical examination by a physician chosen by the council. If the officer is still unable to meet the standards, such officer's certification shall be placed in a probationary status for a period of up to 2 years, during which time the officer may request re-examination at any time. If following the 2-year period the officer is still unable to meet the standards, the officer's certification shall be suspended until such time as such officer obtains the medical certification required in paragraph VII.

IX. Beginning January 1, 2001, the police standards and training council shall require that all certified police officers, state corrections officers, and probation-parole officers, hired after that date, as a condition of continued certification and employment every 3 years pass a physical fitness performance test administered by the hiring authority or the council, according to protocols adopted by the council.

X. Any officer who is unable to meet the physical fitness performance requirements of paragraph IX may request an additional physical fitness performance test administered by the council. If the officer is still unable to meet the standards, such officer's certification shall be placed in a probationary status for a period of up to 2 years, during which time the officer may request re-examination at any time. If, following the 2-year period, the officer is still unable to meet the standards, the officer's certification shall be suspended until such time as such officer is able to pass the physical performance test.

XI. In any case where the council has reasonable grounds to doubt that the medical examination performed as required in paragraph VII was performed in accordance with the appropriate protocols, the council may require the officer to submit to a separate examination by a physician selected by the council, at the council's expense.

XII. A licensed physician, psychiatrist, psychologist, or person acting under the licensee's supervision, whose examination administered under this chapter results in an employment decision adverse to a police, corrections, or probation-parole officer shall be immune from suit resulting from such examination or decision, providing such examination is conducted in good faith, not in a wanton or reckless manner.

XIII. To the extent required to comply with federal or state law, the council may grant a waiver, with respect to employment at a specific agency, to an officer who cannot meet the standards in paragraphs VII-X.

XIV. Nothing in this section shall prevent individual hiring agencies from adopting physical fitness programs for their officers that are more stringent or frequent than those required in this section.

XV. Except as provided in paragraph XI and notwithstanding other provisions of law to the contrary, a hiring authority may assess a testing fee to cover all or part of the cost of any medical or psychological examination in cases where the person has been given a conditional offer of employment. A hiring authority may also make repayment of a testing fee part of any training or hiring contract that establishes a minimum term of employment for such an officer.

XVI. The council shall issue a certificate evidencing satisfaction of the requirements of paragraphs I, II, and III to any applicant who presents such evidence as may be required by its rules of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the council for approved police, corrections, or probation-parole, as appropriate, education and training programs in this state.

XVII. Any special agent of the state liquor commission who has the power to enforce the criminal laws under RSA title XIII and rules of the state liquor commission and who was serving under a permanent appointment prior to August 13, 1985, shall not be required to meet the requirements of paragraphs I and III; however, any special agent referred to in this paragraph shall complete such limited programs as may be prescribed by rule adopted under RSA 541-A by the police standards and training council under this section within one year of the date the programs are required. Should any special agent exempted from the requirements of paragraphs I and III of this section by this paragraph terminate employment with the state liquor commission and be hired as a police officer by another police department of the state or a political subdivision thereof, the special agent's certification shall lapse and may be reinstated upon completion of such necessary additional training courses as the police standards and training council may prescribe by rule adopted under RSA 541-A.

106-L:7 Additional Training of Peace Officers. The director of the police standards and training council shall develop appropriate training programs and methods to instruct peace officers in the proper techniques for dealing with intoxicated and incapacitated persons and to encourage the maximum utilization by peace officers of detoxification facilities, alcohol counselors, and licensed general hospitals for such purposes.

106-L:8 Alzheimer's Disease and Other Related Dementia Training. The director of the police standards and training council shall provide education and training to the law enforcement community on Alzheimer's disease and other related dementia. The director may use the educational program developed in conjunction with the department of health and human services under RSA 126-A:5, XXVII and may include such additional components as may be appropriate to effectively assist law enforcement officers in responding to incidents involving persons with Alzheimer's disease and other related dementia.

106-L:9 Reimbursement of Expenses. The council may reimburse political subdivisions or the state for, or may pay for a portion of, the expenses incurred by the officers in attendance at police training programs conducted or approved by the council.

106-L:10 Penalty Assessment; Waiver of Penalty.

I. Every court shall levy a penalty assessment of \$2 or 24 percent, whichever is greater, on each fine or penalty imposed by the court for a criminal offense, including any fine or penalty for a violation of RSA title XXI or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. Notwithstanding any law or rule to the contrary, the penalty assessment shall be levied in addition to the amount of the fine or penalty imposed by the court.

II. If multiple offenses are involved, the penalty assessment shall be imposed on the total fine.

III. If a fine is suspended in whole or in part, the penalty assessment shall be reduced in proportion to the suspension.

IV. The clerk of each court shall collect all penalty assessments and shall transmit the amount collected under paragraphs I-III to the state treasurer for deposit in the following funds. The state treasurer shall deposit 66.66 percent of the amount collected in the state general fund, 16.67 percent of the amount collected in the victims' assistance fund, and 16.67 percent of the amount collected in the judicial branch information technology fund.

V. If it is determined by a court that the payment of all or any part of a penalty assessment would work a hardship on the person convicted or on such person's immediate family, the court may suspend the payment of all or any part of the assessment.

106-L:11 Attendance by Persons Other Than Police Officers. Persons who are not police officers as defined in RSA 106-L:2 may attend courses given by the police standards and training council under such conditions and for such tuition as may be established by the council. Certain courses may be closed to persons who are not police officers on recommendation of the director and approval by the council.

106-L:12 Tuition Students.

I. The council may set tuition, selection procedures, and fees for acceptance of tuition students at its programs and for the use of its facilities. Such fees shall be credited, with the approval of the department of administrative services, to the operating accounts of the council to offset additional expenditures necessitated by the acceptance of the additional students.

II. Tuition students at police and corrections academy programs shall be required to comply with background investigation requirements no less stringent than for persons hired as police or corrections officers by units of government.

III. Certain courses may be closed to persons who are not police or corrections officers on recommendation by the director and approval by the council.

106-L:13 Volunteers; Liability Limited.

I. Any volunteer of a nonprofit organization or government entity assisting the council in its training programs shall be immune from civil liability in any action brought on the basis of any act or omission resulting in damage or injury to any person if:

(a) The volunteer had prior written approval from the organization to act on behalf of the organization; and

(b) The volunteer was acting in good faith and within the scope of the volunteer's official functions and duties with the organization; and

(c) The damage or injury was not caused by willful, wanton, or grossly negligent misconduct by the volunteer.

II. In this section:

(a) "Damage or injury" includes physical, nonphysical, economic, and noneconomic damage.

(b) "Nonprofit organization" shall include, but not be limited to, a not for profit organization, corporation, community chest, fund or foundation, and an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1986 organized or incorporated in this state or having a principal place of business in this state.

106-L:14 Firearms Instructors; Liability Limited. Members of the council, council employees, or persons currently certified as firearms instructors by the council pursuant to Pol 404.05, having certified a person as being proficient with their weapons and meeting the standards established in Pol 404.03 to qualify under the provisions of 18 U.S.C. section 926C(d)(2)(B), shall be immune from liability for any action taken by such person subsequent to their certification, unless the employee or firearms instructor knew that the person certified was not qualified under 18 U.S.C. section 926C(d)(2)(B) to have received such certification.

106-L:15 Prior Certification. Any police officer previously certified by the police standards and training council prior to the effective date of this chapter shall be considered certified under this chapter and shall continue to be subject to the jurisdiction of the police standards and training council.

2 Application of Receipts. Amend RSA 6:12, I(b)(23) to read as follows:

(23) The assessments collected under ~~[RSA 188-F:31]~~ **RSA 106-L:10** and 651:63, V and the surcharges on state commissary purchases under RSA 622:7-b designated for the victims' assistance fund which shall be credited to the victims' assistance fund until that fund exceeds \$900,000, at which time moneys in excess of \$900,000 shall be credited to the general fund.

3 General Fund Income Accounts for Higher Education. Amend RSA 9:4-e, II(a) to read as follows:

(a) Beginning with fiscal year 2012, for the community college system of New Hampshire (06-58), the state operating budget shall show only general fund income accounts. This subparagraph shall not apply to the police standards and training council established in ~~[RSA 188-F:24]~~ **RSA 106-L:3** or the McAuliffe-Shepard discovery center established in RSA 12-L.

4 Peace Development Authority; Additional Duties. Amend RSA 12-G:42, III to read as follows:

III. Be authorized and empowered to appoint and compensate a chief harbor master, a deputy chief harbor master, and one or more harbor masters for communities within the confines of which there are ports or state tidal waters who will enforce the directives of the authority and the division, including but not limited to the placement of moorings, the assignment of anchorage areas, and the movement of traffic. The authority may appoint one or more assistant harbor masters at any such place to assist the chief harbor master, the deputy chief harbor master, or one or more harbor masters in carrying out any of their duties. Any person appointed by the authority as a chief harbor master or deputy chief harbor master shall hold a valid and current certification as a full-time police officer in accordance with ~~[RSA 188-F:27]~~ **RSA 106-L:6** and any rules adopted thereunder.

5 Legislative Security; Authority. Amend RSA 14:50, IV to read as follows:

IV. Legislative security staff members shall not be required to meet the training and certification requirements of ~~[RSA 188-F:27]~~ **RSA 106-L:6** but may attend and participate in training programs at the police standards and training council and upon successfully completing such programs shall receive the same academic credits or certifications as other peace officers attending such programs.

6 Department of Justice; Attorney General. Amend RSA 21-M:3, VII to read as follows:

VII. The attorney general may nominate, subject to confirmation by the governor and council, criminal justice investigators and consumer protection investigators within the limits of the appropriations made for the appointments, each of whom shall have statewide law enforcement authority, shall be a peace officer as defined by RSA 594:1, III, and shall serve for a 5-year term. Any person nominated for such a position shall be certified or eligible for certification as a police officer pursuant to ~~[RSA 188-F:26]~~ **RSA 106-L:5, V**. A criminal justice investigator or a consumer protection investigator shall be removed if he or she fails to achieve certification or if he or she is decertified by the police standards and training council, otherwise a criminal justice investigator or a consumer protection investigator may be removed only as provided by RSA 4:1.

7 Department of Safety; Authority of Hospital Security Force Officers. Amend RSA 21-P:7-c, I to read as follows:

I. All security officers of the hospital security force shall possess such police powers as are granted to them by the commissioner of safety pursuant to RSA 21-P:4, XI. All officers of the hospital security force hired after the effective date of this paragraph shall be required to meet the training standards required generally of police officers by the police standards and training council pursuant to ~~[RSA 188-F]~~ **RSA 106-L** and in addition shall receive additional training in dealing with persons with mental illness as specified by the commissioner of safety after consultation with the chief executive officer of the New Hampshire hospital.

8 Choice and Duties of Town Officers; Tenure of Office. Amend RSA 41:48 to read as follows:

41:48 Tenure of Office. Any permanent constable or police officer who is either elected under the provisions of RSA 41:47 or appointed for full-time duty under the provisions of RSA 105:1, and who is in compliance with the requirements of ~~[RSA 188-F:27]~~ **RSA 106-L:6**, shall continue to hold such office during good behavior, unless sooner removed for cause by the selectmen, after notice and hearing, or unless the town has rescinded its action as provided in RSA 41:47. Any such elected permanent constable or police officer shall be deemed to be a permanent policeman, and entitled to benefits under the provisions of RSA 103 if otherwise qualified.

9 New Hampshire Retirement System; Membership. Amend RSA 100-A:3, III-b to read as follows:

III-b. Notwithstanding the provisions of RSA 100-A:1, VII, any permanent police officer certified under ~~[RSA 188-F:22-30]~~ **RSA 106-L** as a full-time police officer, who has been a group II member for at least 5 years and who becomes a law enforcement training specialist or who has been a group II member for at least 10 years and becomes assistant director or director of the police standards and training council and as a job requirement has satisfied minimum standards as determined by the police standards and training council for physical condition, education and training shall be construed to be a permanent policeman for purposes of membership in group II and shall remain in the system for the duration of his or her service in that capacity with the police standards and training council.

10 Auxiliary State Police. Amend RSA 106-B:19 to read as follows:

106-B:19 Auxiliary State Police. The director is authorized to recruit, train, and organize an auxiliary state police force of not more than 16 persons for the purpose of providing emergency services throughout the state for peacetime or wartime emergencies or threatened emergencies and for augmenting the state police force in such manner as the director may deem appropriate. Notwithstanding other provisions the director may recruit such auxiliary force from retired state or local police. Such auxiliary force shall at all times be under the direction and control of the said director and shall be subject to rules adopted by the director under RSA 541-A and shall be limited to specific hours in any given calendar year for part-time police officers adopted in rules under RSA 541-A by the police standards and training council, pursuant to ~~[RSA 188-F:27, II]~~ **RSA 106-L:6, III**.

11 Liquor Investigator; Training. Amend RSA 176:9, II to read as follows:

II. Any new liquor investigator employed by the commission under this section after August 13, 1985, shall, within 6 months of employment, satisfactorily complete a preparatory police training program as provided by ~~[RSA 188-F:27]~~ **RSA 106-L:6**, unless he *or she* has already completed such a program.

12 Fish and Game; Powers of Executive Director and Conservation Officers. Amend the introductory paragraph of RSA 206:26 to read as follows:

206:26 Powers. The executive director, if certified as a police officer in accordance with ~~[RSA 188-F:26, IV]~~ **RSA 106-L:5, V**, and each conservation officer, shall have the power:

13 Fish and Game; Authority and Powers of Executive Director and Conservation Officers. Amend RSA 206:26-b, IV to read as follows:

IV. The provisions of paragraphs I, II and III as they pertain to the executive director shall not apply to any executive director who has not been certified as a police officer in accordance with ~~[RSA 188-F:26, IV]~~ **RSA 106-L:5, V**.

14 Forestry; Validity of Prosecutions; Training of Forest Rangers. Amend RSA 227-G:8 and 9 to read as follows:

227-G:8 Validity of Prosecutions. Forest rangers and officials of the division appointed to enforce this title and other laws provided for in RSA 227-G:7 are authorized, upon successful completion of the preparatory training programs for full-time or part-time police officers established by the police standards and training council under ~~[RSA 188-F]~~ **RSA 106-L** and their subsequent certification as full-time or part-time police officers, to prosecute these laws within the jurisdiction of municipal and district courts, unless the prosecutorial jurisdiction over a particular case or class of cases is preempted by the county attorney or the attorney general. Prosecutions for violations of any provisions of this title are declared to be valid and proper, notwithstanding the existence of any law of this state dealing with matters that may be the same as or similar to those covered by this title.

227-G:9 Training of Forest Rangers.

I. Any forest ranger of the division appointed to enforce the provisions of this title and other laws provided for in RSA 227-G:7, shall successfully complete the preparatory training for part-time police officers established by the police standards and training council pursuant to ~~[RSA 188-F]~~ **RSA 106-L** no later than one year from the date of hire. Upon successful completion of the training program, such forest ranger shall be certified as a part-time police officer.

II. Any forest ranger of the division hired after January 1, 2005 appointed to enforce the provisions of this title and other laws provided for in RSA 227-G:7, shall successfully complete the preparatory training for full-time police officers established by the police standards and training council pursuant to ~~[RSA 188-F]~~ **RSA 106-L** no later than one year from the date of hire. Upon successful completion of the training program, such forest ranger shall be certified as a full-time police officer.

III. Any forest ranger of the division hired before January 1, 2005 shall be certified as a full-time police officer upon successful completion of the preparatory training for full-time police officers established by the police standards and training council pursuant to ~~[RSA 188-F]~~ **RSA 106-L**.

15 Waiver in Lieu of Court Appearance. Amend RSA 262:44, I to read as follows:

I. Such defendant shall receive, in addition to the summons, a uniform fine schedule entitled "Notice of Fine, Division of Motor Vehicles" which shall contain the normal fines for violations of the provisions of title XXI on vehicles for which a plea may be entered by mail. The defendant shall be given a notice of fine indicating the amount of the fine plus penalty assessment at the time the summons is issued; except if, for cause, the summoning authority wishes the defendant to appear personally. Defendants summoned to appear personally shall do so on the arraignment date specified in the summons, unless otherwise ordered by the court. Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the fine plus penalty assessment to the director of the division of motor vehicles within 30 days of the date of the summons. The director of the division of motor vehicles may accept payment of the fine by credit card in lieu of cash payment. Any transaction costs assessed by the issuer of the credit card shall be paid out of the portion of the fine amount which is credited as agency income and not out of the penalty assessment charged by the district court. The director of the division of motor vehicles shall remit the penalty assessments collected to the state treasurer to be credited and continually appropriated to the state general fund and to the victims' assistance fund and the judicial branch information technology fund in the percentages and manner prescribed in ~~[RSA 188-F:31]~~ **RSA 106-L:10**. Fines shall be paid over to the state treasurer, and shall be credited as agency income by the department of safety within 14 days of their receipt and shall not lapse to the general fund until the second year of each biennium.

16 State Police Duties Relative to Vehicle Inspections. Amend RSA 266:1-a, I to read as follows:

I. The director of the division of state police, with the approval of the commissioner of safety shall assign a suitable complement of state troopers to assist the director of motor vehicles in enforcing the motor vehicle inspection laws and rules. A state trooper assigned pursuant to this section shall have the powers of a peace officer, certified under ~~[RSA 188-F:26]~~ **RSA 106-L:5, V**, and shall have as a primary function statewide enforcement duties related to the inspection process, including inspection station auditing, investigation of alleged inspection station malfeasance, rejected vehicle follow-up, and sticker monitoring. A state trooper assigned under this section shall have the authority to enter any motor vehicle inspection station authorized under RSA 266:1, during the station's business hours, to fulfill his or her duties, and shall be assigned other enforcement duties as determined by the commissioner.

17 Railroad Police; Qualifying for Commission. Amend RSA 381:4 to read as follows:

381:4 Qualifying for Commission. Any person who was a railroad police officer on August 21, 1979, in order to qualify for an appointment as a railroad police officer pursuant to RSA 381:2, must have been employed on a full-time basis by a railroad police department, municipal police department or a state police department, or combination thereof, for a minimum of 3 years. Such employment shall have been in performing the duties of a police officer. Any person who was not a railroad police officer on August 21, 1979, or who was so employed but did not have the 3 years of employment required by this section, shall be required to be certified as a police officer in accordance with ~~[RSA 188-F]~~ **RSA 106-L** in order to qualify for appointment pursuant to RSA 381:2. Any person employed as a railroad police officer after August 21, 1979, shall complete such training as the police standards and training council shall determine, which, together with his prior training and experience in this or any other jurisdiction, is the equivalent required for certification as a police officer in accordance with ~~[RSA 188-F]~~ **RSA 106-L** in order to qualify for appointment pursuant to RSA 381:2.

18 Standards for Weights and Measures; Training of Inspectors. Amend RSA 438:15-a to read as follows:

438:15-a Training of Inspectors. Any inspector of the department of agriculture, markets, and food appointed to enforce the laws and rules pertaining to weights and measures under RSA 438 shall successfully complete the preparatory training program for part-time police officers established by the police standards and training council pursuant to ~~[RSA 188-F]~~ **RSA 106-L** no later than 2 years from the date of hire. Upon successful completion of the training program such inspector shall be certified as a part-time police officer. Inspectors serving under permanent appointment on April 27, 1990 who have the power to enforce the laws and rules pertaining to weights and measures under RSA 438 shall also successfully complete the preparatory training program for part-time police officers within one year of April 27, 1990 and shall, upon completion, be certified as part-time police officers.

19 Standards for Weights and Measures; Validity of Prosecutions. Amend RSA 438:43 to read as follows:

438:43 Validity of Prosecutions. Inspectors and officials appointed to enforce this chapter or any other laws dealing with weights and measures are hereby empowered, upon their successful completion of the preparatory training program for part-time police officers established by the police standards and training council under ~~[RSA 188-F]~~ **RSA 106-L**, to prosecute these laws within the jurisdiction of municipal and district courts, unless the prosecutorial jurisdiction over a particular case or class of cases is preempted by the county attorney or the attorney general. Prosecutions for violations of any provision of this chapter are declared to be valid and proper, notwithstanding the existence of any law of this state dealing with matters that may be the same as or similar to those covered by this chapter.

20 Judicial Branch Information Technology Fund. Amend RSA 490:26-h, I(a) to read as follows:

(a) Thirty percent of each entry fee collected in the supreme, superior, and circuit courts and 16.67 percent of the penalty assessment collected pursuant to ~~[RSA 188-F:31]~~ **RSA 106-L:10** shall be deposited in the judicial branch information technology fund.

21 Probationers and Parolees: Qualification and Certification of Probation or Parole Officers. Amend RSA 504-A:12-a to read as follows:

504-A:12-a Qualification and Certification of ~~[Probation or Parole]~~ **Probation-Parole** Officers. Every probation-parole officer shall meet the educational and training standards for employment as **a** probation-parole officer as established by the police standards and training council under ~~[RSA 188-F:26]~~ **RSA 106-L:6**, and shall be certified by the council as being qualified to be a probation-parole officer.

22 Administrative Procedure Act; Exceptions. Amend RSA 541-A:21, I(s) to read as follows:

(s) ~~[RSA 188-F:26, V]~~ **RSA 106-L:5, VI**, relative to educational, training, and evidentiary standards and curriculum requirements for police and corrections personnel and courses and tuition students at such courses.

23 Jurisdiction and Procedure; Complaints. Amend RSA 592-A:7, I(a) to read as follows:

(a) Criminal proceedings before a circuit court shall be begun by complaint, signed and under oath, addressed to such court, briefly setting forth, by name or description, the party accused and the offense charged, provided that a complaint filed by a police officer, as defined in ~~[RSA 188-F:23, I,]~~ **RSA 106-L:2, I** for a violation-level offense or a class B misdemeanor shall not require an oath. All complaints filed by a police officer shall include the officer's signature and printed name and notice that making a false statement on the complaint may result in criminal prosecution.

24 Office of the Chief Medical Examiner; Affiliation and Training. Amend RSA 611-B:8, II to read as follows:

II. The chief medical examiner and, at the chief medical examiner's direction, other medical examiners shall assist in the training of police officers in police training programs authorized by the police standards and training council under ~~[RSA 188-F:22 through RSA 188-F:32]~~ **RSA 106-L**.

25 Detention Powers of County Fair Security Guards. Amend RSA 627:8-b, II to read as follows:

II. Only security guards who have completed a program of police training for part-time police officers, meeting standards established by the New Hampshire police standards and training council pursuant to ~~[RSA 188-F:26]~~ **RSA 106-L:5** and appropriate to a security guard's exercise of limited police powers, shall have the powers of detention granted in paragraph I.

26 Rulemaking; Transfer of Rules. Existing rules of the police standards and training council under RSA 188-F shall continue in effect and be enforced by the council under RSA 106-L until they expire or are repealed or amended in accordance with applicable law.

27 Repeal. The following are repealed:

I. RSA 188-F:22 through RSA 188-F:32-d, relative to the police standards and training council.

II. RSA 188-F:33 through RSA 188-F:36, relative to the New Hampshire technical institute security force.

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

AMENDED ANALYSIS

This bill dissolves the administrative attachment of the police standards and training council to the community college system of New Hampshire and establishes the police standards and training council as an executive branch council. The bill also repeals the statutes relating to the New Hampshire technical institute security force.

SB 54, relative to the licensure of alcohol and drug counselors, requiring occupational regulatory boards and commissions to post reciprocity information, and establishing a committee to study licensure of alcohol and drug counselors. **OUGHT TO PASS.**

Rep. Raymond Gagnon for Executive Departments and Administration. This bill makes several changes to laws addressing licensees of the Board of Licensing for Alcohol and Other Drug Use Professionals. Specifically, the bill (1) increases the number of hours of alcohol and drug use education required for initial licensure as a master licensed alcohol and drug counselor; (2) provides that qualified counselors from other states are able to practice in this state not more than 60 days after filing a complete application to the board pending final approval; and (3) establishes a committee to study the licensure of alcohol and drug counselors. This bill also requires all occupational regulatory boards and commissions to provide information on their websites concerning reciprocity for persons holding a current and valid license or certification in another state. This requirement to post reciprocity information was previously passed by the House with the adoption of HB 538. Vote 20-0.

SB 135-FN, relative to the regulation of electricians. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Steven Beaudoin for Executive Departments and Administration. This bill, as amended, does three things. It adopts the 2017 National Electrical Code, while amending out the expansion of the required use of troublesome arc fault circuit interrupters; it allows the Electrician's Board to develop a list of qualified third party electrical inspectors that may be hired by municipalities and the Department of Safety as electrical inspectors; and it protects electricians from having to show their licenses to any authority other than electrical inspectors. Vote 14-0.

Amendment (1805h)

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Electricians; Inspectors; Identification. Amend RSA 319-C:5 by inserting after paragraph IV the following new paragraph:

V. A state, city, or town building official or code enforcement officer appointed by the administrative authority of the state, city, or town, who performs electrical inspections authorized in accordance with RSA 155-A:2, IV, RSA 155-A:2, VI, RSA 47:22, or RSA 674:51 shall have the authority to check the license or identification card issued under this chapter.

Amend the bill by replacing section 4 with the following:

4 Licensing Requirements; Requests for Certificate. Amend RSA 319-C:7, III to read as follows:

III. All persons licensed by the board shall receive a certificate under the seal of the board and with the signature of the board chairman, which must be publicly displayed at the principal place of business of said electrician, or, if no such place of business, must be carried on his *or her* person and displayed at any time upon request ***to any electrical inspector appointed by the board under this chapter***, as long as said person continues in the business as herein defined. The certificate shall specify the name of the person licensed who, in the case of a firm, shall be one of its members or employees and, in the case of a corporation, one of its officers or employees passing the examination. In the case of a firm or corporation, the license shall be void upon the death of or the severance from the company of said person.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 New Paragraph; State Building Code; National Electrical Code; Exception Added. Amend RSA 155-A:2 by inserting after paragraph X the following new paragraph:

XI. Notwithstanding the inclusion of the National Electrical Code 2017 in the state building code under RSA 155-A:1, IV, the amended provisions of section 210.12 of the National Electrical Code, which modify the National Electrical Code 2014 version to add arc-fault circuit interrupter requirements for dormitory unit devices and bathrooms, guest rooms and guest suites, and branch circuit extensions or modifications for dormitory units shall not be enforced under the state building code or this chapter.

SB 137-FN, relative to licensure by endorsement granted by the board of nursing. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Polly Campion for Executive Departments and Administration. This bill provides that nurse licensure applicants from the states of Vermont, Massachusetts, or Connecticut, currently licensed and seeking RN or LPN licensure by endorsement, shall be eligible for temporary licensure for 120 days while the person makes application for licensure to the board. This legislation is intended to help close a recognized gap in New Hampshire's nursing workforce, while protecting the public's health and safety. The provisions of this bill will be prospectively repealed in two years. The committee amendment deletes New York from the list of states involved in this process since nurses there do not meet all the requirements for licensure in New Hampshire. Vote 13-0.

Amendment (1624h)

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

AN ACT relative to temporary licensure of certain nurses seeking licensure by endorsement from the board of nursing.

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

1 New Section; Nursing; Temporary Licensure; Applicants from Vermont, Massachusetts, and Connecticut. Amend RSA 326-B by inserting after section 20 the following new section:

326-B:20-a Temporary Licensure; Applicants from Vermont, Massachusetts, and Connecticut. Notwithstanding any provision of this chapter to the contrary, an applicant from the state of Vermont, Massachusetts, or Connecticut who is currently licensed and is seeking RN or LPN licensure by endorsement under RSA 326-B:20, shall be eligible for temporary licensure for 120 days while the person makes application for licensure to the board.

2 Prospective Repeal. RSA 326-B:20-a, relative to temporary licensure of applicants from Vermont, Massachusetts, and Connecticut, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2019.

II. The remainder of this act shall take effect 30 days after its passage.

AMENDED ANALYSIS

This bill provides that nurse licensure applicants from the states of Vermont, Massachusetts, or Connecticut, currently licensed and seeking RN or LPN licensure by endorsement, shall be eligible for temporary licensure for 120 days.

SB 152, relative to criminal history background checks for certain health care workers. **OUGHT TO PASS.** Rep. Peter Hansen for Executive Departments and Administration. This bill addresses the issues surrounding the criminal history background checks for certain health care workers and the implications delays in issuing licenses have to workforce availability for our health care facilities. The bill establishes, for two years, a provision allowing for a temporary license for up to 120 days while awaiting the results of a criminal history background check. This change only applies to new applicants who have passed a criminal history record check within the past year. Vote 13-0.

SB 212-FN, establishing the physical therapy licensure compact. **OUGHT TO PASS WITH AMENDMENT.** Rep. J.R. Hoell for Executive Departments and Administration. This legislation will adopt the physical therapy licensure compact, which will be implemented by the physical therapy governing board. The purpose of this legislation is to facilitate interstate practice with the goal of improving public access to physical therapy services, protecting the public's health and safety and supporting relocating military members. Our state has seen that greater reciprocity is helpful to meeting the needs of this state and this bill does that. The uniform rules promulgated by the compact apply to the establishment and operation of the compact, and do not govern practice of physical therapists in New Hampshire or in the other states. Ten states have enacted physical therapy licensure compacts, compacts have been adopted in one chamber in five states and physical therapy compact legislation has been introduced in three additional states. Vote 18-1.

Amendment (1372h)

Amend RSA 328-A:5-a, VII(c)(5) as inserted by section 2 of the bill by replacing it with the following:

(5) Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the same force and effect as provisions of this compact and shall be binding in all member states.

SB 56-FN-A-L, relative to adequate education grant payments to certain municipalities. **INEXPEDIENT TO LEGISLATE.**

Rep. Kenneth Weyler for Finance. This bill has similar language to HB 354 which distributed exactly the same amounts to the nineteen districts whose enrollments increased at a greater rate than the stabilization fund cap planned for. This resulted in their adequacy payments being less than other sections of the adequacy statute allowed. As a result of the Dover lawsuit settlement, these amounts were recalculated, as the court declared the cap unconstitutional. Since the Senate has already passed the House version, we voted this bill inexpedient to legislate, not for the amounts, but for the text which varies from the House version. This was a suggestion by the Senate sponsor. Vote 23-0.

SB 101-FN, relative to enrollment eligibility for regional career and technical education programs and relative to high school students participating in New Hampshire's dual and concurrent enrollment program and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kenneth Weyler for Finance. This bill does three things. First it enables high school students who are in a four-year high school in Manchester to enroll in career technical education (CTE) courses in their first year. Since the CTE program is a three-year curriculum, this will allow some students to take perhaps college prep courses in their fourth year. Second, it provides funding from the state for high school students who want to take college level courses taught in their high school by a community college-certified high school teacher. Third, it provides funding for a high school student to attend one or two classes at a community college and receive credit for both high school and college. A similar bill, HB 641, was retained to work out funding. The funding has varied from \$250 per class to \$150. The final amendment in SB 101 removes the funding in hopes that it would become a permanent line in the budget. Vote 26-0.

Amendment (2026h)

Amend the bill by replacing section 3 with the following:

3 Appropriation. The sum of \$1 for the fiscal year ending June 30, 2018 and the sum of \$1 for the fiscal year ending June 30, 2019 are hereby appropriated to the department of education to fund student participation in the dual and concurrent enrollment program established in RSA 188-E:25-29. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

SB 159, relative to qualifying medical conditions for the purposes of therapeutic cannabis. **INEXPEDIENT TO LEGISLATE.**

Rep. Martin Bove for Health, Human Services and Elderly Affairs. The committee feels that this bill is not necessary because HB 160, as amended by the Senate, better addresses this issue. Vote 16-0.

SB 35, relative to the guidelines of the legislative ethics committee. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert Nigrello for Legislative Administration. The intent of this bill is to ensure that legislators continue to provide a high level of transparency when declaring conflicts of interest, while providing clarity as to when,

how and what conflicts should be declared. As amended, the bill removes the requirement to disclose membership in a public body, such as a select board or planning board. It retains important provisions pertaining to disclosing a personal financial interest in legislation or any other official activity as well as requiring the disclosure of membership in an organization in which the member has a fiduciary responsibility, such as a trustee. Vote 14-0.

Amendment (1828h)

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

1 Legislative Ethics Committee; Definition of Special Interest. RSA 14-B:1, V is repealed and reenacted to read as follows:

V. "Special interest" means any financial or non-financial personal interest in the outcome of a matter that is the subject of official activity, distinct from and greater than the interests of the public at large.

(a) A financial interest exists where a legislator or household member could stand to gain or lose anything of material value as a result of the official activity.

(b) A non-financial personal interest exists where a legislator or household member has a responsibility for the welfare of an organization by virtue of holding a position with a fiduciary responsibility, such as a board member, trustee, or director.

2 Legislative Ethics Guidelines; Definition of Special Interest. Upon the effective date of this act, the definition of special interest in paragraph XIII of section 2 of the legislative ethics guidelines is repealed and reenacted to read as follows:

XIII. "Special interest" means any financial or non-financial personal interest in the outcome of a matter that is the subject of official activity, distinct from and greater than the interests of the public at large.

(a) A financial interest exists where a legislator or household member could stand to gain or lose anything of material value as a result of the official activity.

(b) A non-financial personal interest exists where a legislator or household member has a responsibility for the welfare of an organization by virtue of holding a position with a fiduciary responsibility, such as a board member, trustee, or director.

3 Legislative Ethics Guidelines; Legislator's Non-Financial Personal Interests Disclosure Form. Upon the effective date of this act, the legislator's non-financial personal interests disclosure form provided in section 5 of the legislative ethics guidelines shall be amended to read as follows:

GENERAL DISCLOSURE OF NON-FINANCIAL PERSONAL INTERESTS FORM

A "non-financial personal interest" exists where a legislator or household member is a member of a public body, or has a responsibility for the welfare of an organization[~~A legislator or household member has a responsibility for the welfare of an organization when the legislator or household member holds~~ **by virtue of holding** a position with a fiduciary responsibility, such as a board member, trustee, or director.

Description of Non-Financial Personal Interest

Identify and describe below the non-financial personal interest you or a household member may have. A "household member" is any person living in the same domicile as you who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parent.

Please identify each "non-financial personal interest."

NAME OF LEGISLATOR:

LIST ~~[PUBLIC BODIES AND/OR]~~ ORGANIZATIONS AND YOUR POSITION:

NAME OF HOUSEHOLD MEMBER AND RELATIONSHIP TO YOU:

LIST ~~[PUBLIC BODIES AND/OR]~~ ORGANIZATIONS AND POSITION:

Signature Date

Printed Name of Legislator

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

AMENDED ANALYSIS

This bill revises the definition of special interest in RSA 14-B and the legislative ethics guidelines.

SB 110, declaring the painted turtle to be the reptile of the biennium. **OUGHT TO PASS.**

Rep. Allison Nutting for Legislative Administration. The committee heard testimony about the painted turtle and agrees that the painted turtle with its red, orange, and yellow coloring does represent the fall colors of New Hampshire. We are happy to support the 4th graders and other school children of New Hampshire with the adoption of this bill. Vote 14-0.

SB 142, relative to honoring E. Maude Ferguson, the first woman elected to the New Hampshire senate. **OUGHT TO PASS.**

Rep. Kathleen Hoelzel for Legislative Administration. E. Maude Ferguson of Bristol was the first woman to serve in the New Hampshire Senate. She was elected to this office in 1930 after serving two terms in the state House of Representatives. She worked diligently for the cause of women's rights. This bill will honor her accomplishments and dedication to the state and her town of Bristol by directing the Joint Legislative Historical Committee to give priority to acquiring a portrait of Senator Ferguson and working to find a suitable place to display it in the State House. Vote 14-0.

SB 36, establishing a committee to study the Laconia state school property. **INEXPEDIENT TO LEGISLATE.**

Rep. John Graham for Public Works and Highways. The House has already passed a bill on how to deal with the Laconia state school property (HB 340). House Bill 340 requires the commissioner of administrative services to offer for sale the land and buildings, except for those required for state use or encumbered by existing leases. A proposed Senate amendment to HB 340 would establish a commission to study establishing a Pease Development type commission regarding future use of the Laconia state school property. Therefore the committee believes that establishing a study committee on the issue is not necessary at this time. Vote 17-0.

SB 30, defining woodland buffers and relative to such woodland buffers for the purposes of the shoreland protection act. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Chris Christensen for Resources, Recreation and Development. At the request of the Department of Environmental Services, this bill clarifies parts of the Shoreland Water Quality Protection Act concerning the waterfront buffer (first 50 feet from shore) and the woodland buffer (first 150 feet from shore which includes the waterfront buffer). Reducing the point grid size in the waterfront zone from 50 feet wide to 25 feet and reducing the required points encourages more vegetation and less clear cutting, thus enhancing the filtering benefits of varied types of vegetation. In order to be consistent with the definitional changes made by the bill, the amendment changes "natural woodland buffer" to "woodland buffer" in three places in statute that were overlooked in the bill. Vote 18-0.

Amendment (1588h)

Amend the bill by replacing sections 8 and 9 with the following:

8 Woodland Buffer. Amend the introductory paragraph of RSA 483-B:9, V(b) and RSA 483-B:9, V(b)(1) to read as follows:

(b) Maintenance of ~~[a Natural]~~ **Vegetation within the** Woodland Buffer.

(1) ~~[A natural]~~ **The** woodland buffer shall be ~~[maintained]~~ **those protected shorelands** within 150 feet of the reference line. ~~[The first 50 feet of this buffer is designated the waterfront buffer and is subject to the additional requirements of subparagraph (a).]~~ The purpose of the ~~[natural]~~ woodland buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland. **The first 50 feet of this buffer is designated the waterfront buffer and is subject to the additional requirements of subparagraph (a).**

9 Woodland Buffer. Amend RSA 483-B:9, V(b)(2)(A)-(C) to read as follows:

(2)(A) ~~[Within the natural]~~ **On a given lot, at least 25 percent of the** woodland buffer ~~[of a given lot the vegetation, except lawn, within at least 25 percent of the area outside the waterfront buffer]~~ **area located between 50 feet and 150 feet from the reference line shall be maintained as natural woodland. The vegetation, exclusive of lawn, within the natural woodland** shall be maintained in an unaltered state or improved with additional vegetation. Owners of lots legally developed or landscaped prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of **the woodland buffer** area to be maintained ~~[in an unaltered state]~~ **as natural woodland**. The percentage of **the woodland buffer** area maintained ~~[in an unaltered state]~~ **as natural woodland** on nonconforming lots shall not be decreased. In addition, the commissioner of the department of resources and economic development may order vegetation on lands or properties owned by, leased to, or otherwise under the control of the department of resources and economic development within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities and endangers public safety. If such cutting will exceed that which is

allowed under this subparagraph, the commissioner of the department of resources and economic development shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.

(B) Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of any areas of the [natural] woodland buffer in which impacts would occur.

(C) Dead, diseased, or unsafe, trees, limbs, saplings, or shrubs that pose a hazard to structures or have the potential to cause personal injury may be removed regardless of any requirements that pertain to **the maintenance of vegetation within** the [natural] woodland buffer under this chapter. Such exemptions shall not be used to contravene the intent of the law.

SB 121, establishing a commission to determine if the department of environmental services should take over the MS-4 permit system from the Environmental Protection Agency. **OUGHT TO PASS WITH AMENDMENT.** Rep. Linda Gould for Resources, Recreation and Development. This bill, as amended, establishes a commission to determine if the Department of Environmental Services should request delegation of the National Pollutant Discharge Elimination System (NPDES) from the Environmental Protection Agency (EPA). The bill, as it came to the House, was limited to only studying the possible delegation of municipal separate storm sewer system (MS-4) permits. The amendment adds issuance of other permits that are under the NPDES program. The commission is also charged with recommending, if delegation is deemed desirable, a fee structure to pay for the department hiring the required number of employees to manage the issuance of permits. Vote 18-0.

Amendment (1484h)

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

AN ACT establishing a commission to determine if the department of environmental services should request delegation of the National Pollutant Discharge Elimination System from the Environmental Protection Agency.

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

1 New Section; National Pollutant Discharge Elimination System Study Commission. Amend RSA 483-B by inserting after section 7 the following new section:

483-B:7-a National Pollutant Discharge Elimination System Study Commission.

I. There is established a commission to determine if the department of environmental services should request delegation of the National Pollutant Discharge Elimination System from the Environmental Protection Agency, and if so, to recommend a fee structure that would pay for the department to hire the required number of employees to manage the issuance of permits.

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

- (a) One member of the senate, appointed by the president of the senate.
- (b) One member of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The commissioner of the department of environmental services, or designee.
- (d) One person representing affected nuclear facilities, appointed by the speaker of the house.
- (e) The executive director of the fish and game department, or designee.
- (f) One person recommended by the Business and Industry Association, appointed by the governor.
- (g) One person representing the Pease development authority, appointed by the executive director.
- (h) One person representing conservation, jointly appointed by the New Hampshire Rivers Council and New Hampshire Lakes Association.

(i) Three people representing affected water and sewer facilities, appointed by the New Hampshire Municipal Association.

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

IV. The commission shall determine if the department of environmental services should request delegation of the National Pollutant Discharge Elimination System from the Environmental Protection Agency, and if so, to recommend a fee structure that would pay for the department to hire the required number of employees to manage the issuance of permits.

V. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

VI. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2017.

2 Repeal. RSA 483-B:7-a, relative to the National Pollutant Discharge Elimination System study commission, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2017.

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

AMENDED ANALYSIS

This bill establishes a commission to determine if the department of environmental services should request delegation of the National Pollutant Discharge Elimination System from the Environmental Protection Agency, and if so, to recommend a fee structure that would pay for the department to hire the required number of employees to manage the issuance of permits.

SB 127, relative to dissolved oxygen water quality standards. **OUGHT TO PASS WITH AMENDMENT.** Rep. Suzanne Smith for Resources, Recreation and Development. This bill changes the formulation for how levels of dissolved oxygen may be measured in water for purposes of setting standards by the Department of Environmental Services (DES). The amount of dissolved oxygen in water is important primarily in the health and survival of aquatic creatures. Reduced dissolved oxygen causes decreased growth of aquatic organisms, shifts in habitat selection, increased vulnerability to predation, increased disease, altered food webs, and death. The amendment clarifies current DES rulemaking authority to make water quality standards in accordance with the Clean Water Act. Vote 18-0.

Amendment (1089h)

Amend the bill by replacing section 3 with the following:

3 New Paragraphs; Rulemaking; Dissolved Oxygen Concentration Water Quality Standards. Amend RSA 485-A:6, XIII by inserting after paragraph XIII the following new paragraphs:

XIV. Dissolved oxygen concentration water quality standards under RSA 485-A:8, II and II-a.

XV. Water quality standards consistent with RSA 485-A:8 and as required by the Clean Water Act.

AMENDED ANALYSIS

This bill defines 7Q10 flows for the purpose of classification of waters.

This bill also authorizes the department of environmental services to make rules regarding dissolved oxygen water quality standards and water quality standards consistent with the Clean Water Act.

SB 181, relative to the regulation of biodiesel. **OUGHT TO PASS.**

Rep. Douglas Thomas for Science, Technology and Energy. This bill adds biodiesel to the long list of exempt fuels whose combustion at commercial sites will not trigger a requirement to install best available control technology for air emissions. The bill was requested by the Department of Environmental Services because biodiesel is considered a clean burning fuel. The bill has virtually bipartisan support. It was apparent at the public hearing that this was common sense and needed addition. Vote 19-0.

SB 37, relative to game operators and tip pooling. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Patrick Abrami for Ways and Means. The original bill was focused on how tip pools and sharing would be allowed for primary game operators and secondary game operators working within the state's charitable gaming establishments. A subcommittee was formed to get further understanding from the charitable gaming industry as well as the NH Department of Labor. The subcommittee felt that the language should be broadened to include any industry that has a situation where a tip pool, as a whole, wants to share tips with non-tip receiving employees. The NH Department of Labor was instrumental in drafting the amendment. The bill as amended was passed in a unanimous bipartisan vote. Vote 21-0.

Amendment (1560h)

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

AN ACT relative to tip pooling.

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Tip Pooling and Sharing. Amend RSA 279:26-b by inserting after paragraph II the following new paragraph:

III. Nothing shall preclude employee participants in a tip pool from agreeing, voluntarily and without coercion, to provide a portion of the common pool to other employees, regardless of job category, who participated in providing service to customers.

AMENDED ANALYSIS

This bill permits employees who participate in a tip pool to provide a portion of the common pool to certain other employees.

SB 78, requiring audit records related to payment of business profits tax to be confidential. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Patrick Abrami for Ways and Means. The original bill called for audit records to be kept confidential. Upon hearing testimony from the Department of Revenue Administration (DRA), it appeared that current

statute ensures that is the case. What was not addressed were court records that include taxpayer information. Working with the DRA, an amendment was added which reinforces, from other non-revenue statutes, the provision that in any judicial proceeding a motion can be filed to seal judicial records to protect the confidentiality of records, and in this case, taxpayer records. This bill, as amended, will help a taxpayer decide if they are willing to settle a dispute with the DRA in court by diminishing the concern that their tax documents would be open to public scrutiny after the trial. The full committee voted in a unanimous bipartisan way that this amended bill strikes a balance between the rights of the DRA to challenge a taxpayer in court with the right of the taxpayer to have their records be kept confidential. Vote 22-0.

Amendment (1645h)

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

AN ACT relative to confidentiality of state tax records in state administrative or judicial proceedings.

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

1 Department of Revenue Administration; Confidentiality of Records; State Proceedings. Amend RSA 21-J:14, V(c) to read as follows:

(c) Disclosure of department records, files, returns, or information in a New Hampshire state administrative proceeding or any judicial proceeding pertaining to state tax administration where the information is directly related to a tax issue in the proceeding, or the taxpayer whom the information concerns is a party to such proceeding, or the information concerns a transactional relationship between a person who is a party to the proceeding and the taxpayer. ***Nothing in this subparagraph shall be construed to prohibit the filing of a motion to seal, or similar equivalent motion, with respect to department records, files, returns, or information, in accordance with the rules of the forum where the administrative proceeding or judicial proceeding is being heard.***

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

AMENDED ANALYSIS

This bill provides that certain department of revenue administration records, files, returns, or information used in a state administrative or judicial proceeding may be subject to a motion to seal the records, files, returns, or information from disclosure.

SB 187, clarifying the application of the road toll. **OUGHT TO PASS.**

Rep. Patrick Abrami for Ways and Means. The policy associated with this bill was passed in another bill and is in current statute. The Department of Safety discovered that the changes made to the statute last term were not made in all the proper sections. These changes related to the repeal of the provision that indicated that diplomatic and consular personnel vehicles and US government vehicles were exempt from the road toll. All US armed forces vehicles still remain exempt from the road toll. The Department of Safety testified that even though the statute needed correction, the intent of the law was enforced last year and thus no change in revenue was anticipated. This bill also modifies the description of vehicles using special fuel (not gasoline) on which the supplier has prepaid the road toll fees. This bill was considered by the committee as housekeeping in nature and was voted out of committee ought to pass on a unanimous bipartisan vote. Vote 20-0.

SB 206-FN, relative to wagering on simulcast racing. **OUGHT TO PASS.**

Rep. Timothy Lang for Ways and Means. This bill strictly extends the existing time line in RSA 284:22-a and RSA 284:23 to allow the Hinsdale racing location 12 additional months to work out the needed requirements for live horse racing, and continue to run the simulcast racing they are already doing. Vote 20-2.

SB 245-FN-A, establishing a committee to study unemployment tax discounts. **INEXPEDIENT TO LEGISLATE.**

Rep. Bill Ohm for Ways and Means. This bill forms a committee of one senator and three representatives to study unemployment tax discounts. The Department of Employment Security testified that the bill is not necessary at this time. Vote 22-0.

REGULAR CALENDAR

SB 225-FN, revising the New Hampshire trust code. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Laurie Sanborn for the Majority of Commerce and Consumer Affairs. This bill further enhances NH's environment for trusts and trust companies, securing and advancing our state's competitive advantage. Over a decade ago the NH legislature - in a strong bipartisan initiative - began on a steady course to make NH the best place in America to open a trust. Since then, numerous jobs have been created in the fiduciary services sector and we have put our state "on the map" as an attractive state for trusts. In keeping with this important, long term effort, this bill enables families with trust-like companies in Europe to establish similar entities here as civil-law foundations. It also promotes the efficient administration of trusts by providing modernization and clarity and promotes the formation of family trust companies within the state. The bill maintains NH's

strong historical tradition of settler-intent, meaning the person who has the funds to establish the trust has his or her wishes adhered to. It also continues to allow directed or divided trust management and provides much-desired flexibility by allowing a single family serving only the family to choose between a regulated or unregulated trust. This level of control and flexibility is essential in this competitive market if we are to attract and retain trust customers in New Hampshire. The committee amendment addresses concerns of the Banking Department by removing provisions in the bill that would have reduced the statute of limitations and the standard of proof required in the event of alleged fraudulent transfer. The amendment also retains current law protections for spouses seeking basic alimony and children seeking child support to attach or compel distributions from certain trusts. Finally, the committee amendment increases the minimum capital requirement in a regulated family trust company to \$200,000, which is higher than the Senate position but \$50,000 lower than current law. Vote 15-6.

Rep. Kermit Williams for the Minority of Commerce and Consumer Affairs. The minority believes that there are good and bad aspects of this very large, very complex bill, but we are concerned that any good is outweighed by bad, as well as by the potential of unintended consequences. Making rapid, wholesale changes to such a complex part of our laws creates a high possibility for mistakes, especially since legislators do not have expertise in this area of law, so the only experts we can draw on are those who have written this bill and ask us to pass it. Their responses have been predictable. This legislature has passed several omnibus bills making wholesale changes to the state's trust laws over the past 12 years. Each one was touted as the ultimate solution to make our trust industry succeed, and boost the state's economy. Then a year or two later, another set of wholesale changes is requested. This time, the ink wasn't even dry on the bill passed by the Senate when the Commerce Committee was presented with a complete rewrite of that bill. The minority believes that changes in statute should have time to take effect, and we should be able to observe the results of those changes before we move forward on another complete rewrite. New Hampshire should do an independent study of the effects of all of the previous changes on the state's economy and reputation before we change the trust laws yet again. While we are in favor of businesses succeeding, we don't believe that the statutes should be churned over and over by a small influential group hunting for a winning strategy for themselves. We owe it to our constituents to take time and collect data, so we fully understand what version of trust law is best for our state.

Majority Amendment (1991h)

Amend the bill by replacing all after section 1 with the following:

2 Definitions. Amend RSA 564-B:1-103(23) to (25) to read as follows:

(23) "Directed trust" means a directed trust as defined in ~~[RSA 564-B:7-711(a)]~~ **RSA 564-B:7-711(b)**.

(24) "Excluded fiduciary" means:

~~[(1)-a]~~ **(A)** A trustee who is an excluded fiduciary under ~~[RSA 564-B:7-711(b)]~~ **RSA 564-B:7-711(c) or RSA 564-B:7-711(d); or**

~~[(2)-a]~~ **(B)** A trust advisor or trust protector who is an excluded fiduciary under ~~[RSA 564-B:7-711(e)]~~ **RSA 564-B:7-711(e) or RSA 564-B:7-711(f).**

(25) "Include" and "including" means the same as "include, without limitation" and "including, without limitation" regardless of whether expressly specified. **Accordingly, the word "include" and any variation of that word shall be construed as words of enlargement and not as words of limitation or restriction.**

3 New Subparagraphs; Definitions; Agent; Incapacity. Amend RSA 564-B:1-103 by inserting after subparagraph (31) the following new subparagraphs:

(32) "Agent" includes an agent appointed under a power of attorney.

(33) "Incapacity" means an individual's inability to manage property or business affairs because the individual:

(A) Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(B) Is:

(i) Missing;

(ii) Detained, including incarcerated in a penal system; or

(iii) Outside the United States and unable to return.

4 Default and Mandatory Rules. Amend RSA 564-B:1-105(b)(15) to read as follows:

(15) if, under the terms of the trust, a trust advisor or trust protector is a fiduciary, the duty of the trust advisor or trust protector to act in good faith and in accordance with the terms of the trust, the purposes of the trust, and the interests of the beneficiaries; ~~[and]~~

5 Nonjudicial Dispute Resolution. Amend RSA 564-B:1-111A(e) to read as follows:

(e) Unless the director of charitable ~~[trust]~~ **trusts** expressly consents to the nonjudicial procedures, those procedures shall not apply to any matter involving a charitable trust. Unless the department of health and human services expressly consents to the nonjudicial procedures, those procedures shall not apply to any matter in which that department would be an interested person.

6 New Subparagraph; Nonjudicial Dispute Resolution. Amend RSA 564-B:1-111A by inserting after subparagraph (e) the following new subparagraph:

(f)(1) The nonjudicial dispute resolution procedures may include a reasonable procedure by which a person is appointed to represent and bind any one or more of the following persons:

- (A) any unborn person;
- (B) any minor or other incapacitated person; or
- (C) any person whose identity or location is unknown and is not reasonably ascertainable.

(2) The procedure for the appointment of a representative is not reasonable if:

(A) There is a conflict of interest between the person appointing the representative and any interested person;

(B) There is a conflict of interest between the representative and any represented person; or

(C) With respect to any matter that is the subject of the trust dispute, there is a conflict of interest among the persons whom the representative is appointed to represent.

(3) To the extent that the trust dispute involves a trust's modification or termination, a settlor of the trust shall not represent any of the trust's beneficiaries.

7 New Hampshire Trust Code; Representation by Holder of General Testamentary Power of Appointment. Amend RSA 564-B:3-302 to read as follows:

564-B:3-302 Representation by Holder of ~~[General Testamentary]~~ **a** Power of Appointment.

(a) To the extent there is no conflict of interest between the holder of a ~~[general testamentary]~~ power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

(b) Subsection (a) applies to any power of appointment, including:

(1) A power in which the permissible appointees include any one or more of:

- (A) The holder of the power;**
- (B) The holder's creditors;**
- (C) The holder's estate; and**
- (D) The creditors of the holder's estate; or**

(2) A power of appointment in which the permissible appointees:

(A) Excludes each of the persons described in subsection (b)(1), (b)(2), (b)(3), and (b)(4); and

(B) May excluded any one or more other persons;

(3) A testamentary power of appointment; and

(4) A power of appointment exercisable during the holder's life.

8 New Paragraph; Validity of Trusts. Amend RSA 564-B:4-406 by inserting after paragraph (f) the following new paragraph:

(g) If the laws of this state govern a trust's validity and the trust has its principal place of administration in this state, then the trust and any transfer of property by a settlor to the trust shall not be void or voidable for either of the following reasons:

(1) The laws of a foreign jurisdiction prohibit or do not recognize the concept of a trust; or

(2) The trust or the transfer defeats any forced heirship, legitimate, forced share, or any similar heirship right under the laws of a foreign jurisdiction.

9 Modification or Termination of Trust; Proceedings for Approval or Disapproval. Amend RSA 564-B:4-410 to read as follows:

564-B:4-410 Modification or Termination of Trust; Proceedings for Approval or Disapproval.

(a) In addition to the methods of termination prescribed by RSA 564-B:4-411 through RSA 564-B:4-414, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

(b) ~~[A]~~ **Any of the following persons may commence a judicial** proceeding to approve or disapprove a proposed modification or termination under RSA 564-B:4-411 through RSA 564-B:4-416, **a proposed trust combination under RSA 564-B:4-417(a), or a proposed** trust ~~[combination or]~~ division under RSA 564-B:4-417(b); ~~may be commenced by a trustee or beneficiary.]~~

(1) A trustee;

(2) A trust advisor or trust protector to the extent that, under the terms of the trust, the trust advisor or trust protector has:

- (A) The power to modify the terms of the trust;**
- (B) The power to terminate the trust;**
- (C) The power to commence a judicial proceeding to modify the terms of the trust;**
- (D) The power to commence a judicial proceeding to terminate the trust;**

(E) The power to direct the modification of the terms of the trust;

(F) The power to direct the termination of the trust; or

(G) Any substantially similar power;

(3) A beneficiary; or

(4) To the extent that the trust is a charitable trust, the director of charitable trusts.

(c) A [The] settlor of a charitable trust may [maintain] **commence** a **judicial** proceeding to modify the trust under RSA 564-B:4-413, and in [such] **that** proceeding, the director of charitable trusts shall be [joined-as] a necessary party.

[~~(c)~~] **(d)** A modification or termination under RSA 564-B:4-410, RSA 564-B:4-411, RSA 564-B:4-412, RSA 564-B:4-413, RSA 564-B:4-415, or RSA 564-B:4-416 shall not violate any of the trust's material purposes.

10 Modification or Termination Because of Unanticipated Circumstances or Inability to Administer Trust Effectively. Amend RSA 564-B:4-412(a) to read as follows:

(a) Upon petition by [the] **a** trustee [~~or trustees~~], the director of charitable trusts (in the case of a charitable trust) or an interested [party] **person** other than the settlor, the court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

11 Cy Pres. Amend RSA 564-B:4-413(a)(3) to read as follows:

(3) upon petition by [the] **a** trustee [~~or trustees~~], the director of charitable trusts or an interested [party] **person** other than the settlor, the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, to a charitable purpose [which] **that** is useful to the community and [which] fulfills as nearly as possible the general charitable intent of the settlor.

12 Modification or Termination of Uneconomic Trust. Amend RSA 564-B:4-414(a) to read as follows:

(a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than \$100,000 may terminate the trust if: [the]

(1) The trustee concludes that the value of the trust property is insufficient to justify the cost of administration; **and**

(2) Within 30 days after the notice was sent to the qualified beneficiaries, a beneficiary does not notify the trustee of the beneficiary's objection to the trust's termination.

13 Combination and Division of Trusts. RSA 564-B:4-417 is repealed and reenacted to read as follows:

564-B:4-417 Combination and Division of Trusts.

(a) After notice to the qualified beneficiaries, a trustee may combine 2 or more trusts into one trust if the result does not impair rights of any beneficiary or adversely affect achievement of the trust's purposes.

(1) Upon the combination of the trusts, the following shall apply:

(A) Each of the trusts other than the surviving trust shall terminate;

(B) The terms of the surviving trust shall govern the surviving trust and its property, including any property acquired from the other trusts that combined into the surviving trust;

(C) All title to real property and other property owned by each trust that combined into the surviving trust and all contractual rights possessed by each trust that combined into the surviving trust are vested in the surviving trust without reversion or impairment; and

(D) All liabilities of each trust that combined into the surviving trust are vested in the surviving trust.

(2) After the combination is effective, the name of the trustee of the surviving trust may be substituted in any pending proceeding for the name of the trustee of any trust that combined into the surviving trust.

(b) After notice to the qualified beneficiaries, a trustee may divide a trust into 2 or more separate trusts if the result does not impair rights of any beneficiary or adversely affect achievement of the trust's purposes.

14 Trustee's Power to Decant Trust. Amend RSA 564-B:4-418(b) to read as follows:

(b)(1) The beneficiaries of the second trust may include only one or more of the beneficiaries of the first trust.

(2) The second trust may exclude one or more of the beneficiaries of the first trust.

(3) A person is not a beneficiary of the second trust solely by reason of being a permissible appointee of a power of appointment under the terms of the second trust.

(4) The current distributees and current permissible distributees of the second trust may include one or more persons who, under the terms of the first trust, are not current distributees or current permissible distributees, but would be distributees or permissible distributees upon the occurrence of a future date or event.

15 Trustee's Power to Decant Trust. Amend RSA 564-B:4-418(k)(1) through (3) to read as follows:

(1) the trustee does not have the discretion to make or participate in making distributions to himself or herself unless the terms of **the** second trust impose the same limitation on that trustee's discretion;

(2) the trustee's discretion to make or participate in making distributions to himself or herself is limited by an ascertainable standard unless the terms of *the* second trust impose the same limitation on that trustee's discretion;

(3) the trustee's discretion to make or participate in making distributions to himself or herself is exercisable only with the consent of a cotrustee or a person holding an adverse interest, unless the terms of *the* second trust impose the same limitation on that trustee's discretion; or

16 New Paragraphs; Trustee's Power to Decant Trust. Amend RSA 564-B:4-418 by inserting after paragraph (p) the following new paragraphs:

(q) Upon a decanting in which all of the first trust's property is appointed to the second trust, the following shall apply:

(1) The first trust shall terminate;

(2) The terms of the second trust shall govern the second trust and its property, including any property acquired from the first trust;

(3) All title to real property and other property owned by the first trust and all contractual rights possessed by the first trust are vested in the second trust without reversion or impairment; and

(4) All liabilities of the first trust are vested in the second trust.

(r) After a decanting in which all of the first trust's property is appointed to the second trust, the name of the trustee of the second trust may be substituted in any pending proceeding for the name of the trustee of the first trust.

17 Rights of Beneficiary's Creditor or Assignee. RSA 564-B:5-501 is repealed and reenacted to read as follows: 564-B:5-501 Creditor's Claim Against a Beneficiary.

(a) To the extent that a beneficiary's interest in a trust is not subject to a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by:

(1) Attachment of present or future distributions to or for the benefit of the beneficiary; or

(2) Subject to RSA 564-B:5-504, any other means.

(b) The court may limit the relief under subsection (a) as is appropriate under the circumstances.

(c) Subject to RSA 564-B:5-504(b) and (c), a creditor or assignee of a beneficiary may not compel the beneficiary to exercise any right or power that, in any fiduciary or nonfiduciary capacity, the beneficiary has under the terms of the trust, including any of the following:

(1) Any power of appointment;

(2) Any power to direct or veto a distribution;

(3) Any power to appoint or remove a trustee, trust advisor, or trust protector; or

(4) Any right to receive reports, notices, or other information concerning the trust and its administration.

18 Spendthrift Provision. RSA 564-B:5-502 is repealed and reenacted to read as follows:

564-B:5-502 Creditor's Claim Against a Beneficiary of a Trust Containing a Spendthrift Provision.

(a) A spendthrift provision is valid only if it restrains both voluntary and involuntary transfer of a beneficiary's interest.

(b) A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust," or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary's interest.

(c) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision.

(d) To the extent that a beneficiary's interest in a trust is subject to a spendthrift provision, a creditor or assignee of the beneficiary may not reach:

(1) The beneficiary's interest in the trust; or

(2) A distribution from the trust before its receipt by the beneficiary.

(e) To the extent that a beneficiary's interest in a trust is subject to a spendthrift provision, the beneficiary's interest:

(1) Is not property for purposes of RSA 458:16-a, I; and

(2) Shall not be subject to any forced heirship, legitimate, forced share, or any similar heirship rights under the laws of any jurisdiction.

(f) To the extent that a beneficiary's interest in a trust is subject to a spendthrift provision, a court may authorize an exception creditor of the beneficiary to attach present or future distributions to or for the benefit of the beneficiary.

(1) For purposes of this subsection (f), the following definitions shall apply:

(A) "Exception creditor" means, with respect to a beneficiary:

(i) An individual to the extent that there is a judgment or court order against the beneficiary for child support in this or any other state;

(ii) A spouse or former spouse to the extent that there is a judgment or court order against the beneficiary for basic alimony;

(iii) A judgment creditor who has provided services for the protection of a beneficiary's interest in the trust; or

(iv) This state or the United States for a claim against the beneficiary to the extent that a statute of this state or federal law so provides.

(B) "Basic alimony" means the portion of alimony attributable to the most basic food, shelter, and medical needs of the spouse or former spouse if the judgment or court order expressly specifies that portion.

(2) Attachment of present or future distributions is the exception creditor's exclusive remedy against the beneficiary's interest in the trust.

(3) The court may limit the relief as is appropriate under the circumstances.

(4) Subsection (d)(2) shall not apply to an exception creditor.

19 Discretionary Trusts. RSA 564-B:5-504 is repealed and reenacted to read as follows:

564-B:5-504 Creditor's Claim Against a Beneficiary of a Discretionary Trust.

(a) Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

(1) The discretion is expressed in the form of a standard of distribution; or

(2) The trustee has abused the discretion.

(b) Subject to subsection (c), a creditor or assignee of a beneficiary may not compel a distribution to the beneficiary solely by reason that the beneficiary:

(1) Is a trustee; or

(2) In any fiduciary capacity, has the power to direct distributions.

(c) Upon petition by a creditor or assignee of a beneficiary, a court may compel a distribution to the beneficiary to the extent that:

(1) The beneficiary:

(A) Is a trustee; or

(B) In any fiduciary capacity, has the power to direct distributions;

(2) In the capacity described in subsection (c)(1), the beneficiary has:

(A) The discretionary power to make distributions to himself, herself, or itself; or

(B) The discretionary power to direct distributions to himself, herself, or itself;

(3) The discretion is expressed in the form of a standard of distribution;

(4) The beneficiary can exercise the power without the consent of any trustee, trust advisor, trust protector, or person holding an adverse interest; and

(5) The beneficiary has abused the discretion.

(d) This section does not limit the right of a beneficiary to commence a judicial proceeding against a trustee, trust advisor, or trust protector for:

(1) An abuse of discretion; or

(2) A failure to comply with a standard for distribution.

(e)(1) Upon petition by an exception creditor of a beneficiary, a court may compel a distribution to the beneficiary to the extent that the trustee:

(A) Has abused a discretion; or

(B) Has failed to comply with a standard of distribution.

(2) For purposes of this subsection, the following definitions apply:

(A) "Exception creditor" means, with respect to a beneficiary:

(i) An individual to the extent that there is a judgment or court order against the beneficiary for child support in this or any other state; or

(ii) A spouse or former spouse to the extent that there is a judgment or court order against the beneficiary for basic alimony.

(B) "Basic alimony" means the portion of alimony attributable to the most basic food, shelter, and medical needs of the spouse or former spouse if the judgment or court order expressly specifies that portion.

(3) In compelling a distribution under this subsection, the court shall direct the trustee to pay to the exception creditor an amount that is equitable under the circumstances, but not more than the lesser of:

(A) The amount that is necessary to satisfy the judgment or court order for:

(i) In the case of an exception creditor described in subsection (e)(2)(A)(i), child support; or

(ii) In the case of an exception creditor described in subsection (e)(2)(A)(ii), basic alimony; and

(B) The maximum amount of trust property that can be distributed to or for the benefit of the settlor from the trust.

(4) Subsection (a) shall not apply to an exception creditor.

20 Creditor's Claim Against a Settlor of a Revocable Trust. RSA 564-B:5-505 is repealed and reenacted to read as follows:

564-B:5-505 Creditor's Claim Against a Settlor of a Revocable Trust.

(a) During the settlor's life, the property of a revocable trust is subject to claims of the settlor's creditors regardless of whether the trust contains a spendthrift provision.

(b) After the settlor's death and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable immediately before the settlor's death is subject to the following claims to the extent that the settlor's probate estate is inadequate to satisfy those claims:

- (1) Claims of the settlor's creditors;
- (2) Costs of administration of the settlor's estate; and
- (3) Expenses of the settlor's funeral and disposal of remains.

(c) Subsection (b) shall apply to a trust regardless of whether the trust contains a spendthrift provision.

(d) Subsection (b) shall not apply to:

(1) The proceeds and any other benefits of a policy of life or endowment insurance effected by a settlor, a trustee, or any other person on the settlor's life or another individual's life as provided in RSA 408:2; or

(2) Any claim barred under RSA 564-B:5-508.

(e) During only the period that the power of withdrawal may be exercised, the holder of a power of withdrawal shall be treated in the same manner under this section as the settlor of a revocable trust to the extent of the property subject to the power of withdrawal.

21 New Sections; Creditor's Claim Against a Settlor of an Irrevocable Trust. Amend RSA 564-B by inserting after section 505 the following new sections:

564-B:5-505A Creditor's Claim Against a Settlor of an Irrevocable Trust.

(a) To the extent that a settlor's interest in an irrevocable trust is not subject to a spendthrift provision, a creditor or assignee of the settlor may reach the maximum amount of trust property that can be distributed to or for the benefit of the settlor.

(b) If the trust has more than one settlor, then the amount that a creditor or assignee of a particular settlor may reach under subsection (a) may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(c) A settlor may not transfer the settlor's interest in an irrevocable trust in violation of a spendthrift provision.

(d) To the extent that a settlor's interest in an irrevocable trust is subject to a spendthrift provision, a creditor or assignee of the settlor may not reach:

- (1) The settlor's interest in the trust; or
- (2) A distribution from the trust before its receipt by the settlor.

(e) Subsection (d) shall apply to any type of irrevocable trust, including:

(1) A charitable remainder annuity trust within the meaning of section 664(d)(1) of the Internal Revenue Code;

(2) A charitable remainder unitrust within the meaning of section 664(d)(2) of the Internal Revenue Code;

(3) A trust described in section 2523(e) of the Internal Revenue Code;

(4) A trust described in section 2523(f) of the Internal Revenue Code;

(5) An irrevocable special needs trust established for a disabled person as described in 42 U.S.C. section 1396p(d)(4) or similar federal law governing the transfer to such a trust;

(6) A trust in which a trustee, trust advisor, or trust protector has a duty or a discretionary power to:

(A) Pay directly to any taxing authority any tax that is:

- (i) Imposed on the trust's income or principal; and
- (ii) Payable by the settlor under the law imposing the tax;

(B) Reimburse the settlor for any tax described in subsection (g)(6)(A); or

(C) Direct a trustee, trust advisor, or trust protector to take the action described in subsection (e)(6)(A) or (e)(6)(B); and

(7) A trust in which the settlor has:

(A) The power to reacquire trust property by substituting other property of an equivalent value; or

(B) Any power of administration within the meaning of section 675(4) of the Internal Revenue Code.

(f) Notwithstanding RSA 545-A:9, a creditor or assignee of a settlor may not commence a judicial proceeding with respect to the settlor's transfer of property to an irrevocable trust that contains a spendthrift provision after the later of:

(1) Four years after the transfer is made; or

(2) If the creditor or assignee is a creditor or assignee of the settlor when the transfer is made, one year after the creditor or assignee discovers or reasonably should have discovered the transfer.

(g) For purposes of subsection (f) and RSA 545-A:4, a creditor or assignee of a settlor shall prove that, with respect to the creditor or assignee, the settlor's transfer to the trust was fraudulent.

(h) Notwithstanding any law to the contrary, a person shall not have any claim against any of the following persons to the extent that the claim is based in any way on a settlor or other person availing or seeking to avail himself, herself, or itself of the benefits of this section:

- (1) A trustee;
- (2) A trust advisor;
- (3) A trust protector;
- (4) A person who advised a settlor, trustee, trust advisor, or trust protector concerning trust, the trust's formation, any transfer of property to the trust, or the application of this section; or
- (5) A person who was involved in counseling, drafting, preparing, or executing:
 - (A) With respect to the trust, a trust instrument; or
 - (B) A governing instrument of a corporation, partnership, limited partnership, limited liability company, or other entity, the interests of which a settlor transferred to the trust.
- (i) Notwithstanding any law to the contrary, a person may not commence a judicial proceeding seeking the enforcement of a judgment entered by a court or other body having adjudicative authority or asserting any other claim if:
 - (1) The judgment or claim is based in any way on a settlor's transfer of property to an irrevocable trust that contains a spendthrift provision; and
 - (2) With respect to the transfer, a claim of the creditor or assignee of the settlor would be barred under subsection (f).
- (j) Subsections (h) and (i) shall not affect:
 - (1) Any claim by a settlor;
 - (2) Any claim by a beneficiary against a current or former trustee, trust advisor, or trust protector for a breach of trust; or
 - (3) Any claim by a trustee, trust advisor, or trust protector.
- (k) If 2 or more transfers of property are made to a trust that contains a spendthrift provision, then the following shall apply:
 - (1) For the purpose of determining whether, under this section, a creditor or other person may commence a judicial proceeding with respect to a specific transfer, any subsequent transfer shall be disregarded; and
 - (2) Any distribution from a trust to a settlor or other beneficiary shall be deemed to have been made from:
 - (A) First, the most recent transfer to the extent of the previously undistributed portion of that transfer; and
 - (B) Subsequently, each preceding transfer in reverse chronological order to the extent of the previously undistributed portion of that transfer.
- (l) A creditor or assignee of a settlor may not compel the settlor to exercise any right or power that, in any fiduciary or nonfiduciary capacity, the settlor has under the terms of the trust, including:
 - (1) Any power of appointment;
 - (2) Any power to direct or veto a distribution;
 - (3) Any power to reacquire trust property by substituting other property of an equivalent value;
 - (4) Any power of administration within the meaning of section 675(4) of the Internal Revenue Code;
 - (5) Any power to appoint or remove a trustee, trust advisor, or trust protector; or
 - (6) Any right to receive reports, notices, or other information concerning the trust and its administration.
- (m) This section shall not affect the application of:
 - (1) In the case of a trust that was revocable immediately before the settlor's death, RSA 564-B:5-505(b);
 - (2) RSA 564-B:5-505(e); or
 - (3) Except as otherwise provided in this section, RSA 545-A or a similar law of another state having jurisdiction over a transfer of property.
- (n) To the extent that a settlor's interest in an irrevocable trust is subject to a spendthrift provision, the settlor's interest:
 - (1) Is not property for purposes of RSA 458:16-a, I, to the extent that:
 - (A) The settlor's interest is subject to a spendthrift provision; and
 - (B) The settlor transferred the property to the trust more than 30 days before his or her marriage to the individual seeking to claim that the settlor's interest is property for purposes of RSA 458:16-a, I, unless that individual expressly consented to the transfer; and
 - (2) Shall not be subject to any forced heirship, legitimate, forced share, or any similar heirship rights under the laws of any jurisdiction.
- (o) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent that a statute of this state or federal law so provides.
- (p) A spendthrift provision is a restriction on the transfer of the settlor's beneficial interest that is enforceable under nonbankruptcy law within the meaning of 11 U.S.C. section 541(c)(2).
- (q) Whether or not an irrevocable trust contains a spendthrift provision, an exception creditor of the settlor may reach the trust property to the extent permitted under subsection (q)(2).

(1) For purposes of this subsection, the following definitions apply:

(A) "Exception creditor" means, with respect to a settlor:

(i) An individual to the extent that there is a judgment or court order against the settlor for child support in this or any other state; or

(ii) A spouse or former spouse to the extent that there is a judgment or court order against the settlor for basic alimony.

(B) "Basic alimony" means the portion of alimony attributable to the most basic food, shelter, and medical needs of the spouse or former spouse if the judgment or court order expressly specifies that portion.

(2) The court shall direct the trustee to pay to the exception creditor an amount that is equitable under the circumstances, but not more than the lesser of:

(A) The amount that is necessary to satisfy the judgment or court order for:

(i) In the case of an exception creditor described in subsection (q)(1)(A)(i), child support; or

(ii) In the case of an exception creditor described in subsection (q)(1)(A)(ii), basic alimony; and

(B) The maximum amount of trust property that can be distributed to or for the benefit of the settlor from the trust.

(3) This subsection shall not apply to any irrevocable trust described in subsection (e)(1), (e)(2), (e)(3), (e)(4), or (e)(5).

(4) Subject to subsection (q)(2), subsections (a) and (f) shall not apply to an exception creditor.

564-B:5-505B Coordination with Qualified Dispositions in Trusts.

(a) On the effective date of RSA 564-B:5-505A, RSA 564-B:5-505A shall apply to:

(1) Any transfer that:

(A) Was made before the effective date of RSA 564-B:5-505A; and

(B) Qualified as a qualified disposition within the meaning of RSA 564-D:1, VII, as in effect immediately before the effective date of RSA 564-B:5-505A; and

(2) Any trust into which, before the effective date of RSA 564-B:5-505A, there was a transfer described in subsection (a)(1).

(b) Except as otherwise permitted under RSA 564-B:5-505A, a creditor or assignee of a settlor may not avoid a transfer described in subsection (a)(1) if the creditor or assignee could not have avoided the transfer under RSA 564-D as in effect immediately before the effective date of RSA 564-B:5-505A.

(c) Except as otherwise permitted under RSA 564-B:5-505A, a creditor or assignee of a settlor may not reach any property of a trust described in subsection (a)(2) if the creditor or assignee could not have reached the property under RSA 564-D as in effect immediately before the effective date of RSA 564-B:5-505A.

22 Revocation or Amendment of Revocable Trust. Amend RSA 564-B:6-602(e) to read as follows:

(e) A settlor's powers with respect to ***the revocation of a revocable trust, the amendment of a revocable trust, or the distribution of trust property from a revocable trust*** may be exercised by an agent under a power of attorney only to the extent expressly authorized by ***both*** the terms of the trust ***[or]*** ***and*** the power of attorney.

(1) Any ~~[such]~~ revocation or amendment ***of a revocable trust*** by an agent under a power of attorney shall be effective only if:

(A) ***The amendment or revocation is made in [a signed record and] substantial compliance with a method provided in the terms of the trust; or***

(B) ***The amendment or revocation is made by any other method manifesting clear and convincing evidence of the agent's intent if the terms of the trust do not provide a method or do not expressly prohibit methods other than methods provided in the terms of the trust.***

(2) Any revocation or amendment ***of a revocable trust by an agent under a power of attorney*** shall be effective only ~~[when sent to the trustee]~~ ***upon the trustee's receipt of notice of the amendment or revocation.***

(3) ***A trustee, trust advisor, or trust protector is an excluded fiduciary to the extent that:***

(A) ***In accordance with this subsection, a settlor's agent exercises the settlor's powers with respect to the revocation of a revocable trust, the amendment of a revocable trust, or the distribution of trust property from a revocable trust; and***

(B) ***The trustee, trust advisor, or trust protector acts in accordance with the agent's exercise of the settlor's powers.***

23 Directed Trusts. Amend RSA 564-B:7-711 to read as follows:

564-B:7-711 ***Divided Trusts and Directed Trusts.***

(a) ***A divided trust is a trust in which the terms of the trust divide powers and duties among 2 or more trustees, trust advisors, and trust protectors, vesting one or more powers and duties exclusively in one or more of those persons to the exclusion of the other persons.***

(b) A directed trust is trust in which, under the terms of the trust, one or more persons have the power to direct an action by a trustee, trust advisor, or trust protector or the power to veto or consent to any actual or proposed action by a trustee, trust advisor, or trust protector. The action may relate to the investment of trust assets, distributions, or any other aspects of the trust's administration.

(c) A trustee is an excluded fiduciary to the extent that the terms of the trust vest a power or duty exclusively in a trust advisor, trust protector, cotrustee, or other person.

~~[(b)]~~ *(d) A trustee is an excluded fiduciary to the extent that:*

(1) under the terms of the trust, the trustee must follow the direction of a trust advisor, trust protector, cotrustee, or other person; and

(2) the trustee acts in accordance with that direction.

(e) A trust advisor or trust protector is an excluded fiduciary to the extent that the terms of the trust vest a power or duty exclusively in a trustee, trust advisor, trust protector, or other person.

~~[(e)]~~ *(f) A trust advisor or trust protector is an excluded fiduciary to the extent that:*

(1) under the terms of the trust, the trust advisor or trust protector must follow the direction of a trustee, trust advisor, trust protector, or other person; and

(2) the trust advisor or trust protector acts in accordance with that direction.

24 Vacancy; Directed Trusts. Amend RSA 564-B:7-712 to read as follows:

564-B:7-712 Vacancy[;] ***in a Divided Trust or*** Directed [Trusts] ***Trust.***

~~(a) [Except as otherwise provided by the terms of the trust upon obtaining knowledge of a vacancy in the office of trust advisor, the]~~ ***Unless the terms of the trust provide otherwise, a*** trustee shall be vested with any [fiduciary] power or duty that [otherwise would be vested in the trustee but that by] the terms of the trust [was vested] ***otherwise vest exclusively in [the] a*** trust advisor, [until such time that a trust advisor is appointed pursuant to the terms of the trust or by a court upon the petition of any interested person] ***trust protector, or cotrustee during any time when, as the result of a vacancy in the office of trust advisor, trust protector, or cotrustee, there is no person who is vested with the power or duty.***

~~(b) [Except as otherwise provided by the terms of the trust, upon obtaining knowledge of a vacancy in the office of trust protector, the trustee shall petition the court to fill the vacancy if the trustee determines that the terms of the trust require the vacancy to be filled.]~~ ***Unless the terms of the trust provide otherwise, a trustee may exercise without direction any power that, under the terms of the trust, the trustee otherwise may exercise only at the direction of a trust advisor, trust protector, or cotrustee during any time when, as the result of a vacancy in the office of trust advisor, trust protector, or cotrustee, there is no person who is vested with the power to direct the trustee to exercise that power.***

~~(c) [Notwithstanding the provisions of subsection (a), a]~~ ***A trustee who is vested with a power or duty under subsection (a) shall not be liable to any person for failing to exercise [or assume any] that*** power or duty [held by a trust advisor and conferred upon the trustee by subsection (a) for] ***during*** the 60-day period [immediately following] ***beginning on*** the date ***on which*** the trustee obtains knowledge of [such] ***the*** vacancy.

(d) A trustee who may exercise a power under subsection (b) shall not be liable to any person for failing to exercise that power during the 60-day period beginning on the date on which the trustee obtains knowledge of the vacancy.

25 Duty of Loyalty. Amend RSA 564-B:8-802(f) to read as follows:

~~(f) The following transactions, if fairly priced and in accordance with the interest of the beneficiaries and the purposes of the trust, are not presumed to be affected by a conflict between the trustee's personal and fiduciary interest provided that any investment made pursuant to the transaction otherwise complies with the prudent investor rule of article 9:~~

~~(1) an investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee; [provided that any investment made pursuant to the transaction otherwise complies with the prudent investor rule of Article 9 of RSA 564-B.]~~

~~(2) the placing of securities transactions by a trustee through a securities broker that is a part of the same company as the trustee, is owned by the trustee, or is affiliated with the trustee;~~

~~(3) any loan from the trustee or its affiliate; **or**~~

~~(4) an investment in an insurance contract purchased from an insurance agency owned by, or affiliated with, the trustee, or any of its affiliates[;]~~

~~[(5) an agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee, or any of its affiliates;~~

~~(6) payment of reasonable compensation to the trustee, or any of its affiliates;~~

~~(7) a transaction between a trust and another trust, decedent's estate, guardianship or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;~~

~~(8) a deposit of trust money in a financial institution operated by the trustee or an affiliate;~~

~~(9) a delegation and any transaction made pursuant to the delegation from a trustee to an agent that is affiliated or associated with the trustee; or~~

~~(10) an advance by the trustee of money for the protection of the trust[.]~~

26 New Paragraph; Duty of Loyalty. Amend RSA 564-B:8-802 by inserting after paragraph (i) the following new paragraph:

(j) This section does not preclude any of the following transactions to the extent that the transaction is fair to the beneficiaries:

- (1) An agreement between a trustee and a beneficiary relating to the appointment of the trustee or any of its affiliates;
- (2) An agreement between a trustee and a beneficiary relating to the compensation of the trustee or any of its affiliates;
- (3) Payment of reasonable compensation to the trustee or any of its affiliates;
- (4) A transaction between a trust and any of the following:
 - (A) Another trust of which the trustee is a trustee, trust advisor, or trust protector or in which a beneficiary has an interest;
 - (B) A decedent's estate of which the trustee is an executor or other fiduciary or in which a beneficiary has an interest;
 - (C) A conservatorship of which the trustee is a conservator or in which a beneficiary has an interest; or
 - (D) A guardianship of which the trustee is a guardian or in which a beneficiary has an interest;
- (5) A deposit of trust money in a regulated financial-service institution operated by the trustee or any of its affiliates;
- (6) An advance of money by the trustee or any of its affiliates for the protection of the trust;
- (7) A delegation by a trustee to an agent that is affiliated or associated with the trustee; or
- (8) A transaction made pursuant to a delegation by a trustee to an agent that is affiliated or associated with the trustee.

27 Delegation by Trustee. Amend RSA 564-B:8-807 to read as follows:

564-B:8-807 Delegation by Trustee **to an Agent**.

(a) A trustee may delegate [~~duties, powers and investment and management functions~~] to any person, even if [~~such~~] **that** person is associated or affiliated with the trustee, **any duty, power, investment function, or management function** that a prudent trustee of comparable skills could properly delegate under the circumstances.

(b) The trustee shall exercise reasonable care, skill, and caution in:

- (1) selecting an agent;
- (2) establishing the scope and terms of the delegation, consistent with the purposes **of the trust** and **the** terms of the trust; and
- (3) periodically reviewing the agent's actions [~~in order to monitor~~] **for the purpose of monitoring** the agent's performance and compliance with the **scope and** terms of the delegation.

[~~(b)~~] (c) In performing a delegated **duty, power, or** function, an agent owes a duty to the trust to exercise reasonable care to comply with the **scope and** terms of the delegation.

[~~(c)~~] (d) A trustee who complies with subsection (a) **and (b)** is not liable to the beneficiaries or to the trust for an action of the agent to whom the **duty, power, or** function was delegated.

(e) **A trustee's delegation of a duty, power, or function to an agent under a power of attorney shall not be valid unless the power of attorney expressly refers to the trustee in his, her, or its capacity as a trustee of the trust.**

(f) **In the case of a trustee who is an individual, the trustee's delegation of any duty, power, or function to an agent under a power of attorney shall terminate upon the trustee's incapacity unless:**

(1) **The terms of the trust provide that the delegation may remain effective during the trustee's incapacity; and**

(2) **The power of attorney provides, that the delegation does not terminate upon the trustee's incapacity.**

[~~(d)~~] (g) By accepting a delegation of [~~powers or duties~~] **a duty, power, or function** from [~~the~~] **a** trustee of a trust that [~~is subject to the law of~~] **has its principal place of administration in this state or subsequently changes its principal place of administration to** this state, an agent [~~submits~~] **shall be subject to the personal jurisdiction of the courts of this state regarding any matter involving the trust.**

28 New Section; New Hampshire Trust Code. Amend RSA 564-B by inserting after section 10-1015 the following new section:

564-B:10-1016 Powers of Appointment.

(a) A power of appointment is exercised only:

- (1) If the instrument exercising the power is valid under applicable law;
- (2) If the terms of the instrument exercising the power:
 - (A) Manifest the powerholder's intent to exercise the power; and
 - (B) Subject to subsection (b), satisfy any requirements that the terms of the trust may impose on the exercise of the power; and
- (3) To the extent that the appointment is a permissible exercise of the power.

(b) A powerholder's substantial compliance with a formal requirement of appointment imposed by the terms of the trust, including a requirement that the instrument exercising the power of appointment make reference or specific reference to the power, is sufficient if:

- (1) The powerholder knows of and intends to exercise the power;
- (2) The terms of the trust do not require strict compliance with the formal requirement of appointment imposed by the settlor; and
- (3) The powerholder's manner of attempted exercise of the power does not impair a material purpose of the trust.

29 Trust Advisor and Trust Protector Subject to Court Jurisdiction. Amend RSA 564-B:12-1203 to read as follows:

564-B:12-1203 Trust Advisor and Trust Protector Subject to Court Jurisdiction.

(a) By accepting *an* appointment to serve as a trust advisor or trust protector *of a trust that has its principal place of administration in this state or, in accordance with the terms of the trust or applicable law, changes its principal place of administration to this state*, the trust advisor or the trust protector ~~[submits personally]~~ *shall be subject* to the *personal* jurisdiction of the courts of this state *regarding any matter involving the trust*.

(b) ~~[even if]~~ *An investment advisory [agreements] agreement or other [related agreements provide otherwise] agreement is void to the extent that it purports to limit the personal jurisdiction of the courts under subsection (a)*, ~~and the trust advisor or trust protector may be made a party to any action or proceeding relating to a decision, action, or inaction of the trust advisor or trust protector~~.

30 New Subparagraph; Limitation of Action Against a Trust Advisor or Trust Protector. Amend RSA 564-B:12-1206 by inserting after subparagraph (e) the following new paragraph:

(f) For purposes of determining whether, for purposes of this section, a trust has terminated or a beneficiary's interest in a trust has terminated, trust property excludes any claim against a trustee, trust advisor, or trust protector.

31 New Sections; Office of the Trust Advisor or Trust Protector. Amend RSA 564-B by inserting after section 12-1206 the following new sections:

564-B:12-1207 Office of the Trust Advisor or Trust Protector.

(a) A trust advisor or trust protector is subject to the same rules to which a sole trustee would be subject under this chapter in the same circumstances with respect to the following:

- (1) Accepting or declining his, her, or its appointment;
- (2) Vacancy and appointment of a successor;
- (3) Resignation;
- (4) Removal; and
- (5) Compensation.

(b) A trust advisor or trust protector shall not have an obligation to give bond to secure performance of his, her, or its duties.

(c) Subject to this article 12, a trust advisor or trust protector is subject to the same rules as a sole trustee would be subject under this chapter in the same circumstances with respect to exoneration and indemnification.

564-B:12-1208 Delegation to an Agent.

(a) A trust advisor or trust protector may delegate to any person, even if that person is associated or affiliated with the trust advisor or trust protector, any duty or power that a prudent trust advisor or trust protector of comparable skills and having the same power or duty could properly delegate under the circumstances.

(b) In delegating to an agent, a trust advisor or trust protector shall exercise reasonable care, skill, and caution in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation, consistent with the trust's purposes and the terms of the trust; and
- (3) Periodically reviewing the agent's actions for the purpose of monitoring the agent's performance and compliance with the scope and terms of the delegation.

(c) The exercise of a power includes the performance of any function involving that power.

(d) A trust advisor or trust protector who complies with subsections (a) and (b) is not liable to the beneficiaries or to the trust for an action of the agent to whom the power or duty was delegated.

(e) In performing a delegated duty of power, an agent owes a duty to the trust to exercise reasonable care to comply with the scope and terms of the delegation.

(f) A trust advisor's or trust protector's delegation of a duty, power, or function to an agent under a power of attorney shall not be valid unless the power of attorney expressly refers to the trust advisor or trust protector in his, her, or its capacity as a trust advisor or trust protector of the trust.

(g) In the case of a trust advisor or trust protector who is an individual, the trust advisor's or trust protector's delegation of any duty, power, or function to an agent under a power of attorney shall terminate upon the trust advisor's or trust protector's incapacity unless:

(1) The terms of the trust provide that the delegation may remain effective during the trust advisor's or trust protector's incapacity; and

(2) The power of attorney provide that the delegation does not terminate upon the trust advisor's or trust protector's incapacity.

(h) By accepting a delegation of any duty or power from a trust advisor or trust protector of a trust that has its principal place of administration in this state or subsequently changes its principal place of administration to this state, an agent shall be subject to the personal jurisdiction of the courts of this state regarding any matter involving the trust.

(i) This section does not apply to the delegation of a duty or power to a trustee, trust advisor, or trust protector to the extent that, under the terms of the trust, the trustee, trust advisor, or trust protector is vested with the delegated duty or power.

564-B:12-1209 Delegation to a Trustee, Trust Advisor, or Trust Protector.

(a) Subject to subsection (b), a trust advisor or trust protector may delegate to any trustee, trust advisor, or trust protector, even if that person is associated or affiliated with the trust advisor or trust protector, any duty or power that a prudent trust advisor or trust protector of comparable skills could properly delegate under the circumstances.

(b) A trust advisor or trust protector may not delegate any duty or power that the settlor reasonably expected the trust advisor or trust protector to perform jointly with each trustee, trust advisor, and trust protector who also is vested with that duty or power.

(c) The exercise of a power includes the performance of any function involving that power.

(d) Unless a delegation was irrevocable, a trust advisor or trust protector may revoke a delegation previously made.

564-B:12-1210 Employing Attorneys, Agents, and Other Persons.

(a) A trust advisor or trust protector shall have the power to employ any attorney or other person, even if the person is affiliated or associated with the trust advisor or trust protector, to advise the trust advisor or trust protector in the performance of the trust advisor's or trust protector's duties.

(b) To the extent consistent with the scope and nature of a trust advisor's or trust protector's powers and duties under the terms of the trust, the trust advisor or trust protector shall have the power to employ any agent or other person, even if the person is affiliated or associated with the trust advisor or trust protector, to assist the trust advisor or trust protector in the performance of the trust advisor's or trust protector's duties.

(c) The reasonable compensation of a person whom a trust advisor or trust protector employs under section (a) or (b) is an expense incurred in the administration of the trust.

32 New Section; New Hampshire Business Corporation Act; Trust Powers. Amend RSA 293-A by inserting after section 3.04 the following new section:

293-A:3.05 Trust Powers.

(a) A corporation shall have trust powers to the extent that it:

(1) Does not transact business with the general public; or

(2) Is a bank as defined in RSA 383-A:2-201(a)(3) and is authorized to engage in trust business in this state under RSA 383-A, RSA 383-B, RSA 383-C, or RSA 383-D.

(b) Trust powers include the power to act as a trustee or other fiduciary, a trust advisor as defined in RSA 564-B:1-103(27), or a trust protector as defined in RSA 564-B:1-103(28).

(c) For purposes of subsection (a)(1), a corporation does not transact business with the general public to the extent that the corporation:

(1) Qualifies as a family office under 15 U.S.C. section 80b-2(a)(11)(G); or

(2) Offers and provides its services only to persons who would qualify as family clients as defined in RSA 383-D:2-201(b)(5) if the corporation was chartered as a family trust company under RSA 383-D.

(d) For purposes of subsection (c)(2), a corporation may use any reasonable method for:

(1) Identifying a designated relative as defined in RSA 383-D:2-201(b)(2); and

(2) Selecting a method for determining family members as described in RSA 383-D:4-402(b)(2) or (c).

(e) A corporation described in subsection (a)(1) shall be exempt from RSA Title 35 and shall not be subject to the jurisdiction of the New Hampshire bank commissioner.

(f) To the extent that a corporation other than a corporation described in subsection (a)(2) transacts business with the general public, the following shall apply:

(1) Any action by the corporation shall not be void or voidable solely by reason of the corporation transacting business with the general public.

(2) Each of the corporation's directors and officers shall be personally, jointly, and severally liable for all liabilities created by the corporation transacting business with the general public, including any breach of a fiduciary duty to a member of the general public.

(3) A director's or officer's liability under subsection (f)(2) is in addition to any civil or criminal penalties imposed by applicable law.

(g) This section does not restrict the rights and remedies of any person affected by a corporation's exercise of trust powers, including the right to commence a judicial proceeding seeking:

- (1) A remedy for a breach of trust under RSA 564-B:10-1001;
- (2) Damages for a breach of trust under RSA 564-B:10-1002; or
- (3) Damages under RSA 564-B:10-1003.

33 New Section; New Hampshire Limited Liability Companies; Trust Powers. Amend RSA 304-C by inserting after section 22 the following new section:

304-C:22-a Trust Powers.

(a) A limited liability company shall have trust powers to the extent that it:

- (1) Does not transact business with the general public; or
- (2) Is a bank as defined in RSA 383-A:2-201(a)(3) and is authorized to engage in trust business in this state under RSA 383-A, RSA 383-B, RSA 383-C, or RSA 383-D.

(b) Trust powers include the power to act as a trustee or other fiduciary, a trust advisor as defined in RSA 564-B:1-103(27), or a trust protector as defined in RSA 564-B:1-103(28).

(c) For purposes of subsection (a)(1), a limited liability company does not transact business with the general public to the extent that the limited liability company:

- (1) Qualifies as a family office under 15 U.S.C. section 80b-2(a)(11)(G); or
- (2) Offers and provides its services only to persons who would qualify as family clients as defined in RSA 383-D:2-201(b)(5) if the limited liability company was chartered as a family trust company under RSA 383-D.

(d) For purposes of subsection (c)(2), a limited liability company may use any reasonable method for:

- (1) Identifying a designated relative as defined in RSA 383-D:2-201(b)(2); and
- (2) Selecting a method for determining family members as described in RSA 383-D:4-402(b)(2) or (c).

(e) A limited liability company described in subsection (a)(1) shall be exempt from RSA Title 35 and shall not be subject to the jurisdiction of the New Hampshire bank commissioner.

(f) To the extent that a limited liability company other than a limited liability company described in subsection (a)(2) transacts business with the general public, the following shall apply:

(1) Any action by the limited liability company shall not be void or voidable solely by reason of the limited liability company transacting business with the general public.

(2) Each of the limited liability company's managers or, if the limited liability company is managed by its members, each of the members shall be personally, jointly, and severally liable for all liabilities created by the corporation transacting business with the general public, including any breach of a fiduciary duty to a member of the general public.

(3) A manager's or member's liability under subsection (f)(2) is in addition to any civil or criminal penalties imposed by applicable law.

(g) This section does not restrict the rights and remedies of any person affected by a limited liability company's exercise of trust powers, including the right to commence a judicial proceeding seeking:

- (1) A remedy for a breach of trust under RSA 564-B:10-1001;
- (2) Damages for a breach of trust under RSA 564-B:10-1002; or
- (3) Damages under RSA 564-B:10-1003.

34 Bank Commissioner; Examination of Banks, Credit Unions, Trust Companies, and Family Trust Companies. Amend RSA 383:9-d, I to read as follows:

I. Unless an exception is granted as provided in paragraph II, the commissioner shall examine the condition and management of all **depository** banks[,] **and** credit unions[, ~~trust companies, and family trust companies,~~] every 18 months or more often when necessary in his or her judgment. ***The commissioner shall examine the condition and management of all trust companies in accordance with RSA 383-C:14-1401. The commissioner shall examine the condition and management of all family trust companies in accordance with RSA 383-D:11-1101.***

35 Bank Commissioner; Examination of Banks and Credit Unions. Amend RSA 383:9-d, III to read as follows:

III. A **depository** bank[,] **or** credit union[, ~~trust company, or family trust company,~~] qualifies for examination treatment under paragraph II if:

- (a) It has consistently been given high ratings in past exams;
- (b) It is not currently subject to an enforcement proceeding or order; and
- (c) The commissioner has deemed it prudent to apply this paragraph and paragraph II.

36 New Paragraph; Liquidation Pledge. Amend RSA 383-C:5-503 by inserting after paragraph (b) the following new paragraph:

(c) A trust company may apply to provide a letter of credit in lieu of pledging cash or securities by filing with the commissioner an application to provide a letter of credit.

(1) In accordance with RSA 383-A:6-604, the commissioner shall make a determination as to whether the trust company qualifies to provide a letter of credit.

(2) A trust company qualifies to provide a letter of credit if:

(A) Under the terms of the letter of credit, the issuing bank unconditionally agrees to pay the liquidation pledge amount to the commissioner upon presentation of a written instrument that is signed by the commissioner and states that the commissioner has commenced the liquidation of a trust company under RSA 395;

(B) The issuing bank is:

- (i) A depository bank;
- (ii) A national bank having a branch or office in this state;
- (iii) A federal savings bank having a branch or office in this state; or
- (iv) A foreign state bank having a branch or office in this state;

(C) The letter of credit is:

- (i) Irrevocable during its term; and
- (ii) On a form prescribed by the commissioner.

(D) For purposes of securing the trust company's obligation to pay to the issuing bank any amounts that the commissioner draws against the letter of credit, the trust company or other person:

- (i) Grants to the issuing bank a security interest in money or other property in an amount that is not less than 120 percent of the liquidation pledge amount;
- (ii) Together with the issuing bank, executes a collateral pledge and security agreement that:
 - (a) Is irrevocable during the term of the letter of credit;
 - (b) Requires the pledgor to transfer to the issuing bank money or other property sufficient to maintain the minimum collateral amount under subsection (c)(2)(D)(i) at all times during the term of the letter of credit; and
 - (c) Is in a form acceptable to the commissioner; and

(E) Under the collateral pledge and security agreement or other agreement the issuing bank agrees that:

- (i) If the commissioner draws against the letter of credit, then the issuing bank may claim its right of reimbursement only against the collateral in which the issuing bank has a security interest under the collateral pledge and security agreement;
- (ii) Except as provided under subsection (c)(2)(E)(i), the issuing bank waives any right of reimbursement against the trust company, and the issuing bank may not claim its right of reimbursement against the liquidation estate of the trust company;
- (iii) The letter of credit will be drawn in the event of a failure of the institution requiring liquidation by the commissioner; and
- (iv) If, for any reason, the letter of credit is terminated, it shall immediately notify the commissioner.

(3) If the commissioner approves the trust company's application to provide a letter of credit, then the trust company shall continuously maintain the letter of credit in accordance with this subsection until it pledges cash or securities in accordance with subsection (a).

(4) The trust company shall pay any fees and expenses associated with obtaining and maintaining the letter of credit and the collateral pledge and security agreement.

37 New Subdivisions; Trust Company Act. Amend RSA 383-C by inserting after section 12-1202 the following new subdivisions:

Article 13

Reports and Other Filings

383-C:13-1301 Reports and Other Filings. A trust company shall file with the commissioner reports of condition as required under RSA 383-A:5-510 and copies of other documents as required under RSA 383-A:5-511.

Article 14

Examination

383-C:14-1401 Regular Examination. Subject to RSA 383-C:14-1402, the commissioner shall examine the condition and management of a trust company every 18 months.

383-C:14-1402 Exemption from Regular Examination.

(a) A trust company may apply for an exemption from one regular examination under RSA 383-C:14-1401 by filing with the commissioner an application for exemption.

(b) In accordance with RSA 383-A:6-604, the commissioner shall make a determination as to whether the trust company qualifies for a conditional exemption from examination.

(c) A trust company qualifies for a conditional exemption from examination if:

(1) The commissioner has deemed the application for exemption substantially complete under RSA 383-A:6-603 no sooner than 12 months and no later than 15 months after the date the commissioner signs the most recent report of examination;

(2) The trust company has received high ratings in each of its 2 most recent prior examinations;

(3) The trust company's composite rating in its most recent prior examination is not less than its composite rating in its second most recent prior examination;

(4) The trust company files with the commissioner a copy of each financial audit report completed within 12 months after the conclusion of its most recent examination;

(5) Each financial audit report filed under subsection (c)(3) is:

(A) Made in accordance with RSA 383-A:5-509; and

(B) Is unqualified; and

(6) The trust company is not currently subject to any formal or informal enforcement proceeding or order of any regulatory authority.

(d) For purposes of subsection (c), the following shall apply:

(1) A trust company has received high ratings if the trust company received a rating of 1 or 2 in each of the components used under the Uniform Interagency Trust Rating System; and

(2) A trust company's composite rating is its composite rating determined in accordance with the Uniform Interagency Trust Rating System.

(e) Subject to subsection (k), a trust company that qualifies for a conditional exemption from examination may be exempt from one regular examination under RSA 383-C:14-1401 if it satisfies the following conditions:

(1) The trust company files with the commissioner a copy of a fiduciary compliance audit report made in accordance with subsection (h) no sooner than 12 months and no later than 15 months after the date the commissioner signs the most recent report of examination;

(2) The trust company files with the commissioner a copy of each financial audit report completed after the trust company filed its application for exemption and on or before the trust company files the fiduciary compliance audit under subsection (e)(1);

(3) Each financial audit report filed under subsection (e)(2) is:

(A) Made in accordance with RSA 383-A:5-509; and

(B) Is unqualified; and

(4) The trust company is not currently subject to any formal or informal enforcement proceeding or order of any regulatory authority.

(f) Upon receipt of the reports described in subsections (e)(1) and (e)(2), the commissioner shall make a determination whether the trust company is exempt from examination under subsection (e).

(g) If, under subsection (f), the commissioner determines that the trust company is not exempt from examination, then the commissioner shall examine the condition and management of the trust company within 21 months after the conclusion of the trust company's most recent examination.

(h) For purposes of subsection (e)(1), a fiduciary compliance audit report shall meet the following requirements:

(1) The report includes a review of each material aspect of the following components used under the Uniform Interagency Trust Rating System:

(A) Management;

(B) Operations, internal controls, and auditing;

(C) Compliance; and

(D) Asset management;

(2) The report conforms to applicable generally accepted auditing standards;

(3) The report is unqualified; and

(4) The report is completed no later than 3 months before the date on which the trust company files it with the commissioner.

(i) Based on the trust company's safety and soundness, the commissioner:

(1) May waive the requirement under subsection (e)(1); or

(2) May accept any documents or other information that the commissioner deems a suitable substitute for a fiduciary compliance audit report made in accordance with subsection (h).

(j) The commissioner shall examine the condition and management of a trust company that is exempt from examination under subsection (e) no later than 36 months after the conclusion of its most recent prior examination.

(k) The commissioner may examine the condition and management of a trust company that is exempt from examination under subsection (e); at any time if, after qualifying for the exemption under subsection (e);

(1) The trust company receives a qualified financial audit report;

(2) The trust company receives an unqualified financial report that contains a statement identifying or otherwise disclosing a material deficiency concerning any of the following components used under the Uniform Interagency Trust Rating System:

(A) Management;

(B) Operations, internal controls, and auditing;

- (C) Earnings;
- (D) Compliance; or
- (E) Asset management;

(3) The commissioner determines that the trust company's safety and soundness might have been materially impaired; or

(4) The trust company becomes subject to any formal or informal enforcement proceeding or order of any regulatory authority.

38 New Subparagraph; New Hampshire Family Trust Company Act; Definitions. Amend RSA 383-D:2-201 by inserting after subparagraph (b) the following new subparagraph:

(c) For purposes of RSA 383, RSA 383-A, RSA 383-C, and this chapter, "Organizations Act" means:

- (1) In the case of a family trust company organized as a corporation, the Corporation Act;
- (2) In the case of a family trust company organized as a limited liability company, the LLC Act; or
- (3) In the case of a family trust company organized as a foundation, RSA 564-E.

39 Family Trust Company Act; Safety and Soundness. Amend RSA 383-D:3-302 to read as follows:
383-D:3-302 Safety and Soundness.

(a) For purposes of determining the safety or soundness of a family trust company or any act that a family trust company has taken or proposes to take, ***the following shall apply:***

(1) ***Subject to subsection (b)***, the commissioner shall consider the factors described in RSA 383-C:4-401[-];

(2) ***The commissioner shall give primary consideration to whether the family trust company poses a harm to the general public; and***

(3) ***To the extent that the family trust company does not pose a harm to the general public and subject to the requirements of this chapter, the family trust company shall have broad latitude to determine how it is organized and how it will operate its affairs.***

(b) For purposes of [those factors, a] ***applying the factors described in RSA 383-C:4-401 to a family trust company, the commissioner shall consider that:***

(1) ***The family trust company's market is serving family clients[-]; and [a]***

(2) ***The family trust company's financial success is determined by the avoidance of net losses over multiple years.***

(c) ***A family trust company poses a harm to the general public if the family trust company:***

(1) ***Transacts business with the general public;***

(2) ***Fails to establish and maintain procedures reasonably designed to assure and monitor its compliance with applicable anti-money laundering and similar laws; or***

(3) ***Engages in any other activity that the commissioner determines poses a direct, material harm to the general public.***

40 New Subparagraph; New Hampshire Family Trust Company Act; Family Client. Amend RSA 383-D:4-401 by inserting after subparagraph (c) the following new subparagraph:

(d) In the case of a family trust company that makes an election under RSA 383-D:4-402(b), "family client" includes any person to whom the family trust company could provide services if the family trust company qualified as a family office under 15 U.S.C. section 80b-2(a)(11)(G).

41 New Section; Family Trust Company Act; Organization and Conversion. Amend RSA 383-D by inserting after section 5-501 the following new section:

383-D:5-501A Type of Entity.

(a) A family trust company may be organized as:

- (1) A corporation under the Corporation Act;
- (2) A limited liability company under the LLC Act; or
- (3) A foundation under RSA 564-E.

(b) RSA 383-A:3-303(a) shall not apply to family trust companies.

42 Family Trust Company Act; Required Capital. Amend RSA 383-D:6-602(a)-(c) to read as follows:

(a) The minimum required capital of a family trust company is [~~\$250,000~~] ***\$200,000***. The commissioner may require a family trust company to maintain additional capital. From time to time, the commissioner may reduce or increase the amount of additional capital that a family trust company is required to maintain.

(b) After it obtains the authority to exercise trust powers, a family trust company shall maintain an amount of capital that equals or exceeds the required capital.

(c) A family trust company shall not make any distribution to the extent that, upon making the distribution, the family trust company's total capital would be less than the required capital.

(d) For purposes of [this] subsection (c), "distribution" means a direct or indirect transfer of money or other property (except an equity interest in the family trust company) to or for the benefit of family trust company's equity owners in respect of any of equity interests in the family trust company.

[~~(e)~~] (e) RSA 383-C:5-502(a) and (b) shall not apply to family trust companies.

43 New Section; Effects of Transacting Business with the General Public. Amend RSA 383-D by inserting after section 7-703 the following new section:

383-D:7-704 Effects of Transacting Business with the General Public.

(a) Any action by a family trust company in its capacity as a trustee or other fiduciary shall not be void or voidable solely by reason of the entity transacting business with the general public.

(b) To the extent that a family trust company transacts business with the general public, each of its directors and executive officers shall be personally, jointly, and severally liable for all liabilities created by transacting business with the general public, including any breach of a fiduciary duty to a member of the general public.

(c) The directors' and officers' liability under subsection (b) is in addition to any civil or criminal penalties imposed by this title or other applicable law.

(d) This section shall not limit the commissioner's enforcement powers under this title or any other applicable law, including the power to order restitution for a violation of this title and other applicable laws and each of the other powers under RSA 383:10-d.

44 Reports and Certification. Amend RSA 383-D:10-1001 to read as follows:

383-D:10-1001 Reports and Certification.

(a) In addition to filing an annual report in accordance with ~~[RSA 383-A:5-511]~~ ***RSA 383-A:5-510(a)***, a family trust company shall file with the commissioner an annual certification certifying that the family trust company is in compliance with:

(1) the provisions of this chapter; and

(2) the conditions and limitations of all ~~[granted]~~ exemptions ***granted by the commissioner under RSA 383-D:7-702.***

(b) In its annual certification, a family trust company may change its designated relative in accordance with RSA 383-D:10-1002.

(c) ***A family trust company's*** [The] annual certification is due on the same day as its annual report.

~~[(b)]~~ (d) A family trust company shall file quarterly reports in accordance with RSA 383-A:5-510, and it shall file copies of other documents as required under RSA 383-A:5-511.

45 New Section; Exemption from Annual Audits. Amend RSA 383-D by inserting after section 10-1004 the following new section:

383-D:10-1005 Exemption from Annual Audits.

(a) A family trust company may apply for an exemption from RSA 383-A:5-509 by filing with the commissioner an application for exemption.

(b) In accordance with RSA 383-A:6-604, the commissioner shall make a determination as to whether to grant to the family trust company an exemption from RSA 383-A:5-509.

(c) In determining whether to grant an exemption from RSA 383-A:5-509, the commissioner shall consider whether:

(1) The family trust company can maintain its safety and soundness without a financial audit;

(2) The cost of a financial audit would be an undue financial burden on the family trust company; and

(3) The family trust company has established and will maintain procedures that will ensure that its financial statements are accurate and complete.

(d) The commissioner may revoke an exemption granted under this section if he or she determines that a financial audit is necessary to ensure that:

(1) The family trust company maintains its safety and soundness; or

(2) The family trust company's financial statements are accurate and complete.

46 Examination; Family Trust. RSA 383-D:11-1101 is repealed and reenacted to read as follows:

383-D:11-1101 Examination.

(a) The commissioner shall examine a family trust company every 36 months.

(b) RSA 383-C:14-1401 and RSA 383-C:14-1402 shall not apply to a family trust company.

47 New Chapter; New Hampshire Foundation Act. Amend RSA by inserting after chapter 564-D the following new chapter:

CHAPTER 564-E NEW HAMPSHIRE FOUNDATION ACT

Article 1

564-E:1-101 Short Title. This chapter may be cited as the "New Hampshire Foundation Act."

564-E:1-102 Scope. This chapter applies to foundations and foreign foundations.

564-E:1-103 Reservation of Power to Amend or Repeal. The general court has power to amend or repeal all or part of this chapter at any time, and all persons subject to this chapter are governed by the amendment or repeal.

Article 2

Definitions and Rules of Construction

564-E:2-201 Definitions. For purposes of this chapter, the following definitions shall apply:

(a) "Beneficiary" means a person:

(1) To whom the foundation may distribute foundation property; and

(2) The person is:

(A) Identified by name in the foundation's governing documents; or

(B) Ascertainable from the foundation's governing documents by reference to:

(i) A class; or

(ii) A relationship to another person, including an individual who may not be living at the time of the foundation's formation or at the time members of a class are to be determined under the foundation's governing documents.

(b) "Beneficiary's interest" means a beneficiary's interest in a foundation as defined by the foundation's governing documents.

(c) "Breach of duty" means a breach of any duty imposed on a foundation official by this chapter or the foundation's governing documents.

(d) "Bylaws" means the bylaws adopted under RSA 564-E:7-701, as may be amended or restated in accordance with RSA 564-E:7-702.

(e) "Certificate of formation" means the certificate of formation as filed with the secretary of state under RSA 564-E:3-301, as may be amended in accordance with RSA 564-E:3-305 or restated in accordance with RSA 564-E:3-306.

(f) "Charitable trust" means a foundation or a portion of a foundation created for one or more charitable purposes.

(g) "Director" means a person appointed as a director in accordance with RSA 564-E:10-1005.

(h) "Entity" means a person other than a natural person.

(i) "Foreign foundation" means a foundation formed under the laws of a jurisdiction other than this state.

(j) "Foundation" means a foundation formed under this chapter.

(k) "Foundation official" means each of a foundation's directors and protectors.

(l) "Founder" means a person who contributes property to a foundation. If more than one person contributes property to a foundation, then each person is a founder of the portion of the foundation property attributable to that person's contribution, except to the extent that another person has the power to revoke or withdraw that portion.

(m) "Good faith" means, with respect to a foundation official, the observance of common standards of honesty, decency, fairness, and reasonableness in accordance with the governing documents, the foundation's purposes, and the beneficiaries' interests.

(n) "Governing document" means the foundation's certificate of formation or its bylaws.

(o) "Incapacity" means an individual's inability to manage property or business affairs because the individual:

(1) Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(2) Is:

(A) Missing;

(B) Detained, including incarcerated in a penal system; or

(C) Outside the United States and unable to return.

(p) "Individual" means a natural person.

(q) "Jurisdiction," with respect to a geographic area, includes a state or country.

(r) "Person" means an individual, corporation, business trust, estate, trust, foundation, partnership, limited liability company, association, joint venture, government (including a governmental subdivision, agency, or instrumentality), public corporation, or any other legal or commercial entity.

(s) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest in anything that may be the subject of ownership.

(t) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(1) Is a distributee or permissible distributee of the foundation's property;

(2) Would be a distributee or permissible distributee of the foundation's property if the interests of the distributees described in subsection (t)(1) terminated on that date but the termination of those interests would not cause the foundation to dissolve; or

(3) Would be a distributee or permissible distributee of the foundation's property if the foundation dissolved on that date.

(u) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(v) "Registered foreign foundation" means a foreign foundation that is registered under RSA 564-E:21-2102.

(w) "Registrable activity" is defined in RSA 564-E:21-2101(b).

(x) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe or band that is recognized by federal law or formally acknowledged by a state. 564-E:2-202 Rules of Construction.

(a) In interpreting or construing this chapter or a provision of a governing document, the power or obligation to distribute, appoint, or direct the distribution of property to a person includes the power to distribute, appoint, or direct the distribution of the property for the benefit of that person.

(b) In interpreting or construing this chapter or a provision of a governing document, the following considerations shall apply:

(1) Primary consideration shall be given to the preservation of the founder's intent as expressed in the governing documents.

(2) Secondary consideration shall be given to the following objectives, in no order of priority among them:

(A) The protection of the beneficiaries' interests consistent with the founder's intent as expressed in the governing documents;

(B) The promotion of certainty concerning the foundation officials' duties, powers, and liabilities, including the division of those duties, powers, and liabilities among the foundation officials; and

(C) The promotion of the efficient administration of the foundation.

(c) The word "include" and any variants of that word shall be construed as words of enlargement and shall not be construed as words of limitation or restriction.

Article 3 Formation

564-E:3-301 Formation.

(a) One or more persons may act as the organizers of a foundation by filing with the secretary of state the foundation's certificate of formation.

(b) The foundation's certificate of formation shall set forth:

(1) The foundation's name;

(2) The name of the foundation's initial registered agent in this state; and

(3) The address of the foundation's initial registered office in this state.

(c) Except to the extent that it is inconsistent with this chapter or any other applicable law, the foundation's certificate of formation may include any of the following:

(1) The foundation's purposes;

(2) The name of each of the foundation's initial directors;

(3) If the foundation's existence will not begin upon the filing of certificate of formation with the secretary of state, the effective date and time on which the foundation's existence shall begin;

(4) If the foundation will exist only for a limited period, the date on which the foundation shall terminate;

(5) Any provision managing or regulating the foundation's affairs;

(6) Any provision defining, limiting, or regulating the foundation's powers;

(7) Any provision defining, limiting, or regulating a foundation official's duties and powers; and

(8) Any other matter that the organizer deems necessary or advisable.

(d) For purposes of section (c)(3), the effective date and time shall not be more than 90 days after the filing of the foundation's certificate of formation with the secretary of state.

564-E:3-302 Date of Formation.

(a) Unless the certificate of formation specifies a delayed effective time and date in accordance with RSA 564-E:3-301(c)(3) and (d), the foundation's existence begins upon the filing of its certificate of formation with the secretary of state.

(b) The secretary of state's acceptance for filing of the certificate of formation is conclusive proof that the organizer satisfied all conditions precedent to the foundation's formation, except in a judicial proceeding by this state to revoke the foundation's formation or involuntarily dissolve the foundation.

564-E:3-303 Legal Status. A foundation is a legal entity separate from each of its founders, foundation officials, and beneficiaries.

564-E:3-304 Pre-Formation Transactions. All persons who purport to act as or on behalf of a foundation while knowing that a foundation had not been formed under this chapter are jointly and severally liable for all liabilities created while acting in that manner.

564-E:3-305 Amendment of the Certificate of Formation.

(a) Unless the governing documents provide otherwise, the founder or the directors may amend a foundation's certificate of formation by filing with the secretary of state a certificate of amendment.

(b) The certificate of amendment shall set forth:

- (1) The foundation's name; and
- (2) The amendment to the certificate of formation.

(c) A certificate of formation may be amended at any time in any respect so long as the certificate of formation as amended contains only provisions that lawfully may be contained in the certificate of formation at the time of making the amendment.

(d) Any amendment to the certificate of formation shall be effective on the date on which the certificate of amendment is filed.

(e) If the founder retained the power to direct the directors to amend the certificate of formation, then the directors shall have a duty to amend the certificate of formation in accordance with the founder's directions.

564-E:3-306 Restated Certificate of Formation.

(a) Unless the governing documents provide otherwise, the founder or the directors may restate the foundation's certificate of formation by filing with the secretary of state a restated certificate of formation.

(b) The restated certificate of formation shall set forth:

- (1) The foundation's name; and
- (2) The restatement of the certificate of formation.

(c) The restated certificate of formation may contain one or more amendments to the certificate of formation as permitted in a certificate of amendment under RSA 564-E:3-305.

Article 4

Name

564-E:4-401 Name.

(a) A foundation's name shall contain the word "foundation," "stichting," or the abbreviation "fnd." or "stak."

(b) A foundation's name shall not contain language stating or implying that the foundation is organized for a purpose other than that permitted by this chapter and the foundation's certificate of formation.

(c) Except as authorized by subsections (d) and (e), a foundation's name shall be distinguishable from and not the same as:

(1) The name of an entity incorporated, authorized, formed, or registered to transact business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, RSA 383-E, RSA 349, or this chapter;

(2) A name reserved or registered under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, RSA 304-C, or this chapter;

(3) The fictitious name adopted by a foreign entity authorized to transact business in this state because its real name is unavailable;

(4) The name of an agency or instrumentality of the United States or this state or a subdivision of this state;

(5) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization; and

(6) The name "farmers' market" unless the foundation meets the definition of "farmers' market" under RSA 21:34-a, V.

(d) A foundation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, one or more of the names described in subsection (c) as determined from review of the records of the secretary of state.

(e) The secretary of state shall authorize use of the name that a foundation applies to use if:

(1) In the case of a name that is not distinguishable from a name described in subsection (c), each holder of the name described in subsection (c) consents to the foundation's use of that name;

(2) In the case of a name that is the same as a name described in subsection (c), each holder of the name described in subsection (c) consents to the foundation's use of that name and one or more words are added to the name so that the foundation's name is distinguishable from the name described in subsection (c);

(3) The entity that has a name described in subsection (c) consents to the foundation's use of that name, and the entity undertakes to change its name to a name that is distinguishable from, and not the same as, the name that the foundation is applying to use; or

(4) The foundation delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the foundation's right to use the name that the foundation applied to use in this state.

(f) Any consent under subsection (e)(1) or (e)(2) must be filed with the secretary of state.

(g) Any undertaking under subsection (e)(4) must be made in a form satisfactory to the secretary of state and must be filed with the secretary of state.

(h) A foundation may use the name, including the fictitious name, of another domestic or foreign entity that is used in this state if:

(1) The other entity is incorporated, authorized, formed, or registered to transact business in this state; and

(2) The foundation:

(A) Has merged with the other entity;

(B) Has been formed by reorganization of the other entity; or

(C) Has acquired all or substantially all of the assets, including the name, of the other entity.

(i) This section does not:

(1) Prohibit an entity incorporated, authorized, formed, or registered to transact business in this state from using the word “foundation” or an abbreviation of that word in the entity’s name;

(2) Control the use of fictitious names; or

(3) Prohibit the owner or owners of a trade name registered under RSA 349 to form a foundation under the same name as the trade name.

564-E:4-402 Reservation of Name.

(a) A person may reserve the exclusive use of a foundation’s name by filing with the secretary of state an application to reserve the name.

(b) The application shall set forth:

(1) The applicant’s name;

(2) The applicant’s address; and

(3) The name that the applicant is applying to reserve.

(c) If the secretary of state finds that the name applied for is available, then the secretary of state shall reserve the name for the applicant’s exclusive use for a 120-day period.

(d) Once having reserved a name, the applicant may renew the reservation of the name for successive 120-day periods.

(e) The applicant may transfer the reserved name to another person by filing with the secretary of state a notice of transfer.

(f) The notice of transfer shall set forth:

(1) The reserved name;

(2) The transferor’s name;

(3) The transferee’s name; and

(4) The transferee’s address.

(g) The transfer of a reserved name under subsection (e) shall be effective upon filing the notice of transfer, and the transferee shall have the right to renew the reservation of the name in accordance with subsection (d).

Article 5

Registered Agent and Registered Office

564-E:5-501 Registered Agent.

(a) Each foundation shall continuously maintain a registered agent in this state.

(b) Each of the following persons qualifies as a registered agent:

(1) An individual who:

(A) Resides in this state; and

(B) Has a residential or business office that is identical with the registered office;

(2) A corporation that:

(A) Is organized or authorized under RSA 292, RSA 293-A, or RSA 294-A; and

(B) Has a business office that is identical with the registered office;

(3) A limited liability company that:

(A) Is formed or authorized under RSA 304-C; and

(B) Has a business office that is identical with the registered office;

(4) A professional limited liability company that:

(A) Is formed or authorized under RSA 304-D; and

(B) Has a business office that is identical with the registered office;

(5) A limited liability partnership that:

(A) Is formed or authorized under RSA 304-A:44; and

(B) Has a business office that is identical with the registered office; or

(6) A foundation that:

(A) Is formed or authorized under this chapter; and

(B) Has a business office that is identical with the registered office.

(c) Upon ceasing to qualify as a registered agent under subsection (b), a person who is a foundation’s registered agent shall file with the secretary a notice of resignation in accordance with RSA 564-E:5-503.

564-E:5-502 Registered Office.

(a) Each foundation shall continuously maintain in this state a registered office.

(b) A foundation's registered office may be the same as any of its offices in this state.

564-E:5-503 Change of the Registered Agent.

(a) A foundation may change its registered agent by filing with the secretary of state a notice of change of registered agent.

(b) The notice of change of registered agent shall set forth:

- (1) The foundation's name;
- (2) The street address of its current registered office;
- (3) The current registered agent's name; and
- (4) The successor registered agent's name.

564-E:5-504 Resignation of the Registered Agent.

(a) A foundation's registered agent may resign as registered agent by filing with the secretary of state a notice of resignation.

(b) The notice of resignation shall set forth:

- (1) The foundation's name; and
- (2) The registered agent's name.

(c) The notice of resignation may include a statement that the registered office is also discontinued.

(d) The secretary of state shall mail a copy of the notice of resignation to the foundation at the foundation's principal office.

(e) The appointment of the registered agent shall terminate on the earlier of:

- (1) Thirty-one days after filing of the notice of resignation with the secretary of state; or
- (2) Upon the appointment of a successor registered agent.

564-E:5-505 Registered Agent's Change of Address.

(a) If a registered agent changes its address to another place in this state, then it may change the address of the registered office of any foundation for which it is a registered agent by filing with the secretary of state a notice of change of address.

(b) The notice of change of address shall set forth:

- (1) The foundation's name;
- (2) The registered agent's name;
- (3) The registered agent's new address; and
- (4) A statement that a copy of the notice has been sent to the foundation.

564-E:5-506 Change of the Registered Office.

(a) A foundation may change its registered office by filing with the secretary of state a notice of change of registered office.

(b) The notice of change of registered office shall set forth:

- (1) The foundation's name;
- (2) The street address of the foundation's current registered office; and
- (3) The street address of the foundation's new registered office.

564-E:5-507 Service on a Foundation.

(a) A foundation's registered agent is the foundation's agent for service of process, notice, or demand required or permitted by law to be served on the foundation.

(b) A foundation may be served by registered mail or certified mail if:

- (1) The foundation does not have a registered agent; or
- (2) After reasonable diligence, the foundation's registered agent cannot be served.

(c) Service under subsection (b) shall be effective if:

- (1) It is correctly addressed to the foundation at the foundation's principal office;
- (2) Postage is prepaid; and
- (3) It is sent return receipt requested.

(d) Service under subsection (b) is perfected at the earliest of:

(1) The date on which the foundation receives the documents sent by registered mail or certified mail;

(2) If a person signs the return receipt on the foundation's behalf, the date of receipt shown on the return receipt; or

(3) Five days after its deposit for mailing with the United States Postal Service, as evidenced by the postmark.

(e) This section does not preclude other means of serving a foundation.

Article 6

Purpose

564-E:6-601 Purpose.

(a) A foundation shall have one or more purposes.

(b) Each of the purposes shall be:

- (1) Lawful;

- (2) Not contrary to public policy; and
- (3) Possible to achieve.
- (c) A foundation's purposes may include any charitable purpose and any noncharitable purpose.

Article 7

Bylaws

564-E:7-701 Bylaws.

- (a) The founder, organizers, or initial directors shall adopt the foundation's initial bylaws.
- (b) The foundation's bylaws shall set forth each of the foundation's purposes.
- (c) Except to the extent that it is inconsistent with the certificate of formation, this chapter, or any other applicable law, the foundation's bylaws may set forth any of the following:
 - (1) Any provision defining, limiting, or regulating capital contributions;
 - (2) Any provision defining, limiting, or regulating a founder's rights, powers, and interests in the foundation;
 - (3) Any provision defining, limiting, or regulating the manner in which the foundation property may be applied, distributed, or accumulated;
 - (4) Any provision imposing obligations upon beneficiaries as a condition of any distribution or other benefit;
 - (5) Any provision for the revocable or irrevocable addition of one or more beneficiaries or classes of beneficiaries;
 - (6) Any provision for the revocable or irrevocable elimination of one or more beneficiaries or classes of beneficiaries;
 - (7) Any provision defining, limiting, or regulating the duties, powers, and liabilities of one or more foundation officials or classes of foundation officials;
 - (8) Any provision regarding the appointment, resignation, and removal of foundation officials;
 - (9) A nonjudicial dispute resolution provision in accordance with RSA 564-E:16-1606;
 - (10) A no-contest provision in accordance with RSA 564-E:14-1404; and
 - (11) Any provision regarding any other matter that the founder or the board of directors deems necessary or advisable.

564-E:7-702 Reserved Powers.

- (a) The founder may reserve any one or more powers, rights, and interests, including any of the following:
 - (1) The power to amend or restate the foundation's certificate of formation;
 - (2) The power to amend, restate, or revoke the foundation's bylaws;
 - (3) The power to appoint any one or more foundation officials;
 - (4) The power to remove any one or more foundation officials;
 - (5) The power to direct the directors to distribute some or all of the foundation's property to one or more beneficiaries or in furtherance of one or more of the foundation's purposes;
 - (6) The power to direct the directors concerning the investment of the foundation property;
 - (7) The right to receive distributions from the foundation; and
 - (8) The power to dissolve the foundation.
- (b) Unless the governing documents provide otherwise, the founder retains the following powers, rights, and interests:
 - (1) The power to amend or restate the foundation's certificate of formation;
 - (2) The power to amend, restate, or revoke the foundation's bylaws;
 - (3) The power to direct the directors concerning distributions of the foundation's property;
 - (4) The right to receive distributions from the foundation; or
 - (5) The power to dissolve the foundation.

564-E:7-703 Amendment and Restatement of the Bylaws. Unless the governing documents provide otherwise, the following persons may revoke, amend, or restate the bylaws:

- (1) The founder; or
- (2) The board of directors.

Article 8

Powers

564-E:8-801 General Powers.

- (a) Unless the governing documents provide otherwise, a foundation shall have the power to do all things necessary or convenient to carry out its activities and internal affairs, including the capacity to sue and be sued in its own name.
- (b) Subject to subsection (c), the validity of an action taken by a foundation may not be challenged on the ground that the foundation lacks or lacked power to act.
- (c) A foundation's power to act may be challenged:

- (1) In a proceeding by any of the following persons against the foundation to enjoin the act:
 - (A) A founder;
 - (B) A foundation official;
 - (C) A beneficiary; or
 - (D) To the extent that the foundation is a charitable trust, the director of charitable trusts;
- (2) In a proceeding by the foundation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former foundation official, employee, or agent of the foundation; or
- (3) In a proceeding by the attorney general under RSA 564-E:20-2013(a) to dissolve the foundation.
- (d) In a judicial proceeding under subsection (c)(1)(A), the court may:
 - (1) Enjoin or set aside the act if:
 - (A) It is equitable to do so; and
 - (B) All of the affected persons are parties to the proceeding;
 - (2) Award damages for loss suffered by the foundation or another party because of enjoining the unauthorized act.

564-E:8-802 Trust Powers.

- (a) A foundation shall have trust powers to the extent that it:
 - (1) Does not transact business with the general public;
 - (2) Is a family trust company as defined in RSA 383-A:2-201(a)(26); or
 - (3) Is a foreign family trust company that is authorized to engage in trust business in this state under RSA 383-D:13-1301.
- (b) Trust powers include the power to act as a trustee or other fiduciary, a trust advisor as defined in RSA 564-B:1-103(27), or a trust protector as defined in RSA 564-B:1-103(28).
- (c) For purposes of subsection (a)(1), a foundation does not transact business with the general public to the extent that the foundation:
 - (1) Qualifies as a family office under 15 U.S.C. section 80b-2(a)(11)(G); or
 - (2) Offers and provides its services only to persons who would qualify as family clients as defined in RSA 383-D:2-201(b)(5) if the foundation was chartered as a family trust company under RSA 383-D.
- (d) For purposes of subsection (c)(2), a foundation may use any reasonable method for:
 - (1) Identifying a designated relative as defined in RSA 383-D:2-201(b)(2); and
 - (2) Selecting a method for determining family members as described in RSA 383-D:4-402(b)(2) or (c).
- (e) A foundation described in subsection (a)(1) shall be exempt from RSA Title 35 and shall not be subject to the jurisdiction of the New Hampshire bank commissioner.
- (f) To the extent that a foundation other than a foundation described in subsection (a)(2) or (a)(3) transacts business with the general public, the following shall apply:
 - (1) Any action by the foundation shall not be void or voidable solely by reason of the foundation transacting business with the general public.
 - (2) Each of the foundation's directors shall be personally, jointly, and severally liable for all liabilities created by the foundation transacting business with the general public, including any breach of a fiduciary duty to a member of the general public.
 - (3) A director's liability under subsection (f)(2) is in addition to any civil or criminal penalties imposed by applicable law.
- (g) This section does not restrict the rights and remedies of any person affected by a foundation's exercise of trust powers, including the right to commence a judicial proceeding seeking:
 - (1) A remedy for a breach of trust under RSA 564-B:10-1001;
 - (2) Damages for a breach of trust under RSA 564-B:10-1002; or
 - (3) Damages under RSA 564-B:10-1003.

Article 9 Capital

564-E:9-901 Capital.

- (a) Any property may be contributed to a foundation's capital.
- (b) After the initial contribution to a foundation's capital, additional contributions to a foundation's capital shall be made as follows:
 - (1) An additional contribution shall be made in substantial compliance with the provisions of the certificate of formation and bylaws concerning additional contributions; or
 - (2) If the certificate of formation and bylaws do not contain any provision concerning additional contributions, the additional contribution shall be made in accordance with the terms and conditions that the directors deem prudent, considering the foundation's purposes and the beneficiaries' interests.
- (c) A founder shall not have any right, power, or interest in a foundation solely by reason of contributing property to the foundation.

Article 10
Directors

564-E:10-1001 Board of Directors.

(a) A foundation shall have a board of directors.

(b) Unless the governing documents provide otherwise, the board of directors shall have general responsibility for managing the foundation's affairs and the authority to exercise the foundation's powers.

564-E:10-1002 Qualifications.

(a) The governing documents may prescribe qualifications for directors.

(b) Unless the governing documents provide otherwise, a director may be:

(1) An individual or an entity; and

(2) A resident of any jurisdiction and need not be a resident of this state.

564-E:10-1003 Number.

(a) A foundation shall have at least one director.

(b) Subject to subsection (a), the number of directors may be increased or decreased:

(1) In accordance with the provisions of the governing documents governing the method for increasing or decreasing the number of directors; or

(2) By an amendment of the governing documents.

564-E:10-1004 Classes.

(a) A foundation may have one or more classes of directors.

(b) Each class of directors shall have the duties and powers assigned to that class under the governing documents.

564-E:10-1005 Appointment and Term.

(a) The initial directors shall be appointed by:

(1) The organizers; or

(2) The founder.

(b) After the appointment of the initial directors, any additional or successor director shall be appointed:

(1) In accordance with the provisions of the governing documents governing the appointment of directors; or

(2) If the governing documents do not contain any provision for the appointment of directors, by:

(A) The directors; or

(B) An amendment of the governing documents.

(c) Unless the governing documents provide otherwise, the duration of a director's term shall be indefinite and shall terminate only upon:

(1) In the case of a director who is an individual, the director's death, resignation, or removal; or

(2) In the case of a director that is an entity, the director's dissolution, resignation, or removal.

564-E:10-1006 Resignation.

(a) A director may resign at any time by delivering written notice of the resignation to:

(1) The other directors; and

(2) The persons who have the power to appoint a successor director.

(b) A resignation is effective upon the delivery of the notice of resignation, unless that notice specifies a later effective date or an effective date determined upon the happening of an event or events.

564-E:10-1007 Removal.

(a) A director may be removed in accordance with the governing documents.

(b) The court may remove a director if:

(1) The director has committed a serious breach of duty;

(2) Lack of cooperation among the directors substantially impairs the management of the foundation's affairs;

(3) Because of unfitness, unwillingness, or persistent failure of the director to manage the foundation effectively, the court determines that removal of the director best serves the foundation's purposes and the beneficiaries' interests; or

(4) The court finds that:

(A) There has been a substantial change of circumstances or all of the beneficiaries request the removal;

(B) The director's removal best serves the beneficiaries' interests and the foundation's purposes;

(C) The director's removal is not inconsistent with any of the foundation's material purposes; and

(D) One or more suitable persons are continuing to serve as directors or a suitable successor director is available.

(c) For purposes of subsection (b)(4)(C), the removal of a person whom the founder personally appointed as a director is presumptively inconsistent with one of the foundation's material purposes, but that presumption may be rebutted by a preponderance of the evidence.

564-E:10-1008 Committees.

(a) Unless the governing documents provide otherwise, the directors may:

- (1) Establish one or more committees;
- (2) Appoint one or more directors as members of a committee;
- (3) Remove one or more members of a committee; and
- (4) Terminate any committee.

(b) To the extent specified by the directors or in the governing documents, each committee may exercise the powers of the directors.

564-E:10-1009 Delegation.

(a) Unless the governing documents provide otherwise, the directors may delegate to any one or more persons any duty or power that prudent directors of comparable skills and having the same power or duty could properly delegate under the circumstances.

(b) The directors may delegate a duty or power to a person who is associated or affiliated with any of the directors to the extent permitted under RSA 564-E:11-1102.

(c) In delegating to an agent, the directors shall exercise reasonable care, skill, and caution in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation, consistent with the foundation's purposes and the beneficiaries' interests; and
- (3) Periodically reviewing the agent's actions for the purpose of monitoring the agent's performance and compliance with the scope and terms of the delegation.

(d) To the extent that the directors comply with subsections (a) and (c), the directors are not liable to the foundation or the beneficiaries for an act or omission of the agent to whom the power or duty was delegated.

(e) A director's delegation of a power or duty to an agent under a power of attorney shall not be valid unless the power of attorney expressly refers to the director in his, her, or its capacity as a director of the foundation.

(f) In the case of a director who is an individual, the director's delegation of any power or duty to an agent under a power of attorney shall terminate upon the director's incapacity unless:

(1) The governing documents provide that the delegation may remain effective during the director's incapacity; and

(2) The power of attorney provide that the delegation does not terminate upon the director's incapacity.

(g) In performing a delegated duty or power, an agent owes to the foundation a duty to exercise reasonable care to comply with the terms of the delegation.

(h) By accepting a delegation of any duty or power from a foundation's directors, an agent shall be subject to the personal jurisdiction of the courts of this state regarding any matter involving the foundation.

564-E:10-1010 Voting.

(a) Unless the governing documents provides otherwise, each director shall have one vote on each matter on which the directors may vote.

(b) Unless the governing documents provide otherwise, each matter on which the directors may vote shall be decided by vote of a majority of the directors.

564-E:10-1011 Meetings.

(a) The governing documents may set forth provisions relating to:

- (1) Notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any directors or class of directors;
- (2) Waiver of any notice of a meeting;
- (3) Action by vote without a meeting;
- (4) Quorum requirements;
- (5) Voting in person or by proxy; or
- (6) Any other matter with respect to the exercise of a right to vote.

(b) Unless the governing documents provide otherwise, any meeting of the directors may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other.

(c) Participation in a meeting under subsection (b) shall constitute presence in person at the meeting.

564-E:10-1012 Actions by Consent. Unless the governing documents provide otherwise, the directors may take any vote without a meeting and without prior notice if the vote is recorded in a writing setting forth the action so taken and is signed by all of the directors.

Article 11

Directors' Duties

564-E:11-1101 Duty to Manage the Foundation in Good Faith. A director has a duty to manage the foundation and its property in good faith, in accordance with the terms of the governing documents, and in accordance with this chapter.

564-E:11-1102 Duty of Loyalty.

(a) Unless the governing documents provide otherwise, a director has a duty to manage the foundation and its property solely in the interests of the foundation's purposes and the beneficiaries' interests.

(b) A transaction not concerning the foundation or its property in which a director engages in the director's personal capacity or a person affiliated, related, or similarly associated with the director engages does not violate the director's duty under subsection (a) to the extent that:

(1) The director discloses the transaction to the other directors reasonably in advance of the transaction; and

(2) The transaction is fair to the foundation.

(c) A transaction not concerning the foundation or its property in which a director engages in the director's personal capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the foundation.

564-E:11-1103 Duty of Impartiality. Unless the governing documents provide otherwise, if a foundation has two or more beneficiaries, then a director has a duty to act impartially in managing the foundation, its affairs, and its property, giving due regard to the foundation's purposes and the beneficiaries' interests.

564-E:11-1104 Duty of Prudent Management.

(a) Unless the governing documents provide otherwise, a director has a duty to manage the foundation, its affairs, and its property as a prudent person would manage the foundation, its affairs, and its property.

(b) In satisfying the standard under subsection (a), a director shall:

(1) Exercise reasonable care and skill; and

(2) Consider the factors that are relevant under the circumstances, including:

(A) The foundation's purposes;

(B) The beneficiaries' interests; and

(C) The foundation's distributional requirements.

(c) In managing the foundation, its affairs, and its property, a director may incur only costs that are reasonable in relation to the foundation's property, the foundation's purposes, and the director's skills.

564-E:11-1105 Duty to Control and Protect Foundation Property.

(a) Unless the governing documents provide otherwise, a director has a duty to take reasonable steps to control and protect the foundation's property.

(b) Under subsection (a), a director's duty includes:

(1) Enforcing the claims of the foundation;

(2) Defending claims against the foundation; and

(3) Redressing a breach of duty that the director knows to have been committed by a foundation official or a former foundation official.

(c) A director has a duty to keep a foundation's property separate from the director's property.

564-E:11-1106 Duty to Maintain Records. Unless the governing documents provide otherwise, a director shall keep adequate records of the foundation, the management of its property, and the management of its affairs.

564-E:11-1107 Duty to Inform. Unless the governing documents provide otherwise, a director has a duty to keep each qualified beneficiary reasonably informed about the foundation, the management of the foundation's affairs and property, and all material facts necessary for the beneficiary to protect the beneficiary's interests.

564-E:11-1108 Director's Skills.

(a) Unless the governing documents provide otherwise, a director who has special skills or expertise shall use those special skills or expertise.

(b) Unless the governing documents provide otherwise, a director who is appointed as a director in reliance upon the director's representation that he, she, or it has special skills or expertise shall use those special skills or expertise.

Article 12

Protectors

564-E:12-1201 Protectors.

(a) A foundation may have one or more protectors.

(b) A protector shall have any duties and powers set forth in the governing documents.

(c) Unless the governing documents provide otherwise, a protector shall have the power to commence a judicial proceeding for the purposes of:

(1) Protecting the foundation's purposes; or

(2) Enforcing the provisions of the governing documents.

564-E:12-1202 Qualifications.

(a) The governing documents may prescribe qualifications for protectors.

(b) Unless the governing documents provide otherwise, a protector may be:

(1) An individual or an entity; and

(2) A resident of any jurisdiction and need not be a resident of this state.

564-E:12-1203 Number.

- (a) Unless the governing documents provide otherwise, a foundation may have one or more protectors.
- (b) The number of protectors may be increased or decreased:

- (1) In accordance with the provisions of the governing documents governing the method for increasing or decreasing the number of protectors; or

- (2) By an amendment of the governing documents.

564-E:12-1204 Classes.

- (a) A foundation may have one or more classes of protectors.

- (b) Each class of protectors shall have the duties and powers assigned to that class under the governing documents.

564-E:12-1205 Appointment and Term.

- (a) The initial protectors may be appointed by:

- (1) The organizers; or

- (2) The founder.

- (b) After the appointment of the initial protectors, any additional or successor protector shall be appointed:

- (1) In accordance with the provisions of the governing documents governing the appointment of protectors; or

- (2) If the governing documents do not contain any provision for the appointment of protectors, by:

- (A) The protectors; or

- (B) The court.

- (c) Unless the certificate of formation or bylaws provide otherwise, the duration of a protector's term shall be indefinite and shall terminate only upon:

- (1) The protector's resignation or removal;

- (2) In the case of protector who is an individual, the protector's death; or

- (3) In the case of a protector that is an entity, the protector's dissolution.

564-E:12-1206 Resignation.

- (a) Unless the governing documents provide otherwise, a protector may resign at any time by delivering written notice of the resignation to:

- (1) Each of the other protectors; and

- (2) The persons who have the power to appoint a successor protector.

- (b) A protector's resignation is effective upon the delivery of the notice of resignation, unless that notice specifies a later effective date or an effective date determined upon the happening of an event or events.

564-E:12-1207 Removal.

- (a) A protector may be removed in accordance with the governing documents.

- (b) The court may remove a protector if:

- (1) The protector has committed a serious breach of duty;

- (2) Lack of cooperation among the protectors substantially impairs the management of the foundation's affairs;

- (3) Because of unfitness, unwillingness, persistent failure of the protector to manage the foundation effectively, the court determines that removal of the protector best serves the foundation's purposes and the beneficiaries' interests; or

- (4) The court finds that:

- (A) There has been a substantial change of circumstances or all of the beneficiaries request the removal;

- (B) The protector's removal best serves the foundation's purposes and the beneficiaries' interests;

- (C) The protector's removal is not inconsistent with any of the foundation's material purpose; and

- (D) One or more suitable persons are continuing to serve as protectors or a suitable successor protector is available.

- (c) For purposes of subsection (b)(4)(C), the removal of a person whom the founder personally appointed as a protector is presumptively inconsistent with one of the foundation's material purposes, but that presumption may be rebutted by a preponderance of the evidence.

564-E:12-1208 Committees.

- (a) Unless the governing documents provide otherwise, the protectors may:

- (1) Establish one or more committees;

- (2) Appoint one or more protectors as members of a committee;

- (3) Remove one or more members of a committee; and

- (4) Terminate any committee.

- (b) To the extent specified by the protectors or in the governing documents, each committee may exercise the powers of the protectors.

564-E:12-1209 Delegation.

(a) Unless the governing documents provide otherwise, the protectors may delegate to any one or more persons any duty or power that prudent protectors of comparable skills and having the same power or duty could properly delegate under the circumstances.

(b) The protectors may delegate a duty or power to a person who is associated or affiliated with any of the protectors to the extent permitted under RSA 564-E:13-1302.

(c) In delegating to an agent, the protectors shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the delegation, consistent with the foundation's purposes and the beneficiaries' interests; and

(3) Periodically reviewing the agent's actions for the purpose of monitoring the agent's performance and compliance with the scope and terms of the delegation.

(d) To the extent that the protectors comply with subsections (a) and (c), the protectors are not liable to the foundation or the beneficiaries for an act or omission of the agent to whom the power or duty was delegated.

(e) A protector's delegation of a power or duty to an agent under a power of attorney shall not be valid unless the power of attorney expressly refers to the protector in his, her, or its capacity as a protector of the foundation.

(f) In the case of a protector who is an individual, the protector's delegation of any power or duty to an agent under a power of attorney shall terminate upon the protector's incapacity unless:

(1) The governing documents provide that the delegation may remain effective during the protector's incapacity; and

(2) The power of attorney provide that the delegation does not terminate upon the protector's incapacity.

(g) In performing a delegated duty or power, an agent owes to the foundation a duty to exercise reasonable care to comply with the terms of the delegation.

(h) By accepting a delegation of any duty or power from a foundation's protectors, an agent shall be subject to the personal jurisdiction of the courts of this state regarding any matter involving the foundation.

564-E:12-1210 Voting.

(a) Unless the governing documents provide otherwise, each protector shall have one vote on each matter on which the protectors may vote.

(b) Unless the governing documents provide otherwise, each matter on which the protectors may vote shall be decided by vote of a majority of the protectors.

564-E:12-1211 Meetings.

(a) The governing documents may set forth provisions relating to:

(1) Notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any protectors or class of protectors;

(2) Waiver of any notice of a meeting;

(3) Action by vote without a meeting;

(4) Quorum requirements;

(5) Voting in person or by proxy; or

(6) Any other matter with respect to the exercise of a right to vote.

(b) Unless the governing documents provide otherwise, any meeting of the protectors may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other.

(c) Participation in a meeting under subsection (b) shall constitute presence in person at the meeting.

564-E:12-1212 Actions by Consent. Unless the governing documents provide otherwise, the protectors may take any vote without a meeting and without prior notice if the vote is recorded in a writing setting forth the action so taken and is signed by all of the protectors.

Article 13

Protector's Duties

564-E:13-1301 Duty to Act in Good Faith. A protector has a duty to act in good faith, in accordance with the provisions of the governing documents, and in accordance with this chapter.

564-E:13-1302 Duty of Loyalty.

(a) Unless the governing documents provide otherwise, a protector has a duty to manage the foundation and its property solely in the interests of the foundation's purposes and the beneficiaries' interests.

(b) Unless the governing documents provide otherwise, a transaction not concerning the foundation or its property in which a protector engages in the protector's personal capacity or a person affiliated, related, or similarly associated with the protector engages does not violate the protector's duty under subsection (a) to the extent that:

(1) The protector discloses the transaction to the other protectors reasonably in advance of the transaction; and

(2) The transaction is fair to the foundation.

(c) A transaction not concerning a foundation's property in which a protector engages in the protector's personal capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the foundation.

564-E:1303 Duty of Impartiality. Unless the governing documents provide otherwise, if a foundation has two or more beneficiaries, then the protector has a duty to act impartially in managing the foundation and its property, giving due regard to the foundation's purposes and the beneficiaries' interests.

564-E:1304 Duty to Maintain Records. Unless the governing documents provide otherwise, a protector shall keep adequate records of the protector's acts as a protector.

564-E:1305 Protector's Skills.

(a) Unless the governing documents provide otherwise, a protector who has special skills or expertise shall use those special skills or expertise.

(b) Unless the governing documents provide otherwise, a protector who is appointed as a protector in reliance upon the protector's representation that he, she, or it has special skills or expertise shall use those special skills or expertise.

Article 14 Beneficiaries

564-E:14-1401 Nature of Beneficial Interests.

(a) Subject to subsection (b), a beneficiary's interest is a mere expectancy and is not a property interest or an enforceable right.

(b) A beneficiary's interest is a property interest to the extent that:

(1) The beneficiary has a currently exercisable power to appoint the foundation's property to himself, herself, or itself without the consent of any other person; or

(2) The directors have failed to make a distribution to the beneficiary in accordance with a provision of the governing documents requiring the directors to make that distribution.

(c) For the purposes of determining a beneficiary's interest, the founder's intent as expressed in the terms of the governing documents shall be paramount.

564-E:14-1402 Representatives.

(a) Subject to subsections (b) and (c), the following shall apply:

(1) A conservator may represent and bind the conservatee.

(2) The following person may represent and bind an incompetent individual:

(A) A guardian of the incompetent individual's estate; or

(B) A guardian of the incompetent individual's person if a guardian of the incompetent individual's estate has not been appointed.

(3) An agent may represent and bind the principal to the extent that the agent has the power to represent and bind the principal in connection with the particular matter or dispute.

(4) A trustee of a trust may represent and bind the trust's beneficiaries.

(5) A personal representative of a decedent's estate may represent and bind the persons interested in the estate.

(6) An individual may represent and bind each of the individual's minor, incapacitated, or unborn children if the child is not represented by:

(A) A guardian of the estate under subsection (a)(2)(A); or

(B) A guardian of the estate under subsection (a)(2)(B).

(7) An individual may represent and bind each of the individual's minor, incapacitated, or unborn descendants if the descendant is not represented by:

(A) The descendant's parent under subsection (a)(6);

(B) A guardian of the estate under subsection (a)(2)(A); or

(C) A guardian of the estate under subsection (a)(2)(B).

(8) An individual who has a power of appointment may represent and bind each of the permissible appointees if the permissible appointees include the individual, the individual's creditors, the individual's estate, or the creditors of the individual's estate.

(9) A person may represent and bind any of the following persons if the representative and the represented persons have substantially identical interests with respect to the matter or dispute:

(A) A minor, incapacitated, or unborn individual; or

(B) A person whose identity or location is unknown and is not reasonably ascertainable.

(10) Subject to section (d), a person may represent and bind any of the following persons whom the person is appointed to represent in accordance with reasonable procedures under the governing documents:

(A) A minor, incapacitated, or unborn individual;

(B) A person whose identity or location is unknown and is not reasonably ascertainable; or

(C) A person whose interest is not adequately represented under this section.

(11) A person may represent and bind any of the following persons whom a court appoints the person to represent:

- (A) A minor, incapacitated, or unborn individual;
- (B) A person whose identity or location is unknown and is not reasonably ascertainable; or
- (C) A person whose interest is not adequately represented under this section.

(b) A person may not represent another person to the extent that:

- (1) There is any conflict of interest between them; or
- (2) The represented person has objected to the representation.

(c) A founder shall not represent or bind a beneficiary in connection with any matter or dispute involving:

- (1) A modification of the governing documents; or
- (2) The foundation's dissolution.

(d) For purposes of section (a)(10), the procedure for the appointment of a representative is not reasonable if:

- (1) There is a conflict of interest between the person appointing the representative and any interested person;
- (2) There is a conflict of interest between the representative and any represented person; or
- (3) With respect to any matter that is the subject of the trust dispute, there is a conflict of interest among the persons whom the representative is appointed to represent.

(e) A person who may act as another person's representative under section (a) may represent and bind the represented person in connection with any matter, dispute, or judicial proceeding involving the foundation.

(1) Notice to a representative shall have the same effect as notice to each person whom the representative represents.

(2) A consent, release, ratification, or agreement by a representative shall have the same effect as a consent, release, ratification, or agreement by each person whom the representative represents.

564-E:14-1403 Return of Improper Distributions. A person who receives a distribution from a foundation is liable to return the distribution to the extent that a court subsequently determines that the person was not entitled to the distribution.

564-E:14-1404 Enforcement of No-Contest Provision.

(a) For the purposes of this section, a "no-contest provision" means a provision of the governing documents that, if given effect, would reduce or eliminate a beneficiary's interest because the beneficiary directly or indirectly initiates or otherwise pursues:

(1) Any judicial proceeding against the foundation or any of the foundation officials, including any judicial proceeding:

- (A) Contesting the validity of the foundation's formation;
- (B) Contesting the validity of a contribution by a founder to the foundation;
- (C) Contesting the validity of the foundation's governing documents;
- (D) Seeking to set aside any provision of the governing documents;
- (E) Seeking to void any action by the foundation officials; or
- (F) Seeking to dissolve the foundation; or

(2) Any act that frustrates or defeats the founder's intent as expressed in the terms of the governing documents.

(b) Subject to subsections (c) and (d), a no-contest provision shall be enforceable in accordance with its express terms regardless of whether:

(1) The beneficiary acted in good faith or with probable cause; or

(2) The enforcement of the no-contest provision would result in a partial or complete forfeiture of the beneficiary's interest.

(c) A no-contest provision shall be unenforceable to the extent that:

(1) The court dissolves the foundation under RSA 564-E:20-2013(a); or

(2) A judicial proceeding only involved a claim against a foundation official for a breach of duty, and the foundation official committed a breach of duty.

(d) A no-contest provision shall be unenforceable to the extent that a beneficiary initiates, maintains, or cooperates in:

(1) Any judicial proceeding initiated by a foundation official;

(2) Any nonjudicial settlement agreement or other agreement among the beneficiaries and any other interested persons in settlement of a dispute or resolution of any other matter relating to the foundation;

(3) Any judicial proceeding for the interpretation or construction of a provision of the governing instrument, including the interpretation or construction of the no-contest provision with respect to any proposed or pending petition or motion; or

(4) To the extent that the foundation is a charitable trust, any judicial proceeding brought by the director of charitable trusts for the interpretation or construction or interpretation of the foundation's governing documents.

Article 15
Third Parties

564-E:15-1501 Liability of Foundation Officials and Beneficiaries to Third Parties.

(a) Subject to RSA 564-E:20-2007 and subsection (c), a foundation's debts, obligations, and liabilities, whether arising in contract, tort, or otherwise, shall be solely the foundation's debts, obligations, and liabilities.

(b) Subject to RSA 564-E:20-2007 and subsection (c), a founder, foundation official, or beneficiary shall not be personally liable for any of the foundation's debts, obligations, and liabilities solely by reason of being a founder, foundation official, or beneficiary.

(c) A founder, foundation official, or beneficiary may agree to be personally liable for any or all of the foundation's debts, obligations, and liabilities.

564-E:15-1502 Liability of Foundation for Certain Claims Against a Founder.

(a) A transfer of property by a founder to the foundation shall not be void or voidable solely by reason that the transfer defeats any forced heirship, legitime, forced share, or any similar heirship right under the laws of a foreign jurisdiction.

(b) The foundation property shall not be subject to any forced heirship, legitime, forced share, or any similar heirship rights against a founder, a founder's estate, or any of a founder's property under the laws of any jurisdiction.

564-E:15-1503 Rights of a Beneficiary's Creditors and Assignees.

(a) Subject to subsection (c), a court may authorize a beneficiary's creditor or assignee to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary.

(1) Attachment of distributions is the creditor's or assignee's exclusive remedy against the beneficiary's interest.

(2) The court may limit the relief under this subsection (a) as the court deems appropriate under the circumstances.

(b) Subject to subsection (c), a beneficiary's creditor or assignee may not compel the foundation to make a distribution to the beneficiary.

(c) A beneficiary's creditor or assignee may reach the beneficiary's interest to the extent that:

(1) Without the consent of any other person, the beneficiary has the power to appoint the foundation's property to:

(A) The beneficiary; or

(B) The beneficiary's creditors or assignees; or

(2) Upon the foundation's dissolution, the beneficiary would receive the foundation's property and, without the consent of any other person, the beneficiary has the power to dissolve the foundation or cause the foundation's dissolution.

(d) A beneficiary's creditor or assignee may not compel a beneficiary to exercise any right or power that, in any fiduciary or nonfiduciary capacity, the beneficiary has under the terms of the trust, including any of the following:

(1) Any power of appointment;

(2) Any power to dissolve the foundation or cause the foundation's dissolution;

(3) Any power to direct or veto a distribution;

(4) Any power to appoint or remove a foundation official; or

(5) Any right to receive reports, notices, or other information concerning the foundation and its administration.

(e) A beneficiary's interest shall not be assignable, except to the extent expressly permitted by the governing documents.

(f) A beneficiary's interest shall not be subject to any forced heirship, legitime, forced share, or any similar heirship rights under the laws of any jurisdiction.

Article 16
Dispute Resolution

564-E:16-1601 Role of Court in a Foundation's Affairs.

(a) he court may intervene in a foundation's affairs to the extent its jurisdiction is invoked by an interested person or as provided by law.

(b) A foundation shall not be subject to continuing judicial supervision unless ordered by the court.

(c) A judicial proceeding involving a foundation may relate to any matter involving the foundation's affairs, including:

(1) A request for instruction;

(2) Construction of the governing documents;

(3) A claim for breach of duty; or

(4) A request to declare rights.

(d) Each of the following persons may commence a judicial proceeding for the purpose of enforcing the provisions of the governing documents:

- (1) A founder;
- (2) A foundation official;
- (3) A beneficiary; or

(4) In the case of a foundation that is a charitable trust, the director of charitable trusts.

564-E:16-1602 Jurisdiction over Foundation Officials and Beneficiaries.

(a) By accepting an appointment as a foundation official, a foundation official shall be subject to the personal jurisdiction of the courts of this state regarding any matter involving the foundation.

(b) With respect to the beneficiary's interest, a beneficiary shall be subject to the personal jurisdiction of the courts of this state regarding any matter involving the foundation.

(c) By accepting a distribution from a foundation, the recipient shall be subject to the personal jurisdiction of the courts of this state regarding any matter involving the foundation.

(d) This section does not preclude other methods of obtaining jurisdiction over a foundation official, beneficiary, or other person receiving property from the foundation.

564-E:16-1603 Subject-Matter Jurisdiction. The probate division of the circuit court shall have exclusive jurisdiction over:

- (1) The formation, termination, and management of foundations;
- (2) The interpretation, construction, and modification of governing documents; and
- (3) The appointment, removal, and surcharge of foundation officials.

564-E:16-1604 Venue. Venue for a judicial proceeding involving a foundation is in:

- (1) The county of this state in which the foundation's principal office is located; or
- (2) If the foundation does not have a principal office in this state, the county of this state in which the foundation's registered office is located.

564-E:16-1605 Confidential Information.

(a) A communication between an attorney and a client that is a foundation or a foundation official is privileged and is protected from disclosure to the same extent as a communication between an attorney and a client who is an individual acting in his or her personal capacity.

(b) The privilege is not waived by:

- (1) A fiduciary relationship between a foundation official and a beneficiary; or
- (2) The use of the foundation's property to compensate the attorney for legal services rendered to the foundation or a foundation official.

564-E:16-1606 Nonjudicial Settlement Agreement.

(a) For purposes of this section, "interested person" means each of the following persons:

- (1) A founder;
- (2) A trust official;
- (3) A person who, under the governing documents, has the power to enforce the terms of the governing documents;
- (4) If the trust is a charitable trust, the director of charitable trusts; and
- (5) Any other person whose consent would be required in order to achieve a binding settlement if a court would approve the settlement.

(b) Subject to subsection (c), all of the interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a foundation.

(c) A nonjudicial settlement agreement is valid only to the extent that:

- (1) It does not violate any of the foundation's material purpose; and
- (2) It includes only terms and conditions that could be properly approved by a court under this chapter or other applicable law.

(d) Matters that may be resolved by a nonjudicial settlement agreement include:

- (1) The interpretation or construction of the governing documents;
- (2) The modification of the governing documents;
- (3) The approval of a director's report or accounting;
- (4) A direction to a foundation official to refrain from performing a particular act or the grant to a foundation official of any necessary or desirable power;
- (5) A foundation official's appointment or resignation;
- (6) The determination of a foundation official's compensation;
- (7) A foundation official's liability for an action relating to the foundation; and
- (8) The foundation's dissolution.

(e) Any interested person may commence a judicial proceeding requesting that the court:

- (1) Approve a nonjudicial settlement agreement;
- (2) Determine whether the representation under 564-E:14-1402 was adequate; and

(3) Determine whether the agreement contains terms and conditions the court could have properly approved.

564-E:16-1607 Nonjudicial Dispute Resolution.

(a) For purposes of this section, the following definitions shall apply:

(1) "Interested person" means any person who would be an interested person in a judicial proceeding to resolve a dispute.

(2) "Dispute" means any matter in which a court has subject-matter jurisdiction under 564-E:16-1603, excluding:

(A) The determination of the validity of the foundation's formation;

(B) The determination of the validity of a contribution by a founder to the foundation; and

(C) The determination of any of the foundation's material purposes, including a determination of whether any modification, dissolution, or other action is consistent with the foundation's material purposes.

(b) If the governing documents require the interested persons to resolve a dispute exclusively by reasonable nonjudicial procedures, then those interested persons shall resolve that dispute in accordance with the governing documents.

(c) An interested person may commence a judicial proceeding to determine whether the nonjudicial procedures are reasonable.

(d) To the extent that a provision of the governing documents purport to prohibit an interested person from commencing a judicial proceeding under subsection (c) or penalize an interested person for commencing a judicial proceeding under subsection (c), that provision is void.

(e) Unless the director of charitable trust expressly consents to the nonjudicial procedures, those procedures shall not apply to any matter in which the director of charitable trust would be an interested person.

(f) Unless the department of health and human services expressly consents to the nonjudicial procedures, those procedures shall not apply to any matter in which that department would be an interested person.

Article 17
Modification

564-E:17-1701 Modification.

(a) A court may modify a foundation's certificate of formation or its bylaws if:

(1) All of the foundation officials consent to the modification;

(2) All of the beneficiaries consent to the modification;

(3) To the extent that the foundation is a charitable trust, the director of charitable trusts consents to the modification; and

(4) The modification does not violate any of the foundation's material purposes.

(b) A court may modify a foundation's certificate of formation or its bylaws if:

(1) Due to circumstances that the founder did not anticipate, modification will further the foundation's purposes;

(2) The modification is consistent with the founder's probable intent; and

(3) The modification does not violate any of the foundation's material purposes.

(c) A court may modify a foundation's certificate of formation or its bylaws if:

(1) The foundation's continuation would be impractical, wasteful, or impair the foundation's administration;

(2) The modification is consistent with the founder's intent; and

(3) The modification does not violate any of the foundation's material purposes.

(d) Any of the following persons may commence a judicial proceeding seeking modification of a foundation's certificate of formation or its bylaws under this section:

(1) A foundation official;

(2) Unless the governing documents provide otherwise, a beneficiary; or

(3) To the extent that the foundation is a charitable trust, the director of charitable trusts.

564-E:17-1702 Reformation.

(a) A court may reform a foundation's certificate of formation or its bylaws for purposes of conforming the certificate of formation or the bylaws to the founder's intent if:

(1) Whether in the expression or inducement, the foundation's certificate of formation or its bylaws were affected by a mistake of fact, a mistake of law, or both a mistake of fact and a mistake of law; and

(2) The founder's intent is proven by clear and convincing evidence;

(3) The mistake is proven by clear and convincing evidence; and

(4) The reformation does not violate any of the foundation's material purposes.

(b) A court may reform a foundation's certificate of formation or its bylaws for purposes of achieving the founder's tax objectives if:

- (1) The reformation is consistent with the founder's intent; and
 - (2) The reformation does not violate any of the foundation's material purposes.
 - (c) A reformation under this section may be retroactive or prospective.
 - (d) Any of the following persons may commence a judicial proceeding seeking reformation of a foundation's certificate of formation or its bylaws under this section:
 - (1) A founder;
 - (2) A foundation official;
 - (3) Unless the governing documents provide otherwise, a beneficiary; and
 - (4) To the extent that the foundation is a charitable trust, the director of charitable trusts.
- 564-E:17-1703 Cy Pres.

(a) To the extent that a foundation is a charitable trust and one of its charitable purposes becomes impossible, impracticable, illegal, obsolete, ineffective, or prejudicial to the public interest to achieve, a court may apply cy pres for the following purposes:

- (1) Modifying the foundation's certificate of formation or its bylaws; or
- (2) Directing the foundation to apply or distribute some or all of its property to one or more charitable purposes that:
 - (A) Are useful to the community;
 - (B) Fulfills as nearly as possible the founder's charitable intent; and
 - (C) Do not violate any of the foundation's material purposes; or
- (3) Terminating the foundation.
- (b) Any of the following persons may commence a judicial proceeding seeking the application of cy pres to a foundation under this section:
 - (1) A foundation official;
 - (2) Unless the governing documents provide otherwise, a beneficiary; and
 - (3) The director of charitable trusts.

Article 18 Breach of Duty

564-E:18-1801 Remedies for Breach of Duty.

- (a) For purposes of remedying a breach of duty that has occurred or may occur, the court may:
 - (1) Compel a foundation official to perform the foundation official's duties;
 - (2) Enjoin a foundation official from committing a breach of duty;
 - (3) Compel a foundation official to redress a breach of duty by paying money, restoring property, or other means;
 - (4) Order a foundation official to account;
 - (5) Appoint a special director to take possession of the foundation's property and administer the foundation;
 - (6) Suspend a foundation official;
 - (7) Remove a director under RSA 564-E:10-1007;
 - (8) Remove a protector under RSA 564-E:12-1207;
 - (9) Reduce or deny compensation to a foundation official;
 - (10) Void a foundation official's act;
 - (11) Impose a lien or a constructive trust on the foundation's property;
 - (12) Trace the foundation's property wrongfully disposed of and recover the property or its proceeds; or
 - (13) Order any other appropriate relief.

564-E:18-1802 Damages for Breach of Duty.

- (a) A foundation official who commits a breach of duty is liable to the affected beneficiaries for the greater of:
 - (1) The amount required to restore the value of the foundation's property and distributions to what they would have been had the breach of duty not occurred; or
 - (2) the profit that the foundation official made by reason of the breach of duty.
 - (b) Except as otherwise provided in subsection (c) or (d), a foundation official is entitled to contribution from the other foundation officials to the extent permitted by RSA 507:7-f if more than one foundation official is liable to the beneficiaries for a breach of duty.
 - (c) A foundation official is not entitled to contribution if:
 - (1) The foundation official was substantially more at fault than another foundation officials; or
 - (2) The foundation official committed the breach of duty in bad faith or with reckless indifference to the foundation's purposes or the beneficiaries' interests.
 - (d) A foundation official who received a benefit from the breach of duty is not entitled to contribution from another foundation official to the extent of the benefit received.
- 564-E:18-1803 Damages in Absence of Breach of Duty.

(a) Even absent a breach of duty, a foundation official is accountable to an affected beneficiary for any profit made by the foundation official arising from the foundation's administration.

(b) Absent a breach of duty, a foundation official is not liable to a beneficiary for a loss or depreciation in the value of the foundation property or for not having made a profit.

(c) This section does not preclude the payment of reasonable compensation to a foundation official.

564-E:18-1804 Attorney's Fees and Costs. In a judicial proceeding involving a foundation's administration, the court may award costs and expenses as justice and equity may require, including reasonable attorney's fees, to any party, to be paid by another party or from the foundation that is the subject of the controversy.

564-E:18-1805 Limitation of Action Against a Foundation Official.

(a) A judicial proceeding against a foundation official for breach of duty may be commenced only within the earliest of:

(1) In the case of a claim by a beneficiary, one year after the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of duty;

(2) Except as provided in subsection (a)(3), three years after the earliest of:

(A) The foundation official's removal, resignation, or death;

(B) The termination of the beneficiary's interest; or

(C) The foundation's dissolution.

(D) If the act or omission was not discovered and could not reasonably have been discovered at the time of the act or omission, one year after the earlier of:

(i) The discovery of the act or omission; or

(ii) In the exercise of reasonable diligence, the date on which the act or omission should have been discovered.

(b) A report adequately discloses the existence of a potential claim for breach of duty if it provides sufficient information so that the beneficiary or the beneficiary's representative knows of the potential claim or should have inquired into its existence.

(c) The limitation periods under this section shall not be tolled for any reason, except by a court order or a written agreement between the foundation official and the beneficiary.

564-E:18-1806 Reliance on the Governing Documents. A foundation official who acts in reasonable reliance on the foundation's governing documents is not liable to any person for a breach of duty to the extent that the breach of duty resulted from that reliance.

564-E:18-1807 Event Affecting Administration or Distribution.

(a) If the happening of an event affects the foundation's administration or a distribution from the foundation, then a foundation official who has exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting from the foundation official's lack of knowledge.

(b) An event to which subsection (a) applies includes:

(1) Marriage;

(2) Divorce;

(3) The performance of educational requirements; or

(4) Death.

564-E:18-1808 Exculpation of a Foundation Official.

(a) Subject to subsection (b), a provision of the governing documents relieving a foundation official of liability for breach of duty is enforceable except to the extent that the provision relieves the foundation official of liability for a breach of duty for:

(1) Failing to act in good faith; or

(2) Acting with reckless indifference to the foundation's purposes or the beneficiaries' interests.

(b) A provision of the governing documents relieving a foundation official of liability for breach of duty is unenforceable if the provision was inserted as the result of an abuse by the foundation official of a fiduciary or confidential relationship to the founder.

564-E:18-1809 Beneficiary's Consent, Release, or Ratification.

(a) Subject to subsection (b), a foundation official is not liable to a beneficiary for breach of duty if the beneficiary:

(1) Consented to the conduct constituting the breach of duty;

(2) Released the foundation official from liability for the breach of duty; or

(3) Ratified the transaction constituting the breach of duty.

(b) For purposes of subsection (a), a beneficiary's consent, release, or ratification is invalid if:

(1) In making the consent, release, or ratification, the beneficiary was induced by a foundation official's improper conduct; or

(2) At the time of making the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or the material facts relating to the breach of duty.

Article 19
Merger

564-E:19-1901 Merger.

(a) Subject to subsections (f) and (g), one or more foundations may merge with one or more foundations by filing with the secretary of state a certificate of merger.

(b) Subject to subsections (f) and (g), one or more foundations and one or more foreign foundations may merge into a foundation that will be formed under this chapter by filing with the secretary of state a certificate of merger.

(c) The certificate of merger shall set forth:

(1) The name of each foundation that is a party to the merger;

(2) The address of the principal office of each foundation that is a party to the merger;

(3) If a foreign foundation is a party to the merger, the jurisdiction in which the foreign foundation is formed;

(4) The name of the surviving foundation; and

(5) If the merger will not begin upon the filing of the certificate of merger with the secretary of state, the date and time on which the merger shall be effective.

(d) In the case of a merger under subsection (b), the certificate of merger shall include a certificate of formation for the surviving foundation.

(e) The certificate of merger may include any other matter that the parties to the merger deem necessary or advisable.

(f) The following persons must approve a merger:

(1) In the case of a foundation that is a party to a merger, the foundation's directors, unless the governing documents provide otherwise.

(2) In the case of a foreign foundation that is a party to a merger, each person who, under the laws under which the foreign foundation is organized, must approve the plan of merger.

(g) A foundation shall not merge with or into another foundation if:

(1) The foundation's governing documents prohibit the merger; or

(2) The merger would violate any of the foundation's material purposes.

564-E:19-1902 Effects of Merger.

(a) A merger under RSA 564-E:19-1901 has the following effects:

(1) Each foundation and foreign foundation that is a party to the merger shall be merged into a single foundation, which shall be the foundation designated as the surviving foundation in the certificate of merger;

(2) Each foundation and foreign foundation that is a party to the merger, except the surviving foundation, shall cease to exist;

(3) All title to real property and other property owned by each foundation and foreign foundation that is a party to the merger and all contractual rights possessed by each foundation and foreign foundation that is a party to the merger are vested in the surviving foundation without reversion or impairment; and

(4) All liabilities of each foundation and foreign foundation that is a party to the merger are vested in the surviving foundation.

(b) For each domestic foundation that is a party to a merger and is not the surviving foundation, a certificate of merger shall constitute a certificate of cancellation.

Article 20
Dissolution
Part A

Voluntary Dissolution

564-E:20-2001 Dissolution by Organizers or Initial Directors.

(a) If the foundation has not received its initial capital contribution, then the following persons may dissolve a foundation by filing with the secretary of state a certificate of dissolution:

(1) A majority of the organizers; or

(2) A majority of the initial directors.

(b) The certificate of dissolution shall set forth:

(1) The foundation's name;

(2) The date on which the dissolution was authorized;

(3) If a majority of organizers have authorized the dissolution, a statement that a majority of the organizers authorized the dissolution;

(4) If a majority of initial directors have authorized the dissolution, a statement that a majority of the initial directors authorized the dissolution; and

(5) A statement that the foundation has not received its initial capital contribution.

(c) A foundation's dissolution is effective upon filing the certificate of dissolution.

564-E:20-2002 Dissolution by Founder.

(a) Except as otherwise provided in the governing documents, a founder may dissolve a foundation by filing with the secretary of state a certificate of dissolution.

(b) The certificate of dissolution shall set forth:

- (1) The foundation's name;
- (2) The date on which the dissolution was authorized; and
- (3) A statement that the founder authorized the dissolution.

(c) A foundation's dissolution is effective upon filing the certificate of dissolution.

564-E:20-2003 Dissolution by Board of Directors.

(a) Except as otherwise provided in the governing documents, the board of directors may dissolve a foundation by filing with the secretary of state a certificate of dissolution.

(b) The certificate of dissolution shall set forth:

- (1) The foundation's name;
- (2) The date on which the dissolution was authorized;
- (3) A statement that the board of directors authorized the dissolution; and
- (4) A statement that a copy of the certificate of dissolution has been sent to the department of revenue.

(c) A foundation's dissolution is effective upon filing the certificate of dissolution.

564-E:20-2004 Revocation of Dissolution.

(a) A foundation may revoke the dissolution by filing with the secretary of state a certificate of revocation of dissolution.

(b) The certificate of revocation of dissolution shall set forth:

- (1) The foundation's name;
- (2) The date on which the revocation of the dissolution was authorized;
- (3) If a majority of organizers have authorized the revocation of the dissolution, a statement that a majority of the organizers authorized the revocation of the dissolution;
- (4) If a majority of initial directors have authorized the revocation of the dissolution, a statement that a majority of the initial directors authorized the revocation of the dissolution;
- (5) If the founder authorized the revocation of the dissolution, a statement that the founder authorized the revocation of the dissolution; and
- (6) If the board of directors authorized the revocation of the dissolution, a statement that the board of directors authorized the revocation of the dissolution.

(c) A foundation may revoke its dissolution within 120 days of the dissolution's effective date.

(d) The revocation of dissolution shall be authorized in the same manner as the dissolution was authorized.

(e) The revocation of dissolution is effective upon the filing of the certificate of revocation of dissolution.

(f) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred.

564-E:20-2005 Effect of Dissolution.

(a) A dissolved foundation continues its existence as a legal entity but may not engage in any activities except to the extent necessary or appropriate to wind up its affairs, including:

- (1) Collecting its property;
- (2) Disposing of its property that will not be distributed in kind to its beneficiaries or in furtherance of its purposes;
- (3) Discharging or making provision for discharging its liabilities; and
- (4) Distributing its remaining property to its beneficiaries or in furtherance of its purposes in accordance with the governing documents.

(b) A foundation's dissolution does not:

- (1) Transfer title to the foundation's property;
- (2) Subject its directors to duties different from those prescribed in article 11;
- (3) Subject its protectors to duties different from those prescribed in article 13;
- (4) Change the provisions for appointment, resignation, or removal of the foundation officials;
- (5) Change the provisions for amending its governing documents;
- (6) Prevent commencement of a judicial proceeding by or against the foundation in the foundation's name;
- (7) Abate or suspend a judicial proceeding pending by or against the foundation on the dissolution's effective date; or
- (8) Terminate the authority of the foundation's registered agent.

564-E:20-2006 Known Claims Against Dissolved Foundation.

(a) A dissolved foundation may dispose of a known claimant's claim against the dissolved foundation by delivering to the claimant a written notice of the dissolution at any time after the dissolution's effective date.

(b) The notice of dissolution shall set forth:

- (1) A description of the information that must be included in a claim;

- (2) A mailing address where a claim may be sent;
- (3) The deadline by which the dissolved foundation must receive the claim; and
- (4) A statement that the claim will be barred if not received by the deadline.

(c) For purposes of subsection (b)(3), the deadline may not be fewer than 90 days from the date on which the dissolved foundation delivers the notice of dissolution to the claimant.

(d) If the dissolved foundation delivers to a claimant a notice of dissolution in accordance with subsection (a), then the claimant's claim against a dissolved foundation shall be barred unless:

(1) The claimant delivers a notice of the claim to the dissolved foundation on or before the deadline set forth in the notice of dissolution; and

(2) The claimant commences a judicial proceeding to enforce the claim against the dissolved foundation within 90 days after the deadline set forth in the notice of dissolution.

(e) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

564-E:20-2007 Other Claims Against Dissolved Foundation.

(a) A dissolved foundation may publish notice of its dissolution and request that persons with claims against the dissolved foundation present them in accordance with the notice.

(b) The notice shall be published one time in a newspaper of general circulation in:

(1) The county in which the dissolved foundation's principal office in this state is located; or

(2) If the dissolved foundation does not have a principal office in this state, the county in which its registered office is located.

(c) The notice shall set forth:

(1) A description of the information that must be included in a claim;

(2) A mailing address where the claim may be sent; and

(3) A statement that a claim against the dissolved foundation will be barred unless a judicial proceeding to enforce the claim is commenced within three years after the publication of the notice.

(d) If a dissolved foundation publishes a newspaper notice in accordance with subsection (a), then a claimant's claim against the dissolved foundation shall be barred unless:

(1) The claimant was entitled to receive notice under RSA 564-E:20-2006;

(2) The claimant commences a judicial proceeding to enforce the claim against the dissolved foundation within three years after the publication date of the newspaper notice; or

(3) The claim is contingent or based on an event occurring after the effective date of the foundation's dissolution.

(e) A claim that is not barred by RSA 564-E:20-2006(d) or subsection (d) may be enforced against:

(1) To the extent of its undistributed assets, the dissolved foundation; or

(2) To the extent that a person has received a distribution in liquidation of the dissolved foundation and subject to subsection (f), the person who received the distribution.

(f) The total liability of a person against whom a claim is enforceable under subsection (e)(2) shall not exceed the lesser of:

(1) The person's pro-rata share of the claim; and

(2) The total amount of property that the person received as distributions in liquidation of the dissolved foundation.

564-E:20-2008 Director Duties.

(a) A director of a dissolved foundation shall have the following duties:

(1) A duty to cause the dissolved foundation to discharge its liabilities or make reasonable provision for discharging its liabilities; and

(2) A duty to cause the dissolved foundation to distribute its remaining property in accordance with the governing documents.

(b) A director of a dissolved foundation that has disposed of claims under RSA 564-E:20-2006 or RSA 564-E:20-2007 shall not be liable for breach of subsection (a) to the extent that the claim against the dissolved foundation is barred or satisfied under RSA 564-E:20-2006 or RSA 564-E:20-2007.

Part B

Administrative Dissolution

564-E:20-2009 Administrative Dissolution.

(a) The secretary of state may administratively dissolve a foundation if:

(1) For 2 consecutive years, the foundation does not pay the annual fee or any penalty imposed by this chapter or other law within 60 days after the fee or penalty is due;

(2) For 2 consecutive years, the foundation does not file its annual report with the secretary of state within 60 days after the annual report is due;

(3) For a period of 60 days or more, the foundation does not have a registered agent or a registered office;

(4) The foundation fails to file with the secretary of state:

- (A) A notice of a change of its registered agent within 60 days after the change;
- (B) A notice of a change of its registered office within 60 days after the change;
- (C) A notice of its registered agent's resignation within 60 days after the resignation; or
- (D) A notice of the discontinuance of its registered office within 60 days after the discontinuance; or

(5) The period of foundation's duration stated in its certificate of formation expires.

(b) The secretary of state may dissolve a foundation under subsection (a) by sending the following documents to the foundation at the foundation's registered office:

- (1) A notice of administrative dissolution; and
- (2) An application for reinstatement.

(c) The notice of administrative dissolution shall set forth:

- (1) The grounds for dissolution; and
- (2) The effective date of dissolution.

564-E:20-2010 Effects of Administrative Dissolution.

(a) A foundation that is administratively dissolved continues its existence as a legal entity but may not engage in any activities except to the extent necessary or appropriate to wind up its affairs in accordance with RSA 564-E:20-2005 to RSA 564-E:20-2008.

(b) A foundation's administrative dissolution does not terminate the authority of the foundation's registered agent.

(c) For a period of 120 days after the date of mailing of a notice of administrative dissolution under RSA 564-E:20-2009(b) and subject to subsection (d), the secretary of state shall not permit any person to use or reserve:

(1) A name that is the same as or similar to the name of a foundation that was administratively dissolved under RSA 564-E:20-2009; or

(2) A trade name registered by the limited liability company under RSA 349.

(d) The secretary of state may permit a person to use or reserve a name described in subsection (c)(1) or (c)(2) if the dissolved foundation consents to the use or reservation of that name.

564-E:20-2011 Reinstatement after Administrative Dissolution.

(a) For a period of three years after the effective date of its dissolution, a foundation that has been administratively dissolved under RSA 564-E:20-2009 may apply to the secretary of state for reinstatement.

(b) The application for reinstatement shall include:

(1) The foundation's name;

(2) The effective date of the foundation's dissolution;

(3) A statement that each of the grounds for the foundation's dissolution did not exist or has been eliminated; and

(4) A statement that the foundation's name or proposed name satisfies the requirements of RSA 564-E:4-401.

(c) The secretary of state may cancel the administrative dissolution if:

(1) The secretary of state determines that the notice contains the information required under subsection (b);

(2) The information contained in the application is correct in all material respects; and

(3) The foundation's name or proposed name is available for registration.

(d) The secretary of state cancels an administrative dissolution by:

(1) Cancelling the notice of administrative dissolution;

(2) Sending to the foundation at its principal office a notice of reinstatement.

(e) The notice of reinstatement shall set forth:

(1) The secretary of state's determination under subsection (c);

(2) If the application for reinstatement includes a change of the foundation's name, the change of the foundation's name; and

(3) The effective date of reinstatement.

(f) A foundation's reinstatement shall have the following effects:

(1) The notice of reinstatement shall have the effect of an amendment of the foundation's certificate of formation;

(2) The reinstatement shall relate back to the effective date of the foundation's administrative dissolution;

(3) The foundation may resume engaging in activities in this state as if the administrative dissolution had never occurred; and

(4) All of the foundation's otherwise legally valid actions during the period if its dissolution shall be legally valid.

564-E:20-2012 Appeal from Denial of Reinstatement.

(a) If the secretary of state denies a foundation's application for reinstatement following administrative dissolution, then the secretary of state shall send to the foundation written notice of denial.

(b) The notice of denial shall set forth each of the secretary of state's reasons for denial.

(c) The secretary of state shall send the notice of denial to the foundation at the foundation's principal address.

(d) The foundation may appeal the denial of reinstatement by filing a petition for reinstatement with the court located in:

(1) The county in which the foundation's principal office in this state is located; or

(2) If the foundation does not have a principal office in this state, the county in which the foundation's registered office is located.

(e) The foundation's petition for reinstatement shall include:

(1) A copy of the secretary of state's certificate of dissolution;

(2) The foundation's application for reinstatement; and

(3) The secretary of state's notice of denial.

(f) The foundation may commence the appeal under subsection (d) only within 30 days after the date of the notice of denial.

(g) The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action that the court considers appropriate.

(h) The court's final decision may be appealed as in other civil proceedings.

Part C Judicial Dissolution

564-E:20-2013 Judicial Dissolution.

(a) A court may dissolve a foundation if:

(1) The foundation procured its certificate of formation through fraud, duress, or undue influence;

(2) The foundation's purposes are not lawful or are contrary to the public policy of this state;

(3) The foundation has exceeded or abused its lawful authority under this chapter;

(4) The foundation has carried on, conducted, or transacted its affairs in a persistently fraudulent or illegal manner; or

(5) The foundation has abused its power contrary to the public policy of this state.

(b) A court may dissolve a foundation if:

(1) All of the foundation officials consent to the termination;

(2) All of the beneficiaries consent to the termination;

(3) To the extent that the foundation is a charitable trust, the director of charitable trusts consents to the dissolution; and

(4) The dissolution does not violate any of the foundation's material purposes.

(c) A court may dissolve a foundation if:

(1) Because of circumstances that the founder did not anticipate, the dissolution will further the foundation's purposes; and

(2) The dissolution does not violate any of the foundation's material purposes.

(d) Any of the following persons may commence a judicial proceeding seeking the foundation's dissolution under this section:

(1) A foundation official;

(2) A beneficiary unless the governing documents prohibit the beneficiary from commencing a judicial proceeding seeking the foundation's dissolution;

(3) To the extent that the foundation is a charitable trust, the director of charitable trusts; and

(4) With respect to a dissolution under subsection (a), the attorney general.

Article 21 Foreign Foundations

564-E:21-2101 Activities in this State.

(a) A foreign foundation shall not engage in any registrable activity in this state until it registers with the secretary of state.

(b) A registrable activity includes any activity that, if conducted by a foreign corporation, would constitute the corporation's transacting business in this state.

(c) Activities that are not registrable activities include:

(1) Maintaining, defending, or settling any judicial proceeding;

(2) Holding meetings of the board of directors or carrying on other activities concerning the foundation's internal affairs;

(3) Maintaining one or more bank accounts;

- (4) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property;
- (5) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
- (6) Without more, owning any real or personal property located in this state;
- (7) Conducting an isolated transaction that:
 - (A) Is completed within 30 days; and
 - (B) Is not a single transaction in the course of repeated transactions of a like nature;
- (8) Transacting any activity in interstate commerce; and
- (9) Any activity that, if conducted by a foreign corporation, would not constitute the corporation's transacting business in this state.

564-E:21-2102 Registration.

- (a) A foreign foundation may register with the secretary of state by filing with the secretary of state a certificate of registration.
- (b) The certificate of registration shall set forth:
 - (1) The foreign foundation's name or, if its name is unavailable for use in this state, a name that satisfies the requirements of RSA 564-E:4-401;
 - (2) The name and usual business address of each of the foundation's directors;
 - (3) The name of the jurisdiction under the laws of which the foundation is organized;
 - (4) The foundation's date of formation;
 - (5) The foundation's period of duration;
 - (6) The street address of the foundation's principal office;
 - (7) The name of the foundation's initial registered agent in this state; and
 - (8) The address of the foundation's initial registered office in this state.
- (c) The certificate of registration may set forth any other matter that the foreign foundation deems necessary or advisable.

564-E:21-2103 Amended Registration.

- (a) Subject to subsection (c), a foreign foundation may amend its certificate of registration by filing an amended certificate of registration with the secretary of state.
- (b) An amended certificate of registration shall set forth:
 - (1) The foreign foundation's name or, if its name is unavailable for use in this state or does not satisfy the requirements of RSA 564-E:4-401, a name that satisfies the requirements of RSA 564-E:4-401; and
 - (2) The amendment to the certificate of registration.
- (c) A certificate of registration may be amended at any time in any respect so long as the amended certificate of registration contains only provisions that lawfully may be contained in the certificate of registration at the time of making the amendment.

564-E:21-2104 Restated Certificate of Registration.

- (a) A foreign foundation may restate its certificate of formation by filing with the secretary of state a restated certificate of registration.
- (b) The restated certificate of registration shall set forth:
 - (1) The foundation's name; and
 - (2) The restatement of the certificate of registration.
- (c) The restated certificate of formation may contain one or more amendments to the certificate of registration as permitted in a certificate of amendment under RSA 564-E:21-2103.

564-E:21-2105 Effect of Registration.

- (a) Subject to RSA 564-E:21-2116, a foreign foundation's registration under RSA 564-E:21-2102 authorizes the foreign foundation to engage in any registrable activity in this state.
- (b) A registered foreign foundation:
 - (1) Has the same rights and privileges as a domestic foundation; and
 - (2) Except as otherwise provided in this chapter, the same duties, restrictions, penalties, and liabilities now or later imposed on a foundation of like character.
- (c) This chapter does not authorize this state to regulate the organization or internal affairs of a registered foreign foundation.

564-E:21-2106 Effect of Engaging in Registrable Activities Without Registration.

- (a) A foreign foundation engaging in a registrable activity in this state may not maintain any judicial proceeding in this state until it has registered and has paid all fees for the period during which it engaged in registrable activities in this state while unregistered.
- (b) A foreign foundation's failure to register does not:
 - (1) Impair the validity of any of the foreign foundation's acts;
 - (2) Impair the validity of any contract to which the foreign foundation is a party;

(3) Impair the rights of any other party to a contract to which the foreign foundation also is a party, including the right to maintain a judicial proceeding regarding any matter involving the contract; or

(4) Prevent the foreign foundation from defending any judicial proceeding in any court in this state.

(c) A foreign foundation's directors, officers, managers, other officeholders, employees, and agents are not liable for the foreign foundation's obligations solely by reason of the foreign foundation having engaged in registrable activities in this state without registration.

(d) A foreign foundation engaging in a registrable activity shall be liable to the state for the years or parts of the year during which it engaged in registrable activities in this state without registration in an amount equal to:

(1) All fees that would have been imposed under this chapter on that foreign foundation had it duly registered; and

(2) All penalties imposed by this chapter.

(e) The attorney general may commence judicial proceedings to recover all amounts due to this state under this section.

564-E:21-2107 Registered Agent.

(a) Each foreign foundation shall continuously maintain a registered agent in this state.

(b) A registered agent may be any of the persons described in RSA 564-E:5-501(b).

564-E:21-2108 Registered Office.

(a) Each foreign foundation shall continuously maintain in this state a registered office.

(b) A foreign foundation's registered office may be the same as any of its offices in this state.

564-E:21-2109 Change of the Registered Agent.

(a) A foreign foundation may change its registered agent by filing with the secretary of state a notice of change of registered agent.

(b) The notice of change of registered agent shall set forth the information described in RSA 564-E:5-504(b).

(c) For purposes of subsection (b), the foreign foundation's name is the name under which the foreign foundation registered in accordance with RSA 564-E:4-401.

564-E:21-2110 Resignation of the Registered Agent.

(a) A foreign foundation's registered agent may resign as registered agent by filing with the secretary of state a notice of resignation.

(b) The notice of resignation may include a statement that the foreign foundation's registered office in this state is discontinued.

(c) The secretary of state shall send a copy of the notice of registration to the foreign foundation at the foreign foundation's principal office.

(d) The registered agent's appointment shall terminate on the earlier of:

(1) Thirty-one days after the filing of the notice of resignation with the secretary of state; or

(2) The date of the appointment of a successor registered agent.

564-E:21-2111 Registered Agent's Change of Address. If a registered agent changes its address to another place in this state, then the registered agent may change the address of the registered office of any foreign foundation for which it is a registered agent by filing a statement in accordance with RSA 564-E:5-504.

564-E:21-2112 Change of the Registered Office.

(a) A foreign foundation may change its registered office by filing with the secretary of state a notice of change of registered office.

(b) The notice of change of registered office shall set forth the information described in RSA 564-E:5-505(b).

(c) For purposes of subsection (b), the foreign foundation's name is the name under which the foreign foundation registered in accordance with RSA 564-E:4-401.

564-E:21-2113 Service on a Foundation.

(a) A foreign foundation's registered agent is the foundation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign foundation.

(b) A foreign foundation may be served by registered mail or certified mail, return receipt requested, addressed to the foreign foundation at its principal office if:

(1) The foreign foundation does not have a registered agent; or

(2) With reasonable due diligence, the foreign foundation's registered agent cannot be served.

(c) Service is perfected under subsection (b) at the earliest of:

(1) The date the foreign foundation receives the documents sent by registered mail or certified mail;

(2) The date shown on the return receipt if the return receipt is signed on the foreign foundation's behalf; or

(3) Five days after the documents are deposited in the United States Postal Service for mailing by registered mail or certified mail, as evidenced by the postmark.

(d) This section does not preclude other means of serving a foreign foundation.

564-E:21-2114 Voluntary Cancellations of Registration.

(a) A registered foreign foundation may cancel its registration by filing with the secretary of state a certificate of cancellation.

(b) The certificate of cancellation shall set forth:

- (1) The foreign foundation's name;
- (2) The name of the jurisdiction in which the foundation is organized;
- (3) A statement that the foreign foundation is not engaging in any registrable activity in this state;
- (4) A statement that the foreign foundation revokes the authority of its registered agent to accept service on the foreign foundation's behalf;
- (5) A statement that the foreign foundation discontinues its registered office;
- (6) A statement that the foreign foundation appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising while the foreign foundation was registered in this state;
- (7) A mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under subsection (b)(6); and
- (8) A statement by which the foreign foundation commits to notify the secretary of state in the future of any change in its mailing address.

(c) The cancellation of the foreign foundation's registration is effective upon filing the certificate of cancellation.

(d) After the cancellation of the foreign foundation's registration is effective, service of process on the secretary of state under this section is service on the foreign corporation.

(e) Upon receipt of service on a foreign foundation under this section, the secretary of state shall mail a copy of the service of process to the foreign corporation at the mailing address set forth under subsection (b)(7) or updated in accordance with subsection (b)(8).

564-E:21-2115 Automatic Cancellation upon Certain Mergers. Upon merging into a foundation, a foreign foundation's registration automatically is cancelled effective upon the filing of the certificate of merger.

564-E:21-2116 Administration Cancellation.

(a) The secretary of state may administratively cancel a foreign foundation's registration if:

- (1) For 2 consecutive years, the foreign foundation does not pay the annual fee, late filing fee, or any penalty imposed by this chapter or other law within 60 days after the fee or penalty is due;
- (2) For 2 consecutive years, the foreign foundation does not file its annual report with the secretary of state within 60 days after the annual report is due;
- (3) For a period of 60 days or more, the foreign foundation does not have a registered agent or a registered office;
- (4) Within 60 days any of the following events, the foreign foundation fails to file with the secretary of state the requisite notice of the event:
 - (A) A change of its registered agent;
 - (B) A change of its registered office;
 - (C) A registered agent's resignation; or
 - (D) The discontinuance of its registered office.

(5) The period of foreign foundation's duration stated in its certificate of registration expires.

(6) The foreign foundation files with the secretary of state any report or other document that:

- (A) Is required or permitted to be filed under this chapter;
- (B) Contains a misrepresentation of any material matter; or

(7) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of the foundation's records in the jurisdiction in which the foreign foundation is organized stating that the foreign foundation has been dissolved or has ceased to exist as the result of a merger.

(b) The secretary of state may administratively dissolve a foreign foundation under subsection (a) by sending the following documents to the foreign foundation at the foreign foundation's principal office:

- (1) A notice of dissolution; and
- (2) An application for reinstatement.

(c) The notice of dissolution shall set forth:

- (1) The grounds for dissolution; and
- (2) The effective date of dissolution.

(d) The cancellation of the foreign foundation's registration is effective on the date of the notice of dissolution.

564-E:21-2117 Effects of Administrative Cancellation.

(a) A foreign foundation's authority to engage in registrable activities in this state shall cease on the effective date of the administrative cancellation of the foreign foundation's registration.

(b) The administrative cancellation of a foreign foundation's registration shall not terminate the authority of the foreign foundation's registered agent.

564-E:21-2118 Appeal from Administrative Cancellation.

(a) A foreign foundation may appeal the administrative cancellation of its registration to the probate division of the circuit court for the sixth circuit within 30 days after cancellation.

(b) The foreign foundation appeals by:

(1) Petitioning the court to set aside the cancellation; and

(2) Attaching to its petition copies of:

(A) The foreign foundation's certificate of registration; and

(B) The secretary of state's notice of administrative cancellation.

(b) The court may summarily order the secretary of state to reinstate the foreign foundation's registration or may take any other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

564-E:21-2119 Domestication.

(a) A foreign foundation may domesticate as a foundation formed under this chapter by filing with the secretary of state a certificate of domestication.

(b) The certificate of domestication shall set forth:

(1) The foreign foundation's name or, if its name is unavailable for use in this state, a name that satisfies the requirements of RSA 564-E:4-401;

(2) The name and usual business address of each of the foreign foundation's directors;

(3) The name of the jurisdiction under the laws of which the foreign foundation was originally formed;

(4) The foreign foundation's original date of formation;

(5) If the foreign foundation's domestication will not be effective upon the filing of certificate of domestication with the secretary of state, the effective date and time on which the foreign foundation's domestication shall begin;

(6) The name of the foreign foundation's initial registered agent in this state; and

(7) The address of the foreign foundation's initial registered office in this state.

(c) The certificate of domestication may set forth any other matter that the foreign foundation deems necessary or advisable.

(d) For purposes of section (b)(5), the effective date and time shall not be more than 90 days after the filing of the foreign foundation's certificate of domestication with the secretary of state.

564-E:21-2120 Date of Domestication.

(a) A foreign foundation's domestication shall be effective upon:

(1) If certificate of domestication does not specify a delayed effective time and date in accordance with RSA 564-E:21-2120(b)(5) and (c), the filing of the certificate of domestication; or

(2) If certificate of domestication specifies a delayed effective time and date in accordance with RSA 564-E:21-2120(b)(5) and (c), the effective time and date specified in the certificate of domestication.

(b) The secretary of state's acceptance for filing of the certificate of domestication is conclusive proof that the foundation satisfied all conditions precedent to the foundation's domestication, except in a judicial proceeding by this state to revoke the foundation's domestication or involuntarily dissolve the foundation.

564-E:21-2121 Effects of Domestication.

(a) Upon its domestication, a foreign foundation shall be:

(1) Domesticated as foundation; and

(2) Subject to this chapter in the same manner as a foundation originally formed under this chapter.

(b) Notwithstanding the effective date of the domestication or this chapter, a domesticated foundation's existence shall be deemed to have commenced on the date that its existence commenced in the jurisdiction in which it was originally formed.

(c) All title to real property and other property owned by a foundation before its domestication and all contractual rights possessed by a foundation before its domestication shall remain vested in the foundation without reversion or impairment.

(d) Domestication shall not affect:

(1) Any obligations or liabilities that a foundation incurred before its domestication;

(2) The personal liability of any person for any of the obligations or liabilities described in subsection (b)(1); or

(3) The laws applicable to a foundation before the filing of its certificate of formation.

Article 22

Reports and Other Filings

564-E:22-2201 Annual Reports.

(a) Each foundation and each registered foreign foundation shall file with the secretary of state an annual report.

- (b) In the case of a foundation, an annual report shall set forth:
 - (1) The foundation's name;
 - (2) The address of the foundation's principal office;
 - (3) The foundation's registered agent;
 - (4) The foundation's registered office; and
 - (5) The name and business address of each of the foundation's directors.
 - (c) In the case of a registered foreign foundation, an annual report shall set forth:
 - (1) The foundation's name;
 - (2) The jurisdiction in which the foundation is formed;
 - (3) The address of the foundation's principal office;
 - (4) The foundation's registered agent;
 - (5) The foundation's registered office; and
 - (6) The name and business address of each of the foundation's directors.
 - (d) On its annual report, a foundation or a registered foreign foundation shall report information that is accurate as of January 1 of the year in which the annual report is due.
 - (e) A foundation's annual reports are due:
 - (1) Subject to subsection (e)(2), a foundation shall file its initial annual report on or before April 1 of the year following the calendar year in which the foundation was formed.
 - (2) If the foundation was formed during the month of December, then the foundation shall file its initial annual report on or before April 1 of the second year following the calendar year in which the foundation was formed.
 - (3) In each calendar year after the year in which its initial annual report is due, the foundation shall file an annual report on or before April 1 of that year.
 - (f) A foreign foundation's annual reports are due:
 - (1) Subject to subsection (f)(2), a registered foreign foundation shall file its initial annual report on or before April 1 of the year following the calendar year in which the foundation was formed.
 - (2) If the foreign foundation registered during the month of December, then the registered foreign foundation shall file its initial annual report on or before April 1 of the second year following the calendar year in which the foreign foundation was registered.
 - (3) In each calendar year after the year in which its initial annual report is due, the foreign foundation shall file an annual report on or before April 1 of that year.
 - (g) If an annual report of a foundation or a registered foreign foundation does not contain the information required by this section, then the secretary of state shall promptly send to the foundation or the registered foreign foundation:
 - (1) A notice describing the deficiencies in the annual report; and
 - (2) The annual report that fails to contain the information required by this section.
 - (h) If a foundation or a registered foreign foundation files a corrected annual report within 30 days after the date of notice under subsection (g)(1), then the annual report will be deemed timely filed.
 - (i) In addition to the annual report fee, a foundation that fails to file its annual report on or before the due date under RSA 564-E:22-2201(e) or a registered foreign foundation that fails to file its annual report on or before the due date under RSA 564-E:22-2201(f) shall pay the late filing fee under RSA 564-E:22-2205(a)(19).
- 564-E:22-2202 Correcting Filed Document.
- (a) Subject to subsection (b), a foundation or foreign foundation may correct a document described in subsection (c) by filing with the secretary of state a certificate of correction.
 - (b) A foundation or foreign foundation may file a certificate of correction only within one year of the filing of the document described in subsection (c).
 - (c) A document filed with the secretary of state may be corrected if:
 - (1) The document contains an inaccuracy; or
 - (2) The document was defectively executed, attested, sealed, verified, or acknowledged.
 - (d) The certificate of correction shall set forth:
 - (1) A statement identifying the document to be corrected;
 - (2) The filing date of the document to be corrected;
 - (3) A description of the inaccuracy or defect to be corrected; and
 - (4) A statement correcting the inaccuracy or defect.
 - (e) The certificate of correction may include a copy of the document to be corrected.
 - (f) A certificate of correction is effective on:
 - (1) Except as provided in subsection (f)(2), the effective date of the document that the certificate of correction corrects; and
 - (2) With respect to any person relying on the uncorrected document and adversely affected by the correction, the date on which the certificate of correction is filed.

564-E:22-2203 Penalty for Filing False Document.

(a) A person commits an offense by:

(1) Filing with the secretary of state a document that the person knows is false in any material respect; or

(2) Signing a document that the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

(b) An offense under this section is a misdemeanor.

564-E:22-2204 Collections and Payments of Fees.

(a) The secretary of state shall collect all fees required under this chapter and, subject to subsection (b), shall pay those fees to the state treasurer to be deposited in the general fund as unrestricted revenue.

(b) The state treasurer shall pay amounts to the secretary of state as follows:

(1) The state treasurer shall pay the expenses of administering this chapter out of any money in the treasury not otherwise appropriated until the fees collected under this chapter have been received by the state treasurer.

(2) After the fees collected under this chapter have been received by the state treasurer, the state treasurer shall pay the expenses of administering this chapter out of the fees collected under this chapter and shall reimburse the treasury for previous expenses paid by the state treasurer.

(c) The governor is authorized to draw a warrant for the sums authorized by this section out of any money in the treasury not otherwise appropriated.

564-E:22-2205 Fees.

(a) The secretary of state shall collect the following fees for:

(1) Certificate of formation	\$100
(2) Certificate of amendment	\$35
(3) Restated certificate of formation	\$35
(4) Application to reserve name	\$15
(5) Notice of transfer of reserved name	\$15
(6) Notice of change of registered agent	\$15
(7) Notice of resignation of registered agent	\$15
(8) Notice of registered agent's change of address	\$15
(9) Notice of change of registered office	\$15
(10) Certificate of merger	\$35
(11) Certificate of dissolution	\$35
(12) Certificate of revocation of dissolution	\$35
(13) Certificate of registration	\$100
(14) Amended certificate of registration	\$35
(15) Restated certificate of registration	\$35
(16) Certificate of cancellation	\$35
(17) Application for reinstatement	\$135
(18) Certificate of domestication	\$100
(19) Annual report	\$100
(20) Late filing fee	\$50
(21) Certificate of correction	\$35

(b) The secretary of state shall collect a fee of \$25 each time process is served on the secretary of state under this chapter. The party to a judicial proceeding causing service of process is entitled to recover this fee as costs if that party prevails in the judicial proceeding.

(c) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a foundation or foreign foundation:

- (1) \$1 a page for copying; and
- (2) \$5 for the certificate.

Article 23

Miscellaneous Provisions

564-E:23-2301 Director of Charitable Trusts. With respect to a foundation that is a charitable trust, this chapter shall not limit the authority of the director of charitable trusts as otherwise provided by statute or common law.

564-E:23-2302 Department of Health and Human Services. This chapter shall not limit the authority of the department of health and human services as otherwise provided by statute or common law.

564-E:23-2303 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application. To that end, the provisions of this chapter are severable.

48 Income from Trusts. Amend RSA 77:10 to read as follows:

77:10 Income From Trusts **and Foundations**. Interest and dividend income received by ~~[estates held by trustees]~~ **trusts and foundations** treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in the return of their grantor, to the extent that the grantor is an inhabitant or resident of this state. Income reported by, and taxed federally as interest or dividends to, a trust **or foundation** beneficiary who is an individual inhabitant or resident of this state with respect to distributions from a trust **or foundation** that is not treated as a grantor trust under section 671 of the United States Internal Revenue Code shall be included as interest or dividends in the return of such beneficiary and subject to taxation in accordance with the provisions of this chapter.

49 Definitions; Business Organization. Amend RSA 77-A:1, I to read as follows:

I. "Business organization" means any enterprise, whether corporation, partnership, limited liability company, proprietorship, association, business trust, real estate trust or other form of organization; organized for gain or profit, carrying on any business activity within the state, except such enterprises as are expressly made exempt from income taxation under the United States Internal Revenue Code as defined in RSA 77-A:1, XX. Each enterprise under this definition shall be subject to taxation under RSA 77-A:2 as a separate entity, unless specifically authorized by this chapter to be treated otherwise, such as, but not limited to, combined reporting. Trusts **or foundations** treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in the return of their owners, and such owners shall be subject to the tax thereon to the extent such owners would be considered a business organization hereunder notwithstanding the existence of the trust **or foundation**. The use of consolidated returns as defined in the United States Internal Revenue Code as defined in RSA 77-A:1, XX is not permitted. Notwithstanding any other provision of this paragraph, an enterprise shall not be characterized as a business organization and shall be excluded from taxation at the entity level if it elects to be treated as a qualified investment company as defined in RSA 77-A:1, XXI. A partnership, limited liability company, estate, trust, **or foundation** except grantor trusts pursuant to section 671 of the United States Internal Revenue Code, "S" corporation, real estate investment trust, or any other such entity, other than an organization electing to be treated as a qualified investment company as defined in RSA 77-A:1, XXI whose net income is reportable by the true owners either directly or indirectly shall be subject to tax at the entity level, and no part of such earnings or loss shall be included in the calculation of the gross business profits of the owners of such entity.

50 Definitions; Business Enterprise. Amend RSA 77-E:1, III to read as follows:

III. "Business enterprise" means any profit or nonprofit enterprise or organization, whether corporation, partnership, limited liability company, proprietorship, association, trust, **foundation**, business trust, real estate trust or other form of organization engaged in or carrying on any business activity within this state, except such enterprises as are expressly made exempt from income taxation under section 501(c)(3) of the United States Internal Revenue Code to the extent such enterprise does not engage in any business activity constituting unrelated business activity as defined by section 513 of the United States Internal Revenue Code. Each business enterprise under this definition shall be subject to the tax imposed under RSA 77-E as a separate entity except that trusts **and foundations** treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in the return of their owners, and such owners shall be subject to the tax thereon to the extent any such owners would be considered a business enterprise hereunder notwithstanding the existence of the trust **or foundation**. The use of consolidated returns as defined in the United States Internal Revenue Code or of combined reporting is not permitted. Notwithstanding any other provision of this paragraph, an enterprise shall not be characterized as a business enterprise and shall be excluded from taxation at the entity level if it is a qualified investment company as defined in RSA 77-E:1, XIV.

51 Voluntary Corporations and Associations; Name. Amend RSA 292:3, II(a) and (b) to read as follows:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, [or] RSA 349, **or RSA 564-E**.

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, RSA 304-C, **or RSA 564-E**.

52 New Hampshire Business Corporations Act; Name Corporate Name. Amend RSA 293-A:4.01(b)(1) and (b)(2) to read as follows:

(1) the name of an entity incorporated, authorized, formed, or registered to transact business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, [or] RSA 349, **or RSA 564-E**;

(2) a name reserved or registered under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, [or] RSA 304-C, **or RSA 564-E**;

53 Treatment of New Hampshire Investment Trusts; Use of Names Regulated. Amend RSA 293-B:17, I(b)(1) and (2) to read as follows:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, [or] RSA 349, **or RSA 564-E**.

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, [or] RSA 304-C, **and RSA 564-E.**

54 Professional Corporations; Corporate Name. Amend RSA 294-A:7, III(a)(1) and (2) to read as follows:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, [or] RSA 349, **or RSA 564-E.**

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, [or] RSA 304-C, **or RSA 564-E.**

55 Cooperative Marketing and Rural Electrification Associations; Use of Name Regulated. Amend RSA 301:43-a, II(a) and (b) to read as follows:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, [or] RSA 349, **or RSA 564-E.**

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, [or] RSA 304-C, **or RSA 564-E.**

56 Uniform Partnership Act; Registered Limited Liability Partnership; Name of Registered Limited Liability Partnership. Amend RSA 304-A:45, II(a) and (b) to read as follows:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, [or] RSA 349, **or RSA 564-E.**

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, [or] RSA 304-C, **or RSA 564-E.**

57 Uniform Limited Partnership Act; Name. Amend RSA 304-B:2, III(a) and (b) to read as follows:

(a) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, [or] RSA 349 **or RSA 564-E.**

(b) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, [or] RSA 304-C **or RSA 564-E.**

58 Trade Names; Registration; Generally. Amend RSA 349:1, IV(a)(1) and (2) to read as follows:

(1) The name of an entity incorporated, authorized, formed, or registered to do business in this state under RSA 292, RSA 293-A, RSA 293-B, RSA 294-A, RSA 301, RSA 301-A, RSA 304-A, RSA 304-B, RSA 304-C, RSA 305-A, [or] RSA 349, **or RSA 564-E.**

(2) A name reserved under RSA 293-A, RSA 293-B, RSA 304-A, RSA 304-B, [or] RSA 304-C, **or RSA 564-E.**

59 Repeal. The following are hereby repealed:

I. RSA 383-D:11-1102, relative to audits in lieu of examination.

II. RSA 564-B:5-503, relative to exceptions to a spendthrift provision.

III. RSA 564-D, relative to qualified dispositions in trusts.

60 Effective Date.

I. Sections 2, 3, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 40, 43, and 44 of this act shall take effect upon its passage.

II. Sections 38, 41, and 47 through 58 of this act shall take effect October 1, 2017.

III. The remainder of 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. Van Houten offered floor amendment (2025h).

Floor Amendment (2025h)

Amend RSA 293-A:3.05(e) as inserted by section 32 of the bill by replacing it with the following:

(e) A corporation described in subsection (a)(1) may be exempted from the requirements of RSA Title 35 and not be subject to regulation by the New Hampshire bank commissioner if it complies with the following:

(1) The corporation which intends to become an unregulated exempt family trust company shall apply to the banking department as a fully-regulated family trust company charter according to the provisions of RSA 383-A:3-305;

(2) The entity shall be required to operate as a regulated family trust company for an initial 18-month period, with a full examination conducted by the banking department no sooner than one year of commencing operations. If the family trust company receives a composite rating greater than a minimum rating, as determined in rules of the bank commissioner, at any time following one year of commencing operations it may apply for a change of business plan under RSA 383-C:8-801 and request permission to convert its status to an unregulated, exempt family trust company. A rating greater than the minimum determined

by the bank commissioner must be achieved for the banking department to be able to consider the request. If the minimum rating is not achieved, the entity shall continue to operate as a fully-regulated family trust company and accept examinations on the 18-month cycle until the minimum rating is achieved. Upon subsequently achieving a composite rating which is greater than the minimum, the family trust company may then file an application to convert to an exempt family trust company.

(3) Once conversion from a regulated family trust company to an exempt family trust company has been approved by the bank commissioner, the banking department shall have no jurisdiction over, supervisory authority, or responsibility for the condition or performance of the exempt family trust company unless the department receives information that causes it to believe that the entity is conducting unlicensed banking activities, such as providing services to the general public.

Amend RSA 304-C:22-a(e) as inserted by section 33 of the bill by replacing it with the following:

(e) A limited liability company described in subsection (a)(1) may be exempted from the requirements of RSA Title 35 and not be subject to regulation by the New Hampshire bank commissioner if it complies with the following:

(1) The limited liability company which intends to become an unregulated exempt family trust company shall apply to the banking department as a fully-regulated family trust company charter according to the provisions of RSA 383-A:3-305;

(2) The entity shall be required to operate as a regulated family trust company for an initial 18-month period, with a full examination conducted by the banking department no sooner than one year of commencing operations. If the family trust company receives a composite rating greater than a minimum rating, as determined in rules of the bank commissioner, at any time following one year of commencing operations it may apply for a change of business plan under RSA 383-C:8-801 and request permission to convert its status to an unregulated, exempt family trust company. A rating greater than the minimum determined by the bank commissioner must be achieved for the banking department to be able to consider the request. If the minimum rating is not achieved, the entity shall continue to operate as a fully-regulated family trust company and accept examinations on the 18-month cycle until the minimum rating is achieved. Upon subsequently achieving a composite rating which is greater than the minimum, the family trust company may then file an application to convert to an exempt family trust company.

(3) Once conversion from a regulated family trust company to an exempt family trust company has been approved by the bank commissioner, the banking department shall have no jurisdiction over, supervisory authority, or responsibility for the condition or performance of the exempt family trust company unless the department receives information that causes it to believe that the limited liability company is conducting unlicensed banking activities, such as providing services to the general public.

Rep. Van Houten spoke in favor.

Rep. Sanborn spoke against.

Rep. Hunt requested a roll call; sufficiently seconded.

YEAS 154 - NAYS 200

YEAS - 154 BELKNAP

Huot, David

CARROLL

Buco, Thomas

Butler, Edward

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Parkhurst, Henry

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Shepardson, Marjorie

Berch, Paul
Eaton, Daniel
Mann, John
Pearson, William

Bordenet, John
Faulkner, Barry
Meador, David
Weber, Lucy

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Abel, Richard
Higgins, Patricia
Mulligan, Mary Jane
White, Andrew

Bennett, Travis
Josephson, Timothy
Nordgren, Sharon

Campion, Polly
Maes, Kevin
Smith, Suzanne

Dontonville, Roger
Massimilla, Linda
Sykes, George

HILLSBOROUGH

Backus, Robert
Cleaver, Skip
DiSilvestro, Linda

Beaulieu, Jane
Cornell, Patricia
Dyer, Caleb

Bouldin, Amanda
Cote, David
Edwards, Elizabeth

Chandlee, Shannon
Sullivan, Daniel
Elber, Joel

Forest, Armand
Heath, Mary
Keane, Amelia
MacKenzie, Mark
McNamara, Richard
O'Neil, William
Roberts, Carol
Sofikitis, Catherine

Freitas, Mary
Herbert, Christopher
King, Mark
Mangipudi, Latha
Nutting, Allison
Long, Patrick
Rosenwald, Cindy
Smith, Timothy

Gidge, Kenneth
Schmidt, Janice
Klee, Patricia
Manley, Jonathan
O'Brien, Michael
Porter, Marjorie
Harvey, Suzanne
Van Houten, Connie

Goley, Jeffrey
Jack, Martin
Leishman, Peter
Martin, Joelle
O'Leary, Richard
Walsh, Robert
Shaw, Barbara
Williams, Kermit

MERRIMACK

Turcotte, Alan
Carson, Clyde
Moffett, Howard
Luneau, David
Rogers, Katherine
Woolpert, David

Alicea, Caroletta
Doherty, David
Henle, Paul
Myler, Mel
Schuett, Dianne

Bartlett, Christy
Ebel, Karen
MacKay, James
Richards, Beth
Shurtleff, Stephen

Rice, Chip
Gile, Mary
Kenison, Linda
Rodd, Beth
Walz, Mary Beth

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Farnham, Betsey
Lovejoy, Patricia
Morrison, Sean
Tilton, Rio

Berrien, Skip
DiLorenzo, Charlotte
Francesse, Paula
Malloy, Dennis
Murray, Kate
Read, Ellen

Cahill, Michael
Dowling, Patricia
Gilman, Julie
McBeath, Rebecca
Gordon, Pamela
Le, Tamara

Cali-Pitts, Jacqueline
Edgar, Michael
Guthrie, Joseph
Messmer, Mindi
Pantelakos, Laura
Ward, Gerald

STRAFFORD

Berube, Roger
Ellis, Donna
Grassie, Chuck
Opderbecke, Linn
Spang, Judith

Bixby, Peter
Epstein, Isaac
Horrigan, Timothy
Schmidt, Peter
Treleaven, Susan

Burton, Wayne
Frost, Sherry
Krans, Hamilton
Salloway, Jeffrey
Vincent, Kenneth

Cilley, Jacalyn
Gourgue, Amanda
Smith, Marjorie
Sandler, Catt
Wall, Janet

SULLIVAN

Schmidt, Andrew
Gottling, Suzanne

Cloutier, John
Irwin, Virginia

Gagnon, Raymond
Oxenham, Lee

Gauthier, Francis
Tanner, Linda

NAYS - 200

BELKNAP

Abear, Marc
Flanders, Donald
Maloney, Michael
Vadney, Herbert

Aldrich, Glen
Fraser, Valerie
Silber, Norman
Varney, Peter

Comtois, Barbara
Howard, Raymond
Spanos, Peter

Fields, Dennis
Lang, Timothy
Sylvia, Michael

CARROLL

Avellani, Lino
Crawford, Karel
Schmidt, Stephen

Chandler, Gene
McCarthy, Frank
Umberger, Karen

Comeau, Ed
McConkey, Mark
Marsh, William

Cordelli, Glenn
Nelson, Bill

CHESHIRE

Hunt, John
Sterling, Franklin

McConnell, James
Tatro, Bruce

O'Day, John

Stallcop, Joseph

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTON

Almy, Susan
Darrow, Stephen
Rand, Steven

Bailey, Brad
Ham, Bonnie
Schwaegler, Vicki

Binford, David
Hennessey, Erin
Johnson, Tiffany

Brown, Duane
Ladd, Rick

HILLSBOROUGH

Ammon, Keith
Biggie, Barbara
Moore, Craig
Dickey, Glen
Freeman, Lisa
Gargas, Carolyn
Hellwig, Steve
Graham, John
L'Heureux, Robert
Lewicke, John

Ayala, Jessica
Burns, Charlie
Carr, John
Donovan, Daniel
Fromuth, Bart
Gould, Linda
Hinch, Richard
Moore, Josh
Ober, Lynne
MacKay, Mariellen

Griffin, Barbara
Burt, John
Christensen, Chris
Fedolfi, Jim
Griffin, Gerald
Halstead, Carolyn
Hopper, Gary
Rice, Kimberly
Lascelles, Richard
McCarthy, Michael

Barry, Richard
Byron, Frank
Christie, Rick
Ferreira, Elizabeth
Gagne, Larry
Hansen, Peter
Hynes, Dan
Kurk, Neal
LeBrun, Donald
Martineau, Jesse

Murphy, Keith
Panasiti, Reed
Prout, Andrew
Schleien, Eric
Souza, Kathleen
Sullivan, Victoria

Negron, Steve
Pellegrino, Anthony
Ober, Russell
Scully, Kevin
Wolf, Terry
Valera, John

Notter, Jeanine
Pierce, David
Rouillard, Claire
Seidel, Carl
Twombly, Timothy
Zaricki, Nick

Ohm, Bill
Proulx, Mark
Sanborn, Laurie
Snow, Kendall
Ulery, Jordan

MERRIMACK

Kuch, Bill
Wolf, Dan
Klose, John
Marple, Richard
Walsh, Thomas

Brewster, Michael
Hill, Gregory
Kotowski, Frank
McGuire, Carol
Testerman, Dave

Copp, Anne
Hoell, J.R.
Leavitt, John
Pearl, Howard
Wells, Natalie

Long, Douglas
Horn, Werner
Moffett, Michael
Seaworth, Brian

ROCKINGHAM

Cook, Allen
Baldasaro, Alfred
Bove, Martin
Dean-Bailey, Yvonne
Emerick, J. Tracy
Marsh, Henry
Janigian, John
Kolodziej, Walter
Matthews, Carolyn
Nasser, Jim
Rimol, Bob
Stone, Brian
True, Chris
Welch, David

Abrami, Patrick
Barnes, Arthur
Chirichiello, Brian
DeSimone, Debra
Fesh, Robert
Hagan, Joseph
O'Connor, John
Griffin, Mary
McKinney, Betsy
Nigrello, Robert
Sapareto, Frank
Sytek, John
Verville, Kevin
Weyler, Kenneth

Allen, Mary
Bates, David
Costable, Michael
Doucette, Fred
Gay, Betty
Hoelzel, Kathleen
Katsakiores, Phyllis
Pearson, Mark
McMahon, Charles
Osborne, Jason
Somssich, Peter
Toriosian, Peter
Vose, Michael
Willis, Brenda

Azarian, Gary
Bean, Philip
Thomas, Douglas
Elliott, Robert
Green, Dennis
Edwards, Jess
Khan, Aboul
Major, Norman
Milz, David
Packard, Sherman
Spillane, James
Tripp, Richard
Webb, James
Woitkun, Steven

STRAFFORD

Harrington, Michael
McNally, Jody
Graham, Robert

Horgan, James
Mullen, John
Spencer, Matthew

Kaczynski, Thomas
Phinney, Brandon
Sprague, Dale

Turcotte, Leonard
Pitre, Joseph
Wuelper, Kurt

SULLIVAN

Grenier, James
Smith, Steven

O'Connor, John

Laware, Thomas

Rollins, Skip

and floor amendment (2025h) failed.

Reps. Lisle and Hull declared a conflict of interest and did not participate.

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

Rep. Sanborn spoke in favor.

Rep. Williams spoke against and requested a roll call; sufficiently seconded.

YEAS 219 - NAYS 137

YEAS - 219

BELKNAP

Abear, Marc
Flanders, Donald
Maloney, Michael
Vadney, Herbert

Aldrich, Glen
Fraser, Valerie
Silber, Norman
Varney, Peter

Comtois, Barbara
Howard, Raymond
Spanos, Peter

Fields, Dennis
Lang, Timothy
Sylvia, Michael

CARROLL

Avellani, Lino
Cordelli, Glenn
Nelson, Bill

Butler, Edward
Crawford, Karel
Schmidt, Stephen

Chandler, Gene
McCarthy, Frank
Umberger, Karen

Comeau, Ed
McConkey, Mark
Marsh, William

CHESHIRE

Faulkner, Barry
O'Day, John

Hunt, John
Stallcop, Joseph

Mann, John
Sterling, Franklin

McConnell, James
Tatro, Bruce

COOS

Merner, Troy

Theberge, Robert

GRAFTON

Bailey, Brad
Ham, Bonnie
Rand, Steven

Binford, David
Hennessey, Erin
Schwaegler, Vicki

Brown, Duane
Ladd, Rick
Smith, Suzanne

Darrow, Stephen
Massimilla, Linda
Johnson, Tiffany

HILLSBOROUGH

Ammon, Keith
 Biggie, Barbara
 Moore, Craig
 Christie, Rick
 Edwards, Elizabeth
 Fromuth, Bart
 Goley, Jeffrey
 Hellwig, Steve
 Graham, John
 L'Heureux, Robert
 Lewicke, John
 Murphy, Keith
 Panasiti, Reed
 Prout, Andrew
 Sanborn, Laurie
 Wolf, Terry
 Valera, John

Ayala, Jessica
 Burns, Charlie
 Carr, John
 Dickey, Glen
 Fedolfi, Jim
 Griffin, Gerald
 Gould, Linda
 Hinch, Richard
 Moore, Josh
 Ober, Lynne
 MacKay, Mariellen
 Negron, Steve
 Pellegrino, Anthony
 Ober, Russell
 Schleien, Eric
 Twombly, Timothy
 Zaricki, Nick

Griffin, Barbara
 Burt, John
 Chandley, Shannon
 Donovan, Daniel
 Ferreira, Elizabeth
 Gagne, Larry
 Halstead, Carolyn
 Hopper, Gary
 Rice, Kimberly
 Lascelles, Richard
 McCarthy, Michael
 Notter, Jeanine
 Pierce, David
 Rosenwald, Cindy
 Scully, Kevin
 Ulery, Jordan

Barry, Richard
 Byron, Frank
 Christensen, Chris
 Dyer, Caleb
 Freeman, Lisa
 Gargas, Carolyn
 Hansen, Peter
 Hynes, Dan
 Kurk, Neal
 LeBrun, Donald
 Martineau, Jesse
 Ohm, Bill
 Proulx, Mark
 Rouillard, Claire
 Seidel, Carl
 Sullivan, Victoria

MERRIMACK

Kuch, Bill
 Wolf, Dan
 Horn, Werner
 Moffett, Michael
 Pearl, Howard
 Walsh, Thomas

Brewster, Michael
 Ebel, Karen
 Klose, John
 Marple, Richard
 Rodd, Beth
 Testerman, Dave

Copp, Anne
 Hill, Gregory
 Kotowski, Frank
 McGuire, Carol
 Seaworth, Brian
 Wells, Natalie

Long, Douglas
 Hoell, J.R.
 Luneau, David
 Myler, Mel
 Shurtleff, Stephen

ROCKINGHAM

Cook, Allen
 Baldasaro, Alfred
 Chirichiello, Brian
 DeSimone, Debra
 Emerick, J. Tracy
 Green, Dennis
 Hoelzel, Kathleen
 Janvrin, Jason
 Kolodziej, Walter
 Matthews, Carolyn
 Morrison, Sean
 Packard, Sherman
 Sapareto, Frank
 Torosian, Peter
 Vose, Michael
 Willis, Brenda

Abrami, Patrick
 Barnes, Arthur
 Costable, Michael
 Doucette, Fred
 Fesh, Robert
 Guthrie, Joseph
 Itse, Daniel
 O'Connor, John
 Griffin, Mary
 McKinney, Betsy
 Nasser, Jim
 Gordon, Richard
 Spillane, James
 Tripp, Richard
 Webb, James
 Woitkun, Steven

Allen, Mary
 Bean, Philip
 Thomas, Douglas
 Dowling, Patricia
 Gay, Betty
 Marsh, Henry
 Edwards, Jess
 Katsakiores, Phyllis
 Pearson, Mark
 McMahon, Charles
 Nigrello, Robert
 Tilton, Rio
 Stone, Brian
 True, Chris
 Welch, David

Azarian, Gary
 Bove, Martin
 Dean-Bailey, Yvonne
 Elliott, Robert
 Gilman, Julie
 Hagan, Joseph
 Janigian, John
 Khan, Aboul
 Major, Norman
 Milz, David
 Osborne, Jason
 Rimol, Bob
 Sytek, John
 Verville, Kevin
 Weyler, Kenneth

STRAFFORD

Berube, Roger
 Turcotte, Leonard
 Phinney, Brandon
 Sprague, Dale

Harrington, Michael
 McNally, Jody
 Pitre, Joseph
 Wuelper, Kurt

Horgan, James
 Mullen, John
 Graham, Robert

Kaczynski, Thomas
 Opperbecke, Linn
 Spencer, Matthew

SULLIVAN

Gauthier, Francis
 Rollins, Skip

Grenier, James
 Smith, Steven

O'Connor, John

Laware, Thomas

**NAYS - 137
BELKNAP**

Huot, David

CARROLL

Buco, Thomas

Knirk, Jerry

CHESHIRE

Abbott, Michael
 Harvey, Cathryn
 Johnsen, Gladys
 Pearson, William

Ames, Richard
 Ley, Douglas
 Meader, David
 Weber, Lucy

Berch, Paul
 Eaton, Daniel
 Parkhurst, Henry

Bordenet, John
 Fenton, Donovan
 Shepardson, Marjorie

COOS

Fothergill, John
 Thomas, Yvonne

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

GRAFTON

Abel, Richard
Dontonville, Roger
Mulligan, Mary Jane

Almy, Susan
Higgins, Patricia
Nordgren, Sharon

Bennett, Travis
Josephson, Timothy
Sykes, George

Campion, Polly
Maes, Kevin
White, Andrew

HILLSBOROUGH

Backus, Robert
Cornell, Patricia
Elber, Joel
Heath, Mary
King, Mark
Mangipudi, Latha
Nutting, Allison
Long, Patrick
Harvey, Suzanne
Souza, Kathleen

Beaulieu, Jane
Cote, David
Forest, Armand
Herbert, Christopher
Klee, Patricia
Manley, Jonathan
O'Brien, Michael
Porter, Marjorie
Shaw, Barbara
Smith, Timothy

Bouldin, Amanda
Sullivan, Daniel
Freitas, Mary
Schmidt, Janice
Leishman, Peter
Martin, Joelle
O'Leary, Richard
Walsh, Robert
Snow, Kendall
Van Houten, Connie

Cleaver, Skip
DiSilvestro, Linda
Gidge, Kenneth
Jack, Martin
MacKenzie, Mark
McNamara, Richard
O'Neil, William
Roberts, Carol
Sofikitis, Catherine
Williams, Kermit

MERRIMACK

Turcotte, Alan
Carson, Clyde
Henle, Paul
Richards, Beth
Woolpert, David

Alicea, Caroletta
Doherty, David
MacKay, James
Rogers, Katherine

Bartlett, Christy
Gile, Mary
Kenison, Linda
Schuett, Dianne

Rice, Chip
Moffett, Howard
Leavitt, John
Walz, Mary Beth

ROCKINGHAM

Altschiller, Debra
Cali-Pitts, Jacqueline
Farnham, Betsey
McBeath, Rebecca
Pantelakos, Laura
Ward, Gerald

Bates, David
Cushing, Robert Renny
Francese, Paula
Messmer, Mindi
Read, Ellen

Berrien, Skip
DiLorenzo, Charlotte
Lovejoy, Patricia
Murray, Kate
Somssich, Peter

Cahill, Michael
Edgar, Michael
Malloy, Dennis
Gordon, Pamela
Le, Tamara

STRAFFORD

Bixby, Peter
Epstein, Isaac
Horrigan, Timothy
Schmidt, Peter
Treleaven, Susan

Burton, Wayne
Frost, Sherry
Keans, Sandra
Salloway, Jeffrey
Vincent, Kenneth

Cilley, Jacalyn
Gourgue, Amanda
Krans, Hamilton
Sandler, Catt
Wall, Janet

Ellis, Donna
Grassie, Chuck
Smith, Marjorie
Spang, Judith

SULLIVAN

Schmidt, Andrew
Irwin, Virginia

Cloutier, John
Oxenham, Lee

Gagnon, Raymond

Gottling, Suzanne

and the majority committee report was adopted and ordered to third reading.
Reps. Lisle and Hull declared a conflict of interest and did not participate.

SB 66-FN, including a fetus in the definition of “another” for purposes of certain criminal offenses. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. John Burt for the Majority of Criminal Justice and Public Safety. This bill, as amended, would provide that a viable fetus shall be included in the definition of “another” for the purposes of first and second degree murder, manslaughter, negligent homicide, and causing or aiding a suicide. This bill is a response to the New Hampshire Supreme Court’s decision in the case of *State v. Lamy*, 158 N.H. 511 (2009) in which the court held that “In New Hampshire, to be guilty of manslaughter or negligent homicide, a person must cause the death of another.” Our homicide statutes, however, specifically provide that “the meaning of ‘another’ does not include a fetus.” The court further stated that, “Should the legislature find the result in this case as unfortunate as we do, it should follow the lead of many other states and revisit the homicide statutes as they pertain to a fetus.” This bill defines a fetus as “an unborn offspring, from the embryo stage which is the end of the twentieth week after conception or, in the case of in vitro fertilization, the end of the twentieth week after implantation, until birth.” This bill is solely about protecting pregnant women and their unborn children and about serving justice for families who have lost an unborn child due to the criminal acts of a third party. The language within this bill has been worked on over many years to assert that this is not a pro-life or pro-choice issue, given its many provisions asserting that the bill shall not apply to acts taken by the mother, at her request or direction, or by a medical professional in the course of their professional duties. By including a fetus that would be considered beyond a reasonable doubt to be viable outside of the womb within the definition of “another,” we are establishing an important guideline which will allow for families to seek justice in the death of their unborn children. The amendment provides protection to a woman who wishes to terminate the pregnancy in RSA 630:1-b and RSA 630:2, 3 and 4. Vote 12-8.

Rep. Laura Pantelakos for the Minority of Criminal Justice and Public Safety. The minority has serious concerns about the unintended consequences of this bill as amended by the committee. This bill recognizes a fetus as a person and an independent victim of a crime. In other states with fetal personhood laws, pregnant women have been arrested, charged, prosecuted and forced to undergo medical treatment such as unwanted Caesarean sections, blood transfusions and psychiatric commitment. We also believe that the 20-week standard is arbitrary and has no medical or legal basis. The minority recognizes the significant loss to a woman and her family when a crime is committed that results in a miscarriage or stillbirth. The law should recognize such a loss and provide appropriate justice for the surviving victims. This bill, with the amendment supported by the minority, allows for stricter penalties for such crimes. Under current New Hampshire law (RSA 631), if an assault results in a miscarriage or stillbirth and the mother survives, the perpetrator faces an enhanced charge and can be sentenced for up to 15 years imprisonment. The amendment recommended by the minority adds similar sentencing enhancements to the homicide statute for crimes that result in the mother's death. Specifically, it nearly doubles the maximum criminal penalties when manslaughter or negligent homicide results in a miscarriage or stillbirth. For second degree murder, which is punishable by up to life in prison, it requires the judge to explicitly state that he or she has considered a miscarriage or stillbirth as a factor in determining a sentence. These enhanced penalties are severe and they focus the criminal law where it should be: on the additional, often devastating injury suffered when a crime against a woman results in the loss of her pregnancy.

Majority Amendment (1360h)

Amend the introductory paragraph of RSA 630:1-a, V(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Nothing in this section or RSA 630:1-b, RSA 630:2, RSA 630:3, or RSA 630:4 shall apply to:

Majority committee amendment adopted.

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

MOTION TO LAY ON THE TABLE

Rep. O'Leary moved that **SB 66-FN**, including a fetus in the definition of "another" for purposes of certain criminal offenses, be laid on the table.

Rep. White requested a roll call; sufficiently seconded.

YEAS 172 - NAYS 181

YEAS - 172 BELKNAP

Huot, David Vadney, Herbert

CARROLL

Buco, Thomas Butler, Edward Crawford, Karel Knirk, Jerry

CHESHIRE

Abbott, Michael	Ames, Richard	Berch, Paul	Bordenet, John
Harvey, Cathryn	Ley, Douglas	Eaton, Daniel	Faulkner, Barry
Fenton, Donovan	Johnsen, Gladys	Mann, John	Meader, David
Parkhurst, Henry	Shepardson, Marjorie	Stallcop, Joseph	Sterling, Franklin
Tatro, Bruce	Pearson, William	Weber, Lucy	

COOS

Laflamme, Larry Moynihan, Wayne Tucker, Edith Thomas, Yvonne

GRAFTON

Abel, Richard	Almy, Susan	Campion, Polly	Dontonville, Roger
Ham, Bonnie	Higgins, Patricia	Josephson, Timothy	Maes, Kevin
Massimilla, Linda	Mulligan, Mary Jane	Nordgren, Sharon	Rand, Steven
Smith, Suzanne	Sykes, George	White, Andrew	

HILLSBOROUGH

Ayala, Jessica	Backus, Robert	Beaulieu, Jane	Bouldin, Amanda
Chandley, Shannon	Cleaver, Skip	Cornell, Patricia	Cote, David
Sullivan, Daniel	DiSilvestro, Linda	Edwards, Elizabeth	Elber, Joel
Forest, Armand	Freitas, Mary	Gargas, Carolyn	Gidge, Kenneth
Goley, Jeffrey	Heath, Mary	Herbert, Christopher	Schmidt, Janice
Jack, Martin	Keane, Amelia	King, Mark	Klee, Patricia
Kurk, Neal	Leishman, Peter	Lewicke, John	Lisle, David
MacKay, Mariellen	MacKenzie, Mark	Mangipudi, Latha	Manley, Jonathan
Martin, Joelle	McNamara, Richard	Nutting, Allison	O'Brien, Michael

O'Leary, Richard
Walsh, Robert
Shaw, Barbara
Van Houten, Connie

O'Neil, William
Roberts, Carol
Snow, Kendall
Williams, Kermit

Long, Patrick
Rosenwald, Cindy
Sofikitis, Catherine

Porter, Marjorie
Harvey, Suzanne
Smith, Timothy

MERRIMACK

Turcotte, Alan
Carson, Clyde
Ebel, Karen
MacKay, James
Myler, Mel
Schuett, Dianne

Alicea, Caroletta
Long, Douglas
Gile, Mary
Kenison, Linda
Richards, Beth
Shurtleff, Stephen

Bartlett, Christy
Wolf, Dan
Moffett, Howard
Luneau, David
Rodd, Beth
Walz, Mary Beth

Rice, Chip
Doherty, David
Henle, Paul
Marple, Richard
Rogers, Katherine
Woolpert, David

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Farnham, Betsey
Malloy, Dennis
Murray, Kate
Read, Ellen

Berrien, Skip
DiLorenzo, Charlotte
Francese, Paula
McBeath, Rebecca
Gordon, Pamela
Somssich, Peter

Cahill, Michael
Dowling, Patricia
Gilman, Julie
McKinney, Betsy
Pantelakos, Laura
Le, Tamara

Cali-Pitts, Jacqueline
Edgar, Michael
Lovejoy, Patricia
Messmer, Mindi
Tilton, Rio
Ward, Gerald

STRAFFORD

Bixby, Peter
Epstein, Isaac
Horrigan, Timothy
Opderbecke, Linn
Sandler, Catt
Vincent, Kenneth

Burton, Wayne
Frost, Sherry
Keans, Sandra
Schmidt, Peter
Spang, Judith
Wall, Janet

Cilley, Jacalyn
Gourgue, Amanda
Krans, Hamilton
Phinney, Brandon
Sprague, Dale

Ellis, Donna
Grassie, Chuck
Smith, Marjorie
Salloway, Jeffrey
Treleaven, Susan

SULLIVAN

Schmidt, Andrew
Grenier, James

Cloutier, John
Irwin, Virginia

Gagnon, Raymond
Oxenham, Lee

Gottling, Suzanne
Tanner, Linda

NAYS - 181

BELKNAP

Abear, Marc
Flanders, Donald
Maloney, Michael

Aldrich, Glen
Fraser, Valerie
Silber, Norman

Comtois, Barbara
Howard, Raymond
Spanos, Peter

Fields, Dennis
Lang, Timothy
Varney, Peter

CARROLL

Avellani, Lino
McCarthy, Frank
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

Comeau, Ed
Nelson, Bill

Cordelli, Glenn
Schmidt, Stephen

CHESHIRE

Hunt, John

McConnell, James

O'Day, John

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTON

Bailey, Brad
Hennessey, Erin
Johnson, Tiffany

Binford, David
Hull, Robert

Brown, Duane
Ladd, Rick

Darrow, Stephen
Schwaegler, Vicki

HILLSBOROUGH

Ammon, Keith
Burns, Charlie
Carr, John
Dyer, Caleb
Fromuth, Bart
Halstead, Carolyn
Hopper, Gary
L'Heureux, Robert
McCarthy, Michael
Notter, Jeanine
Pierce, David
Sanborn, Laurie
Souza, Kathleen
Sullivan, Victoria

Griffin, Barbara
Burt, John
Christie, Rick
Fedolfi, Jim
Griffin, Gerald
Hansen, Peter
Hynes, Dan
Ober, Lynne
Martineau, Jesse
Ohm, Bill
Proulx, Mark
Schleien, Eric
Wolf, Terry
Valera, John

Barry, Richard
Byron, Frank
Dickey, Glen
Ferreira, Elizabeth
Gagne, Larry
Helliwig, Steve
Moore, Josh
Lascelles, Richard
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Scully, Kevin
Twombly, Timothy
Zaricki, Nick

Biggie, Barbara
Moore, Craig
Donovan, Daniel
Freeman, Lisa
Gould, Linda
Hinch, Richard
Rice, Kimberly
LeBrun, Donald
Negron, Steve
Pellegrino, Anthony
Rouillard, Claire
Seidel, Carl
Ulery, Jordan

MERRIMACK

Kuch, Bill
Hoell, J.R.
Leavitt, John
Seaworth, Brian

Brewster, Michael
Horn, Werner
Moffett, Michael
Walsh, Thomas

Copp, Anne
Klose, John
McGuire, Carol
Testerman, Dave

Hill, Gregory
Kotowski, Frank
Pearl, Howard
Wells, Natalie

ROCKINGHAM

Cook, Allen
Barnes, Arthur
Chirichiello, Brian
DeSimone, Debra
Fesh, Robert
Marsh, Henry
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
Milz, David
Packard, Sherman
Spillane, James
Tripp, Richard
Webb, James
Woitkun, Steven

Abrami, Patrick
Bates, David
Costable, Michael
Doucette, Fred
Gay, Betty
Hagan, Joseph
Janigian, John
Khan, Aboul
Major, Norman
Morrison, Sean
Gordon, Richard
Stone, Brian
True, Chris
Welch, David

Allen, Mary
Bean, Philip
Thomas, Douglas
Elliott, Robert
Green, Dennis
Hoelzel, Kathleen
Janvrin, Jason
Kolodziej, Walter
Matthews, Carolyn
Nasser, Jim
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, Kenneth

Baldasaro, Alfred
Bove, Martin
Dean-Bailey, Yvonne
Emerick, J. Tracy
Guthrie, Joseph
Itse, Daniel
O'Connor, John
Griffin, Mary
McMahon, Charles
Nigrello, Robert
Sapareto, Frank
Torosian, Peter
Vose, Michael
Willis, Brenda

STRAFFORD

Berube, Roger
Turcotte, Leonard
Graham, Robert

Harrington, Michael
McNally, Jody
Spencer, Matthew

Horgan, James
Mullen, John
Wuelper, Kurt

Kaczynski, Thomas
Pitre, Joseph

SULLIVAN

Gauthier, Francis
Smith, Steven

O'Connor, John

Laware, Thomas

Rollins, Skip

and the motion failed.

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

Rep. Cushing moved Recommit.

The Speaker ruled the motion out of order.

Rep. Chandley offered minority committee amendment (1961h).

Minority Amendment (1961h)

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

AN ACT relative to the penalties for negligent homicide and manslaughter causing a miscarriage or stillbirth and relative to miscarriage or stillbirth in second degree murder cases.

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

1 Homicide; Manslaughter. Amend RSA 630:2 to read as follows:

630:2 Manslaughter.

I. A person is guilty of manslaughter when he *or she* causes the death of another:

(a) Under the influence of extreme mental or emotional disturbance caused by extreme provocation but which would otherwise constitute murder; or

(b) Recklessly.

II.(a) Manslaughter shall be punishable by imprisonment for a term of not more than 30 years.

(b) Manslaughter which causes a miscarriage or stillbirth, as defined in RSA 631:1, II(a) and (b), shall be punishable by imprisonment for a term of not more than 60 years.

III. In addition to any other penalty imposed, if the death of another person resulted from the driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted person indefinitely.

2 Homicide; Negligent Homicide. Amend RSA 630:3 to read as follows:

630:3 Negligent Homicide.

I. A person is guilty of a class B felony when he *or she* causes the death of another negligently. **A person convicted of class B felony negligent homicide which causes a miscarriage or stillbirth, as defined in RSA 631:1, II(a) and (b), shall be punished by imprisonment for a term of not more than 14 years.**

II. A person is guilty of a class A felony when in consequence of being under the influence of intoxicating liquor or a controlled drug or any combination of intoxicating liquor and controlled drug while operating a propelled vehicle, as defined in RSA 637:9, III or a boat as defined in RSA 265-A:1, II, he or she causes the death of another. **A person convicted of class A felony negligent homicide which causes a miscarriage or stillbirth, as defined in RSA 631:1, II(a) and (b), shall be punished by imprisonment for a term of not more than 25 years.**

III. In addition to any other penalty imposed, if the death of another person resulted from the negligent driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted person for up to 7 years. In cases where the person is convicted under paragraph II, the court shall revoke the license or driving privilege of the convicted person indefinitely and the person shall not petition for eligibility to reapply for a driver's license for at least 7 years. In a case in which alcohol was involved, the court may also require that the convicted person shall not have a license to drive reinstated until after the division of motor vehicles receives certification of installation of an ignition interlock device as described in RSA 265-A:36, which shall remain in place for a period not to exceed 5 years.

3 Homicide; Second Degree Murder. Amend RSA 630:1-b to read as follows:

630:1-b Second Degree Murder.

I. A person is guilty of murder in the second degree if:

(a) He *or she* knowingly causes the death of another; or

(b) He *or she* causes such death recklessly under circumstances manifesting an extreme indifference to the value of human life. Such recklessness and indifference are presumed if the actor causes the death by the use of a deadly weapon in the commission of, or in an attempt to commit, or in immediate flight after committing or attempting to commit any class A felony.

II. Murder in the second degree shall be punishable by imprisonment for life or for such term as the court may order.

III. In cases where a person is convicted of murder in the second degree which causes a miscarriage or stillbirth, as defined in RSA 631:1, II(a) and (b), the judge shall explicitly state for the record that he or she considered the miscarriage or stillbirth as a factor in pronouncing sentence and shall explain what effect, if any, the miscarriage or stillbirth had in determining the sentence imposed.

4 Effective Date. This act shall take effect January 1, 2018.

AMENDED ANALYSIS

This bill adds an enhanced term of imprisonment for manslaughter or negligent homicide causing a miscarriage or stillbirth. The bill also requires that in second degree murder convictions, the judge shall state for the record that he or she considered the miscarriage or stillbirth as a factor in pronouncing sentence and shall explain what effect, if any, the miscarriage or stillbirth had in determining the sentence.

Rep. Chandley spoke in favor and yielded to questions.

Rep. Wuelper spoke against and yielded to questions.

Rep. Shurtleff requested a roll call; sufficiently seconded.

YEAS 162 - NAYS 192

YEAS - 162

BELKNAP

Huot, David

CARROLL

Buco, Thomas

Butler, Edward

Crawford, Karel

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Parkhurst, Henry
Pearson, William

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Shepardson, Marjorie
Weber, Lucy

Berch, Paul
Eaton, Daniel
Mann, John
Stallcop, Joseph

Bordenet, John
Faulkner, Barry
Meador, David
Tatro, Bruce

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Almy, Susan
Higgins, Patricia
Mulligan, Mary Jane
Sykes, George

Bennett, Travis
Josephson, Timothy
Nordgren, Sharon
White, Andrew

Campion, Polly
Maes, Kevin
Rand, Steven

Dontonville, Roger
Massimilla, Linda
Smith, Suzanne

HILLSBOROUGH

Ayala, Jessica
Bouldin, Amanda
Cote, David
Elber, Joel
Gidge, Kenneth
Schmidt, Janice
Klee, Patricia

Backus, Robert
Chandley, Shannon
Sullivan, Daniel
Forest, Armand
Goley, Jeffrey
Jack, Martin
Kurk, Neal

Baroody, Benjamin
Cleaver, Skip
DiSilvestro, Linda
Freitas, Mary
Heath, Mary
Keane, Amelia
Leishman, Peter

Beaulieu, Jane
Cornell, Patricia
Dyer, Caleb
Gargas, Carolyn
Herbert, Christopher
King, Mark
Lisle, David

MacKay, Mariellen
Martin, Joelle
O'Leary, Richard
Walsh, Robert
Shaw, Barbara
Van Houten, Connie

MacKenzie, Mark
McNamara, Richard
O'Neil, William
Roberts, Carol
Snow, Kendall
Williams, Kermit

Mangipudi, Latha
Nutting, Allison
Long, Patrick
Rosenwald, Cindy
Sofikitis, Catherine

Manley, Jonathan
O'Brien, Michael
Porter, Marjorie
Harvey, Suzanne
Smith, Timothy

MERRIMACK

Turcotte, Alan
Carson, Clyde
Gile, Mary
Kenison, Linda
Rodd, Beth
Walz, Mary Beth

Alicea, Caroletta
Wolf, Dan
Moffett, Howard
Luneau, David
Rogers, Katherine
Woolpert, David

Bartlett, Christy
Doherty, David
Henle, Paul
Myler, Mel
Schuett, Dianne

Rice, Chip
Ebel, Karen
MacKay, James
Richards, Beth
Shurtleff, Stephen

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Gilman, Julie
Messmer, Mindi
Read, Ellen

Berrien, Skip
DiLorenzo, Charlotte
Malloy, Dennis
Murray, Kate
Somssich, Peter

Cahill, Michael
Edgar, Michael
McBeath, Rebecca
Gordon, Pamela
Le, Tamara

Cali-Pitts, Jacqueline
Francese, Paula
McKinney, Betsy
Pantelakos, Laura
Ward, Gerald

STRAFFORD

Bixby, Peter
Epstein, Isaac
Horrigan, Timothy
Opderbecke, Linn
Spang, Judith
Wall, Janet

Burton, Wayne
Frost, Sherry
Keans, Sandra
Schmidt, Peter
Sprague, Dale

Cilley, Jacalyn
Gourgue, Amanda
Krans, Hamilton
Salloway, Jeffrey
Treleven, Susan

Ellis, Donna
Grassie, Chuck
Smith, Marjorie
Sandler, Catt
Vincent, Kenneth

SULLIVAN

Schmidt, Andrew
Grenier, James

Cloutier, John
Irwin, Virginia

Gagnon, Raymond
Oxenham, Lee

Gottling, Suzanne
Tanner, Linda

NAYS - 192

BELKNAP

Abear, Marc
Flanders, Donald
Maloney, Michael
Varney, Peter

Aldrich, Glen
Fraser, Valerie
Silber, Norman

Comtois, Barbara
Howard, Raymond
Spanos, Peter

Fields, Dennis
Lang, Timothy
Vadney, Herbert

CARROLL

Avellani, Lino
McCarthy, Frank
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

Comeau, Ed
Nelson, Bill

Cordelli, Glenn
Schmidt, Stephen

CHESHIRE

Hunt, John

McConnell, James

O'Day, John

Sterling, Franklin

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTON

Abel, Richard
Darrow, Stephen
Ladd, Rick

Bailey, Brad
Ham, Bonnie
Schwaegler, Vicki

Binford, David
Hennessey, Erin
Johnson, Tiffany

Brown, Duane
Hull, Robert

HILLSBOROUGH

Ammon, Keith
Burns, Charlie
Carr, John
Edwards, Elizabeth
Fromuth, Bart
Halstead, Carolyn
Hopper, Gary
L'Heureux, Robert
Lewicke, John
Negron, Steve
Pellegrino, Anthony
Rouillard, Claire
Seidel, Carl
Ulery, Jordan

Griffin, Barbara
Burt, John
Christie, Rick
Fedolfi, Jim
Griffin, Gerald
Hansen, Peter
Hynes, Dan
Ober, Lynne
McCarthy, Michael
Notter, Jeanine
Pierce, David
Sanborn, Laurie
Souza, Kathleen
Sullivan, Victoria

Barry, Richard
Byron, Frank
Dickey, Glen
Ferreira, Elizabeth
Gagne, Larry
Hellwig, Steve
Moore, Josh
Lascelles, Richard
Martineau, Jesse
Ohm, Bill
Proulx, Mark
Schleien, Eric
Wolf, Terry
Valera, John

Biggie, Barbara
Moore, Craig
Donovan, Daniel
Freeman, Lisa
Gould, Linda
Hinch, Richard
Rice, Kimberly
LeBrun, Donald
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Scully, Kevin
Twombly, Timothy
Zaricki, Nick

MERRIMACK

Kuch, Bill
Hill, Gregory
Kotowski, Frank
McGuire, Carol
Testerman, Dave

Brewster, Michael
Hoell, J.R.
Leavitt, John
Pearl, Howard
Wells, Natalie

Copp, Anne
Horn, Werner
Moffett, Michael
Seaworth, Brian

Long, Douglas
Klose, John
Marple, Richard
Walsh, Thomas

ROCKINGHAM

Cook, Allen
Barnes, Arthur
Chirichiello, Brian
Doucette, Fred
Farnham, Betsey
Guthrie, Joseph
Itse, Daniel
O'Connor, John
Griffin, Mary
McMahon, Charles
Nigrello, Robert
Tilton, Rio
Stone, Brian
True, Chris
Welch, David

Abrami, Patrick
Bates, David
Thomas, Douglas
Dowling, Patricia
Fesh, Robert
Marsh, Henry
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
Milz, David
Osborne, Jason
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, Kenneth

Allen, Mary
Bean, Philip
Dean-Bailey, Yvonne
Elliott, Robert
Gay, Betty
Hagan, Joseph
Janigian, John
Khan, Aboul
Major, Norman
Morrison, Sean
Packard, Sherman
Sapareto, Frank
Toroasian, Peter
Vose, Michael
Willis, Brenda

Baldasaro, Alfred
Bove, Martin
DeSimone, Debra
Emerick, J. Tracy
Green, Dennis
Hoelzel, Kathleen
Janvrin, Jason
Kolodziej, Walter
Matthews, Carolyn
Nasser, Jim
Gordon, Richard
Spillane, James
Tripp, Richard
Webb, James
Woitkun, Steven

STRAFFORD

Berube, Roger
Turcotte, Leonard
Pitre, Joseph

Harrington, Michael
McNally, Jody
Graham, Robert

Horgan, James
Mullen, John
Spencer, Matthew

Kaczynski, Thomas
Phinney, Brandon
Wuelper, Kurt

SULLIVAN

Gauthier, Francis
Smith, Steven

O'Connor, John

Laware, Thomas

Rollins, Skip

and the minority committee amendment failed.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Rep. Hoell offered floor amendment (2121h).

Floor Amendment (2121h)

Amend the bill by replacing all after section 1 with the following:

2 New Paragraphs; First Degree Murder; Definition of Another; Exemption for Abortion. Amend RSA 630:1-a by inserting after paragraph III the following new paragraphs:

IV. For the purposes of this section and RSA 630:1-b, RSA 630:2, RSA 630:3, and RSA 630:4, the meaning of "another" shall include a fetus as defined in paragraph V.

V. In this section:

(a) "Fetus" means an unborn offspring, during the embryo stage from conception or, in the case of in vitro fertilization, after implantation until birth.

(b) "Pregnant" means the female reproductive condition of having one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.

(c) "Pregnancy" means one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.

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

Reps. Hoell and Comtois spoke in favor.

Rep. Sapareto spoke against.

Rep. Hoell requested a roll call; sufficiently seconded.

YEAS 49 - NAYS 306**YEAS - 49****BELKNAP**

Abear, Marc
Silber, Norman

Aldrich, Glen

Comtois, Barbara

Howard, Raymond

CARROLL

Avellani, Lino

CHESHIRE

O'Day, John

GRAFTON

Binford, David

Brown, Duane

Higgins, Patricia

Johnson, Tiffany

HILLSBOROUGH

Carr, John
Griffin, Gerald
Moore, Josh
Seidel, Carl

Dyer, Caleb
Gould, Linda
King, Mark
Souza, Kathleen

Fedolfi, Jim
Hellwig, Steve
Murphy, Keith
Valera, John

Ferreira, Elizabeth
Hynes, Dan
Scully, Kevin

MERRIMACK

Brewster, Michael
Marple, Richard

Copp, Anne

Hoell, J.R.

Leavitt, John

ROCKINGHAM

Baldasaro, Alfred
Morrison, Sean
Torosian, Peter

Green, Dennis
Nasser, Jim
True, Chris

Guthrie, Joseph
Gordon, Richard
Verville, Kevin

Itse, Daniel
Rimol, Bob

STRAFFORD

Kaczynski, Thomas
Spencer, Matthew

Turcotte, Leonard
Wuelper, Kurt

McNally, Jody

Phinney, Brandon

SULLIVAN

Laware, Thomas

NAYS - 306**BELKNAP**

Fields, Dennis
Lang, Timothy
Varney, Peter

Flanders, Donald
Maloney, Michael

Fraser, Valerie
Spanos, Peter

Huot, David
Vadney, Herbert

CARROLL

Buco, Thomas
Cordelli, Glenn
McConkey, Mark
Marsh, William

Butler, Edward
Crawford, Karel
Nelson, Bill

Chandler, Gene
McCarthy, Frank
Schmidt, Stephen

Comeau, Ed
Knirk, Jerry
Umberger, Karen

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
McConnell, James
Stallcop, Joseph
Weber, Lucy

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Meader, David
Sterling, Franklin

Berch, Paul
Eaton, Daniel
Hunt, John
Parkhurst, Henry
Tatro, Bruce

Bordenet, John
Faulkner, Barry
Mann, John
Shepardson, Marjorie
Pearson, William

COOS

Fothergill, John
Theberge, Robert

Laflamme, Larry
Tucker, Edith

Merner, Troy
Thomas, Yvonne

Moynihan, Wayne

GRAFTON

Abel, Richard
Campion, Polly
Hennessey, Erin
Maes, Kevin
Rand, Steven
White, Andrew

Almy, Susan
Darrow, Stephen
Hull, Robert
Massimilla, Linda
Schwaegler, Vicki

Bailey, Brad
Dontonville, Roger
Josephson, Timothy
Mulligan, Mary Jane
Smith, Suzanne

Bennett, Travis
Ham, Bonnie
Ladd, Rick
Nordgren, Sharon
Sykes, George

HILLSBOROUGH

Ammon, Keith
Baroody, Benjamin
Bouldin, Amanda
Moore, Craig
Cornell, Patricia
DiSilvestro, Linda
Forest, Armand
Gagne, Larry
Halstead, Carolyn
Hinch, Richard
Rice, Kimberly
L'Heureux, Robert
Leishman, Peter
McCarthy, Michael
Martin, Joelle

Ayala, Jessica
Barry, Richard
Burns, Charlie
Chandley, Shannon
Cote, David
Donovan, Daniel
Freeman, Lisa
Gargas, Carolyn
Hansen, Peter
Hopper, Gary
Keane, Amelia
Ober, Lynne
Lewicke, John
MacKenzie, Mark
Martineau, Jesse

Griffin, Barbara
Beaulieu, Jane
Burt, John
Christie, Rick
Sullivan, Daniel
Edwards, Elizabeth
Freitas, Mary
Gidge, Kenneth
Heath, Mary
Schmidt, Janice
Klee, Patricia
Lascelles, Richard
Lisle, David
Mangipudi, Latha
McNamara, Richard

Backus, Robert
Biggie, Barbara
Byron, Frank
Cleaver, Skip
Dickey, Glen
Elber, Joel
Fromuth, Bart
Goley, Jeffrey
Herbert, Christopher
Jack, Martin
Kurk, Neal
LeBrun, Donald
MacKay, Mariellen
Manley, Jonathan
Negron, Steve

Notter, Jeanine
O'Neil, William
Pellegrino, Anthony
Prout, Andrew
Rouillard, Claire
Shaw, Barbara
Wolf, Terry
Van Houten, Connie

Nutting, Allison
Ohm, Bill
Pierce, David
Walsh, Robert
Harvey, Suzanne
Snow, Kendall
Twombly, Timothy
Williams, Kermit

O'Brien, Michael
Long, Patrick
Porter, Marjorie
Roberts, Carol
Sanborn, Laurie
Sofikitis, Catherine
Ulery, Jordan
Zaricki, Nick

O'Leary, Richard
Panasiti, Reed
Proulx, Mark
Rosenwald, Cindy
Schleien, Eric
Smith, Timothy
Sullivan, Victoria

MERRIMACK

Turcotte, Alan
Rice, Chip
Doherty, David
Henle, Paul
Kenison, Linda
Moffett, Michael
Richards, Beth
Seaworth, Brian
Walz, Mary Beth

Alicea, Caroletta
Carson, Clyde
Ebel, Karen
Hill, Gregory
Klose, John
McGuire, Carol
Rodd, Beth
Shurtleff, Stephen
Wells, Natalie

Kuch, Bill
Long, Douglas
Gile, Mary
Horn, Werner
Kotowski, Frank
Myler, Mel
Rogers, Katherine
Walsh, Thomas
Woolpert, David

Bartlett, Christy
Wolf, Dan
Moffett, Howard
MacKay, James
Luneau, David
Pearl, Howard
Schuett, Dianne
Testerman, Dave

ROCKINGHAM

Cook, Allen
Barnes, Arthur
Bove, Martin
Cushing, Robert Renny
DiLorenzo, Charlotte
Emerick, J. Tracy
Gay, Betty
Hoelzel, Kathleen
O'Connor, John
Lovejoy, Patricia
Malloy, Dennis
McMahon, Charles
Nigrello, Robert
Pantelakos, Laura
Somssich, Peter
Le, Tamara
Webb, James
Woitkun, Steven

Abrami, Patrick
Bates, David
Cahill, Michael
Thomas, Douglas
Dowling, Patricia
Farnham, Betsey
Gilman, Julie
Edwards, Jess
Katsakiores, Phyllis
Griffin, Mary
Matthews, Carolyn
Messmer, Mindi
Osborne, Jason
Tilton, Rio
Spillane, James
Tripp, Richard
Welch, David

Allen, Mary
Bean, Philip
Cali-Pitts, Jacqueline
Dean-Bailey, Yvonne
Edgar, Michael
Fesh, Robert
Marsh, Henry
Janigian, John
Khan, Aboul
Pearson, Mark
McBeath, Rebecca
Milz, David
Gordon, Pamela
Read, Ellen
Stone, Brian
Vose, Michael
Weyler, Kenneth

Altschiller, Debra
Berrien, Skip
Chirichiello, Brian
DeSimone, Debra
Elliott, Robert
Francese, Paula
Hagan, Joseph
Janvrin, Jason
Kolodziej, Walter
Major, Norman
McKinney, Betsy
Murray, Kate
Packard, Sherman
Sapareto, Frank
Sytek, John
Ward, Gerald
Willis, Brenda

STRAFFORD

Berube, Roger
Ellis, Donna
Grassie, Chuck
Keans, Sandra
Opderbecke, Linn
Salloway, Jeffrey
Sprague, Dale

Bixby, Peter
Epstein, Isaac
Harrington, Michael
Krans, Hamilton
Schmidt, Peter
Sandler, Catt
Treleaven, Susan

Burton, Wayne
Frost, Sherry
Horgan, James
Smith, Marjorie
Pitre, Joseph
Scruton, Matthew
Vincent, Kenneth

Cilley, Jacalyn
Gourgue, Amanda
Horrigan, Timothy
Mullen, John
Graham, Robert
Spang, Judith
Wall, Janet

SULLIVAN

Schmidt, Andrew
Gottling, Suzanne
Oxenham, Lee

Cloutier, John
Grenier, James
Rollins, Skip

Gagnon, Raymond
Irwin, Virginia
Smith, Steven

Gauthier, Francis
O'Connor, John
Tanner, Linda

and floor amendment (2121h) failed.

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

MOTION TO LAY ON THE TABLE

Rep. Eaton moved that **SB 66-FN**, including a fetus in the definition of "another" for purposes of certain criminal offenses, be laid on the table.

Rep. White requested a roll call; sufficiently seconded.

YEAS 174 - NAYS 182

YEAS - 174

BELKNAP

Comtois, Barbara

Huot, David

Vadney, Herbert

CARROLL

Buco, Thomas

Butler, Edward

Crawford, Karel

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Parkhurst, Henry
Tatro, Bruce

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Shepardson, Marjorie
Pearson, William

Berch, Paul
Eaton, Daniel
Mann, John
Stallcop, Joseph
Weber, Lucy

Bordenet, John
Faulkner, Barry
Meader, David
Sterling, Franklin

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Abel, Richard
Dontonville, Roger
Maes, Kevin
Rand, Steven

Almy, Susan
Ham, Bonnie
Massimilla, Linda
Smith, Suzanne

Bennett, Travis
Higgins, Patricia
Mulligan, Mary Jane
Sykes, George

Campion, Polly
Josephson, Timothy
Nordgren, Sharon
White, Andrew

HILLSBOROUGH

Ayala, Jessica
Bouldin, Amanda
Cote, David
Elber, Joel
Gidge, Kenneth
Schmidt, Janice
Klee, Patricia
Lisle, David
Manley, Jonathan
O'Brien, Michael
Porter, Marjorie
Harvey, Suzanne
Smith, Timothy

Backus, Robert
Chandley, Shannon
Sullivan, Daniel
Forest, Armand
Goley, Jeffrey
Jack, Martin
Kurk, Neal
MacKay, Mariellen
Martin, Joelle
O'Leary, Richard
Walsh, Robert
Shaw, Barbara
Van Houten, Connie

Baroody, Benjamin
Cleaver, Skip
DiSilvestro, Linda
Freitas, Mary
Heath, Mary
Keane, Amelia
Leishman, Peter
MacKenzie, Mark
McNamara, Richard
O'Neil, William
Roberts, Carol
Snow, Kendall
Williams, Kermit

Beaulieu, Jane
Cornell, Patricia
Edwards, Elizabeth
Gargas, Carolyn
Herbert, Christopher
King, Mark
Lewicke, John
Mangipudi, Latha
Nutting, Allison
Long, Patrick
Rosenwald, Cindy
Sofikitis, Catherine

MERRIMACK

Turcotte, Alan
Carson, Clyde
Ebel, Karen
MacKay, James
Marple, Richard
Rogers, Katherine
Woolpert, David

Alicea, Caroletta
Long, Douglas
Gile, Mary
Kenison, Linda
Myler, Mel
Schuett, Dianne

Bartlett, Christy
Wolf, Dan
Moffett, Howard
Leavitt, John
Richards, Beth
Shurtleff, Stephen

Rice, Chip
Doherty, David
Henle, Paul
Luneau, David
Rodd, Beth
Walz, Mary Beth

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Farnham, Betsey
McBeath, Rebecca
Gordon, Pamela
Somssich, Peter

Berrien, Skip
DiLorenzo, Charlotte
Francese, Paula
McKinney, Betsy
Pantelakos, Laura
Le, Tamara

Cahill, Michael
Dowling, Patricia
Lovejoy, Patricia
Messmer, Mindi
Tilton, Rio
Ward, Gerald

Cali-Pitts, Jacqueline
Edgar, Michael
Malloy, Dennis
Murray, Kate
Read, Ellen

STRAFFORD

Bixby, Peter
Epstein, Isaac
Horrigan, Timothy
Opderbecke, Linn
Spang, Judith
Wall, Janet

Burton, Wayne
Frost, Sherry
Keans, Sandra
Schmidt, Peter
Sprague, Dale

Cilley, Jacalyn
Gourgue, Amanda
Krans, Hamilton
Salloway, Jeffrey
Treleaven, Susan

Ellis, Donna
Grassie, Chuck
Smith, Marjorie
Sandler, Catt
Vincent, Kenneth

SULLIVAN

Schmidt, Andrew
Grenier, James

Cloutier, John
Irwin, Virginia

Gagnon, Raymond
Oxenham, Lee

Gottling, Suzanne
Tanner, Linda

NAYS - 182**BELKNAP**

Abear, Marc
Fraser, Valerie
Silber, Norman

Aldrich, Glen
Howard, Raymond
Spanos, Peter

Fields, Dennis
Lang, Timothy
Varney, Peter

Flanders, Donald
Maloney, Michael

CARROLL

Avellani, Lino
McCarthy, Frank
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

Comeau, Ed
Nelson, Bill

Cordelli, Glenn
Schmidt, Stephen

CHESHIRE

Hunt, John

McConnell, James

O'Day, John

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTONBailey, Brad
Hennessey, Erin
Johnson, TiffanyBinford, David
Hull, RobertBrown, Duane
Ladd, RickDarrow, Stephen
Schwaegler, Vicki**HILLSBOROUGH**Ammon, Keith
Burns, Charlie
Carr, John
Dyer, Caleb
Fromuth, Bart
Halstead, Carolyn
Hopper, Gary
L'Heureux, Robert
McCarthy, Michael
Notter, Jeanine
Pierce, David
Sanborn, Laurie
Souza, Kathleen
Sullivan, VictoriaGriffin, Barbara
Burt, John
Christie, Rick
Fedolfi, Jim
Griffin, Gerald
Hansen, Peter
Hynes, Dan
Ober, Lynne
Martineau, Jesse
Ohm, Bill
Proulx, Mark
Schleien, Eric
Wolf, Terry
Valera, JohnBarry, Richard
Byron, Frank
Dickey, Glen
Ferreira, Elizabeth
Gagne, Larry
Hellwig, Steve
Moore, Josh
Lascelles, Richard
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Scully, Kevin
Twombly, Timothy
Zaricki, NickBiggie, Barbara
Moore, Craig
Donovan, Daniel
Freeman, Lisa
Gould, Linda
Hinch, Richard
Rice, Kimberly
LeBrun, Donald
Negron, Steve
Pellegrino, Anthony
Rouillard, Claire
Seidel, Carl
Ulery, Jordan**MERRIMACK**Kuch, Bill
Hoell, J.R.
Moffett, Michael
Walsh, ThomasBrewster, Michael
Horn, Werner
McGuire, Carol
Testerman, DaveCopp, Anne
Klose, John
Pearl, Howard
Wells, NatalieHill, Gregory
Kotowski, Frank
Seaworth, Brian**ROCKINGHAM**Cook, Allen
Barnes, Arthur
Chirichiello, Brian
Doucette, Fred
Gay, Betty
Marsh, Henry
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
Milz, David
Osborne, Jason
Sapareto, Frank
Torosian, Peter
Vose, Michael
Willis, BrendaAbrami, Patrick
Bates, David
Thomas, Douglas
Elliott, Robert
Gilman, Julie
Hagan, Joseph
Janigian, John
Khan, Aboul
Major, Norman
Morrison, Sean
Packard, Sherman
Spillane, James
Tripp, Richard
Webb, James
Woitkun, StevenAllen, Mary
Bean, Philip
Dean-Bailey, Yvonne
Emerick, J. Tracy
Green, Dennis
Hoelzel, Kathleen
Janvrin, Jason
Kolodziej, Walter
Matthews, Carolyn
Nasser, Jim
Gordon, Richard
Stone, Brian
True, Chris
Welch, DavidBaldasaro, Alfred
Bove, Martin
DeSimone, Debra
Fesh, Robert
Guthrie, Joseph
Itse, Daniel
O'Connor, John
Griffin, Mary
McMahon, Charles
Nigrello, Robert
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, Kenneth**STRAFFORD**Berube, Roger
Turcotte, Leonard
Pitre, Joseph
Wuelper, KurtHarrington, Michael
McNally, Jody
Graham, RobertHorgan, James
Mullen, John
Scruton, MatthewKaczynski, Thomas
Phinney, Brandon
Spencer, Matthew**SULLIVAN**Gauthier, Francis
Smith, Steven

O'Connor, John

Laware, Thomas

Rollins, Skip

and the motion failed.

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

Reps. Murray and Marjorie Smith spoke against.

Reps. Burt and Notter spoke in favor.

Rep. Spillane requested a roll call; sufficiently seconded.

YEAS 186 - NAYS 170**YEAS - 186****BELKNAP**Abear, Marc
Howard, Raymond
Spanos, PeterAldrich, Glen
Lang, Timothy
Varney, PeterFields, Dennis
Maloney, MichaelFlanders, Donald
Silber, Norman

CARROLL

Avellani, Lino
McCarthy, Frank
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

Comeau, Ed
Nelson, Bill

Cordelli, Glenn
Schmidt, Stephen

CHESHIRE

Johnsen, Gladys

Hunt, John

McConnell, James

O'Day, John

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTON

Bailey, Brad
Ham, Bonnie
Schwaegler, Vicki

Binford, David
Hennessey, Erin
Johnson, Tiffany

Brown, Duane
Hull, Robert

Darrow, Stephen
Ladd, Rick

HILLSBOROUGH

Ammon, Keith
Burns, Charlie
Carr, John
Donovan, Daniel
Freeman, Lisa
Gould, Linda
Hinch, Richard
Rice, Kimberly
LeBrun, Donald
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Scully, Kevin
Twombly, Timothy
Zaricki, Nick

Griffin, Barbara
Burt, John
Christensen, Chris
Dyer, Caleb
Fromuth, Bart
Halstead, Carolyn
Hopper, Gary
L'Heureux, Robert
MacKay, Mariellen
Negron, Steve
Pellegrino, Anthony
Rouillard, Claire
Seidel, Carl
Ulery, Jordan

Barry, Richard
Byron, Frank
Christie, Rick
Fedolfi, Jim
Griffin, Gerald
Hansen, Peter
Hynes, Dan
Ober, Lynne
McCarthy, Michael
Notter, Jeanine
Pierce, David
Sanborn, Laurie
Souza, Kathleen
Sullivan, Victoria

Biggie, Barbara
Moore, Craig
Dickey, Glen
Ferreira, Elizabeth
Gagne, Larry
Hellwig, Steve
Moore, Josh
Lascelles, Richard
Martineau, Jesse
Ohm, Bill
Proulx, Mark
Schleien, Eric
Wolf, Terry
Valera, John

MERRIMACK

Kuch, Bill
Horn, Werner
Moffett, Michael
Walsh, Thomas

Brewster, Michael
Klose, John
McGuire, Carol
Testerman, Dave

Copp, Anne
Kotowski, Frank
Pearl, Howard
Wells, Natalie

Hill, Gregory
Leavitt, John
Seaworth, Brian

ROCKINGHAM

Cook, Allen
Barnes, Arthur
Chirichiello, Brian
DeSimone, Debra
Fesh, Robert
Marsh, Henry
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
Milz, David
Osborne, Jason
Tilton, Rio
Stone, Brian
True, Chris
Welch, David

Abrami, Patrick
Bates, David
Costable, Michael
Doucette, Fred
Gay, Betty
Hagan, Joseph
Janigian, John
Khan, Aboul
Major, Norman
Morrison, Sean
Packard, Sherman
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, Kenneth

Allen, Mary
Bean, Philip
Thomas, Douglas
Elliott, Robert
Green, Dennis
Hoelzel, Kathleen
Janvrin, Jason
Kolodziej, Walter
Matthews, Carolyn
Nasser, Jim
Pantelakos, Laura
Sapareto, Frank
Torosian, Peter
Vose, Michael
Willis, Brenda

Baldasaro, Alfred
Bove, Martin
Dean-Bailey, Yvonne
Emerick, J. Tracy
Guthrie, Joseph
Itse, Daniel
O'Connor, John
Griffin, Mary
McMahon, Charles
Nigrello, Robert
Gordon, Richard
Spillane, James
Tripp, Richard
Webb, James
Woitkun, Steven

STRAFFORD

Berube, Roger
Turcotte, Leonard
Graham, Robert

Harrington, Michael
McNally, Jody
Scruton, Matthew

Horgan, James
Mullen, John
Spencer, Matthew

Kaczynski, Thomas
Pitre, Joseph
Wuelper, Kurt

SULLIVAN

Gauthier, Francis
Smith, Steven

O'Connor, John

Laware, Thomas

Rollins, Skip

NAYS - 170**BELKNAP**

Comtois, Barbara

Fraser, Valerie

Huot, David

Vadney, Herbert

CARROLL

Buco, Thomas

Butler, Edward

Crawford, Karel

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Shepardson, Marjorie
Pearson, William

Ames, Richard
Ley, Douglas
Mann, John
Stallcop, Joseph
Weber, Lucy

Berch, Paul
Eaton, Daniel
Meader, David
Sterling, Franklin

Bordenet, John
Faulkner, Barry
Parkhurst, Henry
Tatro, Bruce

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Abel, Richard
Dontonville, Roger
Massimilla, Linda
Smith, Suzanne

Almy, Susan
Higgins, Patricia
Mulligan, Mary Jane
Sykes, George

Bennett, Travis
Josephson, Timothy
Nordgren, Sharon
White, Andrew

Campion, Polly
Maes, Kevin
Rand, Steven

HILLSBOROUGH

Ayala, Jessica
Bouldin, Amanda
Cote, David
Elber, Joel
Gidge, Kenneth
Schmidt, Janice
Klee, Patricia
Lisle, David
Martin, Joelle
O'Leary, Richard
Roberts, Carol
Snow, Kendall
Williams, Kermit

Backus, Robert
Chandley, Shannon
Sullivan, Daniel
Forest, Armand
Goley, Jeffrey
Jack, Martin
Kurk, Neal
MacKenzie, Mark
McNamara, Richard
Long, Patrick
Rosenwald, Cindy
Sofikitis, Catherine

Baroody, Benjamin
Cleaver, Skip
DiSilvestro, Linda
Freitas, Mary
Heath, Mary
Keane, Amelia
Leishman, Peter
Mangipudi, Latha
Nutting, Allison
Porter, Marjorie
Harvey, Suzanne
Smith, Timothy

Beaulieu, Jane
Cornell, Patricia
Edwards, Elizabeth
Gargas, Carolyn
Herbert, Christopher
King, Mark
Lewicke, John
Manley, Jonathan
O'Brien, Michael
Walsh, Robert
Shaw, Barbara
Van Houten, Connie

MERRIMACK

Turcotte, Alan
Carson, Clyde
Ebel, Karen
Hoell, J.R.
Marple, Richard
Rogers, Katherine
Woolpert, David

Alicea, Caroletta
Long, Douglas
Gile, Mary
MacKay, James
Myler, Mel
Schuett, Dianne

Bartlett, Christy
Wolf, Dan
Moffett, Howard
Kenison, Linda
Richards, Beth
Shurtleff, Stephen

Rice, Chip
Doherty, David
Henle, Paul
Luneau, David
Rodd, Beth
Walz, Mary Beth

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Farnham, Betsey
Malloy, Dennis
Gordon, Pamela
Ward, Gerald

Berrien, Skip
DiLorenzo, Charlotte
Francesse, Paula
McBeath, Rebecca
Read, Ellen

Cahill, Michael
Dowling, Patricia
Gilman, Julie
Messmer, Mindi
Somssich, Peter

Cali-Pitts, Jacqueline
Edgar, Michael
Lovejoy, Patricia
Murray, Kate
Le, Tamara

STRAFFORD

Bixby, Peter
Epstein, Isaac
Horrigan, Timothy
Opderbecke, Linn
Sandler, Catt
Vincent, Kenneth

Burton, Wayne
Frost, Sherry
Keans, Sandra
Schmidt, Peter
Spang, Judith
Wall, Janet

Cilley, Jacalyn
Gourgue, Amanda
Krans, Hamilton
Phinney, Brandon
Sprague, Dale

Ellis, Donna
Grassie, Chuck
Smith, Marjorie
Salloway, Jeffrey
Treleaven, Susan

SULLIVAN

Schmidt, Andrew
Grenier, James

Cloutier, John
Irwin, Virginia

Gagnon, Raymond
Oxenham, Lee

Gottling, Suzanne
Tanner, Linda

and the majority committee report was adopted and ordered to third reading.
Rep. Pantelakos voted Yea and intended to vote Nay.

The House recessed at 12:20 p.m.

RECESS

The House reconvened at 1:45 p.m.

(Speaker Jasper in the Chair)

UNANIMOUS CONSENT

Rep. Frank McCarthy requested Unanimous Consent of the House regarding Memorial Day.

MOTION TO PRINT REMARKS

Rep. Shurtleff moved that the remarks made by Rep. Frank McCarthy during Unanimous Consent be printed in the Permanent Journal.

Motion adopted.

REMARKS

Rep. Frank McCarthy: Thank you, Mister Speaker and thanks to each and every one of you for your consent. As you know this past Monday, the 29th of May, America celebrated Memorial Day. Although officially a holiday, in reality it is a much more profound and meaningful way, a day of remembrance. In honor of Memorial Day, I would like to recall an event that occurred fifty years ago, this past January. The 3rd battalion, 26th Marine Regiment was operating in an area known as the Co Bi Thanh Tan Valley in Vietnam. The much-celebrated author, Bernard Fall, in his book, of the same title, referred to the area as "The Street Without Joy" and that is was and much more. Mike Company was on a reconnaissance in force. Lt. Jerry Flick, the third platoon commander, a good friend of mine. We both went through officer candidates school together and knew each other very well. Early that morning they came upon a twenty-foot wide raging torrent of a stream, normally a placid little stream, but now carrying runoff from the Annamite Mountains to the South China Sea with 20 inches of rain caused by the northern monsoon. Lt. Flick ordered a three-man recon team to cross a narrow bridge and check out a tree line on the southern flank of a large open area. Cpl. Chuck Matesic was the recon team leader, LCpl. Claud Murphy, a young Texan, was on point and LCpl. Floyd Berry, from Pennsylvania, was the automatic rifleman. Lt. Flick, sensing danger, ordered the remainder of the squad to quickly get across the bridge. He and his radioman, LCpl. Randy Zigenfuss, crossed first. The squad leader Sgt. John Wayne Todd crossed following.

Then a young Canadian lad, Cpl. Lorne LeMieux, crossed, followed by Sgt. Ronald Smith, a Georgia boy. They are up there right now. As they were crossing, with a thunderous roar, the enemy ambushed and opened fire. Initially the recon team took the brunt of the fire. The automatic rifleman, LCpl. Berry crumpled to the ground gravely wounded, LCpl. Murphy the team scout also went down with a bullet wound in the right shoulder that penetrated the arm just below the armpit level, entered his side and lodged in his back. Cpl. Matesic, the recon team leader, with hundreds of rounds splattering mud all around him, crawled across 20 meters of open terrain, to tend to LCpl. Murphy's wound. As he was doing so, he eyed a Vietcong soldier draped in a poncho moving towards where LCpl. Berry had just fallen. He took the enemy under fire and continued firing at several more that came out from behind the bamboo at an attempt to retrieve their downed comrades. Cpl. LeMieux, with hundreds of rounds vacuum snapping around him, including the green tracers of an enemy machine gun, froze for a millisecond, for fear of moving into the steam of green tracer rounds. Sgt. Smith, the machine gun section leader, with bullets ping-pong off the single iron railroad track that was in fact the bridge, just one rail, was forced to bolt across the final several feet in order to make the other side. As a result of the heavy volume of fire, only six men were able to get across the bridge, not counting the recon team. All six, Lt. Flick, his radioman and four others, without hesitation, took off at a dead run with only one thought in mind....to help their fallen brothers of the recon team. They hadn't gone five steps, when LCpl. Zigenfuss, the radioman, went down. Yet, without thought to his painful wound, and unable to move forward from where he fell, Zigenfuss, from his dangerously exposed position, for the remainder of the fight never stopped laying down covering fire for his brothers. As Lt. Flick neared where LCpl. Berry had recently fallen during the opening volley of the ambush, he saw two Vietcong attempting to drag the wounded LCpl. Berry, feet first, into the bamboo tree line. At a dead run, Lt. Flick courageously ran straight at the two Vietcong soldiers. As he did, he withdrew his 45-caliber pistol and fired several shots knocking them both down. Seconds later Lt. Flick fell, seriously wounded. He'd been hit twice at a very close range with an AK-47. Sgt. Todd, following close behind the Lieutenant, seeing him go down, knew that now he was in charge. First, he shot the Vietcong who had fired at Flick and then waived his arms and cried to all those still able to move, "Follow me" as he charged right into the heart of the ambush. Sgt. Smith, as he rushed forward towards the ambush, heard a voice yelling, "Load me up...Load me up." When he turned, he saw LCpl. Murphy sitting in an open muddy field, totally exposed to enemy fire, covered in mud and blood, his own blood, enemy bullets splattering more mud all around him, but yet Murphy was yelling, "Load me up....Load me up." Why? He was sitting there with his knees bent, his rifle propped up across his knees as he continued to lay down covering fire for the rest of the team. Problem was, having been shot the way he was; he couldn't use his right arm. It was dead. He needed somebody to help him load a magazine in his rifle so he could continue to protect his team. Sgt. Smith stopped, loaded a fresh magazine in Murph's rifle and then he continued toward the ambush, tossing grenades as he went. He was the machine gun section leader. All he had was a rifle. He didn't have the machine gun and grenades. As a result, screams from enemy soldiers could be heard from the trenches. Then he attempted to climb out of the trench to avoid the barrage of grenades only to present themselves as targets. Because of the closeness of the fighting, Cpl. LeMieux's M79 grenade launcher was of no use. He was, in fact, running towards the ambush with no means of defending himself. He had no weapon except his M79 but he

can't use that, it's a grenade thrower. As he neared the killing zone, he saw a Vietcong soldier attempting to drag the downed and severely wounded Lt. Flick into the bamboo. Unarmed, he jumped on Lt. Flick's body to add weight to the drag so that he couldn't pull him in. When he did, he heard Lt. Flick softly mutter, "Get off me you fool, I'm hurt. A smile lit up LeMieux's face when he realized Lt. Flick was alive. With that, he reached up and pulled the enemy soldier who was dragging Flick, pulled him down on top of himself and laid there wrestling with this North Vietnamese soldier. LeMieux was weaponless and while he was wrestling a thought came to him, hey he's got a rifle. Maybe I can get his rifle, an AK-47. As LeMieux was wrestling with this Viet Cong soldier, he happened to eye another emerge from behind the bamboo and start running towards him. It was at that moment that he knew he had merely seconds to life. Just then, Sgt. Todd swung to his right and with a quick, one-handed rifle shot, took out the rushing VC, who was so close to LeMieux when he went down, he almost fell on top of LeMieux. Sgt. Todd also dealt with the VC LeMieux was wrestling with. Sgt. Todd suddenly yelled "To the right, to the right." When LeMieux turned, he saw two VC again attempting to drag LCpl. Berry into the bamboo and there were two others dragging their own downed comrades away and into the bamboo. LeMieux, with his newly acquired AK-47 from the North Vietnamese he wrestled with, he dealt with the two dragging LCpl. Berry. The others, they fled. Once the enemy fire slacked off, the remainder of the platoon began crossing the bridge. As they did, they eyed 30 to 40 enemy soldiers running away, uphill 51, several were dragging their dead behind them with ropes tied to their feet. The courage and tenacity of the men of third platoon caused widespread panic amongst a larger sized enemy force. Even with a 6 to one advantage, the enemy bugged out! Lt. Flick, he did make it home, but he would never walk again. He was hospitalized in a full body cast more than eighteen months. For more than a year he suffered constantly with an elevated temperature of between 102 and 104 degrees. He went from a strapping 185 pounds to a shell of a man at 90 pounds. Finally, surgery to remove a 4x4 gauze pad, left in his body during surgery a year earlier, put him on a path to some recovery. LCpl. Berry, the first man to go down, died of his head wound two weeks later. His parents refused the government insurance money. He was their only son. The future blooms of the family tree died with him. Navy Corpsman, Cecil Fincher, who treated the wounded that day and is credited with saving several lives, including Lt. Flick's, was killed by a booby-trap one hour later. Cpl. Lorne LeMieux, who is with us today, the heroic Canadian lad without a weapon, also tripped a booby-trap that very same afternoon resulting in severe wounds including the loss of a leg. Ron Smith, the machine gunner without a machine gun made up for it by running through the ambush site tossing numerous grenades killing many of the enemy and causing widespread panic. Sgt. John Wayne Todd, who shouted, "Follow me" as he ran headlong into the killings under the ambush passed away several years ago. LCpl Zigenfuss, Lt. Flicks radioman, earned three Purple Heart Medals in combat wounds only to be killed in an automobile accident a week after returning home. Fifty years ago, notwithstanding the numerous displays of heroism and courageous acts of valor, these men were told they were just doing their job. I believe differently. I stand before you today with one goal in mind. It's time to put the courage and heroic actions of these men in an official record. Fifty years after the fact and hopefully in doing so, I will more brightly and clearly illuminate the true meaning of what I call Remembrance Day. Cpl. Matesic and Lt. Flick were both hospitalized recently even though they were getting ready to be here. They didn't get it. However, we do have up in the Gallery the little French kid Lorne LeMieux and Sgt. Ron Smith from Georgia. Thanks guys. Thank you, Mister Speaker.

MOTION TO RECONSIDER

Having voted with the prevailing side, Rep. Packard moved that the House reconsider its action whereby, on a roll call vote of 186-170, the House adopted the majority committee report of Ought to Pass with Amendment on **SB 66-FN**, including a fetus in the definition of "another" for purposes of certain criminal offenses. Rep. Packard spoke against.

Rep. Shurtleff requested a roll call; sufficiently seconded.

YEAS 161 - NAYS 192

YEAS - 161

BELKNAP

Comtois, Barbara

Huot, David

Vadney, Herbert

CARROLL

Buco, Thomas

Butler, Edward

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Parkhurst, Henry
Pearson, William

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Shepardson, Marjorie
Weber, Lucy

Berch, Paul
Eaton, Daniel
Mann, John
Stallcop, Joseph

Bordenet, John
Faulkner, Barry
Meader, David
Tatro, Bruce

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Abel, Richard
Dontonville, Roger
Maes, Kevin
Smith, Suzanne

Almy, Susan
Ham, Bonnie
Mulligan, Mary Jane
Sykes, George

Bennett, Travis
Higgins, Patricia
Nordgren, Sharon
White, Andrew

Campion, Polly
Josephson, Timothy
Rand, Steven

HILLSBOROUGH

Ayala, Jessica
Bouldin, Amanda
Cote, David
Elber, Joel
Gidge, Kenneth
Graham, John
King, Mark
Lisle, David
Martin, Joelle
O'Neil, William
Roberts, Carol
Sofikitis, Catherine

Backus, Robert
Chandley, Shannon
Sullivan, Daniel
Forest, Armand
Goley, Jeffrey
Schmidt, Janice
Klee, Patricia
MacKenzie, Mark
McNamara, Richard
Long, Patrick
Rosenwald, Cindy
Smith, Timothy

Baroody, Benjamin
Cleaver, Skip
DiSilvestro, Linda
Freitas, Mary
Heath, Mary
Jack, Martin
Kurk, Neal
Mangipudi, Latha
O'Brien, Michael
Porter, Marjorie
Harvey, Suzanne
Van Houten, Connie

Beaulieu, Jane
Cornell, Patricia
Edwards, Elizabeth
Gargas, Carolyn
Herbert, Christopher
Keane, Amelia
Leishman, Peter
Manley, Jonathan
O'Leary, Richard
Walsh, Robert
Snow, Kendall
Williams, Kermit

MERRIMACK

Turcotte, Alan
Carson, Clyde
Gile, Mary
Kenison, Linda
Rodd, Beth
Walz, Mary Beth

Alicea, Caroletta
Long, Douglas
Moffett, Howard
Luneau, David
Rogers, Katherine
Woolpert, David

Bartlett, Christy
Doherty, David
Henle, Paul
Marple, Richard
Schuett, Dianne

Rice, Chip
Ebel, Karen
MacKay, James
Myler, Mel
Shurtleff, Stephen

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Farnham, Betsey
Malloy, Dennis
Gordon, Pamela
Le, Tamara

Berrien, Skip
DiLorenzo, Charlotte
Francesca, Paula
McBeath, Rebecca
Pantelakos, Laura
Ward, Gerald

Cahill, Michael
Dowling, Patricia
Gilman, Julie
Messmer, Mindi
Read, Ellen

Cali-Pitts, Jacqueline
Edgar, Michael
Lovejoy, Patricia
Murray, Kate
Somssich, Peter

STRAFFORD

Bixby, Peter
Epstein, Isaac
Keans, Sandra
Schmidt, Peter
Sprague, Dale

Burton, Wayne
Frost, Sherry
Krans, Hamilton
Salloway, Jeffrey
Vincent, Kenneth

Cilley, Jacalyn
Grassie, Chuck
Smith, Marjorie
Sandler, Catt
Wall, Janet

Ellis, Donna
Horriggan, Timothy
Operbecke, Linn
Spang, Judith

SULLIVAN

Schmidt, Andrew
Irwin, Virginia

Cloutier, John
Oxenham, Lee

Gagnon, Raymond
Tanner, Linda

Gottling, Suzanne

NAYS - 192**BELKNAP**

Abear, Marc
Howard, Raymond
Spanos, Peter

Aldrich, Glen
Lang, Timothy
Sylvia, Michael

Fields, Dennis
Maloney, Michael
Varney, Peter

Flanders, Donald
Silber, Norman

CARROLL

Avellani, Lino
Crawford, Karel
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

Comeau, Ed
Nelson, Bill

Cordelli, Glenn
Schmidt, Stephen

CHESHIRE

Hunt, John

McConnell, James

O'Day, John

Sterling, Franklin

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTON

Bailey, Brad
Hennessey, Erin
Schwaegler, Vicki

Binford, David
Hull, Robert
Johnson, Tiffany

Brown, Duane
Ladd, Rick

Darrow, Stephen
Massimilla, Linda

HILLSBOROUGH

Ammon, Keith
Burns, Charlie
Carr, John
Dickey, Glen
Ferreira, Elizabeth
Gagne, Larry
Hellwig, Steve
Moore, Josh
Lascelles, Richard
McCarthy, Michael
Notter, Jeanine
Pierce, David
Rouillard, Claire
Seidel, Carl
Twombly, Timothy

Griffin, Barbara
Burt, John
Christensen, Chris
Donovan, Daniel
Freeman, Lisa
Gould, Linda
Hinch, Richard
Rice, Kimberly
LeBrun, Donald
Martineau, Jesse
Ohm, Bill
Proulx, Mark
Sanborn, Laurie
Shaw, Barbara
Ulery, Jordan

Barry, Richard
Byron, Frank
Christie, Rick
Dyer, Caleb
Fromuth, Bart
Halstead, Carolyn
Hopper, Gary
L'Heureux, Robert
Lewicke, John
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Schleien, Eric
Souza, Kathleen
Sullivan, Victoria

Biggie, Barbara
Moore, Craig
Danielson, David
Fedolfi, Jim
Griffin, Gerald
Hansen, Peter
Hynes, Dan
Ober, Lynne
MacKay, Mariellen
Negron, Steve
Pellegrino, Anthony
Renzullo, Andrew
Scully, Kevin
Wolf, Terry
Zaricki, Nick

MERRIMACK

Kuch, Bill
Hill, Gregory
Kotowski, Frank
Seaworth, Brian

Brewster, Michael
Hoell, J.R.
Moffett, Michael
Walsh, Thomas

Copp, Anne
Horn, Werner
McGuire, Carol
Testerman, Dave

Wolf, Dan
Klose, John
Pearl, Howard
Wells, Natalie

ROCKINGHAM

Cook, Allen
Baldasaro, Alfred
Bove, Martin
Dean-Bailey, Yvonne
Fesh, Robert
Marsh, Henry
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
Milz, David
Osborne, Jason
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, Kenneth

Abrami, Patrick
Barnes, Arthur
Chirichiello, Brian
Doucette, Fred
Gay, Betty
Hagan, Joseph
Janigian, John
Khan, Aboul
Major, Norman
Morrison, Sean
Packard, Sherman
Sapareto, Frank
Torosian, Peter
Vose, Michael
Willis, Brenda

Allen, Mary
Bates, David
Costable, Michael
Elliott, Robert
Green, Dennis
Hoelzel, Kathleen
Janvrin, Jason
Kolodziej, Walter
Matthews, Carolyn
Nasser, Jim
Gordon, Richard
Spillane, James
Tripp, Richard
Webb, James
Woitkun, Steven

Azarian, Gary
Bean, Philip
Thomas, Douglas
Emerick, J. Tracy
Guthrie, Joseph
Itse, Daniel
O'Connor, John
Griffin, Mary
McMahon, Charles
Nigrello, Robert
Tilton, Rio
Stone, Brian
True, Chris
Welch, David

STRAFFORD

Berube, Roger
Turcotte, Leonard
Pitre, Joseph
Wuelper, Kurt

Harrington, Michael
McNally, Jody
Graham, Robert

Horgan, James
Mullen, John
Scruton, Matthew

Kaczynski, Thomas
Phinney, Brandon
Spencer, Matthew

SULLIVAN

Gauthier, Francis
Rollins, Skip

Grenier, James
Smith, Steven

O'Connor, John

Laware, Thomas

and the motion failed.

REGULAR CALENDAR CONT'D

SB 8-FN, relative to school attendance in towns with no public schools. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Rick Ladd for the Majority of Education. This bill as amended provides a local school board that has no public school for the child's grade in the resident district, to enter into a contract with a nonsectarian private school located in New Hampshire that is approved as a "school tuition program" by the school board pursuant to statute. A tuition program school shall provide students with the opportunity to acquire an adequate education as defined in RSA 193-E:2 and demonstrate that students are afforded educational opportunities substantially equal in quality to state performance standards. The tuition program school shall administer an annual assessment that may be any nationally recognized standardized assessment, and submit annual assessment results to the school board and commissioner. The commissioner may offer technical and corrective action if necessary. As amended, this bill affords school boards the opportunity to contract with nonsectarian private schools to offer parents and students the best educational opportunity by putting the interests of students first. Private schools such as this are directly accountable to parents, students, and the contracting school board, not to an overburdened bureaucracy that has previously given a stamp of approval to struggling public schools needing improvement. Competition and choice will further strengthen NH's public school system. This bill gives students the opportunity to go to a great school rather than to a public school that does not

provide a good fit for the attending student or that is found to be merely “adequate.” Every student deserves the best possible education available, be it at a public school or at a nonsectarian private school. Vote 13-6. Rep. Mary Heath for the Minority of Education. The minority finds that this bill as amended fails to assure an adequate education as identified in the NH Supreme Court decision and shifts that responsibility to the local school board for students living in towns without public schools for the certain grade levels enabling them to establish contracts with a private school, if the school board decides to negotiate such a contract. The minority questions such an authority and holds that “If we give private schools state and local funds, they must be held accountable just like our public schools.” This action sets a new standard for the state’s responsibility to ensure the opportunity for an adequate education. This bill as amended would create a new category of schools, private schools that are considered “approved as a school tuition program.” Such schools would have a contract with a local school board and then would be required to 1) comply with laws and regulations related to agency approvals for health, fire safety, and sanitation; 2) be a nonsectarian school; 3) be incorporated under the laws of NH or the US; and 4) administer an annual assessment. This bill suggests that the state could essentially delegate all of the accountability requirements for adequacy down to local school boards. The minority finds that there are significant constitutional issues with the bill. Are local school board members ready to accept this added liability for students enrolled in private schools? This bill as amended further encourages unconstitutional violations of equal protection for all children and affords special rights to children living in towns without public schools in those grade levels. Will students with disabilities have the same access as their non-disabled peers? Could LGBTQ children be discriminated against? To what standard will the private school be held? The proponents of the bill affirm that SB 8 would not allow private schools to discriminate in their admissions policies against students with disabilities, but then in subsequent testimony this point seemed more uncertain. The committee’s understanding is that the sending district would retain the obligation to ensure the delivery of special education services, but this is different from requiring that receiving schools not discriminate. This bill as amended moves from current tuition practices in terms of existing contract negotiations with public schools to include the use of public funds for private schools with no processes in place to assure students are being treated fairly and equitably. What happens to receiving school districts that have a tradition of providing programming defined in existing contracts? Will this action result in further loss of income? In conclusion, the minority finds that the General Court has reduced funds for public schools in terms of adequacy aid, catastrophic aid, and building aid and this bill continues that trend to underfund public education in NH by sending public funds to private schools.

Majority Amendment (1786h)

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

1 New Paragraph; School Board; Duty to Provide Education. Amend RSA 189:1-a by inserting after paragraph III the following new paragraph:

IV. Pursuant to RSA 193:3, VI, a school board may execute a contract with any approved nonsectarian private school approved by the school board as a school tuition program as defined in RSA 193:3, VII to provide for the education of a child who resides in the school district, and may raise and appropriate money for the purposes of the contract, if the school district does not have a public school at the pupil’s grade level and the school board decides it is in the best interest of the pupil.

2 School Attendance; Compulsory Attendance by Pupil. Amend RSA 193:1, I(d) to read as follows:

(d) The child is attending a public or private school located in another state which has been approved by the state education agency of the state in which the school is located, ***or is attending a nonsectarian private school located in New Hampshire that is approved as a school tuition program by the school board pursuant to RSA 193:3, VII;***

3 New Paragraphs; School Attendance; Change of School or Assignment. Amend RSA 193:3 by inserting after paragraph V the following new paragraphs:

VI. If there is no public school for the child’s grade in the resident district, the school board may assign the child to another public school in another school district or to any nonsectarian private school that has been approved as a school tuition program by the school board. The school board may execute a contract with an approved nonsectarian private school to provide for the education of a child who resides in the school district, and may raise and appropriate money for the purposes of the contract, if the school district does not have a public school at the pupil’s grade level and the school board decides it is in the best interest of the pupil.

VII. In this section, “approved as a school tuition program” means a school that has been approved and contracted by the school board to provide students with the opportunity to acquire an adequate education as defined in RSA 193-E:2. Upon approval by the school board, the school shall receive status as an approved school tuition program, shall be deemed in compliance with the provisions of 193-E:3-b, I(a) and (b), and shall qualify as a school approved to provide the opportunity for an adequate education. The school shall be required to submit to the school board an annual student performance progress report in a format selected by the school board, which may include reporting of aggregate achievement data to protect student privacy, and that demonstrates that students are afforded educational opportunities that are substantially equal in

quality to state performance standards for determining an adequate education. A private school that receives tuition program students shall:

(a) Comply with statutes and regulations relating to agency approvals such as health, fire safety, and sanitation;

(b) Be a nonsectarian school;

(c) Be incorporated under the laws of New Hampshire or the United States, and

(d) Administer an annual assessment in reading and language arts, mathematics, and science as defined in RSA 193-C:6 to tuition program students. The assessment may be any nationally recognized standardized assessment used to measure student academic achievement, shall be aligned to the school's academic standards, and shall satisfy the requirements of RSA 193-C:6 for school tuition program students. The school's annual assessment results for tuition program students shall be submitted to the commissioner and school board. If the school enrolls 10 or more publicly-funded tuition program students and if the school's group assessment percentile score for tuition program students is less than the 40th percentile, the commissioner may require a site visit to determine if the school provides the opportunity for an adequate education in accordance with RSA 193-E:3-b. After the third consecutive year of a tuition program school being unable to demonstrate that it provides an opportunity for an adequate education, the school may be subject to revocation of tuition program status.

4 District Liability for Elementary or Junior High School Tuition. Amend RSA 193:4 to read as follows:

193:4 District Liability for Elementary or Junior High School Tuition. Any district shall pay for the tuition of any pupil who, as a resident of the district, has been assigned to attend a public elementary or junior high school or school of corresponding grade in another district **or a nonsectarian private school approved as a school tuition program by the school board pursuant to RSA 193:3, VII**, and any district not maintaining an elementary or junior high school or school of corresponding grade shall pay for the tuition of any pupil who, as a resident of the district, ~~[after full investigation by the state board of education]~~ is determined to be entitled to have such tuition paid by the district where the pupil resides, and who attends an approved public elementary or junior high school or public school of corresponding grade in another district, **or a nonsectarian private school approved as a school tuition program by the school board pursuant to RSA 193:3, VII**. Except under contract, the liability of any school district under this section for the tuition of any pupil shall be the current expenses of operation of the receiving district for its elementary or junior high school or public school of corresponding grade, as estimated by the state board of education for the preceding school year. This current expense of operation shall include all costs except costs of transportation of pupils.

5 High Schools; Tuition. Amend RSA 194:27 to read as follows:

194:27 Tuition. Any district not maintaining a high school or school of corresponding grade shall pay for the tuition of any pupil who with parents or guardian resides in said district or who, as a resident of said district, ~~[after full investigation by the state board of education]~~ is determined to be entitled to have his or her tuition paid by the district where the pupil resides, and who attends an approved public high school or public school of corresponding grade in another district ~~[or]~~, an approved public academy, **or a nonsectarian private school approved as a school tuition program by the school board pursuant to RSA 193:3, VII**. Except under contract as provided in RSA 194:22, the liability of any school district hereunder for the tuition of any pupil shall be the current expenses of operation of the receiving district for its high school, as estimated by the state board of education for the preceding school year. This current expense of operation shall include all costs except costs of transportation of pupils.

6 District Taxes; Estimates. Amend RSA 198:4 to read as follows:

198:4 Estimates. The school board of each district in its annual report shall state in detail the additional sums of money, if any, which will be required during the ensuing fiscal year for the support of the public schools, for the purchase of textbooks, scholars' supplies, flags and appurtenances, for the payment of the tuition of the pupils in the district in high schools ~~[and]~~, academies, **and any nonsectarian private school approved as a school tuition program by the school board** in accordance with law, and for the payment of all other statutory obligations of the district.

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

AMENDED ANALYSIS

This bill establishes a procedure for the approval of a nonsectarian private school as a school tuition program in a town where there is no public school for the pupil's grade level and authorizes the school board to enter into a contract with an approved nonsectarian private school and appropriate money for the education of pupils in such towns.

Majority committee amendment adopted.

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

Reps. Andrew Schmidt and Le spoke against.

Rep. Ladd spoke in favor.

Rep. Le requested a roll call; sufficiently seconded.

YEAS 210 - NAYS 147**YEAS - 210
BELKNAP**

Abear, Marc
Flanders, Donald
Silber, Norman
Varney, Peter

Aldrich, Glen
Howard, Raymond
Spanos, Peter

Comtois, Barbara
Lang, Timothy
Sylvia, Michael

Fields, Dennis
Maloney, Michael
Vadney, Herbert

CARROLL

Avellani, Lino
Crawford, Karel
Schmidt, Stephen

Chandler, Gene
McCarthy, Frank
Umberger, Karen

Comeau, Ed
McConkey, Mark
Marsh, William

Cordelli, Glenn
Nelson, Bill

CHESHIRE

Hunt, John
Stallcop, Joseph

Mann, John
Sterling, Franklin

McConnell, James

O'Day, John

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTON

Bailey, Brad
Ham, Bonnie
Rand, Steven

Binford, David
Hennessey, Erin
Schwaegler, Vicki

Brown, Duane
Hull, Robert
Johnson, Tiffany

Darrow, Stephen
Ladd, Rick

HILLSBOROUGH

Ammon, Keith
Bouldin, Amanda
Moore, Craig
Danielson, David
Edwards, Elizabeth
Fromuth, Bart
Gould, Linda
Hinch, Richard
Moore, Josh
Ober, Lynne
MacKay, Mariellen
Negron, Steve
Pellegrino, Anthony
Ober, Russell
Schleien, Eric
Souza, Kathleen
Sullivan, Victoria

Griffin, Barbara
Burns, Charlie
Carr, John
Dickey, Glen
Fedolfi, Jim
Griffin, Gerald
Halstead, Carolyn
Hopper, Gary
Rice, Kimberly
Lascelles, Richard
McCarthy, Michael
Notter, Jeanine
Pierce, David
Renzullo, Andrew
Scully, Kevin
Wolf, Terry
Zaricki, Nick

Barry, Richard
Burt, John
Christensen, Chris
Donovan, Daniel
Ferreira, Elizabeth
Gagne, Larry
Hansen, Peter
Hynes, Dan
Kurk, Neal
LeBrun, Donald
Martineau, Jesse
Ohm, Bill
Proulx, Mark
Rouillard, Claire
Seidel, Carl
Twombly, Timothy

Biggie, Barbara
Byron, Frank
Christie, Rick
Dyer, Caleb
Freeman, Lisa
Gargas, Carolyn
Hellwig, Steve
Graham, John
L'Heureux, Robert
Lewicke, John
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Sanborn, Laurie
Shaw, Barbara
Ulery, Jordan

MERRIMACK

Alicea, Caroletta
Wolf, Dan
Horn, Werner
Marple, Richard
Walsh, Thomas

Kuch, Bill
Ebel, Karen
Klose, John
McGuire, Carol
Testerman, Dave

Brewster, Michael
Hill, Gregory
Kotowski, Frank
Pearl, Howard
Wells, Natalie

Copp, Anne
Hoell, J.R.
Moffett, Michael
Seaworth, Brian

ROCKINGHAM

Cook, Allen
Baldasaro, Alfred
Bove, Martin
Dean-Bailey, Yvonne
Fesh, Robert
Marsh, Henry
Edwards, Jess
Khan, Aboul
Major, Norman
Milz, David
Osborne, Jason
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, Kenneth

Abrami, Patrick
Barnes, Arthur
Chirichiello, Brian
Doucette, Fred
Gay, Betty
Hagan, Joseph
Janigian, John
Kolodziej, Walter
Matthews, Carolyn
Morrison, Sean
Packard, Sherman
Sapareto, Frank
Torosian, Peter
Vose, Michael
Woitkun, Steven

Allen, Mary
Bates, David
Costable, Michael
Elliott, Robert
Green, Dennis
Hoelzel, Kathleen
Janvrin, Jason
Griffin, Mary
McKinney, Betsy
Nasser, Jim
Gordon, Richard
Spillane, James
Tripp, Richard
Webb, James

Azarian, Gary
Bean, Philip
Thomas, Douglas
Emerick, J. Tracy
Guthrie, Joseph
Itse, Daniel
O'Connor, John
Pearson, Mark
McMahon, Charles
Nigrello, Robert
Tilton, Rio
Stone, Brian
True, Chris
Welch, David

STRAFFORD

Harrington, Michael
McNally, Jody
Graham, Robert
Sprague, Dale

Horgan, James
Mullen, John
Scruton, Matthew
Wuelper, Kurt

Kaczynski, Thomas
Phinney, Brandon
Spang, Judith

Turcotte, Leonard
Pitre, Joseph
Spencer, Matthew

SULLIVAN

Gauthier, Francis
O'Connor, John
Tanner, Linda

Gottling, Suzanne
Laware, Thomas

Grenier, James
Rollins, Skip

Irwin, Virginia
Smith, Steven

NAYS - 147**BELKNAP**

Huot, David

CARROLL

Buco, Thomas

Butler, Edward

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Shepardson, Marjorie

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Tatro, Bruce

Berch, Paul
Eaton, Daniel
Meador, David
Pearson, William

Bordenet, John
Faulkner, Barry
Parkhurst, Henry
Weber, Lucy

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Abel, Richard
Dontonville, Roger
Massimilla, Linda
Sykes, George

Almy, Susan
Higgins, Patricia
Mulligan, Mary Jane
White, Andrew

Bennett, Travis
Josephson, Timothy
Nordgren, Sharon

Campion, Polly
Maes, Kevin
Smith, Suzanne

HILLSBOROUGH

Ayala, Jessica
Chandlee, Shannon
Sullivan, Daniel
Freitas, Mary
Herbert, Christopher
King, Mark
MacKenzie, Mark
McNamara, Richard
Long, Patrick
Rosenwald, Cindy
Smith, Timothy

Backus, Robert
Cleaver, Skip
DiSilvestro, Linda
Gidge, Kenneth
Schmidt, Janice
Klee, Patricia
Mangipudi, Latha
O'Brien, Michael
Porter, Marjorie
Harvey, Suzanne
Van Houten, Connie

Baroody, Benjamin
Cornell, Patricia
Elber, Joel
Goley, Jeffrey
Jack, Martin
Leishman, Peter
Manley, Jonathan
O'Leary, Richard
Walsh, Robert
Snow, Kendall
Williams, Kermit

Beaulieu, Jane
Cote, David
Forest, Armand
Heath, Mary
Keane, Amelia
Lisle, David
Martin, Joelle
O'Neil, William
Roberts, Carol
Sofikitis, Catherine

MERRIMACK

Turcotte, Alan
Long, Douglas
Henle, Paul
Myler, Mel
Shurtleff, Stephen

Bartlett, Christy
Doherty, David
MacKay, James
Rodd, Beth
Walz, Mary Beth

Rice, Chip
Gile, Mary
Kenison, Linda
Rogers, Katherine
Woolpert, David

Carson, Clyde
Moffett, Howard
Luneau, David
Schuett, Dianne

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Farnham, Betsey
Lovejoy, Patricia
Murray, Kate
Somssich, Peter

Berrien, Skip
DiLorenzo, Charlotte
Francesse, Paula
Malloy, Dennis
Gordon, Pamela
Le, Tamara

Cahill, Michael
Dowling, Patricia
Gilman, Julie
McBeath, Rebecca
Pantelakos, Laura
Ward, Gerald

Cali-Pitts, Jacqueline
Edgar, Michael
Katsakiores, Phyllis
Messmer, Mindi
Read, Ellen
Willis, Brenda

STRAFFORD

Berube, Roger
Ellis, Donna
Horrigan, Timothy
Opderbecke, Linn
Treleaven, Susan

Bixby, Peter
Epstein, Isaac
Keans, Sandra
Schmidt, Peter
Vincent, Kenneth

Burton, Wayne
Frost, Sherry
Krans, Hamilton
Salloway, Jeffrey
Wall, Janet

Cilley, Jacalyn
Grassie, Chuck
Smith, Marjorie
Sandler, Catt

SULLIVAN

Schmidt, Andrew

Cloutier, John

Gagnon, Raymond

Oxenham, Lee

and the majority committee report was adopted and ordered to third reading.

SB 3, relative to domicile for voting purposes. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Gregory Hill for the Majority of Election Law. This bill, as amended by the committee, is designed to strengthen the public confidence in the integrity of our elections by closing the domicile loophole. Under current New Hampshire law, to be qualified to vote individuals must establish their domicile in the town

or ward where they seek to register. Many new registrants satisfy this requirement by signing a “domicile affidavit” in which they attest under penalty of perjury that they are domiciled in the town or ward. The use of only an affidavit to prove domicile creates opportunities for voter fraud because election officials must take the applicant at his or her word. Furthermore, because the standard for domicile under RSA 654:1, 1, is entirely subjective (i.e., the person must have the intent to “maintain a single continuous presence” in the town or ward), it is virtually impossible to prove that an individual has misrepresented domicile in the affidavit. This bill sets forth a method of establishing domicile and requires all new registrants to produce documentary evidence substantiating that they have taken actions consistent with their intent to make the town or ward their domicile. It is a modest change in the law because it simply requires the registrant to produce some evidence to verify his or her domicile. It is an important change in the law because it makes false representations of domicile much more difficult and makes enforcement of the law much easier if there are misrepresentations. The bill also: (1) leaves unchanged current New Hampshire law regarding the voting domicile of students while attending an “institute of learning” (RSA 654:1, 1-a); (2) protects the right of the homeless to vote where they are living even if they have no documentary evidence establishing their domicile; (3) eliminates “drive-by” voting, but does so without imposing inflexible durational residency requirements; and (4) provides that no person who completes the voter registration form on Election Day can be denied a ballot even if the person failed to bring documentary evidence to the polls. The minority argues that the law should not be changed because there is not serious voter fraud. The majority rejects this as the standard the legislature should apply when considering election law reform. If current law creates opportunities for voter fraud the majority believes that the law should be changed to eliminate those opportunities regardless of whether anyone can demonstrate that the vulnerability in the law has been exploited. Vote 11-9.

Rep. David Huot for the Minority of Election Law. New Hampshire had the second highest voter turnout in the nation in the 2016 election and has historically been a leader in that area. At the public hearing on this bill, Secretary Gardner testified that high voter turnout indicates voter confidence in their election process. There have never been any serious cases of voter fraud. This bill “tightens up” the voting process in order to address an unreasonable fear, at a cost unknown to us all. It does so by making registering to vote an adversarial process. Applicants have to prove domicile by selecting from a list, which, though non-exclusive, provides no guidance to election officials as to what might be acceptable, leading to inconsistent requirements from town to town. The bill also places a significant additional workload on local voting officials, promises longer lines at the polls which will discourage voting, and eliminates the Affidavit of Domicile which has proven effective for many years. This bill places an unreasonable burden on citizens attempting to exercise their most important and sacred right of citizenship.

Majority Amendment (1775h)

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

1 Voters; Temporary Absence or Presence. Amend RSA 654:2 to read as follows:

654:2 Temporary Absence **or Presence**.

I. A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile. Domicile for the purpose of voting as defined in RSA 654:1, once existing, continues to exist until another such domicile is gained. Domicile for purposes of voting is a question of fact and intention ***coupled with a verifiable act or acts carrying out that intent***. A voter can have only one domicile for ~~these~~ **voting** purposes. No person shall be deemed to have lost a domicile by reason of his or her presence or absence while the voter or his or her spouse is employed in the service of the United States; nor while engaged in the navigation of the waters of the United States or of the high seas; nor while a teacher in or student of any seminary of learning; nor while confined in any public prison or other penal institution; nor while a patient or confined for any reason in any nursing, convalescent home or hospital, old folks or old age home, or like institution or private facility.

II.(a) A person present in New Hampshire for temporary purposes shall not gain a domicile for voting purposes. A person who maintains a voting domicile where he or she came from, to which he or she intends to return to as his or her voting domicile after a temporary presence in New Hampshire, does not gain a domicile in New Hampshire regardless of the duration of his or her presence in New Hampshire.

(b) A person who has been present and residing in one town or ward in New Hampshire for 30 or fewer days is presumed to be present for temporary purposes unless that person has the intention of making the place in which the person resides his or her one place, more than any other, from which he or she engages in the domestic, social, and civil activities of participating in democratic self-government including voting, and has acted to carry out that intent.

(c) For the purposes of this chapter, temporary purposes shall include, but are not limited to, being present in New Hampshire for 30 or fewer days for the purposes of tourism, visiting family or friends, performing short-term work, or volunteering or working to influence voters in an upcoming election.

(d) For the purposes of voter registration under RSA 654:7, IV(c), an applicant shall demonstrate an intent to make a place his or her domicile by providing documentation showing that the applicant has a domicile at the address provided on the voter registration form. Such documentation may include, but is not limited to:

(1) Evidence of residency, as set forth in RSA 654:1, I-a, at an institution of learning in that place;

(2) Evidence of renting or leasing an abode at that place for a period of more than 30 days, to include time directly prior to an election day;

(3) Evidence of purchasing an abode at that place;

(4) A New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing that place as his or her residence;

(5) Evidence of enrolling the person's dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of that place, using the address where the registrant resides;

(6) Identifying that place as the person's physical residence address on state or federal tax forms, other government-issued identification, or other government forms that show the domicile address;

(7) Evidence of providing the address of that place to the United States Post Office as the person's permanent address, provided it is not a postal service or commercial post office box;

(8) Evidence of obtaining public utility services for an indefinite period at that place; or

(9) Evidence of arranging for a homeless shelter or similar service provider located in the town or ward to receive United States mail on behalf of the individual using that facility's address as the individual's domicile address for voting purposes.

(e) An applicant whose domicile is at an abode rented, leased, or owned by another and whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is listed on the rental agreement, lease, or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided.

III. An individual applying for registration as a voter 30 or fewer days before an election shall use the election day registration form required by RSA 654:7, IV(c) which shall require the applicant to provide the date he or she established his or her voting domicile in New Hampshire. The registration form shall require the voter to identify and provide evidence of a verifiable action he or she has taken carrying out his or her intent to make the place claimed on the voter registration form his or her domicile.

IV. A person may register on election day through use of an acknowledgment of domicile evidence obligation on the registration form and vote if he or she does not have any document in his or her possession at the polls providing evidence of an action carrying out his or her intent to make the address claimed as his or her voting domicile. A person relying on an acknowledgment of domicile evidence obligation to register must mail or present evidence of an action taken before registering to vote to carry out his or her intent to make the address claimed his or her domicile to the town or city clerk within 10 days following the election, or within 30 days in towns where the clerk's office is open fewer than 20 hours weekly.

V. The supervisors of the checklist, as soon as practical following an election, shall determine which registrants of that election acknowledged there was no evidence of intent to be domiciled at their address or relied solely on an acknowledgment of domicile evidence obligation to register and vote, and, of those registrants, those who failed to mail or present evidence of having taken some action to carry out their intent to establish domicile at the address listed on their voter registration applications to the clerk by the deadline. The supervisors shall attempt to verify that each such person was domiciled at the address claimed on election day by means including, but not limited to:

(a) Examining public records held by the town or city clerk, municipal assessing and planning offices, tax collector, or other municipal office that may house public records containing domicile confirmation; or

(b) Requesting 2 or more municipal officers or their agents or state election officers or their agents to visit the address and verify that the individual was domiciled there on election day. In unincorporated places that have not organized for the purposes of conducting elections, county officers may be asked to perform this function; or

(c) Referring the registrant's information to the secretary of state, who shall cause such further investigation as is warranted.

2 Voter Registration Form. Amend RSA 654:7, III-IV to read as follows:

(Please print or type)

_____, New Hampshire. If a city, ward number _____.

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

Signature of Applicant

If you do not have a valid driver's license, provide the last four digits of your social security number

My name is _____. I am today registering to vote in the city/town of _____, New Hampshire. If a city, ward number _____.

I understand that to vote in this ward/town, I must be at least 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.

I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.

In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or federal elections in another state.

If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.

I understand that to make the address I have entered above my domicile for voting I must have an intent to make this the one place from which I participate in democratic self-government and must have acted to carry out that intent.

I understand that if I have documentary evidence of my intent to be domiciled at this address when registering to vote, I must either present it at the time of registration or I must place my initials next to the following paragraph and mail a copy or present the document at the town or city clerk's office within 10 days following the election (30 days in towns where the clerk's office is open fewer than 20 hours weekly).

By placing my initials next to this paragraph, I am acknowledging that I have not presented evidence of actions carrying out my intent to be domiciled at this address, that I understand that I must mail or personally present to the clerk's office evidence of actions carrying out my intent within 10 days following the election (or 30 days in towns where the clerk's office is open fewer than 20 hours weekly), and that I have received the document produced by the secretary of state that describes the items that may be used as evidence of a verifiable action that establishes domicile.

Failing to report and provide evidence of a verifiable action will prompt official mail to be sent to your domicile address by the secretary of state to verify the validity of your claim to a voting domicile at this address.

I understand that if I do not have any documentary evidence of my intent to be domiciled at this address, I must place my initials next to the following paragraph:

By placing my initials next to this paragraph, I am acknowledging that I am aware of no documentary evidence of actions carrying out my intent to be domiciled at this address, that I will not be mailing or delivering evidence to the clerk's office, and that I understand that officials will be sending mail to the address on this form or taking other actions to verify my domicile at this address.

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

Date	Signature of Applicant
If this form is used in place of proof of identity, age, or citizenship[, ~~or domicile~~], I hereby swear that such information is true and accurate to the best of my knowledge.	
This form was executed for purposes of proving (applicant shall circle yes or no and initial each item):	
Identity	yes/no _____ (initials)
Citizenship	yes/no _____ (initials)
Age	yes/no _____ (initials)
[Domicile	yes/no _____ (initials)]
Applicant	Election Official

Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

In accordance with RSA 659:34, the penalty for knowingly or [purposefully] **purposely** providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000. ***In accordance with RSA 659:34-a voting in more than one state in the same election is a class B felony with a maximum sentence of imprisonment not to exceed 7 years and a fine not to exceed \$4,000.***

V. The secretary of state shall prepare and distribute an addendum to the voter registration form used under subparagraph IV(c) to be distributed to those registrants who register within 30 days before the election or on election day and who do not provide proof of domicile or a verifiable action to demonstrate domicile. The "verifiable action of domicile" document shall provide notice of the requirements that registrants must furnish documentary evidence of domicile and shall be in substantially the following form:

Verifiable Action of Domicile

As a newly registered voter, you have received this document because you did not provide proof of domicile when you registered to vote. RSA 654:2, IV requires you to provide evidence that you have taken a verifiable act to establish domicile.

The following checklist shall be used as a guide for what you may use as evidence and shall be submitted to the town or city clerk along with documentation that you are required to provide. Only one item on the list is required to demonstrate a verifiable act.

To establish that you have engaged in a verifiable act establishing domicile, provide evidence that you have done at least one of the following:

_____ established residency, as set forth in RSA 654:1, I-a, at an institution of learning at the address on the voter registration form

_____ rented or leased an abode, for a period of more than 30 days, to include time directly prior to an election day at the address listed on the voter registration form

_____ purchased an abode at the address listed on the voter registration form

_____ obtained a New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing the address on the voter registration form

_____ enrolled a dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of the address where the registrant resides, as listed on the voter registration form

Identified the address on the voter registration form as your physical residence address on:

_____ state or federal tax forms

_____ other government-issued forms or identification. Describe form of identification: _____

_____ provided the address on the voter registration form to the United States Post Office as your permanent address, provided it is not a postal service or commercial post office box, where mail is delivered to your home. This can be by listing the address on the voter registration form as your new address on a Postal Service permanent change of address form and providing a copy of the receipt, or an online emailed receipt

_____ obtained public utility services (electricity, cable, gas, water, etc.) for an indefinite period at the address on the voter registration form. List services obtained: _____

_____ arranged for a homeless shelter or similar service provider to receive United States mail on your behalf. Enter name of the shelter or provider: _____

_____ describe what other verifiable action or actions you have taken to make the address listed on your voter registration form your one voting domicile: _____

If you have no other proof of a verifiable act establishing domicile, and your domicile is at an abode rented, leased, or purchased by another and your name is not listed on the rental agreement, lease, or deed, you are required to provide a written statement, signed under penalty of voting fraud if false information is provided, from a person who is listed on such document, or other reasonable proof of ownership or control of the property, attesting that you reside at that address, signed by that person or his or her agent who manages the property.

This verifiable action of domicile form, along with your written statement or other documentation proving a verifiable act, shall be delivered to the town or city clerk, by mail or in person, with 10 days, or within 30 days if the clerk's office is open fewer than 20 hours weekly.

Name _____		
_____ Last (suffix)	_____ First	_____ Full Middle Name
Domicile Address _____		
_____ Street		_____ Ward Number
_____ Town or City		_____ Zip Code
_____ Date		_____ Signature of Applicant

This document was received by the clerk, who examined and returned it to the applicant after making a copy of the evidence of verifiable action, said copy to be attached to the verifiable action of domicile form.

Date

Signature of Clerk

The clerk shall forward the completed form and attachment or attachments to the supervisors of the checklist as soon as possible, but not later than their next meeting. The supervisors of the checklist shall attach the form and attachments to the voter registration form.

3 Election Day Registration. Amend RSA 654:7-a, I to read as follows:

I. The provisions of this section and those of RSA 654:7-b shall be used as an additional procedure for voter registration. For the purposes of this section and RSA 654:7-b, the term "election day" shall refer to state primary and to state general elections, to all town, city, school district, and village district elections, and to all official ballot meetings where persons may vote by absentee ballot. A person who registers to vote on election day according to the provisions of this section shall also be required to complete the voter registration form provided for in RSA 654:7, **IV(c)**. The provisions of this section and those of RSA 654:7-b shall apply notwithstanding any provision of RSA 654 to the contrary.

4 Effect of Registration on Election Day. Amend RSA 654:7-b to read as follows:

654:7-b Effect of Registration on Election Day. Any person who registers to vote on election day according to the provisions of RSA 654:7-a shall be registered to vote at all subsequent town, **city, school district, village district**, state, and federal elections ***unless the person's name is removed from the checklist in accordance with the provisions of this chapter.***

5 Determining Qualifications of Applicant. Amend RSA 654:12, I(a)-(c) to read as follows:

(a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall accept from the applicant any one of the following as proof of citizenship: the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter affidavit, a sworn statement on the [general election day] voter registration form ***used starting 30 days before an election and on election day***, or any other reasonable documentation which indicates the applicant is a United States citizen. The qualified voter affidavit shall be in the following form, and shall be retained in accordance with RSA 33-A:3-a:

Date _____

QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Date and Place of Naturalization: _____

Domicile Address: _____

Mailing Address (if different): _____

Telephone number (requested but optional) _____

Email address (requested but optional) _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not in possession of some or all of the documents necessary to prove my identity, citizenship, and age and that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

In accordance with RSA 659:34, the penalty for knowingly or [purposefully] ***purposely*** providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

On the date shown above, before me, _____ (print name of notary public, justice of the peace, election officer), appeared _____ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

This affidavit was executed for purposes of proving (check all that apply):

☐ Identity

☐ Citizenship

☐ Age

(b) AGE. Any reasonable documentation indicating the applicant will be 18 years of age or older at the next election, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, a qualified voter affidavit, which shall be retained in accordance with RSA 33-A:3-a, or a sworn statement on the ~~[general election day]~~ voter registration form ***used starting 30 days before an election and on election day.***

(c) DOMICILE.

(1) Registering more than 30 days in advance of an election.

(A) A person who possesses one of the following qualified documents identifying the applicant's name and the address claimed as domicile must present that document when applying for registration prior to election day: (i) New Hampshire driver's license or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b; (ii) New Hampshire resident vehicle registration; (iii) a picture identification issued by the United States government that contains a current address; (iv) government issued check, benefit statement, or tax document. A person who possesses such a document, but failed to bring it with the person when seeking to register to vote shall be required to return when he or she can present one of these documents or to bring the document and register on election day.

(B) A person who attests under penalty of voter fraud that he or she does not possess any of the qualified documents listed in subparagraph (A) may present any reasonable documentation [which indicates] of having established a physical presence at the place claimed as domicile, having an intent to make that place his or her domicile, and having taken a verifiable act to carry out that intent. The documentation must establish that it is more likely than not that the applicant has a domicile and intends to maintain [a] that domicile, as defined in this chapter, at least until election day in the town[-city,] or ward in which he or she desires to vote[-or,]. Reasonable documentation may include, but is not limited to evidence of:

(i) Residency, as set forth in RSA 654:1, I-a, at an institution of learning at that place;

(ii) Renting or leasing an abode at that place for a period of more than 30 days, to include time directly prior to an election day;

(iii) Purchasing an abode at that place;

(iv) Enrolling the applicant's dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of that place, using the address where the registrant resides;

(v) Listing that place as the person's physical residence address on state or federal tax forms, other government identification showing the address, or other government forms showing the address;

(vi) Providing the address of that place to the United States Post Office as the person's permanent address, provided it is not a postal service or commercial post office box;

(vii) Obtaining public utility services for an indefinite period at that place; or

(viii) Arranging for a homeless shelter or similar service provider located in the town or ward to receive United States mail on behalf of the individual.

An applicant whose domicile is at an abode of another and whose name is not listed on the document offered as proof of domicile may provide a written statement from a person who is listed as owner, property manager, or tenant on the document that the applicant resides at that address, signed by that person under penalty of voting fraud if false information is provided.

(2) Registering within 30 days before an election and on election day.

(A) When registering within 30 days before an election or on election day as provided in RSA 654:7-a, if the applicant does not have in his or her possession at the polls one of the qualified documents listed in subparagraph (1) or other reasonable documentation which establishes that it is more likely than not that the applicant has a domicile at the address claimed in the town or ward in which he or she desires to vote [if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration], he or she may execute a sworn statement on the [general election day] voter registration form[-or an affidavit] used starting 30 days before an election and on election day and initial the acknowledgment of domicile evidence obligation. If the applicant identifies on his or her application action taken to establish his or her domicile, which he or she has documentation of, he or she must agree to mail a copy of or present the document in person to the city or town clerk within 10 days, or where the town clerk's office is open fewer than 20 hours weekly, within 30 days. Copies of documents provided in compliance with this subparagraph are exempt from the public disclosure required by RSA 91-A. The clerk shall document receipt of a copy or completion of verification of a document presented in person and forward verification to the supervisors of the checklist. An applicant whose voter registration is approved based on an acknowledgment of a domicile evidence obligation who knowingly or purposely fails to provide a document to the city or town clerk as required by this paragraph shall be subject to the penalties of wrongful voting as established in RSA 659:34. The supervisors of the checklist shall initiate removing the name from the checklist of any such person who fails to provide proof of domicile by the deadline by sending the person the notice required by RSA 654:44.

(B) A person registering within 30 days before an election or on election day who does not possess reasonable documentation of establishing domicile and has taken no verifiable action to carry out his or her intent to establish domicile at the address claimed on the voter registration application may nonetheless register to vote by initialing the paragraph on the registration form acknowledging that domicile may be verified. The supervisors of the checklist shall, as soon as practical following an election at which the person initials such paragraph to register and vote, attempt to verify that the person was domiciled at the address claimed on election day by means including, but not limited to:

(i) Examining public records held by the town or city clerk, municipal assessing and planning offices, tax collector, or other municipal office that may house public records containing domicile confirmation; or

(ii) Requesting 2 or more municipal officers or their agents or state election officers or their agents to visit the address and verify that the individual was domiciled there on election day. In unincorporated places that have not organized for the purposes of conducting elections, county officers may be asked to perform this function; or

(iii) Referring the registrant's information to the secretary of state, who shall cause such further investigation as is warranted.

(C) Any case where supervisors are unable to verify the applicant's domicile or where evidence exists of voting fraud shall be promptly reported to the secretary of state and to the attorney general, who shall cause such further investigation as is warranted. [in the following form, which shall be retained in accordance with RSA 33-A:3-a:

-DOMICILE AFFIDAVIT

Date: _____

Name: _____

Current Domicile Address: _____

Street

Ward Number

Town or City

Zip Code

Current Mailing Address (if different): _____

Street

Ward Number

Town or City

Zip Code

Telephone number (requested but optional) _____

Email address (requested but optional) _____

Date when current domicile was established: Month: _____ Year: _____

Place and date of birth: _____

Address of last previous domicile: _____

Street

Ward Number

Town or City

Zip Code

— I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not currently in possession of necessary documents to prove my domicile and that my established domicile is at the current domicile address I have entered above. I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other city/town, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

— In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

—On the date shown above, before me, _____ (print name of notary public, justice of the peace, election officer), appeared _____ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

Notary Public/Justice of the Peace/Official Authorized by RSA 659:30]

6 Qualifications of Applicants. Amend the introductory paragraph of RSA 654:12, II(b) to read as follows:

(b) Any one of the following is presumptive evidence of the identity of an applicant sufficient to satisfy the identity requirement for an official authorized by RSA 659:30 to take the oath of an applicant swearing to a qualified voter, domicile, or election day affidavit or a sworn statement on the ~~[general election day]~~ voter registration form ***used starting 30 days before an election and on election day***:

7 Qualifications of Applicants. Amend RSA 654:12, III to read as follows:

III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant. A person who has in his or her immediate possession a photo identification approved for use by paragraph II must present that identification when applying for registration. A person who does not have an approved photo identification with him or her may establish identity through completion of the qualified voter affidavit, which shall be retained in accordance with RSA 33-A:3-a, or a sworn statement on the ~~[general election day]~~ voter registration form ***used starting 30 days before an election and on election day***. Residents of a nursing home or similar facility may prove their identity through verification of identity by the administrator of the facility or by his or her designee. For the purposes of this section, the application of a person whose identity has been verified by an official of a nursing home or similar facility shall be treated in the same manner as the application of a person who proved his or her identity with a photo identification.

8 Determining Qualifications of Applicant. Amend RSA 654:12, V(a) to read as follows:

V.(a) The election official approving the application for registration as voter of a person who does not present an approved form of photo identification as proof of identity when registering, shall mark the voter registration form to indicate that no photo identification was presented and shall inform the person that, if he or she is a first-time election day registrant in New Hampshire, he or she will receive a letter of identity verification. The person entering the voter information into the centralized voter registration database shall determine if the person is listed in the system as having been previously registered in the town or ward reported by the applicant on the voter registration form. If the person is a new registrant who has not been previously registered anywhere in New Hampshire or if the centralized voter registration database does not confirm a previous registration claimed on the voter registration form, the election official shall cause the record created in the centralized voter registration database to indicate that the person is a new applicant in New Hampshire and that no photo identification was presented. When municipalities enter information on people who register on election day into the centralized voter registration database, to the extent practical applicants who are registering for the first time in New Hampshire and who also register without presenting an approved photo identification shall be entered first. The person entering the voter information of election day residents into the centralized voter registration database shall cause the records to indicate if the voter executed ~~[a domicile affidavit or]~~ a sworn statement on the ~~[general election day]~~ voter registration form ***used starting 30 days before an election and on election day***.

9 Determining Qualifications of Applicant. Amend RSA 654:12, V(d) to read as follows:

(d) Within 90 days of each election, the secretary of state shall cause a list of persons executing ~~[domicile affidavits and]~~ sworn statements on the ~~[general election day]~~ voter registration form ***used starting 30 days before an election and on election day*** since the prior election to be forwarded to the attorney general and the division of motor vehicles. The secretary of state shall send a letter to each such person informing him or her of a driver's obligation to obtain a New Hampshire driver's license within 60 days of becoming a New Hampshire resident. The letter shall be mailed within 60 days after the election, except that if the election is a state primary election, the letter shall be mailed 60 days after the general election, and if the election is a regularly scheduled municipal election, the letter shall be mailed by the July 1 or January 1 next following the election. The secretary of state shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information.

10 References Deleted. Amend RSA 654:31-a to read as follows:

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, domicile address, mailing address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, qualified voter ~~[and domicile]~~ affidavits, affidavit of religious exemption, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except

as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, qualified voter ~~[and domicile]~~ affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any qualified voter ~~[or domicile]~~ affidavit. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, qualified voter ~~[and domicile]~~ affidavits, affidavits of religious exemption, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

11 Reference Deleted. Amend RSA 659:30 to read as follows:

659:30 Affidavit. The affidavit of a challenged voter, an asserting a challenge form, a qualified voter affidavit, ~~[a voter domicile affidavit,]~~ or any other affidavit required by the election statutes may be sworn before any person authorized by law to administer oaths or before any election officer.

12 Reference Deleted. Amend RSA 659:34, I(a) to read as follows:

(a) When registering to vote; when obtaining an official ballot; when casting a vote by official ballot; or when applying for a photo identification card for voting purposes, purposely or knowingly makes a false material statement regarding his or her qualifications as a voter to an election officer or submits a voter registration form, an election day registration affidavit, a qualified voter affidavit, ~~[a domicile affidavit,]~~ a challenged voter affidavit, an affidavit of religious exemption, an identification card voucher, or an absentee registration affidavit containing false material information regarding his or her qualifications as a voter;

13 Wrongful Voting; Penalties for Voter Fraud. Amend RSA 659:34, I(f)-(g) to read as follows:

(f) Gives a false name or answer if under examination as to his or her qualifications as a voter before the supervisors of the checklist or moderator; ~~[or]~~

(g) Presents falsified proof of identity, *domicile, or verifiable action of domicile* at any election;

(h) Registers to vote on election day using an affidavit to satisfy proof of being qualified, represents on the affidavit that the person possesses proof that he or she does not have in his or her possession at the polling place, and purposely and knowingly fails to provide a copy of the document by mail or present the document in person to the town or city clerk by the deadline established in RSA 654:12; or

(i) Purposely and knowingly provides false information in a written and signed statement or other documentation that another person is domiciled at an address that is owned, leased, rented, or managed by the individual providing the statement for the purposes of voter registration and that statement is used for voter registration purposes.

14 References Deleted. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials[; *and* Election Day Affidavits~~[-and Domicile Affidavits]~~. The absentee ballot affidavits and application forms processed by the moderator as provided in RSA 659:50, the absentee ballots challenged and rejected as provided in RSA 659:51 and RSA 659:53, and the qualified voter affidavits ~~[and domicile affidavits]~~ as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official shall be preserved in accordance with RSA 33-A:3-a. Qualified voter[; *and* voter registration~~[-and domicile]~~ affidavits shall be retained for the period set forth in RSA 33-A:3-a, and other materials may be destroyed after the election is settled and all appeals have expired or one year after the election, whichever is longer.

15 Verifiable Action of Domicile Documents. Amend RSA 33-A:3-a, CXLI(f) to read as follows:

(f) ~~[Domicile affidavit]~~ *Verifiable action of domicile document*: until voter is removed from checklist plus 7 years.

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

MOTION TO LAY ON THE TABLE

Rep. Dyer moved that **SB 3**, relative to domicile for voting purposes, be laid on the table.

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

YEAS 166 - NAYS 191

YEAS - 166

BELKNAP

CARROLL

Huot, David

Sylvia, Michael

Buco, Thomas

Butler, Edward

Comeau, Ed

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Parkhurst, Henry
Tatro, Bruce

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Shepardson, Marjorie
Pearson, William

Berch, Paul
Eaton, Daniel
Mann, John
Stallcop, Joseph
Weber, Lucy

Bordenet, John
Faulkner, Barry
Meader, David
Sterling, Franklin

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Abel, Richard
Dontonville, Roger
Maes, Kevin
Smith, Suzanne

Almy, Susan
Ham, Bonnie
Massimilla, Linda
Sykes, George

Bennett, Travis
Higgins, Patricia
Mulligan, Mary Jane
White, Andrew

Campion, Polly
Josephson, Timothy
Nordgren, Sharon

HILLSBOROUGH

Ayala, Jessica
Bouldin, Amanda
Cote, David
Edwards, Elizabeth
Freitas, Mary
Heath, Mary
Keane, Amelia
Lisle, David
Manley, Jonathan
O'Brien, Michael
Porter, Marjorie
Harvey, Suzanne
Van Houten, Connie

Backus, Robert
Chandley, Shannon
Sullivan, Daniel
Elber, Joel
Fromuth, Bart
Herbert, Christopher
King, Mark
MacKay, Mariellen
Martin, Joelle
O'Leary, Richard
Walsh, Robert
Snow, Kendall
Williams, Kermit

Baroody, Benjamin
Cleaver, Skip
DiSilvestro, Linda
Ferreira, Elizabeth
Gidge, Kenneth
Schmidt, Janice
Klee, Patricia
MacKenzie, Mark
Martineau, Jesse
O'Neil, William
Roberts, Carol
Sofikitis, Catherine

Beaulieu, Jane
Cornell, Patricia
Dyer, Caleb
Forest, Armand
Goley, Jeffrey
Jack, Martin
Leishman, Peter
Mangipudi, Latha
McNamara, Richard
Long, Patrick
Rosenwald, Cindy
Smith, Timothy

MERRIMACK

Turcotte, Alan
Rice, Chip
Ebel, Karen
Hoell, J.R.
Marple, Richard
Schuett, Dianne

Alicea, Caroletta
Carson, Clyde
Gile, Mary
MacKay, James
Myler, Mel
Shurtleff, Stephen

Bartlett, Christy
Wolf, Dan
Moffett, Howard
Kenison, Linda
Rodd, Beth
Walz, Mary Beth

Brewster, Michael
Doherty, David
Henle, Paul
Luneau, David
Rogers, Katherine
Woolpert, David

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Francese, Paula
McBeath, Rebecca
Pantelakos, Laura
Ward, Gerald

Berrien, Skip
DiLorenzo, Charlotte
Gilman, Julie
Messmer, Mindi
Read, Ellen

Cahill, Michael
Edgar, Michael
Lovejoy, Patricia
Murray, Kate
Somssich, Peter

Cali-Pitts, Jacqueline
Farnham, Betsey
Malloy, Dennis
Gordon, Pamela
Le, Tamara

STRAFFORD

Bixby, Peter
Epstein, Isaac
Keans, Sandra
Schmidt, Peter
Sprague, Dale

Burton, Wayne
Frost, Sherry
Krans, Hamilton
Salloway, Jeffrey
Treleaven, Susan

Cilley, Jacalyn
Grassie, Chuck
Smith, Marjorie
Sandler, Catt
Vincent, Kenneth

Ellis, Donna
Horrigan, Timothy
Opderbecke, Linn
Spang, Judith
Wall, Janet

SULLIVAN

Schmidt, Andrew
Irwin, Virginia

Cloutier, John
Oxenham, Lee

Gagnon, Raymond
Tanner, Linda

Gottling, Suzanne

NAYS - 191**BELKNAP**

Abear, Marc
Flanders, Donald
Silber, Norman

Aldrich, Glen
Howard, Raymond
Spanos, Peter

Comtois, Barbara
Lang, Timothy
Vadney, Herbert

Fields, Dennis
Maloney, Michael
Varney, Peter

CARROLL

Avellani, Lino
McCarthy, Frank
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

Cordelli, Glenn
Nelson, Bill

Crawford, Karel
Schmidt, Stephen

CHESHIRE

Hunt, John

McConnell, James

O'Day, John

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTONBailey, Brad
Hennessey, Erin
Schwaegler, VickiBinford, David
Hull, Robert
Johnson, TiffanyBrown, Duane
Ladd, RickDarrow, Stephen
Rand, Steven**HILLSBOROUGH**Ammon, Keith
Burns, Charlie
Carr, John
Dickey, Glen
Griffin, Gerald
Halstead, Carolyn
Hopper, Gary
Rice, Kimberly
Lascelles, Richard
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Sanborn, Laurie
Shaw, Barbara
Ulery, JordanGriffin, Barbara
Burt, John
Christensen, Chris
Donovan, Daniel
Gagne, Larry
Hansen, Peter
Hynes, Dan
Kurk, Neal
LeBrun, Donald
Negron, Steve
Pellegrino, Anthony
Ober, Russell
Schleien, Eric
Souza, Kathleen
Sullivan, VictoriaBarry, Richard
Byron, Frank
Christie, Rick
Fedolfi, Jim
Gargas, Carolyn
Hellwig, Steve
Graham, John
L'Heureux, Robert
Lewicke, John
Notter, Jeanine
Pierce, David
Renzullo, Andrew
Scully, Kevin
Wolf, Terry
Zaricki, NickBiggie, Barbara
Moore, Craig
Danielson, David
Freeman, Lisa
Gould, Linda
Hinch, Richard
Moore, Josh
Ober, Lynne
McCarthy, Michael
Ohm, Bill
Proulx, Mark
Rouillard, Claire
Seidel, Carl
Twombly, Timothy**MERRIMACK**Kuch, Bill
Horn, Werner
McGuire, Carol
Testerman, DaveCopp, Anne
Klose, John
Pearl, Howard
Wells, NatalieLong, Douglas
Kotowski, Frank
Seaworth, BrianHill, Gregory
Moffett, Michael
Walsh, Thomas**ROCKINGHAM**Cook, Allen
Baldasaro, Alfred
Bove, Martin
Dean-Bailey, Yvonne
Emerick, J. Tracy
Guthrie, Joseph
Itse, Daniel
O'Connor, John
Griffin, Mary
McKinney, Betsy
Nasser, Jim
Gordon, Richard
Spillane, James
Tripp, Richard
Webb, James
Woitkun, StevenAbrami, Patrick
Barnes, Arthur
Chirichiello, Brian
Doucette, Fred
Fesh, Robert
Marsh, Henry
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
McMahon, Charles
Nigrello, Robert
Tilton, Rio
Stone, Brian
True, Chris
Welch, DavidAllen, Mary
Bates, David
Costable, Michael
Dowling, Patricia
Gay, Betty
Hagan, Joseph
Janigian, John
Khan, Aboul
Major, Norman
Mitz, David
Osborne, Jason
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, KennethAzarian, Gary
Bean, Philip
Thomas, Douglas
Elliott, Robert
Green, Dennis
Hoelzel, Kathleen
Janvrin, Jason
Kolodziej, Walter
Matthews, Carolyn
Morrison, Sean
Packard, Sherman
Sapareto, Frank
Torosian, Peter
Vose, Michael
Willis, Brenda**STRAFFORD**Berube, Roger
Turcotte, Leonard
Pitre, Joseph
Wuelper, KurtHarrington, Michael
McNally, Jody
Graham, RobertHorgan, James
Mullen, John
Scruton, MatthewKaczynski, Thomas
Phinney, Brandon
Spencer, Matthew**SULLIVAN**Gauthier, Francis
Rollins, SkipGrenier, James
Smith, Steven

O'Connor, John

Laware, Thomas

and the motion failed.

The question being adoption of the majority committee amendment.

Majority committee amendment adopted.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.
Rep. Porter offered floor amendment (2116h).**Floor Amendment (2116h)**

Amend RSA 654:2, II(e) as inserted by section 1 of the bill by replacing it with the following:

(e) An applicant whose domicile is at an abode rented, leased, or owned by another and whose name is not listed on the rental agreement, lease, or deed may demonstrate an intent to make a place his or her domicile by providing his or her domicile on a written statement under penalty of voting fraud if false information is provided.

Amend RSA 654:7, V as inserted by section 2 of the bill by replacing it with the following:

V. The secretary of state shall prepare and distribute an addendum to the voter registration form used under subparagraph IV(c) to be distributed to those registrants who register within 30 days before the election or on election day and who do not provide proof of domicile or a verifiable action to demonstrate domicile. The "verifiable action of domicile" document shall provide notice of the requirements that registrants must furnish documentary evidence of domicile and shall be in substantially the following form:

Verifiable Action of Domicile

As a newly registered voter, you have received this document because you did not provide proof of domicile when you registered to vote. RSA 654:2, IV requires you to provide evidence that you have taken a verifiable act to establish domicile.

The following checklist shall be used as a guide for what you may use as evidence and shall be submitted to the town or city clerk along with documentation that you are required to provide. Only one item on the list is required to demonstrate a verifiable act.

To establish that you have engaged in a verifiable act establishing domicile, provide evidence that you have done at least one of the following:

_____ established residency, as set forth in RSA 654:1, I-a, at an institution of learning at the address on the voter registration form

_____ rented or leased an abode, for a period of more than 30 days, to include time directly prior to an election day at the address listed on the voter registration form

_____ purchased an abode at the address listed on the voter registration form

_____ obtained a New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing the address on the voter registration form

_____ enrolled a dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of the address where the registrant resides, as listed on the voter registration form

Identified the address on the voter registration form as your physical residence address on:

_____ state or federal tax forms

_____ other government-issued forms or identification. Describe form of identification: _____

_____ provided the address on the voter registration form to the United States Post Office as your permanent address, provided it is not a postal service or commercial post office box, where mail is delivered to your home. This can be by listing the address on the voter registration form as your new address on a Postal Service permanent change of address form and providing a copy of the receipt, or an online emailed receipt

_____ obtained public utility services (electricity, cable, gas, water, etc.) for an indefinite period at the address on the voter registration form. List services obtained: _____

_____ arranged for a homeless shelter or similar service provider to receive United States mail on your behalf. Enter name of the shelter or provider: _____

_____ describe what other verifiable action or actions you have taken to make the address listed on your voter registration form your one voting domicile: _____

If you have no other proof of a verifiable act establishing domicile, and your domicile is at an abode rented, leased, or purchased by another and your name is not listed on the rental agreement, lease, or deed, you are required to provide your domicile on a written statement, signed under penalty of voting fraud if false information is provided.

This verifiable action of domicile form, along with your written statement or other documentation proving a verifiable act, shall be delivered to the town or city clerk, by mail or in person, with 10 days, or within 30 days if the clerk's office is open fewer than 20 hours weekly.

Name _____	Last (suffix) _____	First _____	Full Middle Name _____
Domicile Address _____		Street _____	Ward Number _____
Town or City _____		Zip Code _____	
Date _____		Signature of Applicant _____	

This document was received by the clerk, who examined and returned it to the applicant after making a copy of the evidence of verifiable action, said copy to be attached to the verifiable action of domicile form.

Date**Signature of Clerk**

The clerk shall forward the completed form and attachment or attachments to the supervisors of the checklist as soon as possible, but not later than their next meeting. The supervisors of the checklist shall attach the form and attachments to the voter registration form.

Rep. Porter spoke in favor and requested a roll call; sufficiently seconded.

YEAS 155 - NAYS 198**YEAS - 155
BELKNAP**

Huot, David

CARROLL

Buco, Thomas

Butler, Edward

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Parkhurst, Henry
Pearson, William

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Shepardson, Marjorie
Weber, Lucy

Berch, Paul
Eaton, Daniel
Mann, John
Stallcop, Joseph

Bordenet, John
Faulkner, Barry
Meador, David
Tatro, Bruce

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Abel, Richard
Dontonville, Roger
Massimilla, Linda
Smith, Suzanne

Almy, Susan
Higgins, Patricia
Mulligan, Mary Jane
Sykes, George

Bennett, Travis
Josephson, Timothy
Nordgren, Sharon
White, Andrew

Campion, Polly
Maes, Kevin
Rand, Steven

HILLSBOROUGH

Ayala, Jessica
Bouldin, Amanda
Cote, David
Elber, Joel
Goley, Jeffrey
Jack, Martin
Leishman, Peter
Mangipudi, Latha
McNamara, Richard
Porter, Marjorie
Harvey, Suzanne
Van Houten, Connie

Backus, Robert
Chandlee, Shannon
DiSilvestro, Linda
Freitas, Mary
Heath, Mary
Keane, Amelia
Lisle, David
Manley, Jonathan
O'Leary, Richard
Walsh, Robert
Snow, Kendall
Williams, Kermit

Baroody, Benjamin
Cleaver, Skip
Dyer, Caleb
Gargasz, Carolyn
Herbert, Christopher
King, Mark
MacKay, Mariellen
Martin, Joelle
O'Neil, William
Roberts, Carol
Sofikitis, Catherine

Beaulieu, Jane
Cornell, Patricia
Edwards, Elizabeth
Gidge, Kenneth
Schmidt, Janice
Klee, Patricia
MacKenzie, Mark
Martineau, Jesse
Long, Patrick
Rosenwald, Cindy
Smith, Timothy

MERRIMACK

Turcotte, Alan
Carson, Clyde
Moffett, Howard
Luneau, David
Schuett, Dianne

Alicea, Caroletta
Doherty, David
Henle, Paul
Myler, Mel
Shurtleff, Stephen

Bartlett, Christy
Ebel, Karen
MacKay, James
Rodd, Beth
Walz, Mary Beth

Rice, Chip
Gile, Mary
Kenison, Linda
Rogers, Katherine
Woolpert, David

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Francese, Paula
McBeath, Rebecca
Pantelakos, Laura
Ward, Gerald

Berrien, Skip
DiLorenzo, Charlotte
Gilman, Julie
Messmer, Mindi
Read, Ellen

Cahill, Michael
Edgar, Michael
Lovejoy, Patricia
Murray, Kate
Somssich, Peter

Cali-Pitts, Jacqueline
Farnham, Betsey
Malloy, Dennis
Gordon, Pamela
Le, Tamara

STRAFFORD

Bixby, Peter
Epstein, Isaac
Keans, Sandra
Schmidt, Peter
Sprague, Dale

Burton, Wayne
Frost, Sherry
Krans, Hamilton
Salloway, Jeffrey
Treleaven, Susan

Cilley, Jacalyn
Grassie, Chuck
Smith, Marjorie
Sandler, Catt
Vincent, Kenneth

Ellis, Donna
Horrigan, Timothy
Opderbecke, Linn
Spang, Judith
Wall, Janet

SULLIVAN

Schmidt, Andrew
Irwin, Virginia

Cloutier, John
Oxenham, Lee

Gagnon, Raymond
Tanner, Linda

Gottling, Suzanne

NAYS - 198**BELKNAP**

Abear, Marc
Flanders, Donald
Silber, Norman
Varney, Peter

Aldrich, Glen
Howard, Raymond
Spanos, Peter

Comtois, Barbara
Lang, Timothy
Sylvia, Michael

Fields, Dennis
Maloney, Michael
Vadney, Herbert

CARROLL

Avellani, Lino
Crawford, Karel
Schmidt, Stephen

Chandler, Gene
McCarthy, Frank
Umberger, Karen

Comeau, Ed
McConkey, Mark
Marsh, William

Cordelli, Glenn
Nelson, Bill

CHESHIRE

Hunt, John

McConnell, James

O'Day, John

Sterling, Franklin

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTON

Bailey, Brad
Ham, Bonnie
Schwaegler, Vicki

Binford, David
Hennessey, Erin
Johnson, Tiffany

Brown, Duane
Hull, Robert

Darrow, Stephen
Ladd, Rick

HILLSBOROUGH

Ammon, Keith
Burns, Charlie
Carr, John
Dickey, Glen
Forest, Armand
Gagne, Larry
Hellwig, Steve
Graham, John
L'Heureux, Robert
Lewicke, John
Notter, Jeanine
Pierce, David
Renzullo, Andrew
Scully, Kevin
Twombly, Timothy

Griffin, Barbara
Burt, John
Christensen, Chris
Donovan, Daniel
Freeman, Lisa
Gould, Linda
Hinch, Richard
Moore, Josh
Ober, Lynne
McCarthy, Michael
Ohm, Bill
Proulx, Mark
Rouillard, Claire
Seidel, Carl
Ulery, Jordan

Barry, Richard
Byron, Frank
Christie, Rick
Fedolff, Jim
Fromuth, Bart
Halstead, Carolyn
Hopper, Gary
Rice, Kimberly
Lascelles, Richard
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Sanborn, Laurie
Shaw, Barbara
Sullivan, Victoria

Biggie, Barbara
Moore, Craig
Danielson, David
Ferreira, Elizabeth
Griffin, Gerald
Hansen, Peter
Hynes, Dan
Kurk, Neal
LeBrun, Donald
Negron, Steve
Pellegrino, Anthony
Ober, Russell
Schleien, Eric
Souza, Kathleen
Zaricki, Nick

MERRIMACK

Kuch, Bill
Wolf, Dan
Klose, John
McGuire, Carol
Testerman, Dave

Brewster, Michael
Hill, Gregory
Kotowski, Frank
Pearl, Howard
Wells, Natalie

Copp, Anne
Hoell, J.R.
Moffett, Michael
Seaworth, Brian

Long, Douglas
Horn, Werner
Marple, Richard
Walsh, Thomas

ROCKINGHAM

Cook, Allen
Baldasaro, Alfred
Bove, Martin
Dean-Bailey, Yvonne
Emerick, J. Tracy
Guthrie, Joseph
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
McMahon, Charles
Nigrello, Robert
Tilton, Rio
Stone, Brian
True, Chris
Welch, David

Abrami, Patrick
Barnes, Arthur
Chirichiello, Brian
Doucette, Fred
Fesh, Robert
Marsh, Henry
Janigian, John
Khan, Aboul
Major, Norman
Milz, David
Osborne, Jason
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, Kenneth

Allen, Mary
Bates, David
Costable, Michael
Dowling, Patricia
Gay, Betty
Hagan, Joseph
Janvrin, Jason
Kolodziej, Walter
Matthews, Carolyn
Morrison, Sean
Packard, Sherman
Sapareto, Frank
Torosian, Peter
Vose, Michael
Willis, Brenda

Azarian, Gary
Bean, Philip
Thomas, Douglas
Elliott, Robert
Green, Dennis
Hoelzel, Kathleen
O'Connor, John
Griffin, Mary
McKinney, Betsy
Nasser, Jim
Gordon, Richard
Spillane, James
Tripp, Richard
Webb, James
Woitkun, Steven

STRAFFORD

Berube, Roger
Turcotte, Leonard
Pitre, Joseph
Wuelper, Kurt

Harrington, Michael
McNally, Jody
Graham, Robert

Horgan, James
Mullen, John
Scruton, Matthew

Kaczynski, Thomas
Phinney, Brandon
Spencer, Matthew

SULLIVAN

Gauthier, Francis
Rollins, Skip

Grenier, James
Smith, Steven

O'Connor, John

Laware, Thomas

and floor amendment (2116h) failed.

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

Reps. Fromuth and Huot spoke against.

Reps. Negron and Barbara Griffin spoke in favor.

Rep. White spoke against and yielded to questions.

Rep. Hinch requested a roll call; sufficiently seconded.

YEAS 191 - NAYS 162**YEAS - 191****BELKNAP**

Abear, Marc
Flanders, Donald
Silber, Norman

Aldrich, Glen
Howard, Raymond
Spanos, Peter

Comtois, Barbara
Lang, Timothy
Vadney, Herbert

Fields, Dennis
Maloney, Michael
Varney, Peter

CARROLL

Avellani, Lino
McCarthy, Frank
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

Cordelli, Glenn
Nelson, Bill

Crawford, Karel
Schmidt, Stephen

CHESHIRE

Hunt, John

McConnell, James

O'Day, John

COOS

Fothergill, John

Merner, Troy

Theberge, Robert

GRAFTON

Bailey, Brad
Hennessey, Erin
Johnson, Tiffany

Binford, David
Hull, Robert

Brown, Duane
Ladd, Rick

Darrow, Stephen
Schwaegler, Vicki

HILLSBOROUGH

Ammon, Keith
Burns, Charlie
Carr, John
Dickey, Glen
Freeman, Lisa
Gidge, Kenneth
Hellwig, Steve
Graham, John
L'Heureux, Robert
Lewicke, John
Negron, Steve
Pellegrino, Anthony
Ober, Russell
Schleien, Eric
Wolf, Terry
Zaricki, Nick

Griffin, Barbara
Burt, John
Christensen, Chris
Donovan, Daniel
Griffin, Gerald
Gould, Linda
Hinch, Richard
Moore, Josh
Ober, Lynne
MacKay, Mariellen
Notter, Jeanine
Pierce, David
Renzullo, Andrew
Scully, Kevin
Twombly, Timothy

Barry, Richard
Byron, Frank
Christie, Rick
Fedolfi, Jim
Gagne, Larry
Halstead, Carolyn
Hopper, Gary
Rice, Kimberly
Lascelles, Richard
McCarthy, Michael
Ohm, Bill
Proulx, Mark
Rouillard, Claire
Seidel, Carl
Ulery, Jordan

Biggie, Barbara
Moore, Craig
Danielson, David
Ferreira, Elizabeth
Gargas, Carolyn
Hansen, Peter
Hynes, Dan
Kurk, Neal
LeBrun, Donald
Murphy, Keith
Panasiti, Reed
Prout, Andrew
Sanborn, Laurie
Souza, Kathleen
Sullivan, Victoria

MERRIMACK

Kuch, Bill
Hill, Gregory
Moffett, Michael
Seaworth, Brian

Brewster, Michael
Horn, Werner
Marple, Richard
Walsh, Thomas

Copp, Anne
Klose, John
McGuire, Carol
Testerman, Dave

Long, Douglas
Kotowski, Frank
Pearl, Howard
Wells, Natalie

ROCKINGHAM

Cook, Allen
Baldasaro, Alfred
Costable, Michael
Dowling, Patricia
Gay, Betty
Hagan, Joseph
Janigian, John
Khan, Aboul
Major, Norman

Abrami, Patrick
Barnes, Arthur
Thomas, Douglas
Elliott, Robert
Green, Dennis
Hoelzel, Kathleen
Janvrin, Jason
Kolodziej, Walter
Matthews, Carolyn

Allen, Mary
Bean, Philip
Dean-Bailey, Yvonne
Emerick, J. Tracy
Guthrie, Joseph
Itse, Daniel
O'Connor, John
Griffin, Mary
McKinney, Betsy

Azarian, Gary
Bove, Martin
Doucette, Fred
Fesh, Robert
Marsh, Henry
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
McMahon, Charles

Milz, David
Osborne, Jason
Rimol, Bob
Sytek, John
Verville, Kevin
Weyler, Kenneth

Morrison, Sean
Packard, Sherman
Sapareto, Frank
Torosian, Peter
Vose, Michael
Willis, Brenda

Nasser, Jim
Gordon, Richard
Spillane, James
Tripp, Richard
Webb, James
Woitkun, Steven

Nigrello, Robert
Tilton, Rio
Stone, Brian
True, Chris
Welch, David

STRAFFORD

Berube, Roger
Turcotte, Leonard
Pitre, Joseph
Wuelper, Kurt

Harrington, Michael
McNally, Jody
Graham, Robert

Horgan, James
Mullen, John
Scruton, Matthew

Kaczynski, Thomas
Phinney, Brandon
Spencer, Matthew

SULLIVAN

Gauthier, Francis
Smith, Steven

Grenier, James

Laware, Thomas

Rollins, Skip

NAYS - 162 BELKNAP

Huot, David

Sylvia, Michael

CARROLL

Buco, Thomas

Butler, Edward

Comeau, Ed

Knirk, Jerry

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Parkhurst, Henry
Tatro, Bruce

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Shepardson, Marjorie
Pearson, William

Berch, Paul
Eaton, Daniel
Mann, John
Stallcop, Joseph
Weber, Lucy

Bordenet, John
Faulkner, Barry
Meador, David
Sterling, Franklin

COOS

Laflamme, Larry

Moynihan, Wayne

Tucker, Edith

Thomas, Yvonne

GRAFTON

Abel, Richard
Dontonville, Roger
Maes, Kevin
Rand, Steven

Almy, Susan
Ham, Bonnie
Massimilla, Linda
Smith, Suzanne

Bennett, Travis
Higgins, Patricia
Mulligan, Mary Jane
Sykes, George

Campion, Polly
Josephson, Timothy
Nordgren, Sharon
White, Andrew

HILLSBOROUGH

Ayala, Jessica
Bouldin, Amanda
Cote, David
Elber, Joel
Goley, Jeffrey
Jack, Martin
Leishman, Peter
Manley, Jonathan
O'Leary, Richard
Walsh, Robert
Shaw, Barbara
Van Houten, Connie

Backus, Robert
Chandley, Shannon
DiSilvestro, Linda
Forest, Armand
Heath, Mary
Keane, Amelia
Lisle, David
Martin, Joelle
O'Neil, William
Roberts, Carol
Snow, Kendall
Williams, Kermit

Baroody, Benjamin
Cleaver, Skip
Dyer, Caleb
Freitas, Mary
Herbert, Christopher
King, Mark
MacKenzie, Mark
Martineau, Jesse
Long, Patrick
Rosenwald, Cindy
Sofikitis, Catherine

Beaulieu, Jane
Cornell, Patricia
Edwards, Elizabeth
Fromuth, Bart
Schmidt, Janice
Klee, Patricia
Mangipudi, Latha
McNamara, Richard
Porter, Marjorie
Harvey, Suzanne
Smith, Timothy

MERRIMACK

Turcotte, Alan
Carson, Clyde
Gile, Mary
MacKay, James
Rodd, Beth
Walz, Mary Beth

Alicea, Caroletta
Wolf, Dan
Moffett, Howard
Kenison, Linda
Rogers, Katherine
Woolpert, David

Bartlett, Christy
Doherty, David
Henle, Paul
Luneau, David
Schuett, Dianne

Rice, Chip
Ebel, Karen
Hoell, J.R.
Myler, Mel
Shurtleff, Stephen

ROCKINGHAM

Altschiller, Debra
Cali-Pitts, Jacqueline
Farnham, Betsey
Malloy, Dennis
Gordon, Pamela
Le, Tamara

Bates, David
Cushing, Robert Renny
Francese, Paula
McBeath, Rebecca
Pantelakos, Laura
Ward, Gerald

Berrien, Skip
DiLorenzo, Charlotte
Gilman, Julie
Messmer, Mindi
Read, Ellen

Cahill, Michael
Edgar, Michael
Lovejoy, Patricia
Murray, Kate
Somssich, Peter

STRAFFORD

Bixby, Peter
Epstein, Isaac
Keans, Sandra
Schmidt, Peter
Treleaven, Susan

Burton, Wayne
Frost, Sherry
Krans, Hamilton
Salloway, Jeffrey
Vincent, Kenneth

Cilley, Jacalyn
Grassie, Chuck
Smith, Marjorie
Spang, Judith
Wall, Janet

Ellis, Donna
Horrigan, Timothy
Opderbecke, Linn
Sprague, Dale

SULLIVAN

Schmidt, Andrew
Irwin, Virginia

Cloutier, John
O'Connor, John

Gagnon, Raymond
Oxenham, Lee

Gottling, Suzanne
Tanner, Linda

and the majority committee report was adopted and ordered to third reading.

MOTION TO RECONSIDER

Having voted with the prevailing side, Rep. John Graham moved that the House reconsider its action whereby, on a roll call vote of 191-162, the House adopted the majority committee report of Ought to Pass with Amendment on **SB 3**, relative to domicile for voting purposes.

On a division vote, with 152 members having voted in the affirmative, and 197 in the negative, the motion failed.

MOTION TO PRINT DEBATE

Rep. White moved that the debate on **SB 3**, relative to domicile for voting purposes, be printed in the Permanent Journal.

Motion failed.

(Rep. Packard in the Chair)**REGULAR CALENDAR CONT'D**

SB 113, relative to an electronic poll book trial program. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lisa Freeman for Election Law. This bill, as amended, authorizes cities and towns to conduct an election using electronic poll book devices for voter registration and check-in and check-out. It authorizes municipalities to use this system on a voluntary trial basis, and sets forth rules and conditions for communities to follow regarding the selection and use of an electronic poll book. This bill was supported by a non-statutory working group comprised of state and local election officials that has been looking into ways to implement such a program. The primary goals are to better process registrants on Election Day so that wait times are reduced and to provide more efficient ways to compile voting data for required reporting. The bill requires municipalities that engage in this trial program to report their experiences to the legislature within 30 days of the initial use of electronic poll books. Its provisions will be repealed in five years to ensure that decisions are made in a timely manner regarding how, if at all, to move forward with the use of electronic devices at polling places. Concerns were raised in regards to the security of a registrant's public and non-public data. The committee believes that the bill, with the amendment, provides the appropriate balance between security requirements and the vendor's use of information to design, implement and work with community voting data. Vote 19-1.

Amendment (1770h)

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

1 New Subdivision; Electronic Poll Books. Amend RSA 652 by inserting after section 26 the following new subdivision:

Electronic Poll Books**652:27 Electronic Poll Books.**

I. Cities and towns are hereby authorized to conduct a trial of electronic poll book devices for voter registration and check-in for elections. The trial shall be compliant with all statutes directly or indirectly related to voter checklists and maintenance of the statewide centralized voter registration database including the processes related to voter registration, voter check-in and check-out, the processing of absentee ballots, the collection of all fields of data required for registration or check-in, and the delivery of that data to the secretary of state in a format compatible with the statewide centralized voter registration database. The provisions of RSA 654:34, RSA 659:55, RSA 659:13, RSA 659:14, and RSA 659:23, as they relate to manual entries on a paper checklist, are hereby waived in order to accommodate an electronic poll book, provided the same information required of the voter is obtained and recorded by the electronic poll book, and can be retrieved and printed at any time including during an election. In addition, nonpublic data related to individual voter data shall remain confidential, and no voter data shall be released or retained by an electronic poll book vendor, its agents, or any company or individual that provides software, hardware, or services to the vendor for any purpose. Adequate back-up systems shall be in place as determined by the local election officials for local elections and the secretary of state for all other elections. A back-up system shall include a "real time" download of voters who have checked in or registered on the day of the election. The electronic poll book shall have the ability to generate a paper voter checklist completely marked to reflect participation in the election up to the time of any system failure or malfunction. A sufficient number of high speed printers shall be available

in the polling place to produce a back-up paper checklist for use in the event of a system failure. A marked checklist shall be printed upon the completion of every election along with any reports required by statute and shall be retained by the clerk.

II. The cities and towns shall assume all costs associated with electronic poll books. No electronic poll book trial program may proceed unless the electronic poll books system and application has been recommended for approval by an evaluator of electronic election systems using requirements established by the secretary of state. Within 30 days of the effective date of this section, the secretary of state shall designate at least one evaluator of electronic election systems to draft test cases, conduct tests, and make recommendations. Recommendations to the secretary of state from an evaluator of electronic election systems shall be conditioned upon safe use procedures. The secretary of state may approve electronic poll book systems based on recommendations from an evaluator of electronic election systems. No city or town may use an electronic poll book system that has not been approved by the secretary of state. The secretary of state, within 30 days of the effective date of this section, shall prepare requirements for conducting a trial of electronic poll book devices that outline specific conditions that must be met for compliance with this section. An electronic poll book trial program must originate with a city or town election before becoming eligible for use at a state election in the same city or town.

III. The city or town clerk shall file with the secretary of state all documentation that is necessary to show that all requirements in this section have been met no later than 30 days before an electronic poll book trial program shall take place. Within 30 days after the initial use of electronic poll books in accordance with this section, the city or town shall submit a report to the secretary of state, who shall review such reports and forward them 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 election law. Each report shall describe the outcome of the program, addressing voter experiences, wait times, voter throughput times, personnel costs, hardware and software costs, and the completeness and accuracy of the data recorded, reported, and submitted for import to the statewide centralized voter registration database.

2 Report. The secretary of state shall file a report with 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 election law, no later than November 1, 2021, that lays out a plan for the implementation of an electronic poll book system based on successful electronic poll book trials conducted under RSA 652:27.

3 Repeal. RSA 652:27, relative to electronic poll books, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect January 1, 2023.

II. The remainder of this act shall take effect 30 days after its passage.

Committee amendment adopted.

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

Rep. Kurk offered floor amendment (2081h).

Floor Amendment (2081h)

Amend RSA 652:27, I as inserted by section 1 of the bill by replacing it with the following:

I. Cities and towns are hereby authorized to conduct a trial of electronic poll book devices for voter registration and check-in for elections. The trial shall be compliant with all statutes directly or indirectly related to voter checklists and maintenance of the statewide centralized voter registration database including the processes related to voter registration, voter check-in and check-out, the processing of absentee ballots, the collection of all fields of data required for registration or check-in, and the delivery of that data to the secretary of state in a format compatible with the statewide centralized voter registration database. The provisions of RSA 654:34, RSA 659:55, RSA 659:13, RSA 659:14, and RSA 659:23, as they relate to manual entries on a paper checklist, are hereby waived in order to accommodate an electronic poll book, provided the same information required of the voter is obtained and recorded by the electronic poll book, and can be retrieved and printed at any time including during an election. In addition, nonpublic data related to individual voter data shall remain confidential, and no voter data shall be released or retained by an electronic poll book vendor, including its agents, or any company or individual that provides software, hardware, or services to the vendor for any purpose. An electronic poll book vendor shall not have access to any voter data except as specifically necessary to setup, maintain, or train for an electronic poll book program authorized under RSA 652:27. Adequate back-up systems shall be in place as determined by the local election officials for local elections and the secretary of state for all other elections. A back-up system shall include a "real time" download of voters who have checked in or registered on the day of the election. The electronic poll book shall have the ability to generate a paper voter checklist completely marked to reflect participation in the election up to the time of any system failure or malfunction. A sufficient number of high speed printers shall be available in the polling place to produce a back-up paper checklist for use in the event of a system failure. A marked checklist shall be printed upon the completion of every election along with any reports required by statute and shall be retained by the clerk.

Reps. Kurk and Barbara Griffin spoke in favor.
 Floor amendment (2081h) adopted.

The question being adoption of the committee report of Ought to Pass with Amendment.
 Rep. Epstein spoke against.
 Rep. Freeman spoke in favor and yielded to questions.
 Committee report adopted and ordered to third reading.

SB 248, establishing a committee to study the rescheduling of elections. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.

Rep. Yvonne Dean-Bailey for the Majority of Election Law. As amended this bill does two things. First, it creates a study committee to inquire as to whether or not the legislature ought to revise our statutes in regards to postponing election day, and if postponement is allowed, how absentee ballots should be processed. This has been proposed as a result of the confusion caused when some March municipal elections were moved from the date set by the state, despite counsel from the Secretary of State's Office that they could not be changed. This caused problems for those municipalities as it cast doubt on the validity of election results. While this issue has been resolved through legislation adopted earlier this session, the majority of the committee agrees that we should consider whether statutes should be changed to allow the postponement of an election in certain circumstances. Secondly, this bill as amended revises the absentee ballot processing procedure to assist in the processing of ballots submitted by disabled voters. The proposed change allows those who assist a disabled voter in filling out an application to note on the absentee ballot form that the voter had assistance in filling out the ballot and that the voter has a disability that might explain why the voter's signatures do not match on the absentee ballot and/or the absentee ballot request form. A change is also made to the absentee ballot request form that lets the voter know that their signatures on the request form and on the absentee ballot will be compared upon processing the absentee ballots on Election Day. The same change is made on the absentee ballot affidavit to alert voters that their signature must match on the absentee ballot affidavit to the request form. The majority of the committee, along with the ACLU, agree this change is an improvement to the current method of processing absentee ballots. Vote 18-1.

Rep. Michael Harrington for the Minority of Election Law. This bill, which establishes a study committee to examine the circumstances and process for postponing town elections, had a rushed non-germane amendment added with the public hearing and executive session occurring on the same morning. There are technical problems and inconsistencies in the amendment. For example, when referring to the same situation, in one place it states "...any person who assists a voter with a disability..." in another it states "A person assisting a blind voter or a voter with a disability." It states on the absentee voting form that "The signature on this form must match the signature on the affidavit envelope ... or the ballot may be rejected." It never informs the potential voter that if signature mismatch is due to a disability that the ballot may still be accepted by voting officials on Election Day. Also, the amendment fails to address voters whose signatures are mismatched due to a disability and do not require or can't obtain assistance from another person. The non-germane amendment, 2017-1854h, should be voted Inexpedient to Legislate and then SB 248 should be voted Ought to Pass.

Majority Amendment (1854h)

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

AN ACT establishing a committee to study the rescheduling of elections and relative to absentee voter signatures.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 10:
 6 Absentee Voting; Forms. Amend RSA 657:4, I to read as follows:

I. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded in substantially the following form. The secretary of state shall insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the application forms in such quantity as he or she deems necessary:

Absence (Excluding Absence Due to Residence Outside the United States),
 Religious Observance, and Disability:

I hereby declare that (check one):

_____ I am a duly qualified voter who is currently registered to vote in this town/ward.

_____ I am absent from the town/city where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.

I will be entitled to vote by absentee ballot because (check one):

_____ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.

_____ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.

_____ I cannot appear in public on election day because of observance of a religious commitment.

_____ I am unable to vote in person due to a disability.

_____ I cannot appear at any time during polling hours at my polling place because of an employment obligation. For the purposes of this application, the term "employment" shall include the care of children and infirm adults, with or without compensation.

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an official absentee ballot for the following election (check one):

_____ Presidential Primary to be held on _____
(MM/DD/YYYY)

(The date may appear as blank when the date is not known.)

_____ State Primary to be held on _____
(MM/DD/YYYY)

_____ General Election

For primary elections, I am a member of or I am now declaring my affiliation with the (check one):

_____ Republican Party

_____ Democratic Party

and am requesting a ballot for that party's primary.

Please print:

Applicant's Name:

(Last)	(First)	(Middle)	(Sr., Jr., II., III)
Applicant's Voting Domicile (home address):			

(Street Number)	(Street Name)	(Apt/Unit)	(City/Town)	(Ward)	(Zip Code)
Mail the ballot to me at this address (if different than the home address):					

(Street Number)	(Street Name)	(Apt/Unit)	(City/Town)	(Ward)	(Zip Code)
Applicant's Signature: _____					

[The applicant must sign this form to receive an absentee ballot.]

Date Signed: _____
(MM/DD/YYYY)

The applicant must sign this form to receive an absentee ballot. The signature on this form must match the signature on the affidavit envelope in which the absentee ballot is returned, or the ballot may be rejected. Any person who assists a voter with a disability in executing this form shall make a statement acknowledging the assistance on the application form to assist the moderator when comparing signatures on election day.

7 Absentee Voting; Affidavit Envelopes. Amend RSA 657:7, II(b) to read as follows:

(b) Absence Because of Religious Observance or Physical Disability. A person voting by absentee ballot because of religious observance or physical disability shall fill out and sign the following certificate:

I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of _____, New Hampshire, in ward _____; that I will be observing a religious commitment which prevents me from voting in person or that on account of physical disability I am unable to vote in person; that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind).

(Signature) _____

The signature on this affidavit must match the signature on the application for an absentee ballot or the ballot may be rejected. A person assisting a blind voter or voter with a disability who needs assistance executing this affidavit shall make and sign a statement on this envelope acknowledging the assistance in order to assist the moderator when comparing signatures on election day.

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

8 Absentee Voting; Procedure by Voter. Amend RSA 657:17 to read as follows:

657:17 Procedure by Voter. After marking the ballot, the voter or the person assisting a blind voter ***or voter with a disability who is unable to mark his or her ballot*** shall enclose and seal the same in an inner envelope. The voter shall execute the affidavit ***on the envelope. A person assisting a blind voter or voter with a disability who needs assistance executing the affidavit shall sign a statement on the affidavit envelope acknowledging the assistance.*** The voter or the person assisting the blind voter ***or voter with a disability who needs assistance*** shall enclose and seal the inner envelope with the affidavit in an outer envelope. The voter shall then endorse on the outer envelope his or her name, address, and voting place and shall mail the envelope, affixing postage, or personally deliver it or have it delivered by the voter's spouse, parent, sibling, or child to the city or town clerk from whom it was sent. The city or town clerk, or ward clerk on election day at the polls, shall not accept an absentee ballot from a family member unless the family member completes a form provided by the secretary of state, which shall be maintained by the city or town clerk, and the family member presents a government-issued photo identification or has his or her identity verified by the city or town clerk. Absentee ballots delivered through the mail or by the voter's spouse, parent, sibling, or child shall be received by the town, city, or ward clerk no later than 5:00 p.m. on the day of the election.

9 Processing Absentee Ballots. Amend RSA 659:50, III to read as follows:

III. The signature on the affidavit appears to be executed by the same person who signed the application, ***unless the voter received assistance because the voter is blind or has a disability;*** and

AMENDED ANALYSIS

This bill establishes a committee to study the rescheduling of elections. This bill also clarifies the signature verification requirements for absentee voters.

Majority committee amendment adopted.

Majority committee report adopted and ordered to third reading.

SB 38-FN, making an appropriation to the department of transportation for local highway aid and aid for municipal bridges, relative to distribution of highway aid, and relative to red list bridges. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kenneth Weyler for Finance. This bill provides grants to fund local infrastructure projects. Thirty million dollars will be distributed to the towns and cities for road improvements and \$6.8 million for state bridge aid for municipal bridges. The dollars to support this paving and bridge work will come from the FY 17 surplus. Additionally, the Department of Transportation organizes their projects into six districts. Because of the variation in costs from district to district, this has resulted in less paving and reconstruction in the higher priced districts. In order to bring all districts to parity of pavement, this bill calls for those funds to be distributed by a formula where 70% is distributed equally and the rest is distributed as needed to achieve the expected result of equal improvements. The amendment allows a five-year rolling average to determine equality since most paving contracts are likely to take place close to the end of one fiscal year and the beginning of the next. Vote 26-0.

Amendment (1998h)

Amend the bill by replacing section 3 with the following:

3 Federal and State Highway Aid; Construction and Reconstruction. Amend RSA 235:23-a, III to read as follows:

III. ***Excluding funds under RSA 260:32-b, III(c) that are used for bridge work, the commissioner, based on budget appropriations, shall allocate and expend at least 70 percent of the funds in the highway and bridge betterment account for the 6 state highway districts in the following priority:***

(a) [Repealed.]

(b) For each state highway district in the state, based upon a formula in which 1/2 of the amount of the funds distributed is based upon the proportion which the mileage of state-maintained class I, class II, and class III highways, excluding turnpikes, in each district, as of January 1 of the previous year, bears to the total of such mileage in the state; and 1/2 of the amount of the funds distributed is based upon the proportion which the number of state maintained class I, class II and class III highway bridges, excluding turnpikes, in each district as of January 1 of the previous year bears to the total of such number of bridges in the state. ***Due to timing of contracted work and actual expenditures, the commissioner shall use a rolling 5-year average to ensure that a minimum of 70 percent of the funds are expended in each district based on the formula. The commissioner shall distribute the remaining funds on a statewide basis to achieve regional equity based on condition, taking into account deviations in bid prices and existing infrastructure condition, excluding funds used for emergency repair.***

Committee amendment adopted.

Committee report adopted and ordered to third reading.

SB 57-FN-A, making appropriations to the department of environmental services for the purposes of funding eligible drinking water and wastewater projects under the state aid grant program and relative to making an appropriation from the drinking water and groundwater trust fund to the department of environmental services to address drinking water contamination in Amherst. **OUGHT TO PASS WITH AMENDMENT.** Rep. Peter Leishman for Finance. The committee made several changes to SB 57-FN-A after its arrival from the Senate. This bill now appropriates \$3,518,391 to 19 eligible drinking water and wastewater projects under the state aid grant program. The total appropriation was reduced by \$61,521 as a result of a complete review of the eligible project by the committee and the Department of Environmental Services (DES). The committee believes this appropriation helps communities across the state offset the high cost of environmental infrastructure improvements. Additionally, the bill provides a \$5 million state loan for the construction of a water line to 110 water users in Amherst who have lost their water wells due to ground water contamination from perfluorooctanoic acid (PFOA). The committee heard testimony from DES that no more than \$5 million dollars would be needed to construct this private water line and the closure of the contaminated wells. However, before the committee could support this project, additional safeguards were needed to protect the state's loan to a potentially responsible party for the construction of this water line which will be owned and operated by the Pennichuck Corporation. The department is now required to submit to the NH Business Finance Authority any and all loan documents for review and recommendation(s) prior to any loan being approved by DES. Vote 26-0.

Amendment (2021h)

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

1 Department of Environmental Services; Appropriation. There is hereby appropriated to the department of environmental services the sum of \$1,369,620 for the fiscal year ending June 30, 2017, which shall be non-lapsing and expended pursuant to section 2 of this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

2 Projects Funded; Department of Environmental Services. Projects with warrant articles after December 31, 2008 that were completed before July 1, 2013 but without SAG application process and final certification for payment before July 1, 2013. Payments for each project shall not exceed the following amounts:

	<u>FY 2018</u>	<u>FY 2019</u>
North Conway Water Precinct D2007-0417 Ash Street	\$46,365	\$46,367
Merrimack 215-09 WWTF Dewatering Upgrade	\$80,508	\$79,711
Nashua 158-24 Wet Weather Treatment Facility	\$341,099	\$332,676
Nashua Harbor Ave Area Sewer Separation	\$82,734	\$82,285
Burke Street Phase 1		
Claremont 114-15 Maple Ave Wastewater Collection System	\$26,992	\$26,993
Dover D2011-0102 WWTF Dewatering Upgrade	\$112,577	\$75,408
Enfield D2011-305 Route 4 Sewer & Water Extension	\$10,502	\$25,403
Total Projects Completed before The Stipulation	<u>\$700,777</u>	<u>\$668,843</u>

of Warrant Articles After December 31, 2008 was established but without SAG Application Before July 1, 2013.

Total Appropriation for the biennium ending June 30, 2019 \$1,369,620

3 Department of Environmental Services; Appropriation. There is hereby appropriated to the department of environmental services the sum of \$2,148,771 for the fiscal year ending June 30, 2017, which shall be non-lapsing and expended pursuant to section 4 of this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

4 Projects Funded; Department of Environmental Services. Projects with Warrant Article Before December 31, 2008 but Without SAG Application Before July 1, 2013. Payments for each project shall not exceed the following amounts:

	<u>FY 2018</u>	<u>FY 2019</u>
Portsmouth D02011.0502 Lincoln Area Sewer Separation		
Contract 3B	\$84,954	\$90,049
Portsmouth D2011.1101 Cass Street Area Sewer Improvements	\$53,412	\$56,610
Portsmouth 106-12 Rye Line Pump Station	\$28,941	\$25,045
Nashua D2004-0906 Primary Clarifier Rehabilitation	\$219,351	\$219,351
Durham D2010-0213 West End Sewer Improvements	\$672	\$2,478
Berlin D02011-0705 Inflow and Infiltration Reduction,		
Phase 1, Contract 2	\$31,283	\$31,283
Portsmouth D2013-D102 Lincoln Area Sewer Separation - Contract 83C	\$89,203	\$87,492
Conway Village		
Fire District 237-04 Sewerage Improvements Program Phase II	\$131,980	\$114,802
Lebanon 092-04 & 092-06 WWTF & Energy Evaluation Improvements,		
Phase II	\$182,395	\$180,400

Berlin 111-05 & 111-06 Wastewater Treatment Facility

Phase 2 Upgrade	\$73,867	\$147,734
Nashua D2012-0202 WWTF Grit System and Dewatering Upgrade	\$21,825	\$69,844
Nashua D2012-060S Aeration and Secondary Clarifier Upgrade	\$102,894	\$102,906
Total Projects with Warrant Article Before December 31, 2008		
But Without SAG Application Before July 1, 2013	<u>\$1,020,777</u>	<u>\$1,127,994</u>
Total Appropriation for the biennium ending June 30, 2019		\$2,148,771

5 Department of Environmental Services; Appropriation.

I. The sum of \$5,000,000 is hereby appropriated to the department of environmental services from the drinking water and groundwater trust fund established under RSA 6-D:1 for the purpose of financing the extension of an existing Pennichuck Water Company water line to an area of homes and businesses in Amherst, New Hampshire impacted by contamination with perfluorinated compounds. Such an extension is in the public interest and will provide the residents of the town of Amherst access to a safe drinking water resource as an alternative to contaminated public groundwater.

II. The department of environmental services may lend \$5,000,000 as appropriated for the purpose in paragraph I, to any potentially responsible party, which demonstrates an ability to repay the loan amount with interest over a reasonable period of time and meets the minimum underwriting requirements of the business finance authority, for purposes of construction of the waterline improvements, provision of service connections to the impacted properties, and decommissioning of impacted drinking water wells.

III. The department of environmental services shall establish, issue, and service the loan using the criteria of the state water pollution control revolving loan fund program authorized by RSA 486:14 using established rates and procedures to the extent applicable and consistent with the intent of this section.

IV. The department of environmental services shall, in underwriting the loan included in paragraph II, use the services of the New Hampshire business finance authority, including evaluation of the borrower's credit, ability to repay the loan, and to establish appropriate security for the loan.

V. The loan shall not be made using funds from the state water pollution control revolving loan fund program authorized by RSA 486:14, and as such, shall not be subject to the federal requirements imposed by the United States Environmental Protection Agency for such loans.

VI. Loan repayment funds, including all interest, and any unused loan funds shall be deposited in the state's drinking water and groundwater trust fund established under RSA 6-D:1.

6 Effective Date.

I. Section 5 of this act shall take effect July 1, 2017.

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

AMENDED ANALYSIS

This bill:

I. Makes appropriations to the department of environmental services for the purposes of funding eligible drinking water and wastewater projects under the state aid grant program.

II. Makes appropriations to the department of environmental services for funding specific water and wastewater projects.

III. Makes an appropriation from the drinking water and groundwater trust fund to the department of environmental services to address drinking water contamination in Amherst.

Committee amendment adopted.

Committee report adopted and ordered to third reading.

SB 96-FN, relative to the compensation of the boxing and wrestling commission. **OUGHT TO PASS.**

Rep. William Hatch for Finance. This bill, as requested, increases the compensation rate of the Boxing Commissioners while performing duties for the commission. It was noted the rate has not changed for decades and long overdue for an update. The bill changes the rate to \$100 per day from the current rate of \$45 per day. The majority considered the importance of the oversight provided by the three Commissioners for the approximately 15 events held per year and agreed that an adjustment in their compensation was overdue. It was also noted that the activity and events have a positive impact on the communities as well as providing an outlet for the many youth that participate in the sports. Also, if one considers the fact that, in the last three fiscal years, the events produced an average of \$17,870 revenue per year against an increase of expenses of \$2,475, it is a fair and reasonable adjustment. Vote 22-0.

Committee report adopted and ordered to third reading.

SB 131-FN-A, establishing a cross border drug interdiction program and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Daniel Eaton for Finance. This bill is a further effort to curb the opioid crisis. The bill provides funding for five additional state troopers who will work with counterparts in other states to coordinate interdiction. The bill also provides overtime dollars to the state forensic lab and additional money to local and county police departments for drug interdiction and enforcement. Finally, the amendment requires that a report be filed to various state officials explaining the metrics of success of the program. The total cost is \$4.5 million. Vote 24-1.

Amendment (1996h)

Amend RSA 21-P:68 as inserted by section 2 of the bill by replacing it with the following:
21-P:68 Cross Border Drug Interdiction Program.

I. The commissioner of safety shall establish a cross border drug interdiction program which shall consist of state troopers and narcotics investigation unit detectives to perform drug interdiction work, targeted at, but not limited to, stemming the flow of illegal drugs into the state of New Hampshire. This effort is aimed at combating the opioid crisis facing the state through the collaborative efforts of uniform, investigative, and forensics lab services in an ongoing, cross border enforcement activity.

II. The commissioner shall submit a semi-annual report to the governor, senate president, and speaker of the house of representatives, which shall include measurable program results and a detailed accounting of program funding and uses. The commissioner shall submit the first report on or before December 15, 2017.
Committee amendment adopted.

The question being adoption of the committee report of Ought to Pass with Amendment.
Rep. Bouldin spoke against.

MOTION TO LAY ON THE TABLE

Rep. Dyer moved that **SB 131-FN-A**, establishing a cross border drug interdiction program and making an appropriation therefor, be laid on the table.

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

YEAS 80 - NAYS 246**YEAS - 80
BELKNAP**

Abear, Marc
Sylvia, Michael

Aldrich, Glen
Vadney, Herbert

Comtois, Barbara

Howard, Raymond

CARROLL

Comeau, Ed

CHESHIRE

Bordenet, John
O'Day, John

Harvey, Cathryn
Stallcop, Joseph

Fenton, Donovan

McConnell, James

COOS

Moynihan, Wayne

GRAFTON

Bennett, Travis
Josephson, Timothy

Campion, Polly
Massimilla, Linda

Ham, Bonnie
Nordgren, Sharon

Hull, Robert

HILLSBOROUGH

Ammon, Keith
Cleaver, Skip
Ferreira, Elizabeth
Hopper, Gary
Lewicke, John
Ober, Russell
Scully, Kevin

Bouldin, Amanda
Dickey, Glen
Fromuth, Bart
Hynes, Dan
Murphy, Keith
Renzullo, Andrew
Seidel, Carl

Burt, John
Dyer, Caleb
Hansen, Peter
Moore, Josh
Notter, Jeanine
Sanborn, Laurie
Ulery, Jordan

Christie, Rick
Edwards, Elizabeth
Hellwig, Steve
King, Mark
Prout, Andrew
Schleien, Eric
Zaricki, Nick

MERRIMACK

Brewster, Michael
McGuire, Carol

Hill, Gregory
Pearl, Howard

Hoell, J.R.

Marple, Richard

ROCKINGHAM

Cushing, Robert Renny
Fesh, Robert
Itse, Daniel
Read, Ellen
Vose, Michael

Thomas, Douglas
Green, Dennis
McBeath, Rebecca
Somssich, Peter

Emerick, J. Tracy
Guthrie, Joseph
Messmer, Mindi
Stone, Brian

Farnham, Betsey
Marsh, Henry
Osborne, Jason
True, Chris

STRAFFORD

Harrington, Michael

Turcotte, Leonard

Salloway, Jeffrey

Wuelper, Kurt

SULLIVAN

Irwin, Virginia

Rollins, Skip

Smith, Steven

Tanner, Linda

NAYS - 246 BELKNAP

Fields, Dennis
Silber, Norman

Flanders, Donald
Spanos, Peter

Huot, David
Varney, Peter

Maloney, Michael

CARROLL

Avellani, Lino
Cordelli, Glenn
Nelson, Bill

Buco, Thomas
McCarthy, Frank
Schmidt, Stephen

Butler, Edward
Knirk, Jerry
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

CHESHIRE

Abbott, Michael
Eaton, Daniel
Mann, John
Sterling, Franklin

Ames, Richard
Faulkner, Barry
Meader, David
Tatro, Bruce

Berch, Paul
Johnsen, Gladys
Parkhurst, Henry
Pearson, William

Ley, Douglas
Hunt, John
Shepardson, Marjorie
Weber, Lucy

COOS

Fothergill, John
Tucker, Edith

Laflamme, Larry
Thomas, Yvonne

Merner, Troy

Theberge, Robert

GRAFTON

Abel, Richard
Brown, Duane
Higgins, Patricia
Rand, Steven
Johnson, Tiffany

Almy, Susan
Darrow, Stephen
Ladd, Rick
Schwaegler, Vicki
White, Andrew

Bailey, Brad
Dontonville, Roger
Maes, Kevin
Smith, Suzanne

Binford, David
Hennessey, Erin
Mulligan, Mary Jane
Sykes, George

HILLSBOROUGH

Ayala, Jessica
Biggie, Barbara
Chandley, Shannon
Danielson, David
Freeman, Lisa
Gidge, Kenneth
Heath, Mary
Schmidt, Janice
Kurk, Neal
Lisle, David
Manley, Jonathan
Negron, Steve
Pellegrino, Anthony
Roberts, Carol
Snow, Kendall
Wolf, Terry
Williams, Kermit

Griffin, Barbara
Burns, Charlie
Christensen, Chris
Donovan, Daniel
Freitas, Mary
Goley, Jeffrey
Herbert, Christopher
Jack, Martin
Lascelles, Richard
MacKay, Mariellen
Martin, Joelle
O'Leary, Richard
Pierce, David
Rosenwald, Cindy
Sofikitis, Catherine
Twombly, Timothy

Backus, Robert
Byron, Frank
Cornell, Patricia
Elber, Joel
Griffin, Gerald
Gould, Linda
Hinch, Richard
Keane, Amelia
LeBrun, Donald
MacKenzie, Mark
Martineau, Jesse
Ohm, Bill
Porter, Marjorie
Rouillard, Claire
Souza, Kathleen
Sullivan, Victoria

Barry, Richard
Moore, Craig
Cote, David
Forest, Armand
Gagne, Larry
Halstead, Carolyn
Graham, John
Klee, Patricia
Leishman, Peter
Mangipudi, Latha
McNamara, Richard
Panasiti, Reed
Walsh, Robert
Harvey, Suzanne
Smith, Timothy
Van Houten, Connie

MERRIMACK

Turcotte, Alan
Carson, Clyde
Doherty, David
Henle, Paul
Klose, John
Myler, Mel
Seaworth, Brian
Walz, Mary Beth

Alicea, Caroletta
Copp, Anne
Ebel, Karen
Horn, Werner
Kotowski, Frank
Rodd, Beth
Shurtleff, Stephen
Wells, Natalie

Kuch, Bill
Long, Douglas
Gile, Mary
MacKay, James
Luneau, David
Rogers, Katherine
Walsh, Thomas
Woolpert, David

Bartlett, Christy
Wolf, Dan
Moffett, Howard
Kenison, Linda
Moffett, Michael
Schuett, Dianne
Testerman, Dave

ROCKINGHAM

Abrami, Patrick
Baldasaro, Alfred
Berrien, Skip
Costable, Michael
Edgar, Michael
Gilman, Julie
Janigian, John
Lovejoy, Patricia
Malloy, Dennis
Milz, David
Gordon, Pamela
Rimol, Bob
Le, Tamara
Webb, James

Allen, Mary
Barnes, Arthur
Bove, Martin
Dean-Bailey, Yvonne
Elliott, Robert
Hagan, Joseph
O'Connor, John
Griffin, Mary
Matthews, Carolyn
Murray, Kate
Pantelakos, Laura
Sapareto, Frank
Torosian, Peter
Welch, David

Altschiller, Debra
Bates, David
Cahill, Michael
DiLorenzo, Charlotte
Francesca, Paula
Hoelzel, Kathleen
Katsakiores, Phyllis
Pearson, Mark
McKinney, Betsy
Nasser, Jim
Gordon, Richard
Spillane, James
Verville, Kevin
Weyler, Kenneth

Azarian, Gary
Bean, Philip
Cali-Pitts, Jacqueline
Dowling, Patricia
Gay, Betty
Edwards, Jess
Khan, Aboul
Major, Norman
McMahon, Charles
Nigrello, Robert
Tilton, Rio
Sytek, John
Ward, Gerald
Willis, Brenda

STRAFFORD

Bixby, Peter
Frost, Sherry
Horrigan, Timothy
Smith, Marjorie
Schmidt, Peter
Scruton, Matthew
Treleaven, Susan

Burton, Wayne
Gourgue, Amanda
Kaczynski, Thomas
McNally, Jody
Phinney, Brandon
Spang, Judith
Vincent, Kenneth

Cilley, Jacalyn
Grassie, Chuck
Keans, Sandra
Mullen, John
Pitre, Joseph
Spencer, Matthew
Wall, Janet

Ellis, Donna
Horgan, James
Krans, Hamilton
Opderbecke, Linn
Graham, Robert
Sprague, Dale

SULLIVAN

Cloutier, John
Grenier, James

Gagnon, Raymond
O'Connor, John

Gauthier, Francis
Laware, Thomas

Gottling, Suzanne
Oxenham, Lee

and the motion failed.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Eaton spoke in favor.

(Speaker Jasper in the Chair)

Rep. Sylvia requested a roll call; sufficiently seconded.

YEAS 232 - NAYS 96**YEAS - 232
BELKNAP**

Fields, Dennis
Varney, Peter

Flanders, Donald

Huot, David

Spanos, Peter

CARROLL

Buco, Thomas
McCarthy, Frank
Schmidt, Stephen

Butler, Edward
Knirk, Jerry
Umberger, Karen

Chandler, Gene
McConkey, Mark
Marsh, William

Cordelli, Glenn
Nelson, Bill

CHESHIRE

Abbott, Michael
Ley, Douglas
Hunt, John
Shepardson, Marjorie
Weber, Lucy

Ames, Richard
Eaton, Daniel
Mann, John
Sterling, Franklin

Berch, Paul
Fenton, Donovan
Meador, David
Tatro, Bruce

Harvey, Cathryn
Johnsen, Gladys
Parkhurst, Henry
Pearson, William

COOS

Fothergill, John
Tucker, Edith

Laflamme, Larry
Thomas, Yvonne

Merner, Troy

Theberge, Robert

GRAFTON

Almy, Susan
Campion, Polly
Hennessey, Erin
Maes, Kevin
Schwaegler, Vicki

Bailey, Brad
Darrow, Stephen
Higgins, Patricia
Massimilla, Linda
Smith, Suzanne

Bennett, Travis
Dontonville, Roger
Josephson, Timothy
Mulligan, Mary Jane
White, Andrew

Brown, Duane
Ham, Bonnie
Ladd, Rick
Nordgren, Sharon

HILLSBOROUGH

Griffin, Barbara
Burns, Charlie
Cleaver, Skip
Donovan, Daniel
Griffin, Gerald
Gould, Linda
Hopper, Gary
Klee, Patricia
Leishman, Peter
Mangipudi, Latha
Negron, Steve
Pellegrino, Anthony
Renzullo, Andrew
Harvey, Suzanne
Souza, Kathleen
Ulery, Jordan

Backus, Robert
Byron, Frank
Cornell, Patricia
Elber, Joel
Gagne, Larry
Heath, Mary
Graham, John
Kurk, Neal
Lisle, David
Manley, Jonathan
O'Leary, Richard
Pierce, David
Roberts, Carol
Seidel, Carl
Smith, Timothy
Van Houten, Connie

Barry, Richard
Chandley, Shannon
Cote, David
Forest, Armand
Gidge, Kenneth
Herbert, Christopher
Schmidt, Janice
Lascelles, Richard
MacKay, Mariellen
Martin, Joelle
Ohm, Bill
Porter, Marjorie
Rosenwald, Cindy
Snow, Kendall
Wolf, Terry
Williams, Kermit

Biggie, Barbara
Christensen, Chris
Danielson, David
Freitas, Mary
Goley, Jeffrey
Hinch, Richard
Jack, Martin
LeBrun, Donald
MacKenzie, Mark
Martineau, Jesse
Panasiti, Reed
Walsh, Robert
Rouillard, Claire
Sofikitis, Catherine
Twombly, Timothy

MERRIMACK

Alicea, Caroletta
Doherty, David
Henle, Paul
Kotowski, Frank
Rogers, Katherine
Walz, Mary Beth

Kuch, Bill
Ebel, Karen
Horn, Werner
Luneau, David
Schuett, Dianne
Wells, Natalie

Bartlett, Christy
Gile, Mary
MacKay, James
Myler, Mel
Shurtleff, Stephen
Woolpert, David

Carson, Clyde
Moffett, Howard
Kenison, Linda
Rodd, Beth
Walsh, Thomas

ROCKINGHAM

Abrami, Patrick
Baldasaro, Alfred
Cahill, Michael
Dowling, Patricia
Fesh, Robert
Guthrie, Joseph
Janigian, John
Khan, Aboul
Major, Norman
McKinney, Betsy
Nasser, Jim
Pantelakos, Laura
Somssich, Peter
Webb, James

Allen, Mary
Barnes, Arthur
Cali-Pitts, Jacqueline
Edgar, Michael
Francese, Paula
Hagan, Joseph
Janvrin, Jason
Lovejoy, Patricia
Malloy, Dennis
McMahon, Charles
Nigrello, Robert
Tilton, Rio
Sytek, John
Welch, David

Altschiller, Debra
Berrien, Skip
Thomas, Douglas
Elliott, Robert
Gay, Betty
Hoelzel, Kathleen
O'Connor, John
Griffin, Mary
Matthews, Carolyn
Milz, David
Gordon, Pamela
Rimol, Bob
Le, Tamara
Weyler, Kenneth

Azarian, Gary
Bove, Martin
Dean-Bailey, Yvonne
Emerick, J. Tracy
Gilman, Julie
Edwards, Jess
Katsakiores, Phyllis
Pearson, Mark
McBeath, Rebecca
Murray, Kate
Packard, Sherman
Sapareto, Frank
Ward, Gerald
Willis, Brenda

STRAFFORD

Bixby, Peter
Gourgue, Amanda
Krans, Hamilton
Opderbecke, Linn
Scruton, Matthew
Vincent, Kenneth

Burton, Wayne
Grassie, Chuck
Smith, Marjorie
Schmidt, Peter
Spencer, Matthew
Wall, Janet

Cilley, Jacalyn
Horgan, James
McNally, Jody
Pitre, Joseph
Sprague, Dale

Ellis, Donna
Horrigan, Timothy
Mullen, John
Graham, Robert
Treleven, Susan

SULLIVAN

Cloutier, John
Grenier, James
Smith, Steven

Gagnon, Raymond
O'Connor, John
Tanner, Linda

Gauthier, Francis
Laware, Thomas

Gottling, Suzanne
Rollins, Skip

NAYS - 96**BELKNAP**

Abear, Marc
Maloney, Michael

Aldrich, Glen
Silber, Norman

Comtois, Barbara
Sylvia, Michael

Howard, Raymond
Vadney, Herbert

CARROLL

Avellani, Lino

Comeau, Ed

CHESHIRE

Bordenet, John
Stallcop, Joseph

Faulkner, Barry

McConnell, James

O'Day, John

COOS

Moynihan, Wayne

GRAFTON

Abel, Richard
Sykes, George

Binford, David
Johnson, Tiffany

Hull, Robert

Rand, Steven

HILLSBOROUGH

Ammon, Keith
Moore, Craig
Edwards, Elizabeth
Halstead, Carolyn
Moore, Josh
McNamara, Richard
Ober, Russell
Sullivan, Victoria

Ayala, Jessica
Christie, Rick
Ferreira, Elizabeth
Hansen, Peter
Keane, Amelia
Murphy, Keith
Sanborn, Laurie
Zaricki, Nick

Bouldin, Amanda
Dickey, Glen
Freeman, Lisa
Hellwig, Steve
King, Mark
Notter, Jeanine
Schleien, Eric

Burt, John
Dyer, Caleb
Fromuth, Bart
Hynes, Dan
Lewicke, John
Prout, Andrew
Scully, Kevin

MERRIMACK

Turcotte, Alan
Hill, Gregory
Marple, Richard
Testerman, Dave

Brewster, Michael
Hoell, J.R.
McGuire, Carol

Copp, Anne
Klose, John
Pearl, Howard

Long, Douglas
Moffett, Michael
Seaworth, Brian

ROCKINGHAM

Bates, David
DiLorenzo, Charlotte
Itse, Daniel
Gordon, Richard
Torosian, Peter

Bean, Philip
Farnham, Betsey
Kolodziej, Walter
Read, Ellen
True, Chris

Costable, Michael
Green, Dennis
Messmer, Mindi
Spillane, James
Verville, Kevin

Cushing, Robert Renny
Marsh, Henry
Osborne, Jason
Stone, Brian
Vose, Michael

STRAFFORD

Frost, Sherry
Turcotte, Leonard
Wuelper, Kurt

Harrington, Michael
Phinney, Brandon

Kaczynski, Thomas
Salloway, Jeffrey

Keans, Sandra
Spang, Judith

SULLIVAN

Irwin, Virginia

Oxenham, Lee

and the committee report was adopted and ordered to third reading.

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 82, 88, 89, 94, 108, 140, 152, 167, 211, 219, 226, 262, 291, 301, 322, 349, 352, 431, 437, 501, 502, 513, 514, 586 and 612 and Senate Bills numbered 116, 130, 140, 147, 161, 176, 210 and 234.

Rep. Hinch, Sen. Avard for the Committee

REGULAR CALENDAR CONT'D

SB 155, relative to implementation of the Medicaid managed care program. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Erin Hennessey for Finance. This bill, as amended, delays Medicaid managed care step 2 implementation until no earlier than July 1, 2019. Implementation of managed care step 2 could have a significant and unclear negative impact on our county budgets and has been the subject of significant discussions at county delegation meetings during the budget process. Delaying Medicaid managed care step 2 until the beginning of state fiscal years 2020 and 2021 will provide the counties and the legislature sufficient time to study this matter and make appropriate changes as required. This amended bill further directs that the Commissioner of the Department of Health and Human Services shall re-procure contracts with vendors of Medicaid managed care programs, thus ensuring that more favorable terms for these services are available. Vote 24-1.

Amendment (2020h)

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

1 Medicaid Managed Care Program; Implementation.

I. Notwithstanding any provision of law to the contrary, step 2 of the Medicaid managed care program, established in RSA 126-A:5, XIX, shall not be implemented before July 1, 2019.

II. The commissioner of the department of health and human services shall re-procure contracts with vendors to administer the Medicaid managed care program, provided that the program shall not be implemented before July 1, 2019.

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

AMENDED ANALYSIS

This bill declares that step 2 of the Medicaid managed care program shall not be implemented before July 1, 2019.

Committee amendment adopted.

Committee report adopted and ordered to third reading.

SB 191-FN, relative to the definition of average daily membership in attendance. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Karen Umberger for Finance. This bill, as amended, provides for funding for full-day kindergarten as well as a method for funding the cost. Keno was used as the method of funding. It is anticipated to provide \$4 million in funding in the first year and \$9-12 million in subsequent years. All of the money from Keno will go to the education trust fund. A district which has or implements full-day kindergarten will receive an additional \$1,100 for each student. This applies to both the public schools and the public charter schools. In the first year that a school district starts full-day kindergarten, the superintendent will certify at the beginning of the school year the enrollment in full-day kindergarten and will be provided the \$1,100 per pupil grant. In subsequent years average daily membership (ADM), which is the current way we fund K-12 for public schools, will be used to determine the grant amount. At their parent's option, students shall be permitted to attend kindergarten for a half day. Vote 26-0.

Amendment (2022h)

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

AN ACT establishing keno and relative to funding for kindergarten.

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

1 New Subdivision; Keno. Amend RSA 284 by inserting after section 40 the following new subdivision:

Keno

284:41 Definition. In this subdivision, “keno” means any game where a player purchases a ticket from a field of 80 numbers and selects a specific amount of numbers. A random number generator employed by the lottery commission chooses 20 numbers at random and the player is paid out against his or her original wager.

284:42 Administration and Enforcement. The lottery commission shall administer and enforce this subdivision in any town or city that has voted to allow such gaming.

284:43 Rulemaking. The lottery commission shall adopt rules, pursuant to RSA 541-A, relative to:

I. The application procedure for keno licenses.

II. Information to be required on license applications.

III. Procedures for a hearing following the revocation of a license.

IV. The operation of keno games, including types and amounts of wagers.

V. Information required and forms for submission of financial reports.

VI. Guidelines for licensees under this subdivision to set transaction limits for daily, weekly, and monthly play of keno for individual keno players.

284:44 License Fees.

I. The license fee for a commercial premises keno license issued under RSA 284:46 shall be \$500 per year. Such fee shall be submitted to the lottery commission at the time the application is made and shall be refunded if the application is denied.

II. All net proceeds collected by the lottery commission under this section shall be deposited in the education trust fund established in RSA 198:39.

284:45 License Applications.

I. Applications shall be submitted to the lottery commission by the licensee. Proof of authority to submit the application on behalf of the licensee may be required.

II. Applications shall be made only on the forms supplied to the licensee by the lottery commission.

III. The application form shall be fully completed by the licensee.

IV. Applicants for commercial premises keno licenses shall be submitted at least 30 days before the first game date.

V. The applicant shall certify under oath that:

(a) The information provided on the application is accurate.

(b) Neither the applicant nor any employee will operate keno games if such person has been convicted of a felony within the previous 10 years which has not been annulled by a court, or a misdemeanor involving falsehood or dishonesty within the previous 5 years which has not been annulled by a court, or has violated the statutes or rules governing charitable gaming in this or any state.

(c) The applicant and any employee who will be participating in the operation of the keno games is aware of all statutes and rules applicable to the operation of keno games.

VI. To be eligible for licensure under this subdivision an applicant shall:

(a) Document that it is one of the following:

(1) A restaurant or hotel holding a valid liquor license under RSA 178:20, II, RSA 178:21, II(a) or (b), or RSA 178:22, V(q).

(2) A brew pub holding a valid liquor license under RSA 178:13.

(3) A ballroom holding a valid liquor license under RSA 178:22, V(c).

(4) A veterans' club, private club, or social club holding a valid liquor license under RSA 178:22, V(h).

(5) A convention center holding a valid liquor license under RSA 178:22, V(i).

(6) A hotel holding a valid liquor license under RSA 178:22, V(k).

(7) A racetrack holding a valid liquor license under RSA 178:22, V(n).

(8) A sports recreation facility holding a valid liquor license under RSA 178:22, V(v).

(b) Document that the keno games will only be operated in towns and cities that have voted to allow the operation of keno games pursuant to RSA 284:51.

(c) Maintain a current list of employees.

(d) Document that no minor under the age of 18 shall be allowed to purchase or redeem a keno ticket.

VII. A suspension or revocation of a liquor license shall result in the immediate suspension of the keno license issued under this chapter.

284:46 License; Issuance.

I. Upon receipt of an application under RSA 284:45 the lottery commission shall review the application and shall, in writing, grant or deny the application within 45 days of receipt.

II. The lottery commission shall deny a license application for any one of the following reasons:

(a) The license of the applicant has been previously revoked by the commission.

(b) The applicant has been convicted of a crime provided for in this chapter or in any other chapter for any gaming offense.

(c) The applicant loses his or her liquor license after submitting the application.

III. No person who has been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or who has violated any of the statutes or rules governing charitable gambling in the past in this or in any other state shall be licensed under this subdivision, or rent, lease, sublease, or otherwise provide any hall or keno paraphernalia for the conduct of keno licensed under this subdivision.

IV. The lottery commission shall only issue a license for an eligible location where keno tickets shall be sold and the game played within the area apportioned to distribute beverages pursuant to RSA 284:45. The lottery commission shall control the installation of the keno ticket terminals and ensure that the sale of the tickets is limited to the area apportioned to distribute beverages pursuant to RSA 284:45.

284:47 Operation of Keno Games.

I. A licensee may operate keno games at its business between the hours of 11 a.m. and 11 p.m.

II. A licensee may retain 8 percent of the proceeds from keno games. Of the remaining 92 percent:

(a) One percent shall be paid to the department of health and human services to support research, prevention, intervention, and treatment services for problem gamblers.

(b) The remainder, less the administrative costs of the lottery commission and prize payouts, shall be deposited in the education trust fund established in RSA 198:39.

III. No person who has been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or who has violated any of the statutes or rules governing charitable gambling in the past in this or any other state shall operate a keno game licensed under this subdivision, or rent, lease, sublease, or otherwise provide any hall or keno paraphernalia for the conduct of keno licensed under this subdivision.

IV. No one under the age of 18 years shall be allowed to purchase or redeem a keno ticket.

284:48 Financial Reports and Inspection Required.

I. Any person which has been licensed to conduct keno games shall submit a complete financial report to the lottery commission for each license issued under RSA 284:46 within 15 days after the expiration of each license, provided, however, a complete monthly financial report shall be submitted in a timely fashion to the commission for each month covered by a license issued under RSA 284:46 on a form to be approved by the lottery commission.

II. All licensees shall maintain a separate checking account for the deposit and disbursement of all income relating to keno, except cash prizes awarded at the games. All expenses shall be paid by check, and all prizes of \$500 or more shall be paid by check. No keno funds shall be commingled with other funds of the licensee. The licensee shall retain all canceled checks for the payment of expenses and prizes for at least 2 years from the date of the check. The licensee shall not cash checks which it issues.

III. All financial reports filed by the licensee shall be maintained by the lottery commission for a period of one year from the date of filing and shall be open to public inspection.

IV. All financial records pertaining to the operation of keno games shall be maintained by the licensee and shall be made available to representatives of the lottery commission or of the commissioner of the department of safety upon request.

V. A licensee which has been licensed to conduct keno games shall maintain complete and accurate documentation of all revenues and expenses contained in the financial reports for at least 2 years from the date the financial report is filed.

284:49 Suspension; Revocation. The commission may suspend or revoke the license of any licensee who violates any provision of this subdivision. Any licensee whose license is revoked shall not be eligible for licensure for a period of up to one year from the date of revocation.

284:50 Rehearing and Appeal. Any person aggrieved by a decision of the commission to deny or revoke a keno license may apply to the commission for a rehearing within 15 business days of the decision. Rehearings and appeals shall be governed by RSA 541.

284:51 Local Option.

I. Any town or city may allow the operation of keno games according to the provisions of this subdivision, in the following manner:

(a) In a town, the question shall be placed on the warrant of an annual town meeting under the procedures set out in RSA 39:3, and shall be voted on a ballot. In a city, the legislative body may vote to place the question on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.

(b) The selectmen, aldermen, or city council shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(c) The wording of the question shall be substantially as follows: "Shall we allow the operation of keno games within the town or city?"

II. If a majority of those voting on the question vote "Yes," keno games may be operated within the town or city.

III. If the question is not approved, the question may later be voted upon according to the provisions of paragraph I at the next annual town meeting or regular municipal election.

IV. A municipality that has voted to allow the operation of keno games may consider rescinding its action in the manner described in paragraph I of this section.

V. The lottery commission shall maintain a list of municipalities where keno is available.

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

(65) Money received under RSA 77-A, RSA 77-E, RSA 78, RSA 78-A, RSA 78-B, RSA 83-F, **RSA 284:44 and RSA 284:47**, and from the sweepstakes fund, which shall be credited to the education trust fund under RSA 198:39.

3 Education Trust Fund; Keno Profits Added. Amend RSA 198:39, I(k) to read as follows:

(k) Funds collected and paid over to the state treasurer by the lottery commission pursuant to RSA 284:44 and RSA 284:47.

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

4 New Section; School Money; Kindergarten Grants. Amend RSA 198 by inserting after section 48-b the following new section:

198:48-c Kindergarten Grants.

I.(a) In addition to any funds received pursuant to RSA 198:40-a, in the first year that a school district or chartered public school that operates an approved full-day kindergarten program, the commissioner of the department of education shall calculate and distribute a grant of \$1,100 per kindergarten pupil based on the enrollment number of eligible full-day kindergarten pupils on the first day of the school year. The superintendent, or designee, shall certify the enrollment number of kindergarten pupils to the commissioner.

(b) Once pupils enrolled in an approved full-day kindergarten program have been counted in the school district's average daily membership in attendance as defined in RSA 198:38, I, a school district, or a chartered public school based on its kindergarten enrollment number, shall receive, in addition to any funds received pursuant to RSA 198:40-a, an additional grant of \$1,100 per kindergarten pupil attending a full-day kindergarten program. The commissioner shall certify the amount of the grant to the state treasurer and direct the payment thereof from the education trust fund established in RSA 198:39 to the school district or chartered public school.

(c) Grants shall be disbursed to a school district pursuant to the distribution schedule in RSA 198:42 and to a chartered public school pursuant to the distribution schedule in RSA 194-B:11, I(c).

(d) The amount necessary to fund the grants under this section is hereby appropriated to the department from the education trust fund. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section.

II. A school district or chartered public school that operates an approved full-day kindergarten program for which it receives funding under this section shall permit a pupil to attend kindergarten for a half-day.

5 Applicability. Kindergarten grants pursuant to RSA 198:48-c as inserted by section 4 of this act shall not be disbursed before July 1, 2018.

6 Effective Date. This act shall take effect July 1, 2017.

AMENDED ANALYSIS

This bill establishes keno in New Hampshire and directs keno revenue to be used to provide grants to kindergarten students.

Committee amendment adopted.

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

Rep. Verville spoke against.

Rep. Umberger spoke in favor.

Rep. Leonard Turcotte requested a roll call; sufficiently seconded.

YEAS 231 - NAYS 100

YEAS - 231

BELKNAP

CARROLL

Buco, Thomas
Umberger, Karen

Butler, Edward

McConkey, Mark

Schmidt, Stephen

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
Meader, David
Tatro, Bruce

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Parkhurst, Henry
Pearson, William

Berch, Paul
Eaton, Daniel
Hunt, John
Shepardson, Marjorie
Weber, Lucy

Bordenet, John
Faulkner, Barry
Mann, John
Sterling, Franklin

COOS

Fothergill, John
Theberge, Robert

Laflamme, Larry
Tucker, Edith

Merner, Troy
Thomas, Yvonne

Moynihan, Wayne

GRAFTON

Abel, Richard
Campion, Polly
Hennessey, Erin
Maes, Kevin
Rand, Steven
White, Andrew

Almy, Susan
Darrow, Stephen
Higgins, Patricia
Massimilla, Linda
Schwaegler, Vicki

Bailey, Brad
Dontonville, Roger
Josephson, Timothy
Mulligan, Mary Jane
Smith, Suzanne

Bennett, Travis
Ham, Bonnie
Ladd, Rick
Nordgren, Sharon
Sykes, George

HILLSBOROUGH

Ayala, Jessica
Bouldin, Amanda
Christensen, Chris
Danielson, David
Freeman, Lisa
Gargas, Carolyn
Herbert, Christopher
Jack, Martin
Klee, Patricia
Leishman, Peter
Mangipudi, Latha
McNamara, Richard
Porter, Marjorie
Rouillard, Claire
Sofikitis, Catherine
Twombly, Timothy

Backus, Robert
Byron, Frank
Cleaver, Skip
Donovan, Daniel
Freitas, Mary
Gidge, Kenneth
Hinch, Richard
Rice, Kimberly
Kurk, Neal
Lisle, David
Manley, Jonathan
O'Leary, Richard
Walsh, Robert
Harvey, Suzanne
Souza, Kathleen
Sullivan, Victoria

Barry, Richard
Moore, Craig
Cornell, Patricia
Elber, Joel
Griffin, Gerald
Goley, Jeffrey
Graham, John
Keane, Amelia
Ober, Lynne
MacKay, Mariellen
Martin, Joelle
Ohm, Bill
Roberts, Carol
Shaw, Barbara
Smith, Timothy
Van Houten, Connie

Biggie, Barbara
Chandley, Shannon
Cote, David
Forest, Armand
Gagne, Larry
Heath, Mary
Schmidt, Janice
King, Mark
Lascelles, Richard
MacKenzie, Mark
Martineau, Jesse
Panasiti, Reed
Rosenwald, Cindy
Snow, Kendall
Wolf, Terry
Williams, Kermit

MERRIMACK

Turcotte, Alan
Long, Douglas
Gile, Mary
Kenison, Linda
Moffett, Michael
Schuett, Dianne

Alicea, Caroletta
Wolf, Dan
Moffett, Howard
Klose, John
Myler, Mel
Shurtleff, Stephen

Bartlett, Christy
Doherty, David
Henle, Paul
Kotowski, Frank
Rodd, Beth
Walz, Mary Beth

Carson, Clyde
Ebel, Karen
MacKay, James
Luneau, David
Rogers, Katherine

ROCKINGHAM

Abrami, Patrick
Bates, David
Cali-Pitts, Jacqueline
Doucette, Fred
Emerick, J. Tracy
Hagan, Joseph
Katsakiores, Phyllis
Major, Norman
McMahon, Charles
Nigrello, Robert
Read, Ellen
Stone, Brian
Webb, James

Allen, Mary
Berrien, Skip
Cushing, Robert Renny
Dowling, Patricia
Fesh, Robert
Edwards, Jess
Khan, Aboul
Malloy, Dennis
Milz, David
Gordon, Pamela
Rimol, Bob
Sytek, John
Welch, David

Altschiller, Debra
Bove, Martin
Dean-Bailey, Yvonne
Edgar, Michael
Francese, Paula
Janigian, John
Lovejoy, Patricia
McBeath, Rebecca
Murray, Kate
Packard, Sherman
Sapareto, Frank
Le, Tamara
Weyler, Kenneth

Azarian, Gary
Cahill, Michael
DiLorenzo, Charlotte
Elliott, Robert
Guthrie, Joseph
Janvrin, Jason
Griffin, Mary
McKinney, Betsy
Nasser, Jim
Tilton, Rio
Somssich, Peter
Ward, Gerald
Willis, Brenda

STRAFFORD

Bixby, Peter
Epstein, Isaac
Horgan, James
Smith, Marjorie
Schmidt, Peter
Sprague, Dale

Burton, Wayne
Frost, Sherry
Horriggan, Timothy
McNally, Jody
Graham, Robert
Treleaven, Susan

Cilley, Jacalyn
Gourgue, Amanda
Keans, Sandra
Mullen, John
Scruton, Matthew
Vincent, Kenneth

Ellis, Donna
Grassie, Chuck
Krans, Hamilton
Opderbecke, Linn
Spang, Judith
Wall, Janet

SULLIVAN

Cloutier, John
Grenier, James
Oxenham, Lee

Gagnon, Raymond
Irwin, Virginia
Rollins, Skip

Gauthier, Francis
O'Connor, John
Smith, Steven

Gottling, Suzanne
Laware, Thomas
Tanner, Linda

NAYS - 100**BELKNAP**

Abear, Marc
Maloney, Michael
Varney, Peter

Aldrich, Glen
Silber, Norman

Comtois, Barbara
Sylvia, Michael

Howard, Raymond
Vadney, Herbert

CARROLL

Avellani, Lino
Knirk, Jerry

Comeau, Ed
Marsh, William

Cordelli, Glenn

McCarthy, Frank

CHESHIRE

McConnell, James

O'Day, John

Stallcop, Joseph

GRAFTON

Binford, David

Brown, Duane

Hull, Robert

Johnson, Tiffany

HILLSBOROUGH

Ammon, Keith
Christie, Rick
Fromuth, Bart
Hellwig, Steve
LeBrun, Donald
Notter, Jeanine
Ober, Russell
Scully, Kevin

Griffin, Barbara
Dickey, Glen
Gould, Linda
Hopper, Gary
Lewicke, John
Pellegrino, Anthony
Renzullo, Andrew
Seidel, Carl

Burns, Charlie
Dyer, Caleb
Halstead, Carolyn
Hynes, Dan
Murphy, Keith
Pierce, David
Sanborn, Laurie
Ulery, Jordan

Burt, John
Ferreira, Elizabeth
Hansen, Peter
Moore, Josh
Negrón, Steve
Prout, Andrew
Schleien, Eric
Zaricki, Nick

MERRIMACK

Kuch, Bill
Hoell, J.R.
Pearl, Howard
Wells, Natalie

Brewster, Michael
Horn, Werner
Seaworth, Brian
Woolpert, David

Copp, Anne
Marple, Richard
Walsh, Thomas

Hill, Gregory
McGuire, Carol
Testerman, Dave

ROCKINGHAM

Baldasaro, Alfred
Thomas, Douglas
Marsh, Henry
Kolodziej, Walter
Osborne, Jason
Torosian, Peter

Barnes, Arthur
Farnham, Betsey
Hoelzel, Kathleen
Pearson, Mark
Pantelakos, Laura
True, Chris

Bean, Philip
Gilman, Julie
Itse, Daniel
Matthews, Carolyn
Gordon, Richard
Verville, Kevin

Costable, Michael
Green, Dennis
O'Connor, John
Messmer, Mindi
Spillane, James
Vose, Michael

STRAFFORD

Harrington, Michael
Pitre, Joseph

Kaczynski, Thomas
Salloway, Jeffrey

Turcotte, Leonard
Spencer, Matthew

Phinney, Brandon
Wuelper, Kurt

and the committee report was adopted and ordered to third reading.

SB 216-FN, relative to differential pay for state troopers and relative to crowd control by marine patrol officers. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Daniel Eaton for Finance. This bill, as amended by the committee, continues the hazardous duty stipend for six officers of the executive command staff that is currently paid to all state troopers. The cost is less than \$10,000 and will be absorbed in the Department of Safety's budget. The amendment allows the Commissioner of Safety to assign marine patrol officers to outside detail functions for crowd control as long as the detail is adjacent to a water body. It should be noted that marine patrol officers are all certified police officers and receive the same training as all regular police officers. Vote 25-0.

Amendment (1997h)

Amend RSA 270:12-a, I-b as inserted by section 2 of the bill by replacing it with the following:

I-b. The director of state police is authorized to detail full-time or part time bureau of marine patrol officers for law enforcement and crowd control services for public and private events and for extra duty functions to be performed outside regular business hours and for which an outside entity will be reimbursing the department for the services. While performing such services, the officers may enforce all criminal and motor vehicle laws of the state on property adjacent to the body of water where the services or details are being performed. The commissioner of safety shall establish a detail rate for such assignments. The rate shall include compensation for the assigned officers plus reimbursement for the use of any boats or vehicles, employee benefits, and related overhead expenses.

Committee amendment adopted.

Committee report adopted and ordered to third reading.

MOTION TO PRINT DEBATE

Rep. Hinch moved that the debate that includes the last two speakers, Reps. White and Barbara Griffin, on **SB 3**, relative to domicile for voting purposes, be printed in the Permanent Journal.
Motion adopted.

DEBATE ON SB 3

Rep. White: Thank you, Mister Speaker. Clearer, tighter, unambiguous. Part I, Article 11 of the New Hampshire State Constitution has less than 300 words when it talks about election law. It is clear, it's tight, and it's unambiguous. What we are voting on today is 18 pages. It's supposed to have you believe that it is clearer, tighter and unambiguous. There is about 18 reasons to oppose this bill, one for each page of text, but I'll just give you a few. Not one city clerk, town clerk came to the committee and said please pass this bill, we are looking for more work to do. In fact, they opposed it. Your city clerks, your town clerks, they were in opposition. Not one person could present to the committee an articulable reason that the bill was introduced. We later heard about this tightening of the loophole. There is lots of anecdote about voter fraud in New Hampshire. The busloads from Massachusetts and all that kind of stuff. I get it. I hear it too, but no proof was brought to the committee, none, but there was as the gentleman from Nashua said, frustration about these returned letters when you register to vote on Election Day. When the person signs and says I don't have anything with me to prove it, but I live at X address. Later they get a letter that's mailed to that address and for some reason it comes back as undeliverable. All kinds of different reasons. The committee expressed frustration, the people testifying during 7 hours of testimony. They expressed frustration about this. You know what this bill does to fix that? Exactly what the gentleman from Bedford said, nothing, zero. So if that is all the problem and the biggest concern, don't you think we have an obligation to address that? The answer is there is a bill here already to do it. It's to give the Attorney General the money that he needs to fund the positions to investigate the claims of voter fraud. Guess what, we haven't done it. It's stuck somewhere, but the vehicle is there. SB 3 is not the vehicle. There is no compelling government interest for SB 3, none, zero. Remember that whole thing about proof and data? None exists so there is no compelling government interest to pass SB 3 and there certainly isn't any compelling government interest to pass it today. I find particularly problematic the fact that SB 3 directs agents of the local, county and state government to go to the house where the person indicated where they live to verify that they lived where they said they lived on Election Day. I find that particularly problematic for a number of reasons. I won't get into them all, but imagine being in your house and having the sheriff pull up. That's not a particularly comfortable feeling for those of us concerned about our privacy and really don't want folks like that at our house. It increases the expense. If the town officials are doing it and the city officials are doing it, there is an increased expense. It costs man-hours and it costs fuel and everything else. There is going to be multiple visits. They are never going to go to somebody's house and find them there the first time, rarely. But there is no funding in this bill for it. I had offered a floor amendment, it's in your seat pocket, to address that, but it was ruled non-germane. In addition, the bill makes it more difficult for people who are homeless, between houses, victims of domestic violence to prove their identity. They can no longer sign an affidavit to prove where they live, but we are continuing to allow them to sign an affidavit to prove their age, identity and citizenship. Let me say that again. They can't sign an affidavit to prove where they live, but they can use it to prove their age, identity and citizenship. I don't know. Finally, it gives landlords, parents, property owners, abusive spouses veto power over a person's right to vote. You heard before with the floor amendment exactly how that would work and that's not right. Nobody should be beholden to another for the right to cast their ballot and they certainly shouldn't be removed from the voter checklist and they certainly shouldn't be charged with a criminal offense of up to \$5,000 in fines. So, I would just ask you in closing to consider do we really want to address the problem of the return letters that we spent 7 hours hearing that are the problem and if you do, let's give the Attorney General's office the money and I'll stand here and support you in that endeavor and investigate these returned postcards and letters. That's the fix. SB 3 is not the fix. Please join me and vote no on the Ought to Pass motion. Thank you, Mister Speaker.

Rep. Barbara Griffin: Thank you, Mister Speaker. I rise in support of SB 3, which as just pointed out, addresses just one of the qualifying conditions that you have to be eligible to vote. You just heard and you know that in order to be eligible to vote you need to be qualified by virtue of identity, age and citizenship and domicile. Domicile, that one place where a person, more than any other place, has established a physical presence and manifests intent to maintain a single continuous presence for domestic, social and civil purposes relevant to participating in democratic self-government. And you thought you just lived there. Domicile is what is required by statute in this state and many others throughout the country in order to vote. Under current law, a person can establish domicile for voting purposes in that town or ward by simply saying they do so and what you have just heard talked about, an affidavit referred to as the domicile affidavit. Since the law requires only presence and subjective intent, that claim that a person intends to be domiciled in a town or a ward is so subjective it is virtually impossible to enforce. You've

heard about some of the enforcement issues. Currently, the state does send out letters or cards as provided in law, but using that information to make any factual conclusion as to the validity of a domicile assertion is a nearly impossible task and over the years the volume and lack of follow up with thousands of voters would make that task a difficult ongoing and very costly use of state resources. SB 3 is intended to and does shift from the state to the voter the responsibility of proving where they are domiciled by requiring a production of a piece of paper or documentary evidence in support of the assertion that the person lives where he or she says she does. And that documentation is required when registering to vote today and it will be required under this bill and if you don't have it on the day that you register to vote; you have an opportunity to produce it. There is no limitation on the type of paper or documentary evidence that you need to provide. There is a suggested list in the bill but it is not exclusive. SB 3 does not change same day voter registration. That is true and if a person comes to the polls without documentary evidence, they will be allowed to vote. They can complete the registration form and cast a ballot. The voter acknowledges on the applicable form that they are to submit documentary evidence of their domicile no more than 30 days after the election or state that they have no evidence in which case the person acknowledges that the municipality or the state will verify the statements. This bill uses enhanced enforcement instead of denying a new registrant a ballot and documentary evidence of domicile will dramatically reduce the number of new registrants whose claim of domicile must be investigated by the state. This will result in more focused investigations and greater likelihood of timely prosecution of voter fraud where it occurs, a compelling state interest. SB 3 does not change the law with respect for student voting. SB 3 does not create literacy tests. It does not lengthen the process. One affidavit is being eliminated and another form is created so that the registration forms remain approximately the same length. If a voter is unable to understand or is illiterate when they are there on the day of registration, they are entitled to assistance tomorrow as they were yesterday in regards to their language or any disability. Clerks and supervisors and elections officials provide that assistance now and they will continue to do so. This bill also addresses the concern of whether someone is present temporarily. SB 3 creates a rebuttable presumption that someone who is present in a town or ward for 30 days or less before an election is there for temporary purposes and is not entitled to register or vote there. This presumption can be easily overcome by someone who is actually domiciled in that town or ward at the time he registers by the process that this bill establishes. Why is temporary presence a concern, you might ask? No one has actually talked about that yet. In today's easy travel age, this state's physical layout, it's long, 190 miles and skinny and 70 miles wide. It has 3 states bordering it along with Canada and with transportation today it is easy to come in and out of and your vote here counts, counts more, providing incentives to vote. Online political advocacy groups like NextGen for Climate recently presented online that voting here was important because, "In New Hampshire your vote counts more than almost anywhere else." We, New Hampshire, has one of the most important Senate races in the country and a win will help flip the Senate. In fact, in elections in 2012, 2014 and 2016, same day registrations were greater in number than the margin of victory in major races. It is important to get the process and the qualification of voters right. SB 3 is not unique. More than 40 other states plus DC require proof of residency. Of those, 27 states have a 30-day residence requirement. This is actually, what we're proposing is actually better than our state to the South. In Mass, you need to prove your residency by the end of the day or your ballot does not count. Well, you say that all sounds good, but why do we need it here? The fraud is not established. Well, the reality is that there is a successful prosecution for voter fraud in every general election and others. Within the last months there has been an absentee ballot fraud case successfully prosecuted with a fine. In 2008 and 2012 there were convictions in regards to voting in both Massachusetts and New Hampshire. In 2012, over 10 campaign workers voted here in the state using the same address, moving out of the state after the election. Those cases were not prosecuted. The subject of intent on that day was to be domiciled in New Hampshire. This is important also because we have close elections. The closest US Senate race in history was decided here in New Hampshire. Two votes and you know that the 2016 Senate race was what decided by 743 votes, far less than registrants on that day or people using out of state identification. In 2014 general election 3 State House races were ties, 2 were decided by less than 4 votes, 4 were decided by fewer than 20 and after recounts in a tied race that remained tied and was decided by drawing lots. It has been said by our Secretary of State that politics is a way of life here. Indeed it's true when you consider that we have more elections than any other state in the country. Again, important to get it right. We have more than 200 elections every year at the town and school district level. Statewide offices every two years and by far there are far more persons per capita who have either run for or served in political office than any other state. Finally, as an elected official, I stand here before you believing that we have an obligation to ensure that the process that brought us to these seats is constitutional and at the same time ensures that each vote that is cast is done so by a duly qualified voter. I believe SB 3 helps us to do just that. I thank you for your consideration and I urge you to support the committee recommendation of Ought to Pass with Amendment. Thank you.

REGULAR CALENDAR CONT'D

SB 59, relative to blood testing orders. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kurt Wuelper for the Majority of Judiciary. This bill, which passed the Health and Human Services Committee 18-2 and the full House on a voice vote, establishes a procedure for testing individuals who may have exposed first responders to blood borne diseases so that these first responders would not have to complete an expensive and potentially toxic course of prophylactic medication. The amendment makes it quicker to get a court order for the testing; protects the constitutional rights of the tested person; and reduces some of the penalties for violations of the bill. Vote 12-3.

Rep. Michael Sylvia for the Minority of Judiciary. This bill establishes a process to get a court order for blood testing. This bill started as a measure to give law enforcement and EMT's a path to get information about a source individual and their possible infectious status. The list of individuals able to apply for a testing order under this bill has grown to include healthcare providers, good samaritans, and those receiving emergency health services. This bill fails to adequately address appeals from the lower courts and the need for timely testing. Omitted from this bill is a provision to assure that the applicant does not have a pre-existing infection. Finally, this bill leaves too many important details to be addressed by rule making.

Majority Amendment (1830h)

Amend RSA 141-G:8, IV as inserted by section 1 of the bill by replacing it with the following:

IV. "Court" means the district division of the circuit court.

Amend RSA 141-G:10, I(a) as inserted by section 1 of the bill by replacing it with the following:

(a) While providing or receiving emergency health services; or

Amend RSA 141-G:10, III(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Include a medical evaluation, including a blood test, by a physician, physician assistant, or advanced practice registered nurse confirming that the exposure to the source individual puts the applicant at reasonable risk for possible exposure to a bloodborne pathogen;

Amend RSA 141-G:11, I(d) as inserted by section 1 of the bill by replacing it with the following:

(d) An analysis of the applicant's blood and bodily fluids would not determine, in a timely manner, whether the applicant has been infected by a bloodborne pathogen;

Amend RSA 141-G:11, II as inserted by section 1 of the bill by inserting after subparagraph (c) the following new subparagraph:

(d) Shall not require testing for any substance in the blood other than bloodborne pathogens.

Amend RSA 141-G:11, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The blood sample taken in compliance with an order issued under this section shall not be tested at any time for any civil or criminal matter or for any purpose not authorized in this subdivision.

V. A decision of the court under paragraph I may be appealed to the superior court.

Amend the introductory paragraph of RSA 141-G:16 as inserted by section 1 of the bill by replacing it with the following:

No legal proceeding for damages may be commenced or maintained against a person who in good faith, and not in a wanton or reckless manner, engages in any act or omission:

Amend RSA 141-G:15 as inserted by section 1 of the bill by replacing it with the following:

141-G:15 Costs. Subject to rules adopted by the commissioner under RSA 141-G:19, an applicant's workers' compensation insurance carrier shall be responsible for paying the costs relating to a testing order. Subject to rules adopted by the commissioner under RSA 141-G:19, the private health or automobile insurance of an applicant who does not have access to workers' compensation insurance which would cover medication for prophylaxis against potential bloodborne pathogens shall be responsible for paying the costs relating to a testing order. An applicant without insurance coverage may request testing under this subdivision, however, he or she shall be responsible for paying for the testing order and may be required to pay for testing in advance.

Amend RSA 141-G:18 as inserted by section 1 of the bill by replacing it with the following:

141-G:18 Penalties.

I. Any source individual who purposely contravenes a testing order shall be guilty of a violation.

II. Any person who purposely violates the provisions of RSA 141-G:14, shall be guilty of a misdemeanor.

III. If an offense under this subdivision continues for more than one day, a fine may be imposed for each day the offense continues, provided that the sum of such fines shall not exceed the maximum fine for the offense.

Amend RSA 141-G:19, II(i) as inserted by section 1 of the bill by replacing it with the following:

(i) The reporting procedures for test results if the applicant's or source individual's physician, physician assistant, or advanced practice registered nurse is not known or the applicant or source individual does not have one.

Amend RSA 141-G:19, II(k) as inserted by section 1 of the bill by replacing it with the following:

(k) Circumstances in which workers' compensation insurance, the government, and private health or automobile insurance shall be responsible for paying the costs referred to in RSA 141-G:15.

AMENDED ANALYSIS

This bill creates a process for certain individuals to request a blood testing order when they have been exposed to another individual's bodily fluids.

Majority committee amendment adopted.

Majority committee report adopted and ordered to third reading.

SB 67, relative to the authority of state police employees. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Claire Rouillard for the Majority of Judiciary. This bill grants state police the authority to enforce motor vehicle laws and regulations relative to transportation of hazardous materials as well as when faced with public safety exigent circumstances. Nothing in this bill limits the primary jurisdiction of the local police agency in a town having a population of more than 3,000 or in any city. Local police departments approve of this bill and welcome the assistance of the state police in light of the current opioid crisis. The amendment deletes two provisions contained in the original bill relative to suppression of evidence/dismissal of cases and civil liability which were deemed unnecessary by the Attorney General's office. Vote 14-3.

Rep. Michael Sylvia for the Minority of Judiciary. This bill expands the jurisdiction of state police. They have faced challenges to jurisdiction and have lost. To change their jurisdiction to match their practices strikes the minority as a bad policy.

Majority Amendment (1737h)

Amend RSA 106-B:15 as inserted by section 3 of the bill by replacing it with the following:

106-B:15 Jurisdiction of Police Employees.

I. Police employees have *primary* jurisdiction on all turnpikes, toll roads, *limited access highways*, and interstate highways and nothing in this section shall be construed to limit the authority of local police officers.

II. A police employee shall not act within the limits of a town having a population of more than 3,000 or of any city, except when he *or she is enforcing the motor vehicle laws or the regulations relative to the transportation of hazardous materials*, witnesses a crime, [or] is in pursuit of a law violator or suspected violator, [or when] *is* in search of a person wanted for a crime committed outside its limits, [or when] *is* in search of a witness of such crime, [or when traveling through such town or city,] *is faced with public safety exigent circumstances*, or when acting as an agent of the director of motor vehicles enforcing rules pertaining to driver licenses, registrations and the inspection of motor vehicles, or when requested to act by an official of another law enforcement agency, or when ordered by the governor. [No criminal case shall be abated, quashed, or dismissed and no evidence in a criminal case shall be suppressed or excluded because a police employee has failed to comply with the jurisdictional limits of this section, provided, that the police employee had a good faith belief that he had authority to act when he acted.] *Notwithstanding paragraph I, nothing in this section shall be construed to limit the primary jurisdiction of the local police agency in a town having a population of more than 3,000 or any city.*

Majority committee amendment adopted.

Majority committee report adopted and ordered to third reading.

SB 93, relative to adoption of the Uniform Access to Digital Assets Act. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Claire Rouillard for the Majority of Judiciary. This bill proposes adoption of a Revised Uniform Access to Digital Assets (Act). This act was "revised" as there were many issues with the first Uniform Act. The purpose of this act is to provide a fiduciary access to and management of all digital assets as defined in the act, regardless of whether the owner/user of the digital asset account affirmatively agrees to such access. The majority of committee believes that there are various other issues with the bill as presented. A major concern is the ability to access digital assets which allow changes to existing terms of a will, codicil or power of attorney through an "on-line tool" which lacks the acknowledgment/notarization needed to make changes under current New Hampshire law. Additionally, this bill affects all wills, codicils, powers of attorney, trusts, etc., executed BEFORE the effective date of this bill, which some members feel may contravene the New Hampshire Constitution. This act has only been in effect for two years, which many committee members feel does not provide sufficient time for problems or issues to be resolved. Even if this bill is not passed, individuals are still able to contract with digital, electronic entities. Some committee members feel the provisions in this bill do not protect our vulnerable citizens and their assets. Lastly, the majority of the committee feels this bill is not necessary. Vote 9-8.

Rep. Timothy Horrigan for the Minority of Judiciary. This bill would establish the Revised Uniform Fiduciary Access and Digital Assets Act, which means that the digital assets of individuals who die or become incapacitated would be protected as strongly as tangible assets. This bill would make it easier for executors of wills and other fiduciaries to find digital assets and to make sure that income and expenses associated with those assets are properly accounted for. The bill includes provisions for protecting the privacy of owners of the digital assets, audits specifically excludes medical information protected by Health Insurance Portability and Accountability Act (HIPAA) from unauthorized disclosure. 32 other states have adopted similar acts since 2015 and this bill has been endorsed by a wide range of stakeholders.

MOTION TO LAY ON THE TABLE

Rep. Hunt moved that **SB 93**, relative to adoption of the Uniform Access to Digital Assets Act, be laid on the table. Motion adopted.

REGULAR CALENDAR CONT'D

SB 50, relative to members of the site evaluation committee. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Herbert Vadney for the Majority of Science, Technology and Energy. Ensuring a more visible Site Evaluation Committee (SEC) process with adequate and meaningful opportunities for public participation were major goals of SB 245 when passed in 2014. This proposed legislation would weaken those safeguards. To change the new rules of operation now with very little experience in using them would be foolhardy. It seems best to let the new SEC mature a bit before jumping to change the law again. Vote 11-8.

Rep. Robert Backus for the Minority of Science, Technology and Energy. This bill came to the committee with strong bipartisan support and with the backing of the chairman of the Site Evaluation Committee (SEC). The SEC, which serves as the permitting board for all major energy projects proposed for location in New Hampshire, has been operating under new requirements resulting from legislation passed in 2014 intended to increase public participation and provide better notice. The legislation, among other changes, added as members two public citizens to fully participate in the siting process. Beforehand, only state agency employees served on the committee. It has turned out that for some of the nine members of the committee there is considerable hardship in being able to attend the numerous hearings necessary for the committee. In addition, the committee as a whole has difficulty in scheduling sessions with enough members available to meet the quorum requirements. The bill would change the quorum requirement for the full committee to six instead of seven out of nine members, and the requirement for any subcommittee to four instead of five out of seven members. The suggestion that having an even number constitute a quorum might cause a problem is without merit since, in the event of a tie vote, the motion involved would fail. In addition, the bill makes technical changes requested by the SEC chairman, including a requirement that all members, not just public official members, not be receiving revenue from energy facilities within the committee's jurisdiction. The minority believes this bill, which elicited no opposition testimony, would facilitate the working of the SEC without compromising in any way the increased opportunity for public participation.

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

Rep. Howard Moffett spoke against.

Rep. Vadney spoke in favor.

On a division vote, with 174 members having voted in the affirmative, and 144 in the negative, the majority committee report was adopted.

SB 123, establishing a commission to study a carbon reduction investment program for New Hampshire. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Michael Vose for the Majority of Science, Technology and Energy. This bill sought to create a study committee to investigate whether to levy a carbon tax on NH residents. Such a tax has many negative implications, including: 1) as a sales tax on carbon-based fuels, it is a broad-based tax, to which New Hampshire residents strenuously object; 2) any state or regional carbon tax scheme would put NH and/or New England at a competitive disadvantage to the rest of the country; 3) since low-income people spend proportionally more of their income on energy than those with higher incomes, a carbon tax is regressive; 4) beyond creating incentives to reduce fossil-fuel use, it would not reduce carbon emissions in any systematic and predictable fashion; 5) the economic drag of a carbon tax would lead to fewer jobs and lower wages, along with suppressed choices for consumers; 6) a proposed federal \$40 per ton starting point for such a tax (about 40 cents on a gallon of gas) echoes the \$36 per ton "social cost of carbon" used by the Obama administration in making policy decisions, which has been shown to have minimal impact on reducing greenhouse gas emissions; 7) a \$40 per ton tax would impose a \$600-\$750 billion drag on the US economy, which could start a country-wide (and ultimately world-wide) recession; and 8) hindering fossil fuel energy markets in the US to foster growth in renewable technologies is a classic example of the broken-window fallacy – that breaking a window creates a market for window repair, when it really just diverts resources from more productive purposes. Finally, proponents of some carbon tax plans assert that the funds collected can reduce business taxes or be rebated to individuals, but such money transfer schemes are inherently inefficient and increase the size of government. The majority did see one positive in the discussed carbon tax plans – they validated the concept of giving Regional Greenhouse Gas Initiative (RGGI) auction proceeds back to ratepayers. Vote 10-9.

Rep. Marjorie Shepardson for the Minority of Science, Technology and Energy. The minority believes NH should study the issue of a carbon reduction program, which most New England states are also investigating as a response to climate change. This can be a market-based program that is revenue neutral and not a burden to low and middle-income people. The amendment that was heard in committee makes it clear that a study committee would have the option of recommending either yes or no on setting up such a program.

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

Rep. Shepardson spoke against.

Rep. Vose spoke in favor.

On a division vote, with 172 members having voted in the affirmative, and 136 in the negative, the majority committee report was adopted.

SB 124, establishing a commission to study municipal regulation and incentives for solar energy. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Douglas Thomas for the Majority of Science, Technology and Energy. This bill would establish a commission to study municipal regulations for residential, commercial, and distributed generation solar projects and includes a provision for possible increases in municipal incentives for solar projects. Many pros and cons were discussed at the committee's work session on the bill. Though the bill is well intended, the majority of the committee feels that local control is important and should be maintained at the municipal level as much as possible. The solar industry is already doing well under current federal and state incentive programs. The majority feels there is no need to study ways to increase incentives. Vote 11-8.

Rep. Peter Somssich for the Minority of Science, Technology and Energy. The minority believes that establishing a commission to study the current municipal regulations and incentives for solar energy would result in valuable information to help standardize the requirements for safety and efficiency of solar installations. Currently, many towns and cities have varying requirements with respect to solar installations (e.g. one town requiring external safety circuit breakers, while the next town does not). This often reflects the fact that very little standardized information is available for the purposes of regulation. Solar installers must accommodate different installation rules depending on the municipality they are working in, resulting in added costs and time delays for homeowners. Increasing and encouraging more solar energy installations is a major goal of our state as reflected in our State Energy Strategy. While the cost of the solar panels has dropped significantly in the past 5 years by almost 50% (from representing approximately 60% of the total cost of a project to now only 40%) the so-called soft costs, which represent permitting and installation costs, have not changed much (now representing roughly 60% of total costs). This bill would study municipal regulations statewide, including safety requirements, and identify best practices for the most cost-efficient measures municipalities could adopt, thus reducing the soft costs in support of our solar energy goals.

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

Rep. Somssich spoke against.

Rep. Douglas Thomas spoke in favor.

On a division vote, with 168 members having voted in the affirmative, and 135 in the negative, the majority committee report was adopted.

SB 126, relative to eligibility of hospitals with renewable energy projects for funds from the renewable energy fund. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Bill Kuch for the Majority of Science, Technology and Energy. This bill adds the category of hospitals to those sectors eligible to receive renewable energy project awards from the Renewable Energy Fund. However, during testimony from the Public Utilities Commission, it was stated that hospitals are already eligible for these awards under the prevailing law. Furthermore, it was stated by a representative of the NH Hospital Association that several of their members are presently benefiting from the rewards program for renewable projects. If it is necessary to make all hospitals aware of the awards program, a phone call or email to each hospital would be more appropriate than modifying a current statute. This would accomplish the same end without adding more complexity to our statutes. This bill is redundant and unnecessary. Vote 14-7.

Rep. John Mann for the Minority of Science, Technology and Energy. The minority believes the bill's simple addition of "and hospital" to the text of the law would clearly remind hospitals, which are high energy users, that they are eligible for renewable energy funds.

Majority committee report adopted.

SB 129, requiring a portion of the renewable energy fund to benefit low to moderate income residential customers, relative to electric renewable energy classes, relative to the class rate for biomass, and relative to requirements for incentive payments from the renewable energy fund. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Herbert Richardson for the Majority of Science, Technology and Energy. This bill, "The New Hampshire Clean Energy Jobs and Opportunity Act," is critically important to the state's clean energy job sectors. First, it fixes a problem in the current Renewable Portfolio Standard law. The current law would lower the price of biomass renewable energy credits to the point where it would not support continued operations of six independent biomass plants located around the state, particularly given the historically low wholesale energy rates they get for their power. These plants support over 900 jobs and over \$250 million dollars of economic activity each year statewide. They also pay state and local taxes. We have already seen the temporary closure of a plant in Alexandria. This bill increases the renewable energy credit price for three years as a bridge as we seek a long-term solution for the

viability of these plants. The plants are an important market for the forest product industry's low grade wood, as well as being critical to the health of our \$1.4 billion forest products industry. This is the one place where our energy policy intersects with our natural resource policy. We need these jobs. The bill reduces costs to ratepayers concerning thermal renewable energy, decreasing the requirements due to changes in the marketplace. The bill also incentivizes solar projects for low to moderate income residents and increases the percentage of solar in the renewable portfolio standard. The solar industry continues to grow, particularly in neighboring states. This bill helps make New Hampshire more competitive, helps attract and retain younger workers in this field, and helps support the 1,100 solar jobs already here. The bill opens access to renewable energy savings to low-income households and communities. The committee amendment mitigates the up front cost of modernizing Class II new solar, modifies the pilot project on net metering in community solar, and addresses the bill's effects on existing contracts. The overall cost of this bill is approximately \$18 million over the next eight years, without taking into account the resulting cost-savings from: 1) advancing distributed generation, 2) furthering energy diversification which provides immunization from price spikes in the natural gas market, and 3) lowering our peak demand, thereby reducing New Hampshire's allocation of ever-increasing regional transmission costs. Even so, to put that cost into perspective, it is much less than the cost of one year of tree trimming for the state's largest utility (\$41 million). Additionally, the current law allows the Public Utilities Commission to make annual adjustments in the biomass renewable portfolio law to protect ratepayers so that the "worst case scenario" that has been proclaimed by opponents does not happen. The benefits of supporting and advancing New Hampshire's solar industry, the benefits of \$250 million in annual economic activity from our biomass plants, and the 900 jobs in the biomass industry alone far outweigh the costs of this bill. The bill has broad bipartisan support. Vote 17-4.

Rep. Keith Ammon for the Minority of Science, Technology and Energy. New Hampshire residents pay among the highest electric rates in the nation. At a time when we should be finding ways to lower electric rates, this bill, as amended, does the opposite. The energy grid is a highly regulated market, which means it is subject to influence by political forces. Energy policy is a convoluted Rube Goldberg contraption, which, by design or not, obfuscates the inputs from the outputs in such a way that very few people truly understand it. This bill, as amended, continues the practice of subsidizing and bailing out certain industries at the expense of all residential and commercial ratepayers. This is a form of off-book taxation that is obscured within the electric rates NH citizens pay. These charges are not itemized on our electric bills and are hidden from public view. This bill, as amended, does three things that are carefully crafted to have maximal political influence, all the while increasing electric rates within the state. First, it subsidizes solar installations for low income residents by redirecting 15% of the Renewable Energy Fund to low-income projects. This, of course, is paid for by all ratepayers, including other low income residents who choose not to participate in the program. Secondly, it further subsidizes the solar installer industry by increasing subsidies directed through the Renewable Portfolio Standards system. This sends the signal that businesses in New Hampshire should focus less on being entrepreneurial and focus more on rent-seeking through governmental policy. Thirdly, it further misallocates resources and over protects the biomass industry which burns wood waste in order to generate electricity. This method of generation is less efficient than other methods and cannot compete on the open market, and therefore requires subsidies to exist. Biomass generation also contributes to greenhouse gas production. Proponents of the bill talk of the mystical "multiplier effect" where subsidies somehow magically create more economic activity. The focus is placed on the measurable seen good and never the more difficult to measure unseen damages. Common sense dictates that creating incentives for capital to flow into industries that cannot stand on their own prevents the same capital from being used for more productive purposes. Proponents of the bill also use the "drop-in-the-bucket" argument, "What are a few cents here and there if we can do good with it?" However, this bill will also increase rates on large commercial electricity consumers who are employers of many of our citizens. For instance, it is estimated that changes effected by this bill will cost one of the largest commercial users approximately \$500,000 over 8 years, capital that could otherwise be used to hire at least one full time employee during that period.

Majority Amendment (1818h)

Amend the bill by replacing sections 6 and 7 with the following:

6 Electric Renewable Portfolio Standard; Minimum Electric Renewable Portfolio Standards. Amend RSA 362-F:3 to read as follows:

362-F:3 Minimum Electric Renewable Portfolio Standards. For each year specified in the table below, each provider of electricity shall obtain and retire certificates sufficient in number and class type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by the provider to its end-use customers that year, except to the extent that the provider makes payments to the renewable energy fund under RSA 362-F:10, II:

	2008	2009	2010	2011	2012	2013	2014	2015	2025 and thereafter
Class I	0.0%	0.5%	1%	2%	3%	3.8%	5%	6%	15% (*)
Class II	0.0%	0.0%	0.04%	0.08%	0.15%	0.2%	0.3%	0.3%	[0.3%] 0.7%
Class III	3.5%	4.5%	5.5%	6.5%	1.4%	1.5%	3.0%	8.0%	8.0%
Class IV	0.5%	1%	1%	1%	1%	1.3%	1.4%	1.5%	1.5%

*Class I increases an additional 0.9 percent per year from 2015 through 2025. A set percentage of the class I totals shall be satisfied annually by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-F:2, XV-a. The set percentage shall be 0.4 percent in 2014, 0.6 percent in 2015, ~~[1-3]~~ **0.8** percent in 2016, and increased annually by ~~[0-1]~~ **0.2** percent per year from 2017 through 2023, after which it shall remain unchanged. ***Class II shall increase to 0.5 percent beginning in 2018, 0.6 percent beginning in 2019, and 0.7 percent beginning in 2020, otherwise*** classes II-IV ***shall*** remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, V-VI.

7 Limited Electrical Energy Producers Act; Net Energy Metering. Amend RSA 362-A:9, XIV(c) to read as follows:

(c) Notwithstanding paragraph V, a group host shall be paid for its surplus generation at the end of each billing cycle at rates consistent with the credit the group host receives relative to its own net metering under either subparagraph IV(a) or (b) or alternative tariffs that may be applicable pursuant to paragraph XVI. ***Each group member of a group host for a low-moderate income community solar project, as defined in RSA 362-F:2, X-a, may receive credits on the customer electric bill for each member and the host, provided that there shall be only one new project under this paragraph in each utility's service territory by December 31, 2019 with such projects available on a first-come, first serve basis. The commission shall report on the costs and benefits of such projects on or before December 31, 2019.*** On an annual basis, the electric distribution utility shall calculate a payment adjustment if the host's surplus generation for which it was paid is greater than the group's total electricity usage during the same time period. The adjustment shall be such that the resulting compensation to the host for the amount that exceeded the group's total usage shall be at the utility's avoided cost or its default service rate in accordance with subparagraph V(b) or paragraph VI or alternative tariffs that may be applicable pursuant to paragraph XVI. The utility shall pay or bill the host accordingly.

Amend the bill by inserting after section 10 the following and renumbering the original section 11 to read as 12.

11 New Section; Electric Renewable Portfolio Standard; Exemption Period for Certain Electrical Supply Contracts. Amend RSA 362-F by inserting after section 14 the following new section:

362-F:15 Exemption Period for Certain Electrical Supply Contracts.

I. The increases in the annual purchase percentages in RSA 362-F:3 applicable to class II for 2018 and thereafter as compared to the class II annual purchase percentages in effect as of January 1, 2017, shall not apply to the megawatts-hours delivered during the contract term under any electrical power supply contract entered into before the effective date of this section, provided that the contract term in effect before such effective date has not been extended or otherwise increased after that date.

II. The change in the class III methane gas eligibility requirements in RSA 362-F:4, III(b) as compared to the class III methane gas eligibility requirements in effect as of January 1, 2017 shall not apply to class III methane gas certificates:

(a) Acquired pursuant to a contract entered into before the effective date of this section for the contract term, provided that the contract term in effect before such effective date has not been extended or otherwise increased after that date; or

(b) That are 2017 calendar year certificates issued before the first day of the first month of the calendar quarter following such effective date.

III. Providers shall inform the commission by July 1 of each year, through July 1, 2020, of all such exempted contracts, including but not limited to, the execution date and expiration date of the contract, the basis for exemption under this section, and if applicable, the annual megawatt-hours supplied and exempted, or the annual amount of exempted methane gas certificates and the basis for exemption. All such information filed with the commission shall be exempt from the provisions of RSA 91-A:5, IV.

AMENDED ANALYSIS

This bill:

I. Requires a portion of the funds in the renewable energy fund to benefit low-moderate income residential customers.

II. Makes changes to renewable energy classes.

III. Raises the class rate for biomass.

IV. Eliminates the generation capacity requirement for incentive payments from the renewable energy fund.

V. Provides a period of exemption from increases in annual purchase percentages under the minimum electric renewable portfolio standard for certain electrical supply contracts.

MOTION TO LAY ON THE TABLE

Rep. Harrington moved that **SB 129**, requiring a portion of the renewable energy fund to benefit low to moderate income residential customers, relative to electric renewable energy classes, relative to the class rate for biomass, and relative to requirements for incentive payments from the renewable energy fund, be laid on the table.

Rep. Hinch requested a roll call; sufficiently seconded.

YEAS 90 - NAYS 217**YEAS - 90
BELKNAP**

Abear, Marc
Maloney, Michael
Vadney, Herbert

Aldrich, Glen
Silber, Norman
Varney, Peter

Comtois, Barbara
Spanos, Peter

Howard, Raymond
Sylvia, Michael

CARROLL

Comeau, Ed

CHESHIRE

O'Day, John

COOS

Merner, Troy

GRAFTON

Hull, Robert

Johnson, Tiffany

HILLSBOROUGH

Ammon, Keith
Dickey, Glen
Griffin, Gerald
Hansen, Peter
Kurk, Neal
Notter, Jeanine
Renzullo, Andrew
Twombly, Timothy
Zaricki, Nick

Burns, Charlie
Dyer, Caleb
Gagne, Larry
Hellwig, Steve
Ober, Lynne
Panasiti, Reed
Sanborn, Laurie
Ulery, Jordan

Burt, John
Ferreira, Elizabeth
Gould, Linda
Hopper, Gary
Lewicke, John
Prout, Andrew
Scully, Kevin
Sullivan, Victoria

Christie, Rick
Freeman, Lisa
Halstead, Carolyn
Moore, Josh
Murphy, Keith
Ober, Russell
Seidel, Carl
Valera, John

MERRIMACK

Kuch, Bill
Hoell, J.R.
Wells, Natalie

Brewster, Michael
Horn, Werner

Copp, Anne
Moffett, Michael

Hill, Gregory
McGuire, Carol

ROCKINGHAM

Barnes, Arthur
Gay, Betty
Kolodziej, Walter
McKinney, Betsy
Torosian, Peter
Welch, David

Bates, David
Green, Dennis
Pearson, Mark
Osborne, Jason
True, Chris
Weyler, Kenneth

Costable, Michael
Marsh, Henry
Major, Norman
Gordon, Richard
Verville, Kevin
Willis, Brenda

Fesh, Robert
Edwards, Jess
Matthews, Carolyn
Spillane, James
Vose, Michael

STRAFFORD

Harrington, Michael
Phinney, Brandon

Kaczynski, Thomas
Pitre, Joseph

Turcotte, Leonard
Spencer, Matthew

Mullen, John
Wuelper, Kurt

SULLIVAN

O'Connor, John

Laware, Thomas

NAYS - 217**BELKNAP**

Fields, Dennis

Flanders, Donald

Huot, David

CARROLL

Avellani, Lino
Knirk, Jerry
Umberger, Karen

Buco, Thomas
McConkey, Mark
Marsh, William

Butler, Edward
Nelson, Bill

Chandler, Gene
Schmidt, Stephen

CHESHIRE

Abbott, Michael
Harvey, Cathryn
Fenton, Donovan
McConnell, James
Stallcop, Joseph
Weber, Lucy

Ames, Richard
Ley, Douglas
Johnsen, Gladys
Meader, David
Sterling, Franklin

Berch, Paul
Eaton, Daniel
Hunt, John
Parkhurst, Henry
Tatro, Bruce

Bordenet, John
Faulkner, Barry
Mann, John
Shepardson, Marjorie
Pearson, William

COOS

Fothergill, John
Tucker, Edith

Laflamme, Larry
Thomas, Yvonne

Moynihan, Wayne

Theberge, Robert

GRAFTON

Abel, Richard
Binford, David
Ham, Bonnie
Maes, Kevin
Rand, Steven
White, Andrew

Almy, Susan
Brown, Duane
Hennessey, Erin
Massimilla, Linda
Schwaegler, Vicki

Bailey, Brad
Campion, Polly
Higgins, Patricia
Mulligan, Mary Jane
Smith, Suzanne

Bennett, Travis
Darrow, Stephen
Ladd, Rick
Nordgren, Sharon
Sykes, George

HILLSBOROUGH

Ayala, Jessica
Biggie, Barbara
Chandley, Shannon
Cote, David
Gargas, Carolyn
Hinch, Richard
Rice, Kimberly
Lascelles, Richard
MacKay, Mariellen
Manley, Jonathan
Negron, Steve
Pierce, David
Rouillard, Claire
Souza, Kathleen
Williams, Kermit

Griffin, Barbara
Bouldin, Amanda
Christensen, Chris
Danielson, David
Goley, Jeffrey
Graham, John
Keane, Amelia
LeBrun, Donald
McCarthy, Michael
Martin, Joelle
O'Leary, Richard
Porter, Marjorie
Harvey, Suzanne
Smith, Timothy

Backus, Robert
Byron, Frank
Cleaver, Skip
Edwards, Elizabeth
Heath, Mary
Schmidt, Janice
King, Mark
Leishman, Peter
MacKenzie, Mark
Martineau, Jesse
Long, Patrick
Roberts, Carol
Shaw, Barbara
Wolf, Terry

Barry, Richard
Moore, Craig
Cornell, Patricia
Forest, Armand
Herbert, Christopher
Jack, Martin
Klee, Patricia
Lisle, David
Mangipudi, Latha
McNamara, Richard
Pellegrino, Anthony
Rosenwald, Cindy
Sofikitis, Catherine
Van Houten, Connie

MERRIMACK

Turcotte, Alan
Long, Douglas
Gile, Mary
Kenison, Linda
Marple, Richard
Seaworth, Brian

Alicea, Caroletta
Wolf, Dan
Moffett, Howard
Klose, John
Pearl, Howard
Shurtleff, Stephen

Bartlett, Christy
Doherty, David
Henle, Paul
Kotowski, Frank
Rogers, Katherine
Walz, Mary Beth

Carson, Clyde
Ebel, Karen
MacKay, James
Luneau, David
Schuett, Dianne

ROCKINGHAM

Abrami, Patrick
Bean, Philip
Cushing, Robert Renny
Doucette, Fred
Farnham, Betsey
Hagan, Joseph
Lovejoy, Patricia
McMahon, Charles
Nigrello, Robert
Tilton, Rio
Stone, Brian

Allen, Mary
Bove, Martin
Thomas, Douglas
Edgar, Michael
Francese, Paula
Hoelzel, Kathleen
Griffin, Mary
Messmer, Mindi
Gordon, Pamela
Read, Ellen
Sytek, John

Altschiller, Debra
Cahill, Michael
Dean-Bailey, Yvonne
Elliott, Robert
Gilman, Julie
Janigian, John
Malloy, Dennis
Murray, Kate
Packard, Sherman
Sapareto, Frank
Ward, Gerald

Azarian, Gary
Cali-Pitts, Jacqueline
DiLorenzo, Charlotte
Emerick, J. Tracy
Guthrie, Joseph
Khan, Aboul
McBeath, Rebecca
Nasser, Jim
Pantelakos, Laura
Somssich, Peter

STRAFFORD

Bixby, Peter
Epstein, Isaac
Horgan, James
Smith, Marjorie
Graham, Robert
Sprague, Dale

Burton, Wayne
Frost, Sherry
Horrigan, Timothy
McNally, Jody
Salloway, Jeffrey
Treleaven, Susan

Cilley, Jacalyn
Gourgue, Amanda
Keans, Sandra
Opderbecke, Linn
Scruton, Matthew
Vincent, Kenneth

Ellis, Donna
Grassie, Chuck
Krans, Hamilton
Schmidt, Peter
Spang, Judith
Wall, Janet

SULLIVAN

Cloutier, John
Grenier, James
Tanner, Linda

Gagnon, Raymond
Irwin, Virginia

Gauthier, Francis
Oxenham, Lee

Gottling, Suzanne
Rollins, Skip

and the motion failed.

The question now being adoption of the majority committee amendment.

Majority committee amendment adopted.

On a division vote, with 222 members having voted in the affirmative, and 84 in the negative, the majority committee report was adopted and ordered to third reading.

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

SB 74-FN, relative to economic revitalization zone tax credits. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Timothy Lang for the Majority of Ways and Means. In marrying legislative action with the executive messaging that "this state is open for business," this bill as amended increases the total tax credits available per year to all businesses expanding in this state by \$675,000 to \$1.5 million. The committee heard from DRED

that over the last six years, 100% of the available credits under this program were expended. The amendment also increases the maximum credit which may be utilized by a taxpayer in any calendar year to \$50,000 from the current value of \$40,000. This bill encourages relocation of out of state businesses into our state. Vote 16-6. Rep. Paul Henle for the Minority of Ways and Means. This bill as amended would raise the maximum amount available for Economic Revitalization Zone Tax Credits to \$1.5 million from the current level of \$825,000. This is a spending increase of \$675,000. This means that \$675,000 will have to be removed from some part of the budget. The minority feels that decisions such as these should be made by the Finance Committee. They are the ones charged with deciding where our resources should go; they are the ones who look at the overall picture that is our state and decide who are the winners and who are the losers. The Ways and Means Committee should not be making spending decisions. To pass this bill would be back door budgeting.

Majority Amendment (1808h)

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Limit on Total Economic Revitalization Zone Credits. Amend RSA 162-N:5 to read as follows:

162-N:5 Limit on Total Economic Revitalization Zone Credits. The aggregate of tax credits issued by the commissioner of resources and economic development to all taxpayers claiming the credit shall not exceed [~~\$825,000~~] **\$1,500,000** for any calendar year, except that any amount of the credit less than [~~\$825,000~~] **\$1,500,000** that is not claimed in the calendar year may be issued in the next calendar year and in following years. Amounts carried forward pursuant to RSA 162-N:7 shall not be counted against this limit in any year in which they are applied. Notwithstanding RSA 162-N:6, the maximum credit which may be utilized by a taxpayer in any calendar year shall not exceed [~~\$40,000~~] **\$50,000**. In the case in which the aggregate credits requested during the calendar year exceed the amount available, each taxpayer shall receive a credit for the proportional share of the maximum aggregate credit amount.

AMENDED ANALYSIS

This bill requires a taxpayer applying for economic revitalization zone tax credits to provide written certification to the commissioner of resources and economic development that it has expanded the commercial or industrial base in a designated economic revitalization zone and created new jobs in the state. This bill requires the commissioner of resources and economic development to certify each application for an economic revitalization zone tax credit. This bill also increases the limit on total economic revitalization tax zone credits which may be issued by the commissioner of resources and economic development.

This bill is a request of the department of resources and economic development.

Majority committee amendment adopted.

Majority committee report adopted and ordered to third reading.

SB 185, extending the community revitalization tax relief program to coastal properties subject to storm surge, sea level rise, and extreme precipitation. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Susan Almy for the Majority of Ways and Means. The seacoast towns have been meeting for some time to avert the future damages to their communities and property tax bases from rising sea level and increasingly violent storms. This bill uses an existing local-option municipal tax deferral program that allows a town to decide where, and to what, to provide a time-limited property-tax deferral of added value to stimulate the re-development of dilapidated property. It allows seacoast municipalities to extend this program to armor buildings and land in specific areas of town against coastal erosion and property destruction. A board then approves specific proposals. The town benefits by not losing revenue-producing and sometimes job-producing property and cultural heritage. It can be done wrong, and we heard one story from a town that passed a flawed ordinance based on the existing program and felt they were cheated. But other towns have learned to do it right, and the bill provides guidance on effective investments for coastal protection. Majorities of both parties agree in recommending this bill become law. Vote 17-5.

Rep. Bill Ohm for the Minority of Ways and Means. The minority feels that private landowners should bear the full cost of their mitigation as they receive the benefits of such improvements, namely the increase in property value when they decide to sell. This bill provides an incentive to sell quickly before the temporary tax discount provided in this bill expires.

Majority committee report adopted and ordered to third reading.

BILLS REMOVED FROM THE CONSENT CALENDAR

SB 89, relative to the relationship between a franchisor and a franchisee. **OUGHT TO PASS.**

Rep. Laurie Sanborn for Commerce and Consumer Affairs. The intent of this bill is to continue to properly classify the relationship between a franchisor and franchisee. This clarifying and reaffirming legislation is necessary following the National Labor Relations Board's controversial Browning-Ferris decision in 2015. In the 3-2 decision, the board created a new "joint employer" standard which created significant ambiguity. New

Hampshire is fortunate to be home to 3,000 franchises that provide over 27,000 jobs. This bill is intended to send a clear message to the NH franchise industry, who are local business owners, that there should be no doubt that their employees are their employees. Vote 20-0.

Rep. Kurk offered floor amendment (2136h).

Floor Amendment (2136h)

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

AN ACT relative to the relationship between a franchisor and a franchisee and relative to the use of drones.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3: 2 New Chapter; Drones. Amend RSA by inserting after chapter 422-C the following new chapter:

CHAPTER 422-D DRONES

422-D:1 Definitions. In this chapter:

I. "Airspace" means the space above the ground in New Hampshire.

II. "Automated surveillance" means surveillance employing a mechanical or electronic device, computer or software, including but not limited to facial recognition technology, that functions continuously without continuous input from a human operator.

III. "Commercial purpose" means to exchange for money, goods or services or to exchange with the intention of directly or indirectly benefiting any business or other undertaking intended for profit.

IV.(a) "Critical infrastructure" means a county, city, or town jail or detention facility, police station or fire station; any prison, facility, or institution under the control of the department of corrections; and any additional structure designated by the Federal Aviation Administration as critical infrastructure.

(b) The department of transportation, bureau of aeronautics, shall apply to the Federal Aviation Administration to request the structures specified in subparagraph (a) to be designated as critical infrastructures.

V. "Drone" means a powered, aerial vehicle, excluding a geosynchronous satellite, that:

- (a) Does not carry a human operator;
- (b) Uses aerodynamic forces to provide vehicle lift;
- (c) Can fly autonomously or be piloted remotely; and
- (d) May be expendable or recoverable.

VI. "Government" means the federal government, the state government and any political subdivisions thereof, and state and municipal agencies and departments, including employees and agents.

VII. "Image" means a record, including a photograph, of thermal, infrared, ultraviolet, visible light, or other electromagnetic waves; sound waves; odors; or other physical phenomena which captures conditions existing on or about real property or an individual located on that property.

VIII. "Imaging device" means a mechanical, digital, or electronic viewing device; still camera; camcorder; motion picture camera; or any other instrument, equipment, or format capable of recording, storing, or transmitting an image.

IX. "Individual" means a living human being.

X. "Information" means any evidence, images, sounds, or data gathered by a drone.

XI. "Law enforcement agency" means a lawfully established state, county, or municipal agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of the criminal laws.

XII. "Law enforcement officer" means a duly sworn employee of a law enforcement agency who is invested with the power of arrest or the detection of crime.

XIII. "Person" means individuals, partnerships, limited liability companies, corporations, and any other organizations, including for-profit and not-for-profit entities, but excluding government.

XIV. "Surveillance" means the willful act of tracking or following, while photographing, taking images of, listening to, or making a recording of: (a) a recognizable individual or a group of individuals, including their movements, activities or communications, or (b) motor vehicles identifiable by their license plates. The term does not include such activities on real estate in which a person has a legal interest.

422-D:2 Government Use of Drones Limited; Exceptions.

I. Except as provided in paragraph II or III:

(a) No government shall use a drone, or obtain, receive, use, or retain information acquired by or through a drone, to engage in surveillance, to acquire evidence, or to enforce laws; and

(b) No government shall use a drone equipped with an imaging device to record an image of an identifiable individual on privately-owned real property in violation of such individual's reasonable expectation of privacy without his or her consent. For purposes of this subparagraph, an individual is presumed to have a reasonable expectation of privacy on privately-owned real property if he or she (1) is within an enclosed structure or (2) is not observable by individuals located at ground level in a public place where they have a legal right to be, regardless of whether he or she is observable from the air.

II.(a) Notwithstanding the provisions of paragraph I, a government may use a drone, or obtain, receive, use or retain information acquired by or through a drone, for law enforcement purposes under the following conditions only:

(1) If surveillance is undertaken, with the prior consent of the person who is the subject of surveillance and the owner or lessee of the property which is the subject of the surveillance.

(2) If a government first obtains a search warrant signed by a judge and based on probable cause or the use of a drone is pursuant to a legally-recognized exception to the warrant requirement. A search warrant authorizing the use of a drone shall specify the period for which operation of the drone is authorized, which period shall not exceed 10 days unless subsequently renewed by a judge.

(3) If a government possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent harm to life or serious damage to property, or to forestall the imminent escape of a suspect, or the destruction of evidence, or to assist in locating missing, abducted or lost individuals, hunters or hikers, or to rescue persons in natural disasters, injured persons or persons in need of medical assistance.

(4) To counter a high risk of a terrorist attack or incident by a specific individual or organization which the United States Department of Homeland Security determines that credible intelligence indicates that there is such a risk.

(5) To increase situational awareness in understanding the nature, scale, and scope of an incident which has occurred and for planning and coordinating an effective and legal response, provided the incident is limited geographically and in time.

(6) To support the tactical deployment of law enforcement personnel and equipment in emergency situations.

(7) To document a specific crime scene, traffic crash scene or other major incident scene, such as a disaster caused by natural or human activity, provided such documentation is conducted in a geographically confined and time-limited manner.

(8) For purposes of training law enforcement officers or others in the proper, safe, and legal use of drones.

(b) A government which uses a drone, or obtains, receives, uses or retains information acquired by or through a drone, pursuant to paragraph II may do so only if (1) specifically authorized by the chief law enforcement officer of a law enforcement agency, or a supervisor designated by the chief law enforcement officer, (2) is not operated in an unsafe manner, and (3) is not operated in violation of United States Federal Aviation Administration regulations.

(c) The use of a drone by a government under subparagraphs II(a)(4) shall be limited to a period of 48 hours of its initial use after which a search warrant or other court order signed by a judge shall be required. The use of a drone by a government under subparagraphs II(a)(5)-(8) shall be limited to a period of 48 hours of its initial use after which reauthorization shall be required.

(d) Within 5 business days of the initiation of the use of a drone under subparagraph II(a), the government shall report in writing the use of a drone to the attorney general who shall annually post such reports on the department of justice website in a searchable format.

III. Notwithstanding the provisions of paragraph I, a government may use a drone, or obtain, receive, use, or retain information acquired by or through a drone for non-law enforcement purposes if, in an emergency, a government determines that, under particular circumstances, swift action is needed to prevent imminent harm to life or serious damage to property, or to assist in locating missing, abducted, or lost individuals, hunters, or hikers, or to rescue persons in natural disasters, injured persons, or persons in need of medical assistance.

IV. Unless the fact of a violation is being disputed, information obtained by a government in violation of paragraphs I and II shall, within 12 hours after the discovery of the violation, be permanently and irretrievably destroyed, shall not be transferred to another government or person, shall not be admissible in any judicial or administrative proceeding and shall not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.

V. Images of identifiable individuals obtained by a government pursuant to paragraphs I or II shall be blurred, deleted or otherwise de-identified as soon as practicable but in any case within 30 days after being obtained unless such images may be evidence in a criminal investigation.

VI. No government shall own, use, or exercise control over a drone that is equipped with any kind of lethal or non-lethal weapon.

VII. A government that owns, uses, or exercises control over a drone that causes injury to a person or a person's property shall be liable for such injury.

VIII. A government that owns, uses, or exercises control over one or more drones shall annually on July 1 submit a written or electronic report to the attorney general containing information on the number of such drones, the number of times each such drone was used during the prior year and, in general terms, the purpose of each such use. The attorney general shall annually post such reports on the department of justice website in a searchable format.

422-D:3 Non-Government Use of Drones Limited; Exceptions.

I. No person shall use a drone to engage in automated surveillance.

II. No person shall use a drone to engage in surveillance for commercial purposes without the prior consent of each affected person and each owner or possessor of affecting buildings or structures or parts thereof. It shall not be a defense to a charge of violating this chapter that the buildings or structures were not marked with a no-trespassing sign or similar notice.

III.(a) No person shall use a drone equipped with an imaging device to record or view an image or listen to or record the sound of an identifiable individual on privately-owned real property in which the person does not have a legally recognized interest in violation of such individual's reasonable expectation of privacy without his or her consent. For purposes of this subparagraph, an individual is presumed to have a reasonable expectation of privacy on privately-owned real property if he or she:

(1) Is within an enclosed structure; or

(2) Is not observable by individuals located at ground level in a public place where they have a legal right to be, regardless of whether he or she is observable from the air.

(b) This paragraph shall not apply to the unintentional recording or viewing of an image, or to the unintentional listening to or recording the sound of, an individual.

IV. No person shall:

(a) Operate a drone over critical infrastructure without the written consent of the owner of the critical infrastructure;

(b) Allow a drone to make contact with critical infrastructure facility, including any individual or object on the premises of or within the critical infrastructure; or

(c) Allow a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility or its occupants.

V. No person shall own, use, or exercise control over a drone that is equipped with any kind of lethal or nonlethal weapon. This prohibition shall not apply to a person who is a federal government military contractor using or exercising control over a drone which is equipped with a nonlethal weapon and which is flying over real property in which the person has a legal interest.

VI. Any person that owns, uses, or exercises control over a drone in this state that causes injury to a person or a person's property shall be liable for the injury.

VII. No person shall use a drone to harass or stalk another person.

VIII. Paragraphs I, II, and III of this section shall not apply to a person engaged in a business or profession licensed by the state, or by an agent, employee, or contractor of such person, if the drone is used solely to perform reasonable tasks within the scope of practice or activities permitted under such person's license, and provided that the drone shall not be used to obtain information about the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any individual.

422-D:4 Airport Prohibition. No government or person shall operate a drone within 5 miles of any airport in this state in a manner that does not comply with relevant federal law and Federal Aviation Administration regulations and guidelines in effect at the time.

422-D:5 Identification. Except for the drone's original equipment manufacturer, each owner of a drone shall identify the drone with the owner's telephone number in permanent ink or other indelible manner of identification. If space allows, the owner's name shall also be included. Identification shall be readily accessible and legible upon close visual inspection.

422-D:6 Federal Preemption. If federal law preempts any provision of this chapter, that provision shall not apply.

422-D:7 Applicability. The provisions of this chapter shall not apply to the New Hampshire national guard in the conduct of its official duties.

422-D:8 Construction. This chapter shall be construed to provide the greatest possible protection of the privacy of the people of this state. Nothing in this chapter shall be construed to impose liability in connection with news gathering activity.

422-D:9 Penalties.

I. A government employee or agent who knowingly violates RSA 422-D:2, except for the reporting requirements in 422-D:2, II(c) and 422-D:2, VIII, shall be guilty of a misdemeanor. A government employee or agent who violates the reporting requirements in RSA 422-D:2, II(c) or 422-D:2, VIII shall be guilty of a violation for a first offense and a misdemeanor for any subsequent offense.

II. A government which violates RSA 422-D:2 may be subject to a civil penalty of up to \$10,000 which shall be deposited in the general fund of the state.

III. A person who suffers damages or injury caused by a government's use of a drone pursuant to this chapter may bring a civil action to recover actual damages which shall be limited to medical expenses, treatment, and rehabilitation, property damage, permanent physical impairment, court costs, and reasonable attorney's fees from the government. No claim for pain and suffering, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services, or consortium, or other nonpecuniary losses shall be compensable under this chapter. This paragraph shall not be construed as a waiver of the sovereign immunity of the state.

IV. A person who violates RSA 422-D:3, I-VII shall be guilty of a misdemeanor.

V. Any person who suffers injury caused by a drone operated in violation of this chapter shall be entitled to damages from the person who committed the violation of not less than \$1,000 and an award of reasonable attorney fees.

VI. In addition to any other remedies allowed by law, a person who willfully gains unauthorized control over a drone shall be liable to the owner of the drone in an amount of not less than \$1,000 and an award of reasonable attorney fees.

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2018.

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

AMENDED ANALYSIS

This bill:

I. Clarifies when a franchisor is an employer of a franchisee.

II. Regulates the use of drones by government agencies and individuals and establishes criminal penalties and civil remedies for violations.

Rep. Kurk spoke in favor.

Floor amendment (2136h) adopted.

Committee report adopted and ordered to third reading.

SB 133-FN, relative to security screening at state correctional facilities. **OUGHT TO PASS.**

Rep. Larry Gagne for Criminal Justice and Public Safety. This bill is a request of the Department of Corrections and makes changes to the security screening procedure at state correctional facilities. This bill requires the DOC to conduct one or more security screenings, which will incorporate the use of electronic devices as well as other search methods, on all individuals entering the secure perimeter of a state correctional facility, which includes the use of a full body scanner. These scanners shall be installed and operated in a manner that only enables the detection of weapons and contraband. No image created by a full body scanner shall be copied or duplicated except for images that are used for investigation purposes or that show weapons or contraband and are needed as evidence for prosecution. Vote 21-0.

Rep. Hoell spoke against.

Rep. Welch spoke in favor.

Committee report adopted and ordered to third reading.

RESOLUTION

Rep. Hinch offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet, Thursday, June 8, 2017 at 10:00 a.m.

LATE SESSION

Third Reading and Final Passage

HR 11, Memorializing State Representative William Polewarczyk of Chester.

SB 18, relative to reinstatement of foreign corporations and foreign limited liability partnerships.

SB 24, relative to examinations by the insurance commissioner.

SB 42, eliminating the hearing requirement for late reinstatement of corporations.

SB 81, relative to licensing of mortgage loan originators from another state.

SB 85, amending the Uniform Securities Act.

SB 86, relative to the regulation of banks, trusts, and credit unions by the banking department.

SB 157, relative to network adequacy and consumer rights under the managed care law.

SB 158, relative to authorization for clinician-prescribed substance use disorder services.

SB 43, relative to nonacademic surveys, questionnaires, or evaluations administered by a public school to its students.

SB 44, prohibiting the state from requiring implementation of common core standards and relative to the amendment or approval of academic standards.

SB 13, repealing the administrative attachment of the police standards and training council to the community college system of New Hampshire and repealing the statutes governing the New Hampshire technical institute security force.

SB 54, relative to the licensure of alcohol and drug counselors, requiring occupational regulatory boards and commissions to post reciprocity information, and establishing a committee to study licensure of alcohol and drug counselors.

SB 135-FN, relative to the regulation of electricians.

SB 137-FN, relative to temporary licensure of certain nurses seeking licensure by endorsement from the board of nursing.

SB 152, relative to criminal history background checks for certain health care workers.

SB 212-FN, establishing the physical therapy licensure compact.

SB 101-FN, relative to enrollment eligibility for regional career and technical education programs and relative to high school students participating in New Hampshire's dual and concurrent enrollment program and making an appropriation therefor.

SB 35, relative to the guidelines of the legislative ethics committee.

SB 110, declaring the painted turtle to be the reptile of the biennium.

SB 142, relative to honoring E. Maude Ferguson, the first woman elected to the New Hampshire senate.

SB 30-FN, defining woodland buffers and relative to such woodland buffers for the purposes of the shoreland protection act.

SB 121, establishing a commission to determine if the department of environmental services should request delegation of the National Pollutant Discharge Elimination System from the Environmental Protection Agency.

SB 127, relative to dissolved oxygen water quality standards.

SB 181, relative to the regulation of biodiesel.

SB 37, relative to tip pooling.

SB 78, relative to confidentiality of state tax records in state administrative or judicial proceedings.

SB 187, clarifying the application of the road toll.

SB 206-FN, relative to wagering on simulcast racing.

SB 225, revising the New Hampshire trust code.

SB 66-FN, including a fetus in the definition of "another" for purposes of certain criminal offenses.

SB 8-FN, relative to school attendance in towns with no public schools.

SB 3, relative to domicile for voting purposes.

SB 113, relative to an electronic poll book trial program.

SB 248, establishing a committee to study the rescheduling of elections and relative to absentee voter signatures.

SB 38-FN, (2nd New Title) making an appropriation to the department of transportation for local highway aid and aid for municipal bridges, relative to distribution of highway aid, and relative to red list bridges.

SB 57-FN-A, making appropriations to the department of environmental services for the purposes of funding eligible drinking water and wastewater projects under the state aid grant program and relative to making an appropriation from the drinking water and groundwater trust fund to the department of environmental services to address drinking water contamination in Amherst.

SB 96-FN, relative to the compensation of the boxing and wrestling commission.

SB 131-FN-A, establishing a cross border drug interdiction program and making an appropriation therefor.

SB 155, relative to implementation of the Medicaid managed care program.

SB 191-FN, establishing keno and relative to funding for kindergarten.

SB 216-FN, relative to differential pay for state troopers and relative to crowd control by marine patrol officers.

SB 59, relative to blood testing orders.

SB 67, relative to the authority of state police employees.

SB 129, requiring a portion of the renewable energy fund to benefit low to moderate income residential customers, relative to electric renewable energy classes, relative to the class rate for biomass, and relative to requirements for incentive payments from the renewable energy fund.

SB 74-FN, relative to economic revitalization zone tax credits.

SB 185, extending the community revitalization tax relief program to coastal properties subject to storm surge, sea level rise, and extreme precipitation.

SB 89, relative to the relationship between a franchisor and a franchisee and relative to the use of drones.

SB 133-FN, relative to security screening at state correctional facilities.

RECESS MOTION

Rep. Hinch 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.

Motion adopted.

The House recessed at 5:20 p.m.

RECESS

(Rep. Chandley in the Chair)

ENROLLED BILL AMENDMENT

SB 230-FN, establishing the Uniform Power of Attorney Act. (Amendment printed SJ 5/31/17)

Motion adopted.

RECESS

SENATE MESSAGE

ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE

HB 84, relative to having a loaded firearm in a motorhome, and relative to having or carrying a loaded rifle or shotgun in a motor vehicle.

The President appointed Sens. Avard, Bradley and Woodburn.

HB 228, relative to transportation of alcoholic beverages by a minor.

The President appointed Sens. Carson, French and Lasky.

HB 371-L, relative to bond requirements for public works contracts.

The President appointed Sens. Bradley, Birdsell and Watters.

HB 420-FN, relative to ignition interlock requirements in manslaughter cases involving alcohol.

The President appointed Sens. Carson, French and Lasky.

HB 448, relative to certain ignition interlock violations.

The President appointed Sens. Carson, French and Lasky.

RECESS

(Rep. Michael McCarthy in the Chair)

ENROLLED BILL AMENDMENTS

HB 246, relative to timber trespass.

Amendment 2017-2034EBA

Amend section 2 of the bill by replacing line 1 with the following:

2 Trespass; Criminal Penalty. Amend RSA 227-J:8-a, II to read as follows:

Motion adopted.

HB 303-L, relative to filling vacancies in the office of county commissioner and relative to procedures for adoption of the budget for Rockingham County.

Amendment 2017-2012EBA

Amend RSA 661:9, II(a) as inserted by section 1 of the bill by replacing it with the following:

II.(a) If a vacancy occurs in the office of a county commissioner, the members of the county convention, *or, if the vacancy occurs in Hillsborough county, the members of the county convention representing the cities and towns in the commissioner's district*, shall fill the vacancy by a majority of the ballots cast until the next biennial election of county officers. If the term filled is less than the unexpired term, then notwithstanding any provisions of RSA 653:1, VI, the commissioner district filled pursuant to this paragraph shall be added to the next biennial election ballot to be chosen by the voters of the county for a 2-year term.

Motion adopted.

HB 316, relative to a statewide property tax exemption for commercial and industrial construction.

Amendment 2017-2028EBA

Amend RSA 72:83, II as inserted by section 2 of the bill by replacing line 3 with the following:

shall specify the amount of the exemption, that it is effective with the new tax year, and the number

Amend the bill by replacing section 4 with the following:

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

Motion adopted.

HB 397, relative to juvenile justice procedures.

Amendment 2017-1983EBA

Amend RSA 169-B:34, V as inserted by section 1 of the bill by replacing line 3 with the following:

the minor is in handcuffs, shackles, or other devices which would indicate that the minor is in law

Amend RSA 169-B:12, V as inserted by section 2 of the bill by replacing lines 3 and 4 with the following:

his or her right to counsel under this chapter or under chapter 621, nor shall any such person advise a parent or guardian of a juvenile that the juvenile should waive his or her right to counsel, nor shall any

Motion adopted.

HB 405, relative to the duties of the decennial retirement commission, and relative to the function and organization of the department of administrative services risk management unit and division of personnel.

Amendment 2017-2029EBA

Amend RSA 21-I:7-c, II(i) as inserted by section 4 of the bill by replacing line 1 with the following:

(i) Reviewing and making recommendations to the manager of risks and benefits that

Amend RSA 21-I:44, I as inserted by section 14 of the bill by replacing line 2 with the following:

after consultation with the director of the division of personnel, shall be responsible for

Amend RSA 21-I:44, IV as inserted by section 14 of the bill by replacing line 1 with the following:

IV. The **commissioner, after consultation with the** director of personnel, shall nominate

Amend RSA 21-I:44-a as inserted by section 15 of the bill by replacing line 5 with the following:

this program, an employee may have a certain amount of his **or her** salary withheld, before taxes, for the

Amend RSA 21-I:44-b as inserted by section 15 of the bill by replacing line 5 with the following:

department. Under this program, an employee may have a certain amount of his **or her** salary withheld,
Motion adopted.

HB 488, establishing a state parks advisory council.

Amendment 2017-1956EBA

Amend RSA 216-A:3-kk, I(d) as inserted by section 1 of the bill by replacing line 2 with the following:

designee, whose appointment shall be coterminous with the commissioner's term of office.

Motion adopted.

HB 536, directing the wellness and primary prevention council to establish a system of family resource centers of quality.

Amendment 2017-2031EBA

Amend RSA 126-M:4, II-b(a) as inserted by section 3 of the bill by replacing line 2 with the following:

a selection process for the selection of a facilitating organization to administer the system of family

Motion adopted.

HB 650-FN, relative to procedures of the board of psychologists.

Amendment 2017-2086EBA

Amend section 11 of the bill by replacing lines 1-2 with the following:

11 Investigations and Complaints; Response and Summary. Amend RSA 329-B:22, VIII and IX to read as follows:

Motion adopted.

SENATE MESSAGES**CONCURRENCE**

HB 190, relative to the wildlife habitat account and the fisheries habitat account.

HB 652-FN, establishing a veterans track within the court system and relative to annulment of a sentence imposed by a mental health court.

NONCONCURRENCE

HB 507, establishing a committee to study the responsibility of a person who through their pollution makes drinking water non-potable.

HB 632-FN, relative to appeals of liquor commission decisions.

SENATE MESSAGES**REREFERRED TO COMMITTEE**

HB 143, relative to recommitment of a prisoner by the parole board.

HB 225-FN, relative to information collection concerning electric renewable portfolio standards.

HB 305, clarifying lessee liability for month-to-month leases.

HB 342, establishing a commission to study the transition of certain regulatory authority to the department of environmental services from the Environmental Protection Agency.

HB 372, relative to construction of the terms "resident," "inhabitant," "residence," and "residency."

LAID ON THE TABLE

HB 353-FN, relative to the relationship between a franchisor and a franchisee.

RECESS

(Speaker Jasper in the Chair)

SENATE MESSAGE**REQUESTS CONCURRENCE WITH AMENDMENTS**

HB 25-FN-A, making appropriations for capital improvements. (Amendment printed SJ 6/1/17)

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

Motion adopted.

The Speaker appointed Reps. Chandler, McConkey, John Graham and Cloutier.

HB 131, relative to the costs for notice of changes in a zoning district. (Amendment printed SJ 4/27/17)
Rep. Chandler moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. James Belanger, Sterling, Josephson and Gauthier.

HB 144, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019. (Amendment printed SJ 5/31/17)

Rep. Chandler moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Kurk, Hinch, Lynne Ober, Umberger and Wallner.

The Speaker appointed alternates: Reps. Byron, Weyler, Major, Leishman, Eaton and Almy.

HB 517, relative to state fees, funds, revenues, and expenditures. (Amendment printed SJ 5/31/17)

Rep. Chandler moved that the House nonconcur and request a Committee of Conference.
Motion adopted.

The Speaker appointed Reps. Kurk, Hinch, Lynne Ober, Umberger and Wallner.

The Speaker appointed alternates: Reps. Byron, Weyler, Major, Leishman, Eaton and Almy.

SENATE MESSAGE

ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE

HB 144, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019.

The President appointed Sens. Daniels, Reagan and D'Allesandro.

The President appointed alternates: Sens. Giuda and Feltes.

HB 517, relative to state fees, funds, revenues, and expenditures.

The President appointed Sens. Daniels, Reagan and D'Allesandro.

The President appointed alternates: Sens. Giuda and Feltes.

CONFEREE CHANGES

HB 144, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2018 and June 30, 2019.

Rep. Rosenwald added as an alternate.

HB 517, relative to state fees, funds, revenues, and expenditures.

Rep. Rosenwald added as an alternate.

RECESS